



State of New Hampshire
WATER WELL BOARD



Roger B. Skillings, C.W.D. – P.I., *Water Well Contractor*
David R. Hunt, *Water Well Contractor*
Kelly M. Dobrowolski, *Pump Installer*
Richard P. Schofield, P.G., *Staff*

Steven Garside, *Technical Driller*
Rene Pelletier, P.G., *Dept. of Environmental Services*
Frederick H. Chormann, Jr., P.G., *State Geologist*
Steve Guercia, Certified Operator, *Public Member*

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NH WATER WELL BOARD MINUTES

February 5, 2015

A meeting of the New Hampshire Water Well Board (“Board”) was held on February 5, 2015, in the Department of Environmental Services Building in rooms 112 & 113, 29 Hazen Drive, Concord, NH 03301.

Present were: Roger Skillings, Chairman
Brandon Kernen for Rene Pelletier, Secretary
Board Members: Steven Garside, David Hunt and Kelly Dobrowolski
NHDES Staff: Richard Schofield and Katie Murphy

Mr. Skillings brought the meeting to order at 10:08 AM.

Secretary Pelletier joined the meeting at 11:22 AM
Fredrick Chormann joined the meeting at 11:46 AM

Approval of Minutes

Upon motion by Mr. Hunt, and seconded by Mr. Garside, the Board voted to accept the Minutes of the November 6, 2014 meeting, as printed.

Previous Complaints

Vancelette / Smith Pump Company

The Board considered the request of Smith Pump Company (hereinafter Smith Pump) to dismiss the complaint filed by Mr. Vancelette on October 22, 2014, with a finding of no merit. Mr. Schofield reviewed the circumstances of the complaint discussed at the Board meeting on November 6, 2014. At the previous meeting, the Board found that there were no violations of code in the work performed by Smith Pump, and made a recommendation that Smith Pump refund the cost for the installation of the well cap and the labor costs associated with that installation.

Mr. Schofield read a response to Smith Pump’s request submitted by Mr. Vancellete, stating that there was merit to his complaint because the well cap was installed onto a bent well casing without his knowledge, the cap was not sealed, and false statements were made.

Mr. Skillings asked the Board whether the complaint was legitimate with regard to the Board’s code. The Membership agreed that the complaint was a result of the customer being unsatisfied with the method of installation used, but there was no violation to the code. The Membership further agreed that the openings

between the well cover and casing, and the problem with the electrical conduit not to being mechanically secured to the well cover, were a result of the existing well casing being previously damaged by others. Smith Pump Company did not know about the condition of the casing prior to performing the work, and the installer accomplished the job to the best of his ability. Smith Pump Company had offered to install a casing extension to correct the problem, but was not allowed to complete the work.

Upon motion by Mr. Garside, and seconded by Mr. Hunt, the complaint was dismissed with a finding of no merit.

Skillings and Sons, Inc. – Request for Removal

For this complaint, Mr. Skillings recused himself from the meeting and left the table. The Board considered a request by Mr. Skillings, of Skillings and Sons, Inc. (hereinafter Skillings and Sons), to dismiss a complaint filed August 24, 2007 by Paula Philbrook regarding a new home with insufficient water supply. Mr. Schofield read the request by Skillings and Sons and provided background on the complaint. Skillings and Sons cited We 1002.04, written complaints will be removed from the registry as long as no subsequent complaints have been filed with the Board within three consecutive years prior to the request for removal. Mr. Schofield noted that Ms. Philbrook did not want to pursue the complaint and asked that it be removed from the Board meeting agenda. Consequently, no action was taken by the Board. Mr. Schofield informed the Board that there had been a complaint filed against Skillings and Sons on October 1, 2013 by Timothy Lux regarding a used well casing. This complaint had been dismissed by the Board on the basis that the complaint had no merit.

The Board discussed whether a complaint should be entered into the registry if no action was taken. Mr. Schofield indicated that the complaint is automatically listed in the registry if no action is taken, unless the complaint is withdrawn or the Board finds the complaint to have no merit. Mr. Garside argued that the complaint was withdrawn by Ms. Philbrook, as she did not pursue the complaint with the Board. Under We 203.02 and We 1002.02, the Board has the right to dismiss the complaint if it has no merit and not include the complaint on the registry. Mr. Schofield read the letter from Ms. Philbrook to the Board requesting the complaint be removed from the agenda and expressing her intent not to pursue. Upon motion by Mr. Hunt, and seconded by Mr. Garside, the Board voted unanimously to accept Mr. Skillings' request to remove the complaint from the registry. Mr. Schofield reminded the Board that complaints are only removed from the registry, and all the complaint files are still public record under New Hampshire's Right-to-Know law.

New Complaints

John T. Stump

Mr. Schofield informed the Membership of the complaint received by the Board on November 24, 2014 by Mr. and Mrs. Stump against Mr. Darrin Cully of ProFlow Water Conditioning, LLC d.b.a. Asset Water & Well (hereinafter Asset Water). The complaint was in regard to the failure of Asset Water to honor a contractual obligation to warranty a well that had gone dry. Mr. Schofield explained that Mr. Cully was a previous licensee of the Board and had obtained a Water Well Contractor license for Asset Water Well in August 2006, which had expired July 1, 2009. Mr. Schofield explained that the Board has no jurisdiction over an unlicensed contractor and the violations will be addressed by the program. The program has recommended that the Water Division propose an administrative fine for installing both a well and a pump without a license. Mr. Skillings asked for a copy of the DES findings after the matter is resolved. Mr. Hunt

requested that DES ask Mr. Cully to remove Asset Well & Pump from his letterhead, citing advertisement without a license. Mr. Schofield agreed to follow up on the matter.

License Applicants

Erin Hartley

The Board considered an application from Erin Hartley for a water well contractor license and a pump installer license. Mr. Schofield noted that four references from coworkers were received for Mr. Hartley, which We 302.05 does not technically allow. Mr. Schofield recommended the Board waive that requirement on the basis that Mr. Hartley has been working for Hartley Well Drilling, Inc. for 27 years. The Board agreed that there is no question that Mr. Hartley has the qualifications needed for both licenses. Upon motion by Mr. Hunt, and seconded by Mr. Garside, the Board voted unanimously to approve the applications for both licenses.

Old Business

Gilford Well Exemption Request

Mr. Schofield informed the Board of the request by Norm Harris to decommission an old well using a less expensive alternative from the current rule for a property in Meredith, NH. Mr. Hunt suggested that the well might be exempt from current rules if it was drilled prior to August 17, 1983. Mr. Schofield informed the Board that the “grandfather clause” was not readopted when the original statute, RSA 489-B, was repealed and reenacted with RSA 482-B. He suggested that the rule pertaining to the clause be repealed.

Chairman Skillings expressed concern that the Board did not know if another well would be drilled nearby, which would affect the final decision on the request. The Board determined that the request did not provide enough information and should be tabled until Mr. Harris can provide more information. Upon motion by Mr. Hunt, and seconded by Mr. Garside, the Board voted unanimously to table the request for exemption based on the lack of onsite information until Mr. Harris can address the Board with more information.

New Business

Legislative Updates

Mr. Schofield notified the Board of updates to several bills of interest. HB 498, an act relative to notification of radon and arsenic testing, amends an existing notification bill to realtors to require that certain information, including a statement about arsenic in groundwater, is disclosed by the seller or the seller’s agent during the transfer of real estate or property containing a building. The buyer must acknowledge receipt of this information.

HB 609-FN, an act relative to hydraulic fracturing, prohibits hydraulic fracturing for gas and oil. Mr. Schofield noted that under the enforcement section amending RSA 485-A:4, the word “drilling” may have been misused and should be changed to hydraulic fracturing. Mr. Pelletier, upon rejoining the Board and dismissing Mr. Kernan, notified the Board that New Hampshire does not have the geology for this bill to be a concern.

HB 216-FN, an act relative to recovery of certain investigatory costs by regulatory boards and commissions, authorizes boards to recover up to \$10,000 in investigating or prosecuting violations. This bill applies to Title 300 statutes and thus would not affect the Board.

Mr. Schofield reminded the board that a bill passed last year and became effective January 1, 2015, which creates a statute of limitations under RSA 541-A for boards and commissions to

start disciplinary proceedings against an occupational licensee. Boards will now have 5 years from the date the alleged violation occurred, or from the date the violation could reasonably have been discovered to act upon the violation.

Elections

The Board decided to table elections until the next meeting, when all members are present.

Administrative Rules

Mr. Chormann returned to the meeting for the discussion of the administrative rules. Mr. Schofield provided information to the Board regarding authority to issue an exemption for existing employees to obtain a journeyman license. The Board's proposed rules would exempt existing employees of a licensed water well contractor or pump installer from the requirement to pass a written exam. The law, RSA 482-B, requires that in order to qualify for a license, applicants must have three years experience and must pass an exam. The proposed exemption would not be consistent with the statutory requirement, and would not be within the Board's authority to grant. Mr. Schofield suggested that the law could be amended to provide an exemption for the exam for one year, so that existing employees can be given a journeyman license. Chairman Skillings recommended that all applicants be given an exam so that they are educated on the rules. After debate, the Board reached consensus that an exam should be given to all qualifying applicants. The exam will be open book and the rules will be available on line or hardcopy to ensure that all those receiving the license have read the rules.

Changes to Administrative Rules

Mr. Schofield informed the Board of changes made to the language of the current rules as proposed since the previous meeting on November 6, 2014. The Board discussed horizontal setbacks and minimum casing length from observed sources of contamination. Mr. Chormann stated his concerns that reduced setbacks may not protect against unknown contaminants and may put people at a risk where data is lacking, or is not well understood on how these contaminants move through the groundwater system. Mr. Pelletier agreed that Mr. Chormann's point was valid and that we may have to reevaluate at some point in the future. The Board reached consensus on all proposed changes to the rules.

New Business, continued

Mr. Schofield informed the Board that he had come across an unlicensed well driller on his way to work and informed them that they had not renewed their license, and face fines for wells drilled without a license.

Upon motion by Mr. Garside, and seconded by Mr. Pelletier, the Board voted to adjourn the meeting.

Rene Pelletier
Water Well Board Secretary