

DRAFT

A meeting of the New Hampshire Water Well Board (“Board”) was held on November 19, 2010 at 9:00 AM, in rooms 112 & 113, 29 Hazen Drive, Concord NH, 03302.

Present were: Peter Caswell, Chairman

Board Members: Roger Skillings, Stephen Smith, Thomas Garside, Rene Pelletier (present from 9:25 am. to 1:05 pm.) and Steve Guercia (arrived at 9:55 am.)

NHDES Staff: Richard Schofield and Allyson Gourley

Chairman Caswell brought the meeting to order at 9:07 AM.

Approval of Minutes

9/23/2010 Meeting: Upon motion by Mr. Smith, and seconded by Mr. Skillings, the Board unanimously voted to accept the Minutes of the meeting.

Complaints

Vincent / Contoocook Artesian Well Company

Richard Schofield briefed the Board concerning a complaint submitted by Lorraine Vincent of 1 Pine Acres Rd, Allenstown NH. The complaint stated that Mrs. Vincent’s water system failed on August 11, 2010. She contacted Contoocook Artesian Well Company and one of their pump technicians responded to her house that same day. It was determined that her well pump had burned-out, so a new ½ horse pump was installed. Following installation of the new pump, Contoocook Well personnel pumped water from the well off the bottom of the pressure tank. During this process, the well went dry. The Contoocook Well technician informed Mrs. Vincent that her well was running dry and that she probably needed a new well. Prior to leaving the property, the technician disconnected power to the pump in order to give the water level in the well time to recover overnight. Mrs. Vincent states that she was not aware that the power to the well pump had been shut off.

That evening and the following day, Mrs. Vincent attempted to use water with no success. Convinced that she needed a new well, she signed a contract with Contoocook Well Company to

install a new drilled well. Later the same day, power to the well pump was reconnected. Mrs. Vincent states that she had adequate water all the rest of that day and evening. The next day, Contoocook Well Company began drilling the new well. Mrs. Vincent claims that she had adequate water during the time that the new well was being installed. She also told the technicians that she had adequate water and expressed concerns that she may not need a new well. On August 17, 2010, the old well was decommissioned and the new well was put into service.

In her written complaint, Mrs. Vincent states that she believes she was sold a well that she did not need. She also alleges that the existing well was decommissioned without her knowledge or approval.

Chairman Caswell invited Mrs. Vincent and her legal counsel, Cheryl Driscoll with NH Legal Assistance, to the table.

Ms. Driscoll told the Board that Mrs. Vincent felt her concerns that she may not need a new well were completely dismissed by Contoocook Well Company. The existing well was decommissioned without her knowledge or approval. Additionally, the final bill was \$2,100 more than the original contract. She and Mrs. Vincent also had questions regarding an amount of \$1,600 on the bill which was referred to as "pump slip".

Mrs. Vincent told the Board that she has lived in her home since 1966. She said the original well had been installed by Contoocook Well Company and that they also replaced the pump in 1992. She said that when her water system failed, she expected that she probably needed a new pump because of the age of the existing one. She also said that she was never given a copy of the signed contract from Contoocook Well, despite several calls to them requesting a copy. She eventually obtained a copy from the Attorney Generals Office. Mrs. Vincent stated that after the new pump was installed and power to the new pump was restored, she did not experience any water problems. She added that one of the technicians, Jamie, had commented to her that he had his doubts that she had needed a new well.

The Board invited Richard Patenaude, Vice President of Contoocook Artesian Well Company, to the table. Mr. Patenaude began his statement by saying that he wished this matter could have been handled at an administrative level. He went on to say that Mrs. Vincent agreed with him that the old well should be abandoned. Mr. Patenaude said that he discussed this issue with Mrs. Vincent on the phone during a conversation that covered a variety of related subjects, including the option of bringing the existing well up to code, which he estimated would cost approximately \$2,000.

Mr. Smith asked Mr. Patenaude if he was saying to the Board that Mrs. Vincent wasn't being truthful. Mr. Patenaude responded, yes.

The Board invited James Whitney (aka "Jamie"), Service Technician for Contoocook Artesian Well Company, to the table. The Board asked Jamie if he ever made a comment to Mrs. Vincent that he had doubts she needed a new well. He responded that he never made such a comment.

The Board asked Mr. Patenaude if Mrs. Vincent had been charged for the original service call when the new pump was installed in the original well. He said that a bill had been drawn-up and

given to her and she requested to wait until there was resolution with her water issues. Mr. Patenaude said he later reached an agreement with Mrs. Vincent where he subtracted the cost of the pump that had been installed in the old well from the total bill. He went on to explain that the “pump slip” charge that appeared on the invoice reflected the total cost of the installation of the pump that had been installed in the original well, including the pump. The credit for the pump is reflected on the next line which shows - \$787.50.

Mr. Patenaude told the Membership that after the new well had been drilled, prior to installation of the pump, he offered to decommission the new well and put the pump back in her old well.

Mr. Schofield commented on the statement by Mr. Patenaude that he had wished Mr. Schofield tried to resolve this matter with the parties early on before it became a formal complaint. He stated that he had tried to have the parties work it out. When Mrs. Vincent originally called him, he encouraged her to try to resolve the issues with Contoocook Well Company. He provided her with Rick Patenaude’s telephone number. A day or so later, Mrs. Vincent called Mr. Schofield and told him that Contoocook Well’s attorney had called her and told her that there would not be any more negotiating and she had until February 23rd to pay her bill. At that point Mr. Schofield was under the impression that Contoocook Well Company was not interested in resolving the matter informally.

Mr. Patenaude said he believed, maybe incorrectly, that Mr. Schofield had the ability to assess the validity of complaints and act as a mediator, preventing some complaints from having to come before the Board.

Mr. Pelletier responded stating that Environmental Services role with the Water Well Board is to provide administrative support. He said Mr. Schofield typically goes above and beyond what is required of him in assisting parties to work out their differences, but it is not within Mr. Schofield’s purview to make decisions or influence the outcome of such matters.

Mr. Pelletier said that the Board can make determinations where there is “clear and convincing evidence”, which he said is not the case here. He recommended that the parties again try to reach a resolution, or go to court.

Upon motion by Mr. Garside and seconded by Mr. Pelletier, the Board voted with one abstention, to recommend that the parties try to come to a resolution or take the matter to court.

The matter was closed.

Other Public Matters

Contoocook Artesian Well Company

Mr. Schofield summarized previous events and updated the Board regarding recent developments pertaining to the Warner Village Water District (WVWD) matter.

In February, the WVWD requested that DES conduct an inspection of three wells that had been installed on private property at the District’s expense in 2009. The District paid for the wells to be installed because they were discontinuing the water main that serviced these homes. The

request was that he inspect the wells at the St. James, Benward and Buckley properties with regard to compliance with RSA 485-A:29 and RSA 485-A:30-b, which pertain to subdivision approval and protective well radii.

Mr. Schofield conducted an inspection on March 5, 2010, and determined that the well at the St. James property was in compliance, but the wells on the other two properties were located less than 75 feet from the on-lot septic systems. The well on the Benward property was determined to be 67 feet from the septic leachfield. The well on the Buckley property was determined to be 68 feet from the on-site leachfield.

Mr. Patenaude of Contoocook Artesian Well Company was notified by DES of the well setback violations and informed that the department was considering the possibility of administrative fines for the setback violations.

A meeting was held at DES on July 26, 2010, with Mr. Patenaude to gather additional information about how the wells were sited. At the meeting, Mr. Patenaude stated that his employees did not take setback measurements on the property and that in accordance with We 602.05(b), the contractor is only required to rely on information provided by the property owner, or the property owner's agent, on the location of the septic system and where the well should be placed. He argued that based upon the rule, they did not believe they were required to take measurements. He also stated that the Commissioner for the WVWD had sited the location where the wells were to be located.

Mr. Schofield had expressed his concerns at the last Water Well Board meeting that this interpretation of the rule would prohibit the water well program from enforcing the setback requirement to on-lot septic system leach fields. Mr. Schofield had requested that the Board make a declaratory ruling on this issue.

Considerable discussion followed regarding the interpretation of the rule and how the wells were located. Mr. Patenaude and his representatives, Deb Bess Urbaitis, counsel, and Jennifer McCourt, engineer and licensed septic system designer, all spoke on behalf of Contoocook Artesian Well Company.

Mr. Schofield stated, as he had at the previous meeting, that DES would not to take enforcement action in this case based upon the current wording of the rule.

Upon Motion by Mr. Skillings and seconded by Mr. Pelletier, the Board voted unanimously to review and possibly revise the current language in We 602.05, Well Location.

Mr. Schofield informed the Membership that the Public Utilities Commission (PUC) would not allow the discontinuance of the WVWD water to these properties until they have confirmation from DES that the wells are in compliance with RSA 485-A:29 and RSA 485-A:30-b. The WVWD is going through the process with DES to request waivers.

Break at 11:20 am.; Reconvened at 11:35 am.

Licensing**Gap Mountain Drilling LLC – Pump Installer License**

The Board reviewed the license application submitted by Chris Parker of Gap Mountain Drilling LLC for a Pump Installers License. Attorney Mark Fernald represented his client Chris Parker. Mr. Parker was not present at the meeting.

Attorney Fernald explained that the primary basis for Mr. Parker's application with regard to the necessary experience is based upon the fact that he has been in business of installing well pumps since 2003 when he purchased the Gap Mountain business from Mr. James Weidner. He has a drilling license in Massachusetts and has been installing wells and pumps there. Massachusetts does not require a pump installer license. He said his client has been installing well pumps in Massachusetts for approximately seven years. He went on to say the issue is that Mr. Parker does not have a former employer for which he installed pumps to use as a reference.

Attorney Fernald submitted a letter to the Board requesting a waiver of the required three years of experience under a previous employer. He added that Mr. Parker worked for DL Maher about ten years ago for approximately one year. He also worked for Mr. Robert Tupper until Mr. Tupper experienced financial difficulty and the business went back to Mr. Weidner, from whom Mr. Parker purchased the business. He said Mr. Parkers experience was gained working for his own company with Bradley Kelly as the licensed individual. Mr. Kelly has been the licensed pump installer for the business since 2006. Prior to that time, Mr. Parkers experience was gained installing wells in Massachusetts where a pump installer license is not required.

Mr. Schofield summarized a telephone conversation he had recently with Mr. Kelly. He told Mr. Schofield that he worked for Gap Mountain full-time for approximately 1.5 years. In 2008 he was hired on a part-time basis. He currently spends four weeks in Alaska and two weeks in New Hampshire. During the two weeks he is in NH, he occasionally installs pumps for Gap Mountain. Mr. Schofield said that he asked Mr. Kelly if he felt Mr. Parker had the experience necessary to install pumps and he replied that he has full confidence in Mr. Parker's work. That is why he allows him to work under his license.

Mr. Pelletier said he is concerned because Mr. Parker has been asked to come before the Board three times for the opportunity to convince the Board that he has the necessary experience. Mr. Parker has not responded to the Board's requests.

A Motion was made by Mr. Pelletier to table this matter until Mr. Parker comes before the Board. The motion was seconded by Mr. Garside. The motion was unanimously approved, following additional discussion.

Attorney Fernald asked if the Water Well Board rules required applicants to come before the Board in order for their applications to be approved?

Mr. Pelletier responded by explaining that the rules do not require that an applicant come before the Board, but in cases where the Board feels the information provided is not adequate, the opportunity to come before the Board is for their benefit. The easy thing for the Board to do would be to deny the application.

Attorney Fernald asked the Board what qualifies as three years of experience?

Chairman Caswell suggested that Mr. Parker submit invoices, photographs or other information to verify his work in Massachusetts.

Mr. Pelletier explained that the problem with Mr. Parker's application is that he does not have references to vouch for his experience. The Board has invited Mr. Parker to come before the Board to explain his work experience. The Board needs verification that he has been installing well pumps in Massachusetts for seven years.

The Board agreed that a letter should be sent to Chris Parker notifying him that Gap Mountain can no longer install well pumps until they have employed a qualified, full-time licensed pump installer.

Mr. Schofield informed the Membership that this would require that the current license, under Brad Kelly, be revoked. If the board voted to revoke the license, Mr. Parker will have 30 days to request a hearing. If a hearing is requested, the license will remain in affect until the hearing is concluded.

The Board told Attorney Fernald that the Board agrees Mr. Parker has 1.5 years of experience working under a qualified individual during the time that Brad Kelly was working for Gap Mountain full-time. He needs to fulfill the experience requirement for remaining 1.5 year gap.

Mr. Pelletier made a motion that the Board move forward with license action against Gap Mountain Drilling LLC for not having a full-time, qualified pump installer. The motion was seconded by Mr. Garside and unanimously approved.

Mr. Schofield told Attorney Fernald that he will notify him of the date of the next Water Well Board meeting once it is scheduled.

Attorney Fernald asked if his client submitted invoices, or other information in order to satisfy the experience requirement, would the Board be willing to reconsider his application in time for him to take the next pump installers exam on December 9th.

Following considerable discussion, the Board members agreed that they were not willing to reconsider Mr. Parker's application until he comes before the Board. The Board did however, authorize staff to process a new pump installer license application submitted by Gap Mountain Drilling provided the qualified licensed individual provides a signed written statement of full time employment with the company.

Lunch Break 1:05 pm.

Reconvene 1:40 pm.

License Applicants

Mr. Mackey informed the Membership he had one additional applicant: Gary Chandler has applied for a Pump Installer License.

Following review of Mr. Chandlers application, upon motion by Mr. Skillings and seconded by Mr. Smith, the Board unanimously voted to allow Mr. Chandler to sit for the Pump Installers Exam.

New Business

Other

Donald Jones of Windham, NH was invited to the table. Mr. Jones explained that he is requesting an exemption to locate a new well on his property at 20 Ash Street in a different location than shown on the approved plan. The approved site plan proposes the new well be located at the front of the property, 20 feet from the edge of Cobbetts Pond. This location maintains the required 75 feet from the on-site septic system. He went on to explain that the problem with the plan is that the front of the property is very steep and has ledge at or near the surface. The well company that he has hired has informed him that it is not feasible to drill a well in this location.

Mr. Jones told the Board that he requested a waiver from the Town of Windham. His waiver request was originally denied, but as the result of an appeal hearing on the matter, the Windham Board of Health voted in the affirmative to approve his waiver request contingent upon him obtaining written approvals from both the Water Well Board and the NH DES Subsurface Systems Bureau. The written approvals must include justification for the relocation of the well as shown on the amended plan by ECM & Associates, Inc. which was presented at the 11/1/2010 hearing.

Mr. Jones provided a copy of the plan showing the amended location of the well. The proposed amended location would be at the back of the property, near the road, and would maintain 65 feet from the on-site septic system.

The Board agreed that the well location shown on the original plan was not feasible, based upon inaccessibility to the location, the steep slope and ledge outcroppings. The Board was also concerned that with ledge at or just inches below the ground surface, it would be impossible to properly insulate the service line.

Mr. Garside made a motion to approve the waiver request based upon the proposed location for the new well as shown on the amended plan, provided that a minimum of 40 feet of casing be installed and grouted into competent bedrock. Also, the existing well be decommissioned using a bentonite grout. The motion was seconded by Mr. Smith and unanimously approved by the Board.

Comac Pump & Well

Mr. Schofield reported the Board had received a request from Scott Costa of Comac Pump & Well to have some old complaints removed from the complaint registry. The Membership and staff reviewed the conditions for removal of complaints under RSA 482-B:18.

Upon motion by Mr. Smith and seconded by Mr. Garside, the Board voted unanimously to remove the complaints from the registry.

Old Business

Budget / Fees

Mr. Schofield updated the Board with regard to the proposed Water Well Board budget. At the last meeting he presented the Board with the recommendations of the WWB Budget Committee to increase revenue. The following is a summary of the fee increases that were proposed:

- *Modified Business License (flat fee) \$140.*
- *Individual Licenses (separate fee) \$ 35.*
- *Well Registration Fee \$ 50.*

Since that meeting, Mr. Schofield attended a meeting of the NH Water Well Association (NHWWA) to present and discuss the proposed fee increases. He reported that the NHWWA was receptive to a modest increase in license fees, but did not support individual license fees or a well registration fee.

In addition to the meeting that was held on November 2nd (election day), Mr. Schofield offered to hold an additional meeting at DES on November 16th for anyone who wanted to continue the discussion on the proposed program fees. He reported that there was a very good turnout at the second stakeholder meeting. As a result of this meeting, it was apparent that the stakeholders in attendance did not want any changes to the current licensing program. They were willing to support the program through an increase in the current license fees. They felt the increase in revenue should be evenly distributed between the well drillers and the pump installers, proposing an increase in revenue of \$60,000 for each. Additionally, the stakeholders agreed that license application and exam fees should increase by an amount that equates to an annual \$5,000 in increased revenue. It was pointed out that all well owners benefit from this program, not just new well owners. Mr. Schofield stated it was the opinion of the stakeholders that since the water well program benefits the entire state, the state should support it. Based upon the stakeholders proposed budget model, \$125,000 in revenue would be generated through fees, leaving \$21,000 to be supported by DES.

Mr. Schofield recommended that the Board present this most recent proposal to Mr. Pelletier. He added that this proposed budget structure is much better than the current budget structure. There was considerable discussion regarding a suggestion by the stakeholders that users of the well data information be charged for accessing that data from the website. This was proposed as a more favorable alternative to a well registration fee. Mr. Schofield informed the Board that charging a fee for information available on the website would require legislative approval; the Board would need to find a sponsor to propose a bill. He added that he felt it was important that the request come from the Board as opposed to the agency (DES).

Brandon Kernen of DES said the concept would need to be proposed to the DES IT staff. He raised some concern about charging the public for the well completion report data because the

initiative was funded through a grant. Mr. Kernan expressed that he thinks it is a worthwhile possibility to pursue, but would take years to become a reality.

New Business

Request for Exemption – Scott Wilkens

Mr. Schofield briefed the Board regarding a request for exemption of We 604.05(b) to decommission a gravel well. The well, which is not in use, is approximately 25 feet from the well which is in use. The gravel well is approximately 120 feet deep. Mr. Wilkens is requesting to decommission the well using washed stone in the screened area including the bottom 10 feet of casing followed by a bentonite chip plug. The remainder of the well will be filled with Portland cement. The well head will be cut off 12” below the ground surface and capped.

Mr. Schofield said he had e-mailed this request to the members and had asked each to vote on the matter. He said the responses did not achieve a consensus.

Mr. Guercia explained that he abstained because he did not feel he had the necessary level of knowledge regarding well construction. Mr. Skillings abstained because the job involved his company; Scott Wilkens is his employee.

Mr. Skillings voted to approve the exemption, conditioned on washed stone. Mr. Skillings vote made a consensus and the exemption was approved.

Electronic Reporting

Mr. Skillings expressed frustration regarding the electronic reporting process. He said the process in Massachusetts was so bad, they have returned to paper reporting.

Mr. Schofield reassured the Membership that the process in New Hampshire should be much better than the system that Massachusetts was using. He said that he had taken comments from the members early on that helped avoid the problematic issues. Mr. Schofield said he and Rick Chormann are addressing any remaining concerns. He commended Dan Burleigh, the programmer, on a job well done. The electronic forms will be ready for “testing” soon.

Administrative Rules

Grout Materials

At the last meeting, the Board had discussed the Nebraska Grout Study. The Board had discussed some proposed rules for grouting. Mr. Schofield said he had drafted suggested language. He said there are two options:

- Option #1: Add language in each of the 4-5 locations where grouting is currently discussed in the rules.
- Option #2: Create a separate section for grouting at the beginning of We 602.

Mr. Schofield provided an example of both options. He commented that option #1 seems redundant.

Chairman Caswell asked the Board if they felt grouting was an acceptable substitute in place of using a drive shoe for cable tool contractors?

Mr. Schofield told the Membership that this same conversation had taken place many years ago when Elmer Tasker was on the Board. Mr. Tasker believed that a tapered hole with grouting was an acceptable alternative to using a drive shoe.

The Board members agreed that a tapered hole with grouting was an acceptable alternative.

Mr. Schofield asked the Membership to review the proposed draft rule language and be ready to discuss the matter further at the next meeting.

Geothermal Reporting

Mr. Schofield reported on a study called Preliminary Assessment of Trends and Static Water Levels in Bedrock Wells in NH 1984 – 2007. The study was published by the NH Geological Survey. The study shows that static water levels are dropping. He said there is a number of reasons for this trend; one being that newer wells are installed with more casing than years ago. Wells are also being installed deeper in recent years.

Mr. Schofield brought up an issue that the Board has discussed before regarding closed-loop geothermal wells. He asked the Board if a driller is putting in 320 wells; is it necessary to submit 320 Well Completion Reports? His concern is this creates a considerable amount of data entry time and paper.

There was some discussion of coming up with a system to allow a percentage of the total, such as 1 report for each 100 square feet. Ultimately, the Board agreed that a report should be required for each well.

The meeting was adjourned at 4:00 pm.

Rene Pelletier
Water Well Board Secretary