



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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### **NJ State Well drillers and Pump Installers Examining and Advisory Board Meeting Minutes for November 21, 2013**

*Approved by the Board on January 23, 2014*

**Board Members Present:** Art Becker(Chairman), Gary Poppe (Vice Chairman), Steve Doughty, Joe Yost, Gordon Craig, Richard Dalton, Dr. Karl Muessig, and Carol Graff

**Board Members Absent:** Joe Pepe

**Board Legal Advisor Present:** Jill Denyes, Deputy Attorney General (DAG)

**NJDEP- NJ Geologic & Water Survey Staff:** Helen Rancan-Acting Section Chief Geologic Mapping/Coastal Section (arrived at approximately 10:45 am)

**NJDEP Bureau of Water Allocation & Well Permitting Staff Present:** Terry Pilawski, Pat Bono, Steve Reya, Julia Altieri, Brian Buttari, and Melia Stoop.

**Member(s) of the Public:** None

**1. 9:45am -Call to Order –**

The meeting was called to order by Chairman A. Becker at 9:45 am, with a quorum present.

**2. Review of the Minutes from the September 12, 2013 Meeting**

A motion to approve the September 12<sup>th</sup> Board meeting minutes without change was made by G. Poppe, seconded by R. Dalton and approved unanimously.

**3. Review of the Minutes of the Executive (Closed) Session for September 12, 2013 Meeting**

It was requested that the third sentence of the second paragraph of the minutes that reads “T. Pilawski noted that she has been working with Board DAG, J. Denyes, and two other DAGs...” be corrected to read “...one other DAG...” because J. Denyes is currently only working with one other Deputy Attorney General in her office (Division of Law) on the referenced matter.

A motion to approve the Minutes of the Executive (Closed) Session for the September 12, 2013 Board meeting with the above noted change was made by Gary Poppe, seconded by Gordon Craig and approved unanimously.

**4. Review of the Minutes of the November 7, 2013 Conference Call**

A motion to approve the minutes of the November 7<sup>th</sup> conference call without change was made by S. Doughty, seconded by C. Graff, and approved unanimously.

**5. 2014 Board Meetings, Conference Calls and Well Driller/Pump Installer Exam Dates Were Provided for Scheduling and Approval-**

a.) The dates for the 2014 Board Meetings were set as listed below. All meetings are scheduled to start at 9:30 AM and to take place at the NJ DEP headquarters at 401 E. State Street, Trenton, NJ. Conference room assignments are considered to be tentatively set.

<b>January 23</b>	<b>5<sup>th</sup> Floor Large Conference Room</b>
<b>March 20</b>	<b>4<sup>th</sup> Floor Large Conference Room</b>
<b>May 15</b>	<b>4<sup>th</sup> Floor Large Conference Room</b>
<b>July 17</b>	<b>4<sup>th</sup> Floor Large Conference Room</b>
<b>September 11</b>	<b>4<sup>th</sup> Floor Large Conference Room</b>
<b>November 20</b>	<b>4<sup>th</sup> Floor Large Conference Room</b>

b.) The dates for the 2014 Conference Calls to certify exam scores are as follows:

**May 1<sup>st</sup>, 2014 at 10:30 am for certification of the April exam results**  
**October 30<sup>th</sup>, 2014 at 10:30 am for certification of the October exam results**

c.) Well Driller Exam Schedule for 2013:

The remaining well driller and pump installer exam date for 2013 is:  
**December 11 (November 15 was the application deadline)**

d.) The Well Driller/Pump Installer Exam Dates for 2014 are listed below. All exams will be administered at the NJ Rutgers EcoComplex in Burlington, NJ.

<b>April 3</b>	<b>Application Deadline is March 1</b>
<b>June 11</b>	<b>Application Deadline is May 15</b>

**October 1  
December 10**

**Application Deadline is September 1  
Application Deadline is November 15**

S. Reya reported that an issue occurred wherein exam applicants did not receive written notification of their exam scores for the October exam until a day or two after the application deadline for the December exams. Both P. Bono and he personally called all pre-approved applicants to notify them that they were being granted additional time to reapply and still be considered to have met the deadline. Interested applicants were allowed to first FAX the application and then followed up by sending the original applications and the required exam fees via mail. Further compounding the problem for both new and pre-approved applicants are changes made by the Department's recent restructuring which led to changes in mailing address codes, use of out dated forms and internet postings which list the older mail codes and addresses. As a result delayed or returned applications left little or no time for applicants to correct or minor deficiencies.

**In response to the Bureau's inability to notify applicants in a timely manner and provide forms containing accurate mailing address information, S. Doughty made a motion that due to the mail delays and associated confusion caused by the Department, any untimely submitted applications would be included on the exam list as "approved" to sit for the exam provided the applicants meet the requirements specified by the regulations and the Board.**

**Karl Muessig seconded the motion, and it was approved unanimously.**

**6. Review and Certification of Exam Applicants for the December 11<sup>th</sup>, 2013  
Master, Journeyman, Monitoring, Soil Borer and Pump Installers Exams –**

**Master** – A motion to approve all listed applicants for the exam was made by G. Poppe, seconded by J. Yost and approved unanimously.

**Journeyman** - A motion to approve all listed applicants for the exam was made by J. Yost seconded by G. Craig and approved unanimously.

**Journeyman B** – A motion to approve all listed applicants for the exam was made by G. Craig, seconded by S. Doughty and approved unanimously.

**Monitoring** – A motion to approve all listed applicants for the exam was made by K. Muessig, seconded by R. Dalton and approved unanimously.

**Soil Borer** – A motion to approve all listed exam applicants was made by J. Yost, seconded by G. Poppe and approved unanimously.

**Pump Installer** – A motion to approve all listed exam applicants was made by S. Doughty, seconded by A. Becker and approved unanimously.

P. Bono reported that since the Bureau has taken over proctoring exams she observes reoccurring problems with those sitting for exams. Specifically, she noticed that the vast majority of applicants appear both nervous and anxious upon sitting down to take the exam. While administering the exam she stresses the fact that all applicants have ample time to complete the exam so care should be taken to

answer every question, as there is no need to rush through the test. Furthermore, she recently reached out to the President of the New Jersey Ground Water Association (NJGWA), Joe Neri, in the hope of working together to develop and provide a training course to better prepare exam applicants. P. Bono expressed that perhaps the Bureau could provide regulatory training on specific areas of importance and NJGWA personnel could provide technical training. Both she and Mr. Neri hope to have something in place by the April 2014 Exams.

#### **7. CETCO High TC Geothermal Grout Field Demo Results-**

S. Reya discussed the CETCO High TC geothermal grout field demonstration held on September 18, 2013 and provided a September 23, 2013 memorandum written by R. Dalton, which summarized the event. Board members R. Dalton, G. Craig, S. Doughty and G. Poppe were onsite to witness the mixing and pumping of CETCO's High TC Geothermal Grout for which they request DEP approval. P. Bono and S. Reya from the Bureau of Water Allocation and Well Permitting were also onsite, along with George Stryker, from Yorgey Supply, Wesley Gibson from CETCO and John and Henry Robbins from the drilling contractor, Robbins Water Well Service. Mixes containing 400 lbs. of sand mixed with 50 lbs of sand were pumped through 1.25 inch HDPE tremie pipe into closed loop geothermal well boreholes.

R. Dalton's summary of the demo concluded by stating "pending the results of the permeability test results; the pumpability test indicates the grout is pumpable as long as the manufacturers' recommendations are followed and proper pumping equipment is used." S. Reya said he checked with CETCO representative, Wesley Gibson, regarding the status of the lab permeability tests on the samples from the mixer hopper and the borehole (at discharge from tremie). Unfortunately there are no lab results to review as the samples were lost in transit for over a month. The samples were ultimately located by the shipping contractor and delivered to the certified lab. Mr. Gibson has reportedly been assured they are in good condition and will be tested shortly. He will forward lab results to S. Reya as soon as possible for discussion at an upcoming Board meeting. Finally, S. Reya passed around two samples of the geothermal grout mixture which he had obtained onsite during the demo. Board members noted that the grout samples exhibited extremely minimal shrinkage or cracking.

#### **8. NJDEP Enforcement Activities Update-**

**Recent Bureau Enforcement Activities, as reported by J. Altieri, include the following:**

- a.) **Field Presence** - Staff performed ten (10) site inspections since the last Board meeting (held approximately eight (8) weeks ago) and plans to provide an active field presence by conducting inspections on a frequent basis. The vast majority of drillers that were recently spot checked were in compliance, stated J. Altieri. She

explained that staff investigations included a geothermal well about which a consumer complained and a large public supply well installation.

- b.) **Edward DeSantis**- Mr. Edward DeSantis properly decommissioned three (3) unpermitted wells drilled by his firm several years ago. He has also constructed conforming wells to replace the decommissioned wells that were drilled both without permits and in violation of multiple construction violations. He and his firm were cooperative with Bureau staff in coordinating these activities so staff could be onsite to oversee the drilling and decommissioning activities. Mr. Desantis has also paid all fines associated with these three (3) properties and satisfied all other requirements of the settlement in which he entered into with the Department.
- c.) **Don Creyts and ECR Company** – The Department has reached a settlement in the case concerning an illegal Direct Expansion (DX) geothermal well system that was installed in Princeton Borough. The system installer and geothermal contractor owner, Don Creyts, submitted a settlement offer to the Department through his attorney. In response to this offer, a State Deputy Attorney General (DAG) submitted a counteroffer, which was accepted by Mr. Creyts. The final settlement requires that he remits payment of a \$62,000.00 fine, which must be paid over five (years) in accordance with a payment schedule to which both parties agreed.
- d.) **Kavlunas Case** – Some progress has been made with regard to a deep domestic well (400+ foot) that the Department contends was illegally constructed and never permitted. The case was tried before an Administrative Law Judge (ALJ) on October 3, 2013. The Administrative Law Judge (ALJ) ordered that the well be decommissioned in accordance with DEP regulations and requirements. Secondly, this order required him to pay a fine, but lowered the amount assessed from \$3,900 to \$2,900. The Department DAG working on the case filed exceptions to this, indicating that the well regulations, N.J.A.C. 7:9D, dictate fine amounts. The DAG argued that assessed fines for violations deemed construction-related, therefore, could not be lowered as prescribed in the ALJ’s original order (a reduction from \$3,250 to \$2,250 for the construction-related component of the penalty assessment).

The final decision from the DEP Commissioner, Bob Martin, was made on October 3, 2013. This decision both upheld the fact that the well must be properly decommissioned and reinstated the original fine amount of \$3,900. Mr. Kavlunas and his attorney, however, have since filed an appeal (dated November 15, 2013) to the Commissioner’s decision. J. Denyes, DAG, discussed the appeals process and how appeals play out through the appellate division.

- e.) **Non-conforming Wells in Saltwater Areas**- A well construction problem developing in areas of known or suspected salt water intrusion was pointed out by J. Altieri. She stated that three (3) drillers recently constructed wells in violation of the “double-casing” and “salt water resistant grout material” conditions stipulated on their permits. The Bureau will soon be taking official enforcement action against these well drillers.

**9. Outstanding Fines and Suspected Non-Conforming Well Construction Practices-**

T. Pilawski requested assistance from the licensed well drillers on the Board to accompany her and other Bureau staff to meet with a well driller who has been making complaints about black steel casing causing bacteriological contamination in well water. She hopes to avoid conducting a lengthy hearing with this driller, who has made repeated claims about willfully violating the well regulations because he believes it yields better wells than if he were to follow the state regulatory requirements. T. Pilawski would like to meet with the driller along with State legal staff and at least one licensed well driller to disprove his claims regarding water quality as it relates to well construction materials; the reason he believes that compliance with the regulations is not warranted. She will contact Board volunteers prior to arranging a meeting.

**10. Update on Enforcement Actions against Journeyman Driller Brian Funkhouser-**

T. Pilawski brought Board members up to date on the whereabouts of Mr. Funkhouser, who was recently located in a nursing home within NJ. Mr. Funkhouser will be served a certified letter and supporting documentation, which detail the reasons the Board seeks to hold a hearing to determine whether to recommend suspension, revocation or any other licensing sanctions to the DEP commissioner. He will be notified immediately to allow him or a legal representative sufficient time to address the reason(s) he has been unresponsive for several years to violations and letters sent by the Department. The Department will notify him that the hearing will be conducted at the January 23, 2014 Board meeting. Board members requested all related documentation several weeks in advance of this meeting to afford them time to review the material in preparation of the hearing. J. Altieri will compile and send this documentation to all members.

**11. Coastal Coring Project Presentation by Dr. Karl Muessing and Helen Rancan-**

K. Muessig and H. Rancan from the Department's NJ Geologic and Water Survey (NJGWS) presented details of a coastal coring project NJGWS recently completed to assess the impacts of Hurricane Sandy on NJ's channels. In order to receive FEMA finances for the dredging of 88 NJ Department of Transportation controlled channels, DEP was asked to conduct a study to ascertain the amount of deposited sediment that is attributed to Hurricane Sandy. H. Rancan presented multiple photos, maps and tables to illustrate what 17 geologists from NJGWS and the Bureau of Water Allocation and Well Permitting were required to accomplish. Working days often totaling 17 to 18 hours, they collected, analyzed and photographed core samples within each channel. Additionally, they collected GPS coordinates and data entered the results of their analyses. The core holes totaled approximately 3,300 and ranged from Sandy Hook to Cape May. Each vibrating

core collection device was typically inserted to a depth of approximately six feet. The research in delineating the pre and post Sandy sediments will prove essential to assessing the scale of the dredging project, securing the necessary funding and ascertaining the areas where the dredging is most crucial as a result of high sediment volumes that would prevent safe navigation of these waterways.

Both K. Muessig and H. Rancan were extremely grateful and impressed with the dedication and professionalism of the geologists from both Bureaus who volunteered for the project. They added that the 30 day deadline they were given seemed like an impossibility but staff accomplished the task within the timeline. Additionally, they were able to work in cooperation with multiple contractors (boat captains, etc), consultants and universities to reach their goal. Brian Buttari and Michael Schumacher from the Well Permitting program were among the geologists who worked on this important task.

#### **12. Coastal Rule Proposal-**

P. Bono is in the process of reviewing a draft rule proposal in conjunction with the Department's Coastal Permit Program ( N.J.A.C. 7:7) and Coastal Zone Management ( N.J.A.C. 7:7E). She has been identifying some areas of concern where these rule proposals should reference the well regulations. Soil borings for geotechnical engineering along bulkheaded/coastal waters and wells lost or destroyed as a result of storm damage or redevelopment activities are all areas where the Bureau of Water Allocation and Well Permitting should be consulted to ensure compliance with permitting, licensing, construction and decommissioning standards. P. Bono noted that she and Kristin Tedesco have provided suggested language for inclusion in this rule proposal.

#### **13. Status of the Revisions to the Well Regulations-**

T. Pilawski said that the status of the draft regulations, N.J.A.C. 7:9D, are still a priority with the Department and a meeting has been scheduled with staff from the Commissioner's office to discuss the rule status and reiterate the importance of proposing the rule as soon as possible.

#### **14. Vented vs. Non-Vented Well Caps for Wells in Flood Prone Areas-**

G. Poppe brought in, demonstrated and passed around a few non-vented well caps for Board members to inspect. This was a follow up to the discussion held at the September 12<sup>th</sup> meeting in which S. Reya questioned members on the merits of installing one of these caps in coastal and other flood prone areas versus installing a vented cap that is installed one foot above the flood plain elevation. Members again agreed that in such instances the sealed cap would likely best protect the well and pumping equipment as well as the aquifer itself from saltwater or other contaminants or debris. S. Reya also noted that P. Bono and he recently suggested some new language for the draft regulations to allow for these types of caps when warranted (the current well regulations require that all wells must be vented).

These well caps are permitted to be installed to control flowing water from wells under artesian pressure that would otherwise overflow the well casing and lead to a nuisance at ground surface.

**15. New Bureau Hire**

T. Pilawski announced that the Bureau has successfully hired one full time employee, Imani McGowan, who has been an hourly employee working with the Well Permitting Program for several years. Ms. McGowan will be introduced to the Board members at a future meeting. Fayard Ali, who was under the supervision of B. Buttari as an hourly employee, was recently hired full time in another DEP program.

**16. Adjournment -1:00 PM**

A motion to adjourn was made by G. Craig, seconded by G. Poppe and approved unanimously.