

## **MISSOURI WELL INSTALLATION BOARD MEETING**

**March 30, 2012**

**Clinton Community Building**

**501 Campanella Drive**

**Sikeston, Missouri**

### **OPEN MINUTES**

The regular meeting of the Well Installation Board was held on March 30, 2012, at the Clinton Community Building, Sikeston, Missouri. A quorum being present, Mr. Robert Lawrence, Chairman, called the meeting to order at 10:02 a.m.

**Board Members Present:** Mr. Robert Lawrence, Chairman; Mr. Fred Schoen, Vice-Chairman; Mr. Robert Broz, Mr. Danny Flynn, Mr. Joe Gillman, Ms. Sharlene Morgan

**Board Member Participating Via Conference Call:** Ms. Annetta St. Clair

**Board Members Absent:** None

**Legal Counsel Present:** Mr. Don Willoh, Assistant Attorney General

**Guests Present:** James Cook, ARK MO Well and Missouri Water Well Association (MWWA); Lindell Lindsey, A & M Pump and MWWA; Kenny Boessen, Boessen Underground Const.; Bill Burge, Burge Irrigation; Doc McClanahan, Doc Well & Pump and MWWA; Beth Marsala, MWWA; Travis Rehagen, Rehagen HVAC; Greg Bonnot, B & H Drilling; Donna Bonnot, B & H Well Drilling; Carol Eighmey, Petroleum Storage Tank Insurance Fund (PSTIF);

**DNR Staff Present:** Mr. Jerry Prewett, Ms. Carey Bridges, Ms. Sheri Fry, Ms. Connie Edwards, Mr. Chris Thiltgen, Mr. Matt Parker, Mr. Brad Mitchell

### **INTRODUCTION**

Mr. Lawrence welcomed everyone to the meeting and introduced himself. He asked the Board to introduce themselves, followed by staff and the audience.

### **ELECTIONS**

Mr. Lawrence opened the floor for nominations for the Chairman and Vice-Chairman of the Well Installation Board. Mr. Gillman nominated Mr. Danny Flynn as Chairman of the Board. All voted in favor and Mr. Flynn was elected Chairman. Mr. Gillman nominated Mr. Fred Schoen as Vice-Chairman of the Board. All voted in favor and Mr. Schoen was elected Vice-Chairman.

## **MINUTES OF THE NOVEMBER 7, 2011, BOARD MEETING**

The Chair asked if there were any corrections to the minutes from the November 7, 2011, meeting. Ms. Morgan moved to accept the minutes. Mr. Broz seconded the motion. Motion carried.

## **MINUTES OF THE DECEMBER 7, 2011, BOARD MEETING**

The Chair asked if there were any corrections to the minutes from the December 7, 2011, meeting. Ms. St. Clair moved to accept the minutes. Mr. Schoen seconded the motion. Motion carried.

## **PROGRAM UPDATE**

The Chair recognized Mr. Prewett, who thanked Mr. Robert Lawrence for his years of service as the Well Installation Board Chairman.

The Geological Survey Program is in the process of filling several vacant positions. The section is hiring staff with technical backgrounds to strengthen our support in protecting the groundwater through the Board's rules and statutes.

Mr. Prewett discussed the idea of staff working on a Continuing Education Program which is currently not offered in the state for permitted drillers. Mr. Prewett asked for direction from the Board to move forward in the rulemaking process regarding Continuing Education. Mr. Schoen made a motion to definitely give staff permission to move forward on this and to commend them as a matter of fact for working with the Missouri Water Well Association. Today's digital age, the communications are far better than they were in 2006; there is no reason why the two entities can't work together and accomplish this goal. Ms. Morgan seconded the motion. Motion carried.

## **SECTION UPDATE**

The Chair recognized Ms. Bridges who stated the Wellhead Protection Section is now fully staffed. She introduced recently hired, Mr. Brad Mitchell, who will be the office geologist in the section.

The section has been working on the Well Online Forms Submittal system (WOLFS). The system went live Thursday, March 29, 2012, although some contractors are still testing the system before the link is sent to all permittees. This project was funded by PSTIF and staff appreciate the assistance and input received from Ms. Eighmey and her staff.

Ms. Bridges updated the Board on the new credit procedure the section is using for overpayment of fees. Staff will initially send a notice to the customer or contractor of the credit, with second notices sent in June. If the credit is not used by December, a refund will be submitted to the customer or contractor for the amount of the credit. Ms. Bridges noted that a credit will be issued any time upon request.

The Solid Waste Management Program (SWMP) has been investigating old landfills and noted several with wells potentially drilled within setback distances of the landfills. Wellhead staff have been investigating these wells and will follow-up with the SWMP with any identified issues.

The section has a backlog of Special Area 2 wells waiting to be certified because the wells have not been sampled. Mr. Paul Meyer has been working on this backlog by doing follow-up sampling in the area.

There was discussion made regarding the section's database, the Well Information Management System (WIMS), being available online. Ms. Bridges stated this is the next priority and may come in phases. The MWWA and PSTIF confirmed their interest in seeing this take place and offered assistance to staff if needed. Mr. Schoen made a motion to give staff the authorization to due diligence to this particular mechanism to make location of wells a lot more exact and any improvement is better than none. Mr. Broz seconded the motion. Motion carried.

Mr. Parker presented the updated SA2 map and discussed the changes made including new impact areas.

## **FUND UPDATE**

The Chair recognized Ms. Bridges who presented an update of the section's fund for 2011. As of December 31, 2011, the fund balance was \$380,989.00. The balance, as of the end of February, was \$413,446.00. Ms. Bridges discussed Senate Bill 899 and noted it should not affect the Groundwater Protection Fund. After discussion, Mr. Lawrence moved to accept staff's recommendation that the Groundwater Protection Fund fee structure remain at the current levels for 2012. Mr. Schoen seconded the motion. Motion carried.

## **PERMIT APPEALS**

The Chair recognized Ms. Fry presenting the case for Mr. Derrick Palmer, who appealed to the Board, the apprenticeship and prenotification requirements to become permitted. After discussion, Mr. Lawrence moved to accept staff's recommendation for Mr. Palmer to be required to submit proof of financial responsibility and prenotify all work performed that is regulated under the Missouri Well Construction Rules for a period of one year, and the apprenticeship responsibility requirements be waived. Mr. Broz seconded the motion. Motion carried.

## **RULE UPDATE**

The Chair recognized Ms. Fry who updated the Board on the status of the following proposed rule changes:

Apprentice Rule – Staff filed the final order of rulemaking on February 06, 2012, and the order was published in the *Missouri Register* on March 15, 2012. The rule will become effective on April 30, 2012. Staff will send a copy of the rule to all permitted companies.

Disciplinary Action and Appeals – Ms. Fry gave an explanation of the rule content. Mr. Broz made a motion to accept staff’s recommendation to approve the current language of the amendment proposed for 10 CSR 23-1.075, Appeals Hearing, and that the Department move forward in the rulemaking process. Mr. Lawrence seconded the motion. Motion carried.

Heat Pump Construction Rules – Staff recommended the Board approve the Finding of Necessity that this rule action is necessary to carry out the Board’s rulemaking authority and the Department proceed with filing the proposed amendments as previously presented with the Secretary of State’s Office. Mr. Schoen objected the recommendation. After discussion, Mr. Broz made a motion to move forward on the heat pump ruling or issue that staff, in-turn, step back and engage more stakeholders to determine what is needed to be looked at as far as the rules needing to be changed. Ms. St. Clair seconded the motion. Motion carried.

The Chair recognized Mr. Prewett who asked the Board for clarification regarding a topic in the Certification and Registration for Monitoring Wells (10 CSR 23-4.020(4)) rule. The issue at hand is the amount of time allowed in order to submit a registration form and fee when temporary wells are being plugged. Discussion was made on whether the due date should fall 180 days from the date the first well at the site is plugged or 180 days from the date the last well is plugged. Ms. St. Clair made a motion to accept staff’s recommendation that the Board interpret the rule as requiring the registration form and fee must be submitted to the Division within 180 days from the plugging of the first temporary well on the site. Mr. Fred Schoen seconded the motion. Motion carried.

## **MISSOURI WATER WELL ASSOCIATION COMMENTS**

The Chair recognized Mr. Lindsey who made further comment on the rule changes regarding the heat pump rule. Mr. Lindsey also provided information to the Board regarding the continuing education program and discussion was made.

## **OTHER BUSINESS**

The Chair recognized Mr. Bill Burge, Burge Irrigation, who brought a permitting issue to the Board. The U.S. Army Corps of Engineers has contracted Burge Irrigation to drill relief wells at one of its levees in Pemiscot County and requires the driller to be permitted with the State. Mr. Burge’s employee cannot obtain a permit due to the fact that these wells are not regulated by the State of Missouri; therefore, records are not submitted. After discussion, Mr. Gillman moved to instruct staff to work with the Board’s legal representative to get a better understanding about what the Board’s legal authority is in this situation and then bring the Board a recommendation to the next meeting on how they might consider this issue. Mr. Schoen seconded the motion. Motion carried.

## **PUBLIC COMMENT AND CONCERNS**

None

## **FUTURE MEETINGS**

The Board approved holding an open session meeting on Friday, August 24, 2012, at 10:00 a.m., in Hannibal, MO. Staff will determine the location. The motion was made by Mr. Schoen and seconded by Ms. Morgan. Motion carried with a unanimous voice vote.

Mr. Schoen made a motion that the Well Installation Board meet in closed session at 9:30 a.m. at the next regular board meeting for the purpose of discussing matters protected from disclosure by law as provided for in Section 610.021, RSMo., including but not limited to: legal actions, pending litigation, and attorney-client privileged matters with the board attorney. The motion was seconded by Mr. Broz. A roll call vote was taken as follows: Mr. Broz, yes; Mr. Gillman, yes; Ms. Morgan, yes; Ms. St. Clair, yes; Mr. Schoen, yes; Mr. Lawrence, yes; Mr. Flynn, yes. Motion carried.

## **ADJOURNMENT**

Ms. Morgan moved that the meeting be adjourned. Mr. Broz seconded the motion. Motion carried. Meeting adjourned at 11:50 a.m.