

MINUTES

STATE BOARD OF EXAMINING
WATER WELL DRILLING CONTRACTORS and
WATER WELL PUMP INSTALLATION CONTRACTORS

April 11, 2018

10:00 a.m.

Ramkota Hotel & Conference Center
Casper, WY

PARTICIPATING BOARD MEMBERS:

John Midkiff, Chairman

Jim O'Connor

Lisa Lindemann

Michelle Christopher

Jerry Hunt

Steve Barbour

Wes Moody

PARTICIPATING PROFESSIONAL STAFF:

Eric Easton – Senior Assistant Attorney General

Sean Towles, Assistant Attorney General

Cricket Hoskins, Financial Officer, SEO

Chuck Wilson, WWCB Contract Inspector

Sheri Culver, Executive Director, WWCB

GUESTS:

Matt Henderson – Wyoming Ground Water Association, President

Aaron Wilson - Wyoming Ground Water Association, Vice President

Lily Barkau – Wyoming Dept. of Environmental Quality

CALL TO ORDER:

Vice-Chairman Midkiff called the State Board of Examining Water Well Drilling Contractors and Water Well Pump Installation Contractors (WWCB) meeting to order at 10:00 A.M.

REVIEW AND APPROVE AGENDA:

The agenda was approved as circulated.

REVIEW AND APPROVE MINUTES:

Mr. Hunt moved to accept and approve the Minutes as read. Ms. Lindemann seconded the motion. Motion carried.

NEW BUSINESS:

Election of Chairman

Using a 'closed ballot' process for the position of board chairman was discussed and agreed upon. The current vice-chairman was the board's selection and board member Steve Barbour was selected by acclamation to serve as the vice-chairman.

Budget Report

Mrs. Hoskins gave a brief explanation of expenditures to the Board. A discussion concerning the budget shortfall in two areas was discussed at length. The two areas with insufficient funding during the biannual budget period were (1) the newly implemented board database, i.e. inLumon, and (2) funds for the contract inspection services.

The discussion under this agenda item also involved a continuation of the discussion at other board meetings involving Risk Management's requirement for the contract inspectors to hold various commercial liability policies. The current contract inspector added insight as to limitations of the policies to cover work that the board requires. Additionally, Mr. Wilson stated that the policies are very expensive. The Board's budget analyst, Ms. Hopkins outlined the highlights of the discussion with the new Risk Management director. The current inspector's contract was in force prior to the recent requirements for the new liability coverage and is therefore exempt from some requirements. However, when his contract expires in June, 2019, a new contract with the current requirements will be necessary.

Various options for obtaining contract inspection services that would be exempt from the liability insurance were discussed.

- (1) Investigate the possibility of having a single firm (engineering or drilling company) already holding a general liability policy 'errors and omissions' clause. This option will require advertising a 'request for proposal' for these services. The timeline for advertising the RFP was estimated to be quite long.
- (2) Investigate the possibility of hiring inspection services through temp agency such as Adecco.
- (3) Investigate the possibility with the State Board of Control of utilizing the Hydrographer Commissioners with the State Board of Control to provide inspection services after training.

The Board requested a committee to investigate these options. Mr. Hunt, Mr. O'Connor and Mrs. Hoskins were appointed to serve on the committee.

Licensing Program Database

Mrs. Culver outlined the highlights of the contract for services with the firms dba inLumon. The large increase in costs to the board's budget was of concern. The reason for the change to inLumon was outlined to the new board members and staff. Since there are limited options for appropriate services the board approved moving forward to adopt the contract and request the State Engineer's Office to proceed through the process.

Mr. Barbour made a motion to adopt the contract. Mr. Hunt seconded the motion. Motion carried.

Mr. Hunt made a motion for the State Engineer's, Office Fiscal Department to attempt to encumber any unused funds to be used for the WWCB's new software program. Mr. Barbour seconded the motion. Motion carried.

Ratification of New Licensees

After a brief discussion, Mr. Barbour made a motion to approve the thirteen new licenses. Mr. Mr. Hunt seconded the motion. Motion carried.

Update of Insurance Requirement for Inspectors

This agenda point was discussed earlier in the meeting during the budget report. No additional discussion was entertained.

Update of Proposed Rules & Regulations Addition & Amendments

The board discussed the modifications resulting from the changes in wording in Chapter 3 and 6 and the addition of policies under Chapter 9 as per the Uniform Procedures Act. The 45 day public comment period will end on May 18, 2018.

Potential Statute/Rule/Policy Changes

Mr. Towles presented the pros and cons of possible Statute/Rule/Policy changes. He outlined the following possible recommended changes for the board's consideration:

1. Implement a 'postcard notification' to inform new Ground Water permit holders of the requirement to hire licensed drilling and pump installation contractors
2. Refine the 'Notice of Intent' form.
3. Liability exemption for inspectors and complainants.
4. Refine inspection form to allow for robust reporting on full range of violations.
5. Instituting an MOU with the SEO to obtain the statement of completion from the SEO. Require licensee to ensure Board receives a copy of the statement of completion form.
6. Refine formal complaint
 - a. By Form: Refine complaint form as necessary; require oath facilitate complainant liability exemption.
 - b. By Rule: Provide process flow from Director to Investigating Board Member and Prosecuting Attorney. Instruct Director to notify complainant of receipt and assignment of complaint. Require confidentiality of complaint and investigation unless/until disciplinary action is brought.
 - c. By Policy: Require periodic, confidential reporting from Investigating Board Member and/or Prosecuting Attorney on progress on investigation.
7. Information Complaints
 - a. By Rule: Require Director to document receipt of informal complaint, determine whether information is credible, and refer credible information to Investigating Board Member and Prosecuting Attorney. Require confidentiality of complaint and investigation unless/until disciplinary action is brought. Require compliance with formal complaint rules, policies, and forms once Director refers information for investigation.
8. Definition of Disciplinary Actions
 - a. By Rule: Define standards and limits for statutory disciplinary terms (deny, suspend, withhold and revoke).
9. Unlicensed Practice
 - a. By Rule: Allow Investing Board Member to send warning letter and/or refer matter to Board. Allow Board to make determination of unlicensed practice, send violation letter (w/copy to SEO), and request injunction and/or referral to local prosecutor.
 - b. By Policy: Provide guidance on process for Board to request injunction. Establish process for formal referrals to local prosecutor.

10. Refined Eligibility Requirements
 - a. By Rule: Provide specific periods of ineligibility for licensure based on previous discipline, in conjunction with definition of deny and withhold.
11. Additional Enforcement Authority
 - a. By Statute: Procure authority for public censure and fines up to \$1000 in addition to existing disciplinary authority.
 - b. By Rule: Provide schedules of fines with ranges for certain violations and escalation for repeat violations.
 - c. By Policy: Instruct Director to post disciplinary actions taken against any licensee on Board website. Establish process for format referrals to local prosecutor.
12. Summary Suspension
13. Violation of Minimum Well Construction Standards
 - a. By Rule: Provide process flow from Inspector to Director to Investigating Board Member and Prosecuting Attorney. Instruct Director to notify SEO when referring to Investigating Board Member and Prosecuting Attorney. Provide for discipline under APA.
 - b. By MOU w/SEO: Designate SEO Representative as Investigating Board Member for this purpose. Agree to abstain from action for 14 days to allow SEO to either take action or state reason(s) for no action. Require consideration of SEO's position, if given, before bringing any discipline.
14. Administrative Violations
 - a. By Rule: Define administrative violations (as anything but violations which threaten public health or integrity of water or violations of Minimum Well Construction Standards). Provide process flow from Inspector to Director to Investigating Board Member and Prosecuting Attorney. Provide for discipline under APA.
 - b. By Policy: Give policy guidance on when to send warning letter requiring mitigation or cure to avoid discipline.
15. Vicarious Liability
 - a. By Rule: Interpret Licensee "assuming liability" under W.S. 33-42-103(d) as holder or licensed owner of holder, of insurance policy covering job. Require posting of multiple licenses when Licensee "overseeing" job and Licensee "assuming liability" for job are not the same. Specify that either or both responsible Licensees are subject to discipline for any violations on given job.
 - b. By Statute: Canonize rule described above

COMMITTEE REPORTS:

Exam Committee

Ms. Lindemann explained that the Exam Committee has not had the opportunity to meet to date.

Penalty

Mrs. Culver explained the committee has not met as of present.

WWCB Logo

Mr. O'Connor stated that the committee has not been able to meet as a group.

WGWA Update – Matt Henderson, President

Mr. Henderson updated the board as to the following: (1) name change for the association, (2) the mud class to be conducted by Baroid was postponed, (3) the new logo for the association received approval for the use of the state of Wyoming's Bucking Horse image, (4) the planned class on the operation of turbine pumps was postponed and will be rescheduled.

MISCELLANEOUS:

Mrs. Culver's resignation was accepted. A selection committee of Jim O'Connor, Steve Barbour, Lisa Lindemann and Jerry Hunt was formed to represent the Board. Ms. Lindemann will short-list the applicants for the selection committee.

NEXT MEETING:

The next WWCB Board meeting was scheduled for September 5, 2018 at 10:00 A.M. in the State Engineer's Office conference room, Cheyenne, WY.

ADJOURNMENT:

Chairman Midkiff adjourned the meeting at 3:05 P.M.

Respectfully submitted,

Sheri R. Culver
Executive Director