



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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### **New Jersey Department of Environmental Protection State Well Drillers and Pump Installers Examining and Advisory Board Meeting Minutes for May 18, 2023**

*Approved by the Board on June 15, 2023*

**Board Members Participating Via Telephone/Microsoft Teams:** Art Becker (Chairman), Gary Poppe (Vice-Chairman), Joe Yost, Gordon Craig, Dave Lyman, Eric Hoffmann, Richard Dalton, Steve Domber, and Jeff Hoffman

**Board Members Absent:** N/A

**Board Legal Representative Present:** Deputy Attorney General (DAG) Jill Denyes, NJ Division of Law

**NJDEP Water Supply (Bureau of Water Allocation and Well Permitting) Staff Present:** Terry Pilawski, Jennifer Myers, Steve Reya, Michael Schumacher, Mark Ortega, and Steve Vargo

**Other NJDEP Staff Present:** Donald Hirsch, Northern Water Compliance and Enforcement

**Members of the Public:** Brian McGuire, MB Drilling; Tom Stover

#### **1. Call to Order and Introductions-**

The meeting was called to order at 9:33 am with a quorum present via Microsoft Teams and telephone. Notice of the meeting and instructions on how to participate by video or phone were listed on the Department's website. A. Becker thanked everyone for attending the meeting.

#### **2. Review and Certification of the April 20, 2023, Meeting Minutes-**

S. Reya discussed changes to the April 20<sup>th</sup> minutes which R. Dalton had proposed prior to the meeting. The corrected minutes were distributed to the Board prior to the meeting. A. Becker asked if anyone had any comments on the April 20<sup>th</sup> draft minutes. No one had any further comments, and no further discussion was needed.

**A motion to approve the draft minutes from April 20, 2023, as written, was made by G. Poppe, seconded by D. Lyman, and by all except for E. Hoffmann who abstained because he was not present for the April meeting.**

**3. Review and Certification of License Applications-**

A. Becker said that there were five well driller applicants, including one applicant who was upgrading from an Environmental Resource and Geotechnical (ERG) license to a Journeyman license. S. Reya made note of a correction to the spreadsheet of license candidates which was sent to the Board. He said that Mr. Joshua Ellingworth had applied for a Journeyman license instead of an ERG license. Mr. Ellingworth’s original application was for an ERG license, but he later submitted a Journeyman application, which was not accurately reflected in the table disseminated to the Board. In total, there were three Journeyman applications and 2 ERG applications. No further discussion was needed regarding the review of the following license applicants:

<b>License Type</b>	<b>Applicant Name</b>	<b>Employer</b>
Journeyman	Joshua Ellingworth	Parratt Wolff Inc.
Journeyman	Michael R. Varina	High Rock Environmental
Journeyman	Daniel A. Ballentine Jr.	Dan Ballentine Well Drilling, Inc.
ERG	Michael Beveridge	Boring Brothers Inc.
ERG	George Polyak IV	GeoPro, Inc.

**A motion to approve the five license applicants for licensure was made by G. Poppe. This motion was seconded by G. Craig and approved unanimously.**

**4. Review and Certification of Course Applications-**

*Franklin Electric*

S. Reya introduced the Franklin Electric course, High Efficiency Pumping Systems Using Permanent Magnet Technology, which would be presented by Mr. Jim Hartmann. The provider requested two continuing education points (CEPs) for this course. A. Becker asked if there was any discussion needed for this course. No discussion was needed.

**A motion to approve High Efficiency Pumping Systems Using Permanent Magnet Technology for two technical CEPs was made by G. Poppe. This motion was seconded by G. Craig and approved unanimously.**

*Duff Co.*

A. Becker asked the Department if the Duff Co. 2023 Water Treatment and Pump Seminar was administratively complete. The spreadsheet that the Board received identified the course as pending. M. Ortega apologized and said that the course was administratively complete. This course provider requested seven CEPs for this course. The seminar included seven one-hour courses. No further discussion was needed.

**A motion to approve the 2023 Water Treatment and Pump Seminar for seven technical CEPs was made by D. Lyman. This motion was seconded by G. Poppe and approved unanimously.**

*Florida Ground Water Association (FGWA) Conventions*

A. Becker asked if Mr. Stefan Burns was applying for credit for the 2020-2023 continuing education cycle. M. Ortega said that Mr. Burns submitted a course application for the 2021 FGWA Annual

Convention and Trade Show and the 2022 FGWA Annual Convention and Trade Show. Mr. Burns requested 12 CEPs for each convention he attended. M. Ortega added that Mr. Burns currently has eight safety CEPs and needs 13 additional CEPs to meet the requirements for the 2020-2023 continuing education cycle.

R. Dalton indicated that there are a few Florida-specific courses which should not be approved. A. Becker said that he counts 10 technical courses and 4 safety courses between the two seminars that could be approved. The Board members agreed to award Mr. Burns with the number of CEPs that he needs to meet the requirements since there were enough acceptable courses that he took during each seminar.

**G. Craig made a motion to approve the 2021 and 2022 FGWA Annual Convention and Trade Show for 10 technical CEPs and 3 Safety CEPs. This motion was seconded by R. Dalton and approved unanimously.**

Prior to the motion passing, S. Domber asked if the trade hall was being considered for credit. R. Dalton said that the Board has approved trade shows for the National Ground Water Association in the past. A. Becker briefly discussed FGWA's conventions and their process of tracking CEPs for Florida licensed well drillers. He praised them for their quality and efficiency.

#### **5. License Renewal Update-**

M. Ortega updated the Board with the current numbers of licensees who met the CEP requirements. He said that 655 licensees, which is 80 percent of currently licensed well drillers and pump installers, have met the requirements. Only 12 licensees took courses after the deadline. M. Ortega added that the \$500 CEP late fee was added to the invoices for those who met the requirements after March 31, 2023.

He continued by saying that renewal invoices were mailed out to all eligible licensees on May 4, 2023. Unfortunately, he reported that there were billing issues encountered, which affected 11 licensees. M. Ortega indicated that only three of these issues affected licensees who met the requirements and were not Department employees. M. Ortega said that he contacted the affected individuals and informed them of the delay. As of May 18<sup>th</sup>, 242 licensees had paid their renewal invoices.

#### **6. Enforcement Activities-**

##### *Field Activities*

S. Vargo described recent field activities conducted by the Well Permitting Section. The first site inspection was in response to a call from a licensed well driller who was concerned about two seemingly abandoned wells in an area that was being redeveloped. S. Vargo visited the site and spoke with the construction manager, who confirmed that the wells would be sealed. He had since followed up with the well driller and confirmed that the wells were sealed.

S. Vargo described another site visit which was initiated due to some potentially fraudulent paperwork that was submitted to the Department. The Department had received a well decommissioning report for a well that S. Vargo had determined was not sealed after he visited the site. The Department will follow up with a Notice of Non-Compliance (NONC) after a corrected well decommissioning report has been submitted.

The Board and the Department had a lengthy discussion regarding license renewals and the ability of the Department to deny a licensee their renewal when they have outstanding enforcement actions. The Department and DAG J. Denyes explained that a license is a property right, therefore, it cannot be taken away without due process. J. Hoffman noted that the New Jersey Site Remediation Professional Licensing Board (LSRP Board) encounters the same issues. They are not allowed to withhold a license renewal when a licensee has a pending enforcement case.

A. Becker inquired with DAG J. Denyes if the Board could request that the Department present a list of unresolved enforcement issues to them at a future meeting. She said that the Board could request this information. J. Yost and G. Poppe agreed that this is a good idea. They both agreed that it has been a problem for years that the Department has failed to follow up on some NONCs.

**G. Poppe made a motion to request that the Department provide the Board with a list of the most egregious offenders. This motion was seconded by J. Yost and approved unanimously.**

E. Hoffmann asked J. Hoffman how the LSRP Board conducts investigations. J. Hoffman said that the LSRP Board conducts investigations. The Department's Compliance and Enforcement staff are not involved in their investigations. He noted that it is a smaller workload for the LSRP Board because they do not issue permits.

D. Hirsch and T. Pilawski discussed the process to revoke or suspend the license of a New Jersey licensed well driller or pump installer. They discussed the two instances that the Department and Board undertook this process, both which resulted in the suspension of a license.

T. Pilawski followed up on the Board's motion. A. Becker said that he wanted to see a list of the violations and who the violators are. J. Hoffman expressed concern about making NONCs public record when they are not fully fleshed out. DAG J. Denyes said that she needs to check if NONCs are subject to the Open Public Records Act. D. Hirsch brought up Daniel's Law and noted that the Department would need to be careful not to present sensitive information. DAG J. Denyes noted that the Board could go into executive session to discuss sensitive information. J. Hoffman discussed how the LSRP Board handles executive sessions using Microsoft Teams. He said that they create two meetings; one for the main meeting and one in case an executive session is needed.

T. Pilawski reminded the Board that the NONC process is meant for fact finding before a referral is sent to Water Compliance and Enforcement. T. Pilawski and S. Vargo discussed some of the referrals that the Well Permitting Section had already sent to Compliance and Enforcement.

R. Dalton asked if enforcement action could be taken against a county or state entity. He cited an issue with two very deep wells in Jackson Township that were drilled in the 1920's which are not sealed. G. Poppe said that he recently heard about some movement on those two wells. D. Hirsch said that the county would be responsible, and Compliance and Enforcement has taken action against counties and municipalities in the past.

S. Vargo discussed new referrals that on which he is currently working. Two of the referrals are for individuals who conducted unlicensed pump work. The other referrals will be for a New Jersey licensed well driller who did not respond to six NONCs that the Department sent to him; three of the issues were very egregious. S. Vargo said that he is hoping to get the referrals out before the next meeting.

**7. Princeton University Geothermal Circulating Fluid Additives-**

S. Reya explained that during the March 16<sup>th</sup> meeting, the Board recommended Department-approval of four of the five circulating fluid additives proposed by Princeton University. Due to lack of scientific data, the Board did not recommend approval of sodium tolyltriazole and requested that Princeton University obtain more information about this chemical. S. Reya explained that the topic was listed on the agenda in the event additional information was submitted for review, but nothing had been so this topic was tabled.

**8. Program Updates-**

*Staffing Update*

T. Pilawski provided the Board with updates to the Well Permitting Section's staffing issues. She explained that the supervisor backfill for the Technical Assistance and Licensing Unit was in the works and that interviews were scheduled for the supervisor backfill for the Well Permitting Unit. An entry-level backfill is also in the works for the Well Permitting Unit. She further explained that she put in paperwork for J. Mattle's vacant Section Chief position and for her Bureau Chief position. In the meantime, S. Reya will act in J. Mattle's capacity while J. Myers will act in T. Pilawski's capacity after she retires at the end of June.

*Type 1L Cement*

S. Reya explained to the Board members that the Department had met with DAG J. Denyes to find a path forward to approve Type 1L cement for use in New Jersey. He noted that utilizing a memorandum of understanding, similar to Michigan, would not be advisable according to the Department's legal team. S. Reya explained that the Department could potentially utilize N.J.A.C. 7:9D-2.8 or engage in emergency rule making. He noted that emergency rule making would not be ideal because the Board and Department still does not have lot of data available for Type 1L cement so they likely would not be able to draft a rule and have it go through the required process before Type 1 is phased out and unavailable. The Department could potentially submit something to the Board based on N.J.A.C. 7:9D-2.8 for review thanks to G. Craig's work to completed testing. He added that a pump test still needs to be completed and the field grout mixes still need to be analyzed by a lab before the Department can take action. R. Dalton also discussed the review process for new and alternative grouts and how the Board and Department need to remain consistent.

*Lead Exposure*

S. Reya relayed a question to the Board from the Water Supply and Geoscience Director's Office. They wanted to know if the Board members had any knowledge of components in private wells which would create high lead concentrations. S. Reya referenced federal regulations which covered the use of lead-free pipes, fittings, fixtures, solder, and flux for drinking water. S. Reya cited a few examples of components which he believed might contain higher concentrations of lead in the past. He noted that around 2011, when the federal regulations originally went into effect, most of the materials were prohibited. He also noted lead packers as one potential source of lead in which drinking water could come in contact, though he noted they have not been used for many years. He asked the Board members for assistance in identifying any potential lead-containing components within water wells that would better allow the Department to evaluate this. He said much of the focus on lead has been on public water and distribution systems/service lines and they are seeking information on private wells.

J. Yost and R. Dalton further discussed some examples of components which would have high lead concentrations, but A. Becker pointed out that they are not currently used anymore. A. Becker noted that water systems that are older than 30 years old probably have some components that contain a small percentage of lead, but he could not speak to any potential water quality issues as a result of these components.

**9. Miscellaneous and Public Comments-**

*Department Correspondence*

A. Becker informed the Board that two letters were sent to Mr. Alphonse Famiano regarding the topics discussed during the April Board meeting. The first letter requested additional information based on the waiver request that Mr. Famiano submitted. The second letter advised Mr. Famiano of the licensing requirements for New Jersey licensed well drillers and pump installers.

*Public Question*

Mr. Tom Stover addressed the Board about an issue he was having with the Department and decisions regarding permitting wells when there is public water available within 200 ft. of the property boundary. S. Reya discussed the Department's stance regarding the example that Mr. Stover provided. He explained that the homeowner who he had referenced provided additional information after the original permit was denied, which allowed the Department to approve a new permit.

After some discussion, J. Hoffman pointed out that this issue is not within the purview of the Board. Mr. Stover asked if S. Reya could provide him with what the homeowner submitted so he could have an example for the future. A. Becker thanked Mr. Stover for bringing up the topic.

**10. Adjournment-**

S. Reya said that the next Board meeting will be held on Thursday, June 15, 2023. A. Becker thanked everyone for attending.

**A motion to adjourn the meeting was made at 11:24 am by G. Poppe. This motion was seconded by D. Lyman and approved unanimously.**