

WATER WELL DRILLERS ADVISORY COUNCIL

Meeting of November 18, 1999
E.O. Thompson Building
920 Colorado, 4th Floor Conference Room
Austin, Texas

Summary of Minutes

CALL TO ORDER

Chairman Lonnie Ball called the regular bimonthly meeting of the Water Well Drillers Advisory Council to order at 9:30 a.m. on November 18, 1999. Roll call verified a quorum was present. Wayne Geistweidt, John Melcher, and Gary Grant were absent at this meeting.

ROLL CALL AND CERTIFICATION OF QUORUM

Water Well Driller Advisory Council

Lonnie C. Ball, Chairman
Raymond O. Whisenant, Jr.
Ray Reed
John H. Walker
Jim Garmon

Texas Department of Licensing and Regulation

Steve Wiley - Program Administrator
Lee Parham - Sr. Environmental Investigator
W. L. Stribling - Environmental Investigator
Patrice Nance - Director of Administration
Robert McCann - Legal Services

APPROVAL OF MINUTES FROM 9/9/99 MEETING

A motion to approve the minutes from the meeting of September 9, 1999 was made (Whisenant), seconded (Reed), and carried.

REPORT ON INVESTIGATIONS AND COMPLAINTS

Presented by Lee Parham. A total of 116 field investigations have been completed this fiscal year. Enforcement cases are: 20 "Notice of Violation" letters have been sent, 8 cases were closed without final action (final order), 8 cases were resolved, 4 were dropped because they were out of jurisdiction, 5 were dropped due to lack evidence, 3 were withdrawn by the agency, 10 warnings were sent, and no reprimands were issued. The warning letters are something new that the agency is using to prevent drillers from submitting all their logs at once when they apply for license renewal. The letter refers to Texas Water Cod, Chapter 32 which states that logs must be turned in no more than 60 days after well completion. There were also a total of 4 final agreed enforcement orders issued through the Commission for a total of 34 cases closed. Administrative penalty collection for FY'00 to date is \$2,940.

DISCUSSION OF QUALIFICATIONS AND RECOMMENDATIONS ON APPLICANTS FOR CERTIFICATION IN WATER WELL DRILLER AND PUMP INSTALLER PROGRAMS

1. A motion to approve **John Mican** for the **W** license exam (previously tabled) was made (Walker), seconded (Whisenant), and carried.
2. A motion to approve **Edward Anderson** for the **W, P** license exam was made (Reed-W, Whisenant-P), seconded (Walker-W, Garmon-P), and carried.

3. A motion to approve **Alan Bickham** for the **M** license exam was made (Reed), seconded (Walker), and carried.
4. A motion to approve **Wyatt Bolton** for the **W, P** license exam was made (Walker-W, Reed-P), seconded (Whisenant-W, Garmon-P) and carried.
5. A motion to approve **Lenward Caraway** for the **W, K** license exam was made (Garmon-W, Whisenant-PK), seconded (Whisenant-W, Garmon-PK) and carried.
6. A motion to approve **John Crowell** for the **W, KT** license exam was made (Walker-W, Whisenant-KT), seconded (Reed-W Garmon-KT) and carried.
7. A motion to approve **Daniel Dyck** for the **W** license exam was made (Garmon) seconded (Reed) and carried. The Council did not accept his request to take the **I** license exam; instead, a motion for Mr. Dyck to take the **PKT** license exam was made (Reed), seconded (Whisenant) and carried.
8. A motion to approve **Gerald Gauden** for the **W, I** license exam was made, (Whisenant-W, Garmon-I), seconded (Reed-W, Reed-I) and carried.
9. A motion to approve **Dan Hada** for the **M** license exam was made (Reed) seconded (Walker) and carried.
10. A motion to approve **James Hoelscher** for the **W** license exam was made (Garmon) seconded (Walker) and carried.
11. A motion to approve **Karl Jones** for the **W** license exam was made (Reed), seconded (Whisenant), and carried.
12. A motion to approve **Justin Key** for the **W** license exam was made (Reed) seconded (Walker) and carried. The Council did not accept his request to take the **I** exam; instead, a motion for Mr. Key to take the **LPK** license exam was made (Whisenant), seconded (Walker) and carried.
13. The request for **Jeffrey Mazac** to take the **W** license exam was tabled until the Council can obtain more documentation on his drilling history.
14. A motion to reject **Michael McAfee** for the **W** license exam was made (Walker) seconded (Reed) and carried. The basis for rejection was that while Mr. McAfee had drilled quite a few wells, they were all unsupervised. He claimed that he couldn't afford to drill these wells, located on his property, as an "employee" of another company. Later, a motion to reopen his application was made (Whisenant), seconded (Garmon) and carried. A motion to table both applications (W and PK) was made (Walker-W, Whisenant-PK), seconded (Garmon-W, Garmon-PK) and carried. After further consideration, the Council decided to remove both applications from the table (motion-Whisenant-W, Whisenant-PK; second-Walker-W, Reed-PK) and made a motion to allow Mr. McAfee to take both tests under the provision that TDLR investigators be allowed to inspect some of his wells to determine if he meets the necessary requirements for licensure. The motion was made (Whisenant-W, Reed-PK), seconded (Reed-W, Whisenant-PK) and carried, despite an "against" vote from Garmon on both accounts.
15. A motion to approve **Zane MaGill** for the **W** license exam was made (Garmon), seconded (Whisenant), and carried.
16. A motion to approve **David Odom** for the **W** license exam was made (Walker) seconded (Reed) and carried. The Council did not accept his request to take the **PKL** exam; instead, a motion for Mr. Odom to take the **LP** license exam was made (Whisenant), seconded (Garmon) and carried.
17. A motion to approve **Jimmy Odom, Jr.** for the **W** license exam was made (Reed), seconded (Whisenant), and carried. The Council did not accept his request to take the **PKL** exam; instead, a motion for Mr. Odom to take the **LP** license exam was made (Garmon), seconded (Whisenant) and carried.
18. A motion to approve **David Oeltjen** for the **W, LP** license exam was made (Whisenant-W, Walker-LP), seconded (Garmon-W, Whisenant-LP) and carried.
19. A motion to approve **Morlin Sallas** for the **M** license exam was made (Whisenant) seconded (Reed) and carried.
20. A motion to approve **Lloyd Sandlin** for the **W** license exam was made (Whisenant) seconded (Garmon) and carried.
21. A motion to approve **J. W. Sneed** for the **W, I** license exam was made (Walker-W, Whisenant-I), seconded (Garmon-W, Reed-I) and carried.

22. A motion to approve **Frank Tovar** for the **M** license exam was made (Reed) seconded (Whisenant) and carried.
23. A motion to approve **Larry Wells** for the **W** license exam was made (Reed) seconded (Whisenant) and carried.

DISCUSSION AND RECOMMENDATIONS ON APPLICATION FOR DRILLER APPRENTICE REGISTRATION

- A motion to approve well driller trainees 1-27 was made (Whisenant) seconded (Reed) and carried. A motion to reject applicant number 28, Raul Zavala, was made (Whisenant), seconded (Garmon) and carried.
- A motion to approve monitor well trainees 1-5 was made (Whisenant), seconded (Garmon) and carried.

COUNCIL WILL TAKE TESTIMONY AND MAKE RECOMMENDATIONS TO THE DEPARTMENT ON THE FOLLOWING CONSUMER COMPLAINTS

- Richard and Sharon Burchfield complaint on Gary Gaither #54183WPK - Testimony was provided by both parties. The Burchfield's have been complaining about having large amounts of sand in their water since the well was installed back in June 1998. Samples from their dishwasher, toilet, and bathtub were provided. Mr. Gaither stated that he has tried to rectify the problem (various filtration methods, etc.), but nothing thus far has proven sufficient. He agreed to drill another well, but wants the Burchfield's to pay for half the cost. The Council listened to the testimony, inspected the samples, and suggested possible causes and solutions to the problem. Mr. Gaither was instructed to install a K-packer by December 15. Mr. Gaither agreed. A motion to table the complaint until that time was made (Whisenant), seconded (Garmon), and carried. Staff will monitor progress.
- Jeff Mannie Complaint on Joe Richardson #50140WPK (tabled) - Steve Wiley informed the Council that staff's recommendation is to schedule this complaint for public hearing.
- David Witherspoon complaint on Joe Richardson #50140WPK - Steve Wiley informed the Council that staff's recommendation is to schedule this complaint for public hearing.
- Ted and Angela Lyles compliant on Joe Richardson #50140WPK - Steve Wiley informed the Council that staff's recommendation is to schedule this complaint for public hearing.

At this time, a motion to accept staff's recommendations on the previous three cases was made (Whisenant), seconded (Reed), and carried.

- Russell and Lori Burke complaint on Jere Pritchett #2789WPKT and Ronald Ellis #3243W - Mr. Pritchett requested that the Council table the complaint. Staff spoke with the Burke's, who agreed. A motion to table this complaint was made (Reed), seconded (Whisenant) and carried.
- John Tebbetts / Rick McDowell complaint on Mark Jordan #3155WPK - Both Mr. Jordan and Mr. McDowell were present to provide testimony. Mr. McDowell alleges that Mr. Jordan never sufficiently fixed his well and that Mr. Jordan didn't use the type of casing for which he had paid. The first well was installed in November 1996 and by May 1997, had begun producing sand. The pump was removed and Mr. Jordan contracted David Warren to drill a new well. The well was completed in June and continued working until January. At this time, Mr. McDowell contacted Mr. Jordan claiming that the pump had quit working. Mr. Jordan inspected the pump, discovered that all 3 legs of the motor had burned out and decided to remove it from the well that proved to be impossible. Mr. Jordan claims that the pump quit working due to excessive heat caused by a lightning strike. Mr. Tebbetts submitted a claim to his insurance company stating this but the

insurance company, upon inspecting the pump, concluded that lightning did not cause the damage. Mr. Jordan also claims that he charged Mr. McDowell for schedule 40 casing, not SDR-17. The Council informed Mr. Jordan that he should've used 4 1/2" casing, not 4", as it is too small. Mr. Jordan, however, stated that he always uses 4" casing on 5-horsepower motors. The Council recommended that this case go to public hearing. A motion to schedule this case for public hearing was made (Whisenant), seconded (Garmon) and carried.

STAFF REPORTS

Licensing – Presented by Dede McEachern. She mentioned that staggering for this year is around 40%, which has increased dramatically from 15% last year.

DISCUSSION OF WATER WELL DRILLER/PUMP INSTALLER PROGRAM'S TRAVEL BUDGET

Presented by Patrice Nance. Due to agency error, travel budget for the water well drillers has been exceeded by almost 100% for the past 2 years. When water well drillers moved over to TDLR, they brought a budget of \$10,368. In 1998, the agency asked for an oversight of \$10,500, which was approved August 31, the last day of FY'98. The agency assumed that the oversight also applied to FY'99, giving water well drillers a budget of \$21,000. This was not the case. Staff will submit another request to the oversight committee to try and obtain more money for the travel budget. At the current rate, the Council alone will have used all of the funds allocated for travel within a couple of months. This would leave no money for staff to travel on.

She also discussed the passage of House Bill 3125 that addressed fleet management and appropriation reduction. The agency was approved to purchase 4 new vehicles that would've been used primarily by water well driller staff. The bill put a moratorium on purchasing new vehicles for state agencies until June 2000. It also took away 75% of the \$75,000 that the agency was going to use to purchase the vehicles, which means that in June the agency will only be able to buy one new vehicle.

OPEN SESSION/PUBLIC COMMENT

There were no public comments.

DISCUSSION OF DATE, TIME AND LOCATION OF NEXT COUNCIL MEETING

The convention will be held in Corpus Christi on January 27, 2000. The exact time has not been set, but it will be in the afternoon. Staff will make reservations for the Council.

ADJOURNMENT

A motion to adjourn was made (Garmon), seconded (Reed) and carried.

Respectfully submitted:

Minutes prepared by Robert McCann

Lonnie Ball, Chairman

Verbatim proceedings available on audiocassette