



**Board for Professional Engineers,  
Land Surveyors, and Geologists**

**Meeting of the Board for Professional  
Engineers, Land Surveyors, and  
Geologists**

**December 7, 2012  
10:00 a.m.**

**Board for Professional Engineers, Land  
Surveyors, and Geology  
2535 Capitol Oaks Drive  
3<sup>rd</sup> Floor Conference Room  
Sacramento, CA 95833**

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BOARD MEETING LOCATION

DECEMBER 7, 2012

**BOARD FOR PROFESSIONAL  
ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS**  
2535 Capitol Oaks Drive  
3<sup>rd</sup> Floor Conference Room  
Sacramento, CA 95833

### BOARD MEMBERS

Paul Wilburn, President; Erik Zinn, Vice President; Kathy Jones Irish; Carl Josephson; Mike Modugno; Philip Quartararo; Hong Beom Rhee; Ray Satorre; Jerry Silva; Robert Stockton; Patrick Tami; and Michael Trujillo

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	(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)	
	A. Approval of the Minutes of the October 11-12, 2012 Board Meeting	
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I. **ROLL CALL TO ESTABLISH A QUORUM**

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II. **PUBLIC COMMENT**

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**NOTE:** The Board cannot take action on items not on the agenda. The Board will allow for Public Comment on both days, as well as during the discussion of each item on the agenda.

III. **CLOSED SESSION**

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Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]

IV. **OPEN SESSION TO ANNOUNCE THE RESULTS OF CLOSED SESSION**

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V. EXECUTIVE OFFICER'S REPORT

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- A. Legislation
  - 1. Discussion of Legislation for 2013
  - 2. Legislative Proposals (Possible Action)
    - a. Update on Amendments to Business and Professions Code Section 27 Regarding Address of Record Available Via the Website
    - b. Update on Certificates of Authorization for Engineering, Land Surveying, Geological, and Geophysical Businesses
    - c. Update on Temporary Authorization Repeal for Engineering, Geology, and Geophysics (Business and Professions Code Sections 6760, 7848, and 7848.1)
    - d. Update on Recommendation to Establish a Retired License Status for Professional Geologists and Geophysicists
    - e. Update on Recommendation to Establish Written Contracts for Professional Geologists and Geophysicists
- B. Strategic Plan Update
  - 1. Action Plan Summary for FY 2012- 2013
- C. Personnel
- D. Administrative Task Force

## Proposal to Amend Address of Record

### History

- Pursuant to Business and Professions Code (B&P) section (§) 27, the Board is required to include its licensees' addresses of record on its internet listing of licensees.
- At the March 2011 Board meeting, the Board discussed and ordered staff to research the issue of whether the Board should provide licensees' addresses of record to the public.
- At the July 2011 Board meeting a motion was carried, 8-0, to direct staff to pursue legislation to amend B&P § 27 and exclude the address of record.
- At the March 2012 Board meeting a motion failed, 2-6, to not pursue legislation to remove the address of record from the Board's website.

### Discussion Points

#### Pros:

- Protecting licensee's personal information aligns with the Board's Mission is "to protect the health, safety, and welfare of the public", including its licensees'.
- Excluding address of record from B&P § 27 will safeguard against unwanted public persons accessing licensees personal information.

#### Cons:

- Excluding address of record from B&P § 27 goes against Department of Consumer Affairs (DCA) Mission "to serve the interests of California consumers" and Vision that provides California consumers with "access to competent and ethical service providers."
- Additionally, DCA's Legislative and Policy Review (LPR) unit including DCA's Deputy Director of Legislation, Tracy Rhine, does not support an amendment to exclude the address of record. LPR supports current B&P § 27 which states:

*"The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record."*

## BPELSG Action Plan FY 2012-13

Goal 1	Completed	In Progress	Remaining
<b>Objective 1.1 – Reduce the aging of enforcement cases to align with DCA’s standards.</b>	50%	25%	25%
<ul style="list-style-type: none"> <li>• Reorganize work assignments to focus on citation process improvement</li> <li>• Focus on reducing aging while maintaining high quality standards for enforcement cases</li> </ul>	100%	0%	0%
	0%	50%	50%
<b>Objective 1.2 – Develop and implement a proactive plan to expand the enforcement outreach program.</b>	80%	17%	3%
<ul style="list-style-type: none"> <li>• Contact several like-minded local organizations and agencies</li> <li>• Contact Outreach unit in DCA headquarters</li> <li>• Develop an Outreach Plan in conjunction with the DCA Outreach Unit</li> </ul>	100%	0%	0%
	100%	0%	0%
	40%	50%	10%
<b>Objective 1.3 – Discourage unlicensed and incompetent activity through efficient enforcement actions.</b>	0%	50%	50%
<ul style="list-style-type: none"> <li>• Collaborate with Division of Investigation to accomplish sting operations and sweeps</li> <li>• Increase Outreach to consumers focused specifically on the dangers of Unlicensed Activity.</li> <li>• Collaborate with other local agencies by sharing information and educating them on the Board’s function.</li> </ul>	0%	50%	50%
	0%	50%	50%
	0%	50%	50%
<b>Objective 1.4 – Improve consumer friendliness of the Board’s Web site.</b>	75%	15%	10%
<ul style="list-style-type: none"> <li>• Create web mapping to combine the Professional Engineers and Geology Web sites.</li> <li>• Establish text recognition on all online documents in accordance with ADA compliance</li> <li>• Streamline the information flow and usability of the Web site</li> </ul>	100%	0%	0%
	40%	30%	30%
	85%	15%	0%
<b>Objective 1.5 – Establish web accessible information, including linking businesses with licensees.</b>	10%	25%	65%
<ul style="list-style-type: none"> <li>• Coordinated with the release of BreEZe.</li> </ul>	10%	25%	65%
<b>Objective 1.6 – Significantly reduce the number of backlogged enforcement cases.</b>	50%	25%	25%
<ul style="list-style-type: none"> <li>• See objective 1.1</li> </ul>	50%	25%	25%
<b>Objective 1.7 - Encourage DCA to improve their license lookup functionality on the Web site.</b>	10%	25%	65%
<ul style="list-style-type: none"> <li>• Pending the release of BreEZe.</li> <li>• Coordinate with the BreEZe team to express business needs on decision posting.</li> <li>• Coordinate with the BreEZe team to express business needs on license functionality.</li> </ul>	10%	25%	65%
	10%	25%	65%
<b>Objective 1.8 - Participate in preparations towards the BreEZe conversion.</b>	10%	25%	65%
<ul style="list-style-type: none"> <li>• See objective 1.7</li> </ul>	10%	25%	65%
<b>Objective 1.9 - Publish enforcement actions on the Board’s Web site.</b>	25%	50%	25%
<ul style="list-style-type: none"> <li>• Update and post final disciplinary decisions on the Board’s Web site.</li> </ul>	25%	50%	25%

## BPELSG Action Plan FY 2012-13

Goal 2		Completed	In Progress	Remaining
<i>Objective 2.1 - Evaluate current laws and regulations and pursue changes where appropriate, with due consideration for economic impact.</i>		25%	50%	25%
<ul style="list-style-type: none"> <li>Review licensing and certification fees for businesses as potential legislative action. (see objective 2.6)</li> </ul>		25%	50%	25%
<i>Objective 2.2 - Seek fingerprinting and criminal history authority through legislation. To be completed FY 12/13</i>		25%	25%	50%
<ul style="list-style-type: none"> <li>Move forward with legislation to obtain authority for licensees.</li> <li>Develop and adopt regulations to implement applicant fingerprinting.</li> </ul>		0%	0%	100%
<i>Objective 2.3 - Implement restructuring of examination and application fees. Completed FY 11/12</i>		50%	50%	0%
<i>Objective 2.4 - Review delinquent reinstatement requirements and act on the findings if appropriate.</i>		25%	50%	25%
<ul style="list-style-type: none"> <li>Consult the Board for proper direction.</li> </ul>		25%	50%	25%
<i>Objective 2.5 - Conduct a review of the penalty structure for unlicensed activity. Completed FY 11/12</i>				
<i>Objective 2.6 - Seek statutory authority to require Certificates of Authorization for businesses.</i>		10%	50%	40%
<ul style="list-style-type: none"> <li>Consult Board for further direction.</li> <li>Identify staffing requirements of implementing business authorization.</li> </ul>		10%	50%	40%
<i>Objective 2.7 - Eliminate Business and Professions Code section 6760 (temporary authorization to practice engineering). Completed FY 11/12</i>		10%	50%	40%
<ul style="list-style-type: none"> <li>Research has been completed. Staff are currently pursuing legislation.</li> </ul>		75%	25%	0%
<i>Objective 2.8 - Amend regulations that allow appeals of national examinations. Completed FY 11/12</i>		75%	25%	0%
<i>Objective 2.9 - Review statutes and regulations regarding Geologist in Training certification. Completed FY 11/12</i>				
<i>Objective 2.10 - Review statutes and regulations to provide consistency among all of the Board's regulated professions.</i>		35%	40%	25%
<ul style="list-style-type: none"> <li>Review statutes and regulations for consistency across both programs</li> </ul>		35%	40%	25%



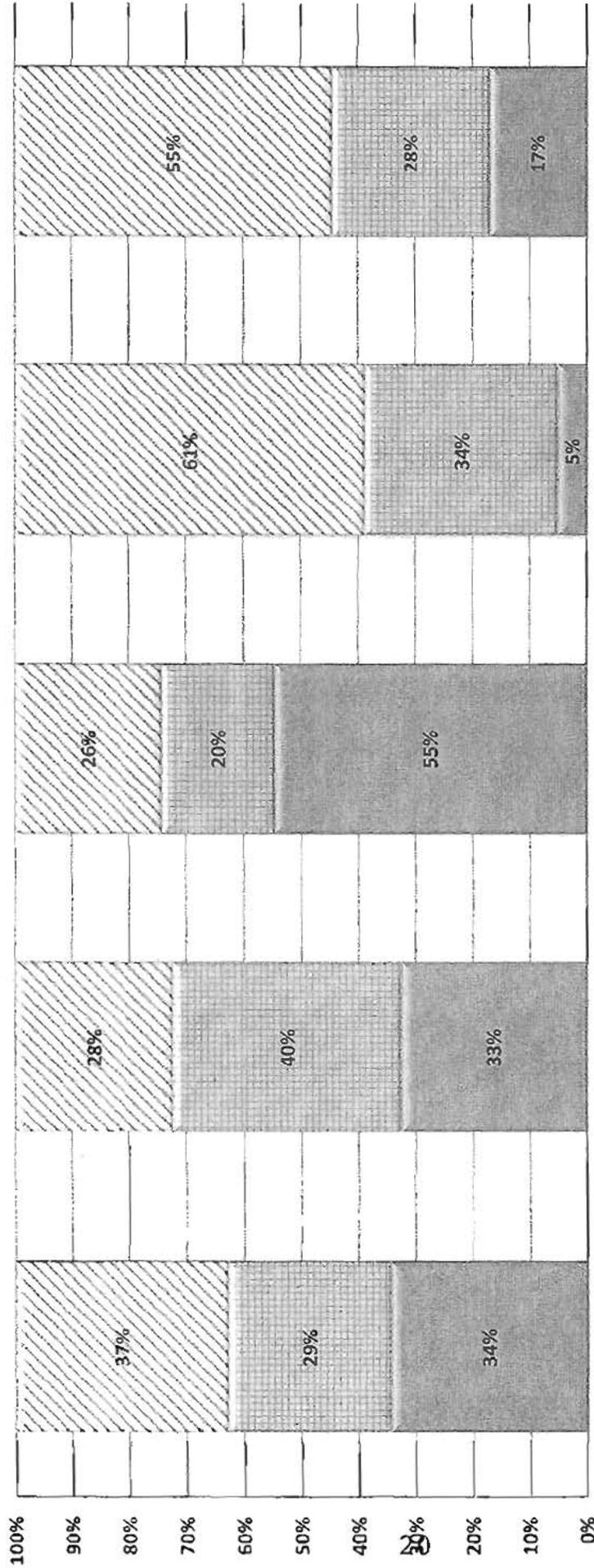
## BPESLG Action Plan FY 2012-13

Goal 4	Completed	In Progress	Remaining
<b>Objective 4.1 - Develop incentives and restructure compensation to retain a quality Executive Order. Completed FY 11/12</b>			
<b>Objective 4.2 - Pursue authorization and funding, if needed, to increase attendance at NCEES meetings and ASBOG meetings.</b>	<b>10%</b>	<b>40%</b>	<b>50%</b>
<ul style="list-style-type: none"> <li>• Justify approval &amp; funding for out-of-state and in-state travel to required meetings.</li> <li>• Justify representing the interest of the licensees and consumers of California at zero-cost events and pre-paid events to Agency and the Governor's office.</li> </ul>	10%	40%	50%
<b>Objective 4.3 - Develop and implement career succession plan for Board Staff.</b>	<b>10%</b>	<b>45%</b>	<b>45%</b>
<ul style="list-style-type: none"> <li>• Establish a protocol/manual for managers/staff to identify recruiting of current staff for upward mobility to disseminate to staff.</li> <li>• Develop a Knowledge Retention Plan which includes overlapping retiring staff with new hires.</li> </ul>	10%	40%	50%
<b>Objective 4.4 - Pursue funding and hiring freeze exemptions for additional staff in all units and programs as needed. Completed FY 11/12.</b>			
<b>Objective 4.5 - Pursue limited-term positions for specific projects.</b>	<b>0%</b>	<b>0%</b>	<b>100%</b>
<ul style="list-style-type: none"> <li>• Issue dates to be digitally recorded.</li> <li>• Scan enforcement actions and organization record forms.</li> </ul>	0%	0%	100%
<b>Objective 4.6 - Pursue authority and funding to hire a staff geologist.</b>	<b>0%</b>	<b>50%</b>	<b>50%</b>
<ul style="list-style-type: none"> <li>• Rewrite class specifications.</li> </ul>	0%	50%	50%

## BPELSG Action Plan FY 2012-13

Goal 5	Completed	In Progress	Remaining
<b>Objective 5.1 - Expand Enforcement Outreach Program to local and state agencies, professional associations, and consumer groups.</b>	<b>13%</b>	<b>40%</b>	<b>47%</b>
• See objective 1.2.	13%	40%	47%
<b>Objective 5.2 - Obtain resources, including staff, funding, and out-of-state travel approval, to fully support outreach.</b>	<b>13%</b>	<b>40%</b>	<b>47%</b>
• See objective 1.2	13%	40%	47%
<b>Objective 5.3 - Expand the licensure outreach programs to associations, college career fairs, and schools (e.g. Math Counts, Trigstar). To be completed FY 12/13</b>	<b>13%</b>	<b>20%</b>	<b>68%</b>
• Review engineering magnet schools.	25%	40%	35%
• Publicize at college career fairs.	0%	0%	100%
<b>Objective 5.4 - Develop and revise the Board's publications, as needed. To be completed FY 12/13</b>	<b>0%</b>	<b>8%</b>	<b>93%</b>
• Develop and release new tri-annual newsletter. (See Objective 5.6)	0%	0%	100%
• Revise the local officials guide to include all disciplines.	0%	10%	90%
• Update and revise consumer guide to include all disciplines.	0%	10%	90%
• Develop paper promotional materials for colleges.	0%	10%	90%
<b>Objective 5.5 - Regularly attend NCEES, ASBOG, and ABET meetings.</b>	<b>33%</b>	<b>33%</b>	<b>34%</b>
• See objective 3.9.	33%	33%	34%
<b>Objective 5.6 - Regularly develop and distribute an electronic newsletter.</b>	<b>33%</b>	<b>33%</b>	<b>34%</b>
• See objective 5.4. (Develop and release new tri-annual newsletter)	33%	33%	34%
<b>Objective 5.7 - Keep abreast of emerging technologies and apply them appropriately.</b>	<b>14%</b>	<b>20%</b>	<b>66%</b>
• Research feasibility of creating a Board "app" for smartphones, and contact DCA Public Affairs office to discuss social networking opportunities.	0%	0%	100%
• Develop license lookup through smartphone "app".	0%	0%	100%
• Develop business lookup through smartphone "app".	0%	0%	100%
• Make website more user friendly and "mobile app" friendly.	20%	50%	30%
• Explore Use of Social Media to Improve Communication (i.e. Facebook, Twitter, LinkedIn)	50%	50%	0%

# BPESLG Action Plan FY 2012-13



Completed  
  In Progress  
  Remaining

## FY 2011-12 Strategic Action Plan Tasks Completed

In FY 2011-12 the Board completed numerous Strategic Action Plan tasks. These tasks are a part of the objectives that make up our Strategic Goals. The table below identifies those tasks that were completed last FY:

<p><b><u>Goal 1: Protect Consumers</u></b></p> <p><b>Objective 1.1 – Reduce enforcement case aging</b></p> <ul style="list-style-type: none"> <li>- Focus on Citation Process Improvement</li> <li>- Increase staff via BCP</li> <li>- Submit BCP for Geologist Registrar</li> </ul> <p><b>Objective 1.4 – Improve Board’s Web site</b></p> <ul style="list-style-type: none"> <li>- Develop online address changes</li> </ul>	<p><b><u>Goal 3: Increase Licensure</u></b></p> <p><b>Objective 3.2 – Convert State exams to CBT</b></p> <ul style="list-style-type: none"> <li>- Exams scheduled October 2012</li> </ul> <p><b>Objective 3.5 – Protect the validity &amp; security of exams</b></p> <ul style="list-style-type: none"> <li>- Monitor exam sites &amp; begin CBT administration</li> <li>- Engage NCEES in admin. of national exams</li> </ul> <p><b>Objective 3.8 – Pursue NCEES &amp; ASBOG for exam administration</b></p> <ul style="list-style-type: none"> <li>- Begin NCEES administration 2012/13</li> </ul> <p><b>Objective 3.9 – Participate in NCEES &amp; ASBOG meetings</b></p> <ul style="list-style-type: none"> <li>- Pending OST Travel; attended annual meeting</li> </ul>
<p><b><u>Goal 2: Promote clear Laws and Regulations</u></b></p> <p><b>Objective 2.2 – Seek fingerprint authority</b></p> <ul style="list-style-type: none"> <li>- Received fingerprint authority via legislation</li> <li>- Submit BCP to hire fingerprint staff</li> </ul> <p><b>Objective 2.3 – Restructure exam &amp; application fees</b></p> <ul style="list-style-type: none"> <li>- Approved fees for PELS and GEO programs</li> <li>- Publicize fee structure once approved</li> </ul> <p><b>Objective 2.5 – Review penalties for unlicensed activity</b></p> <ul style="list-style-type: none"> <li>- Review completed, language effects max fine</li> </ul> <p><b>Objective 2.7 – Eliminate B&amp;P Section 6760</b></p> <ul style="list-style-type: none"> <li>- Temporary authorization to practice engineering</li> <li>- Staff seeking Legislation</li> </ul> <p><b>Objective 2.8 – Eliminate appeals of national exams</b></p> <ul style="list-style-type: none"> <li>- Effective June 18, 2012</li> </ul> <p><b>Objective 2.9 – Review Regs for GIT certification</b></p> <ul style="list-style-type: none"> <li>- Qualification requirements added to statutes</li> </ul>	<p><b><u>Goal 4: Pursue resources to meet Mission &amp; Vision</u></b></p> <p><b>Objective 4.1 – Retain Quality Executive Officer</b></p> <ul style="list-style-type: none"> <li>- Hired July 1, 2011</li> </ul> <p><b>Objective 4.2 – Pursue OST for NCEES &amp; ASBOG meetings</b></p> <ul style="list-style-type: none"> <li>- Justifications submitted</li> <li>- Submitted to Agency &amp; denied at Governor’s Office</li> </ul> <p><b>Objective 4.4 – Pursue funding &amp; hiring freeze exemptions</b></p> <ul style="list-style-type: none"> <li>- Seek hiring freeze exemptions – freeze lifted</li> <li>- BCP to hire fingerprint staff approved</li> </ul>

VI. **ENFORCEMENT**

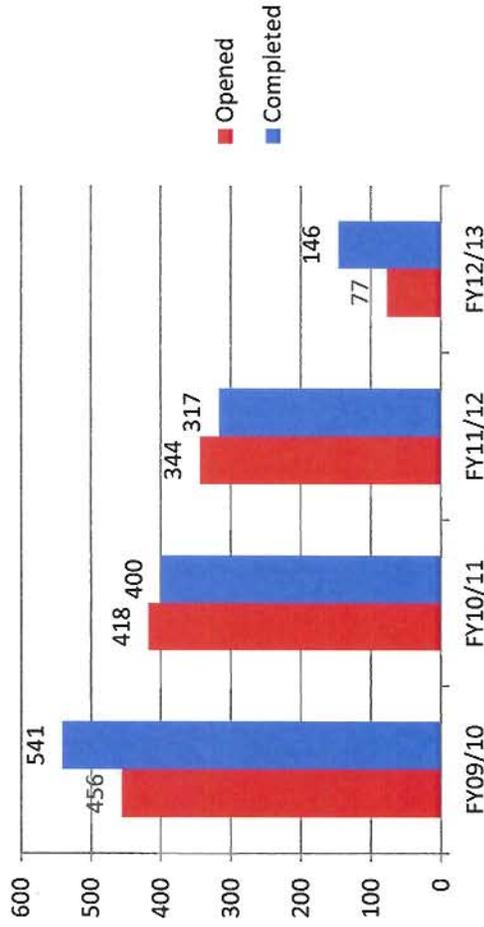
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- A. Enforcement Statistical Reports
- B. Presentation on Probation Monitoring

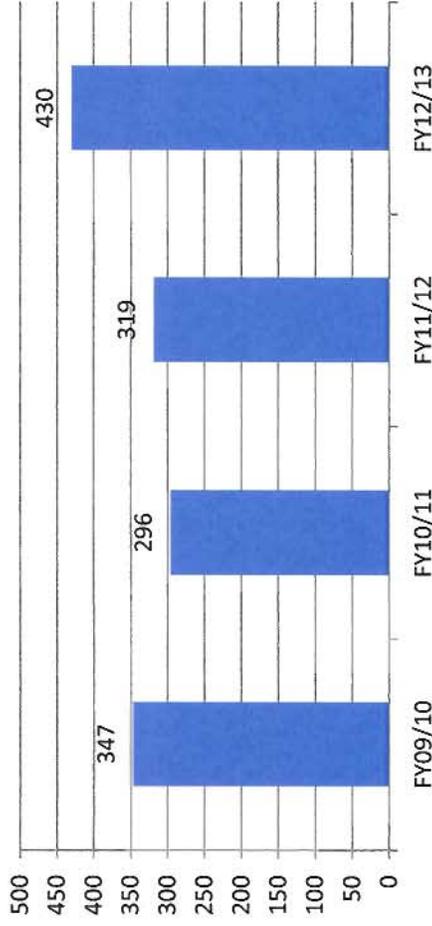
# PELS ENFORCEMENT PROGRAM

## Complaint Investigation Phase

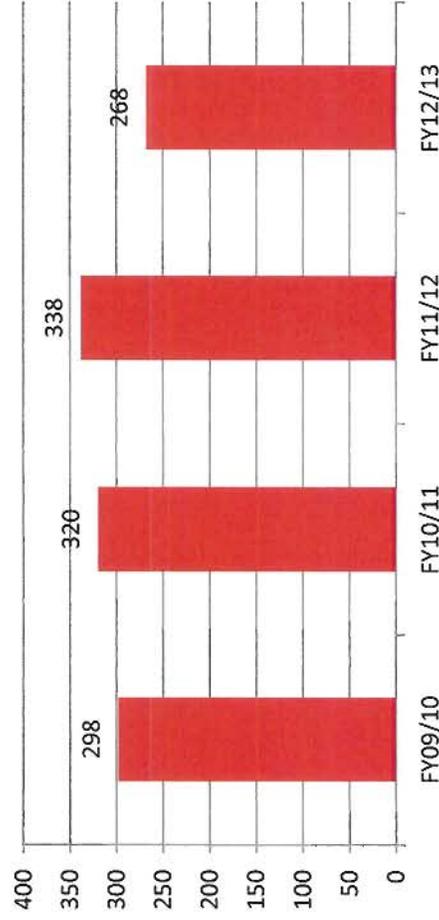
Complaint Investigations Opened and Completed



Average Days from Opening of Complaint Investigation to Completion of Investigation



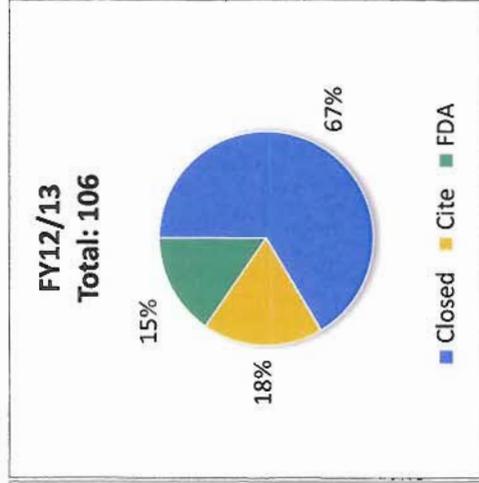
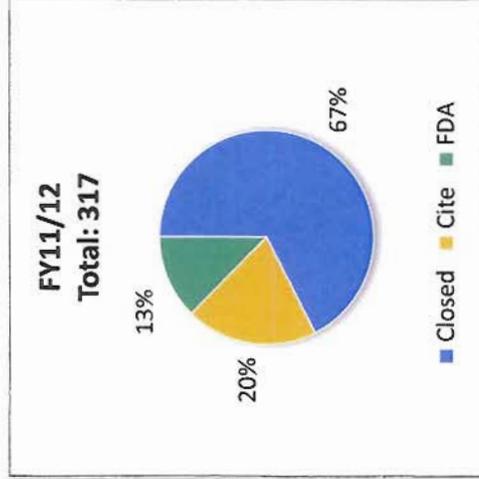
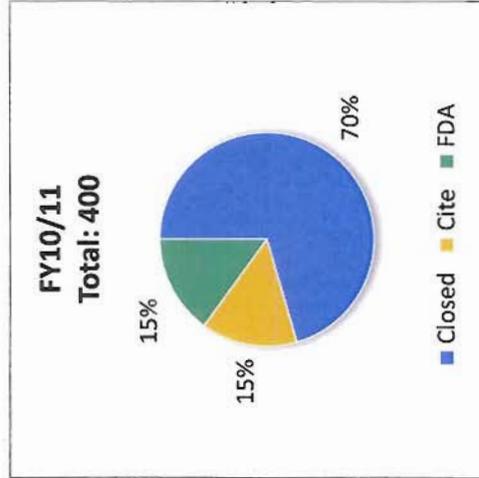
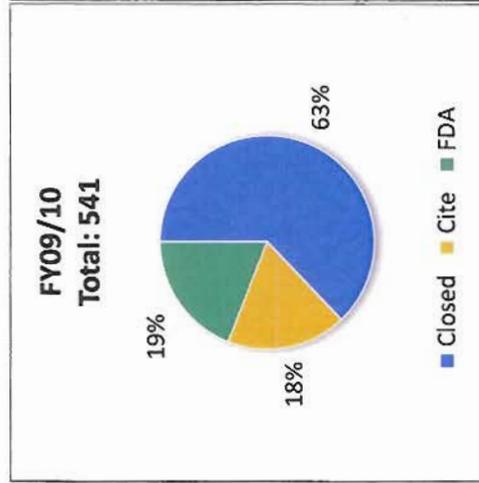
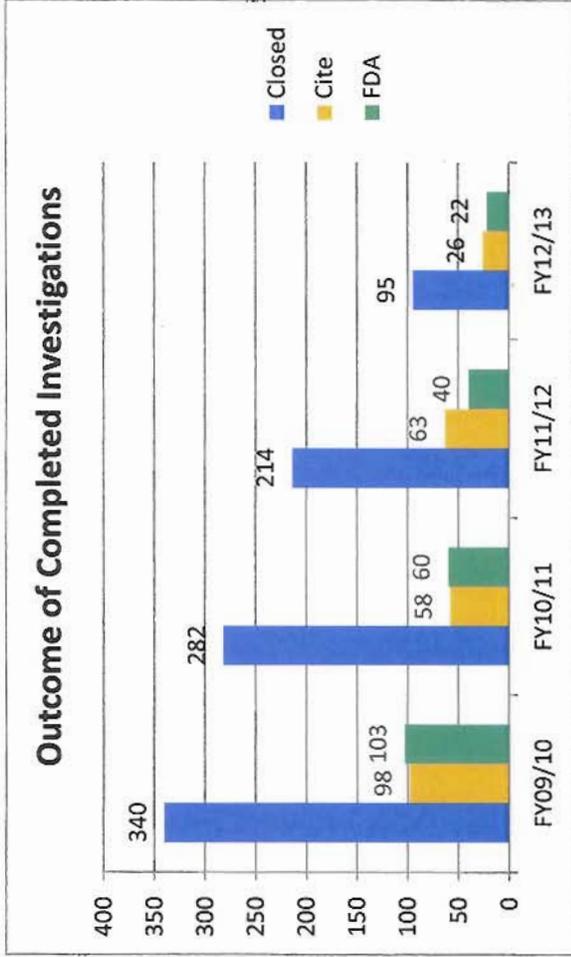
Open Complaint Investigations (at end of FY or month for current FY)



NOTE: All FY12/13 statistics are through October 31, 2012

# PELS ENFORCEMENT PROGRAM

## Outcome of Completed Investigations



**NOTE: All FY12/13 statistics are through October 31, 2012**

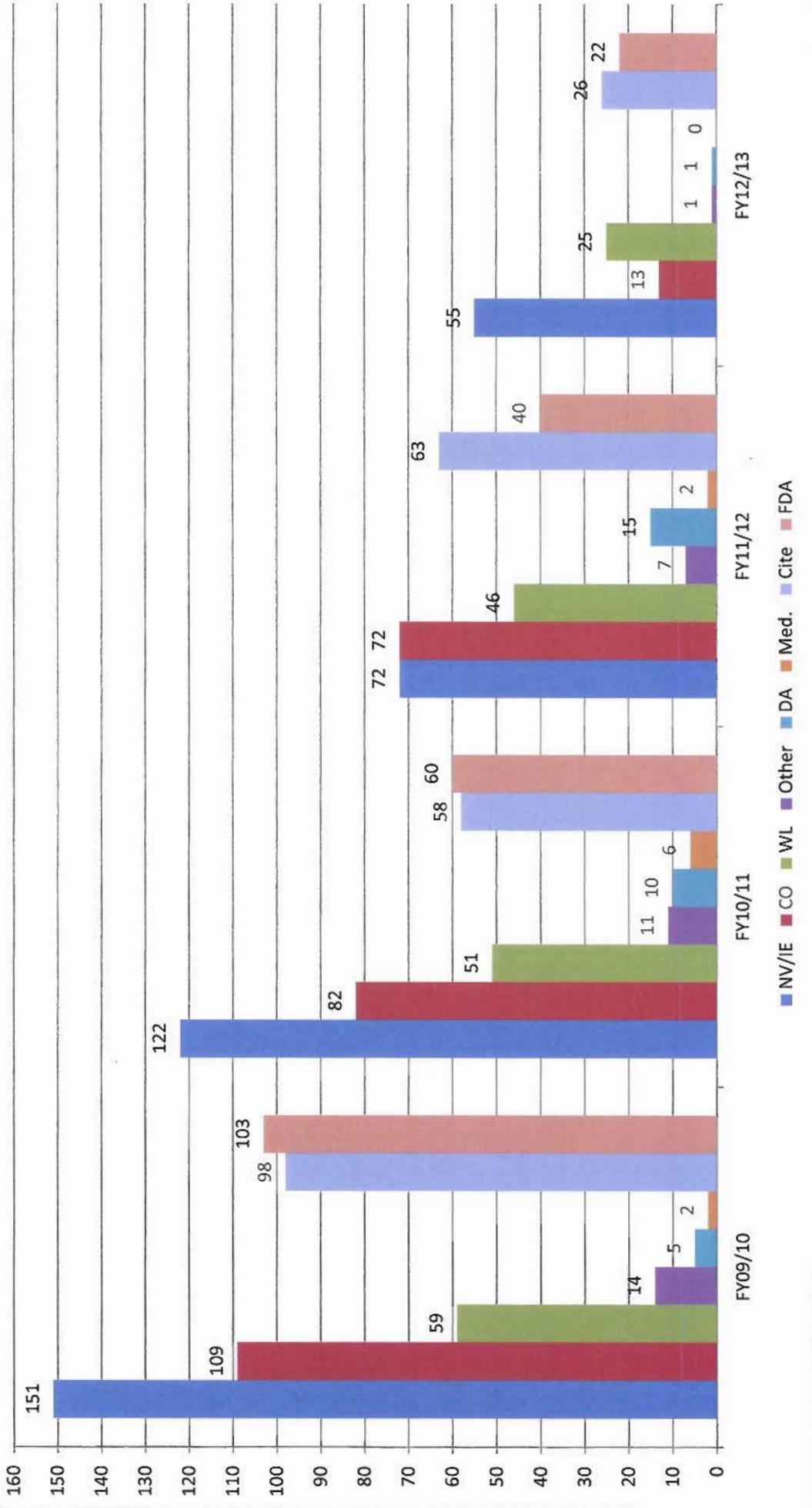
Closed = Closed with No Action Taken, includes the categories listed on the next page.

Cite = Referred for Issuance of Citation

FDA = Referred for Formal Disciplinary Action

# PELS ENFORCEMENT PROGRAM

## Outcome of Completed Investigations



**NOTE: All FY12/13 statistics are through October 31, 2012**

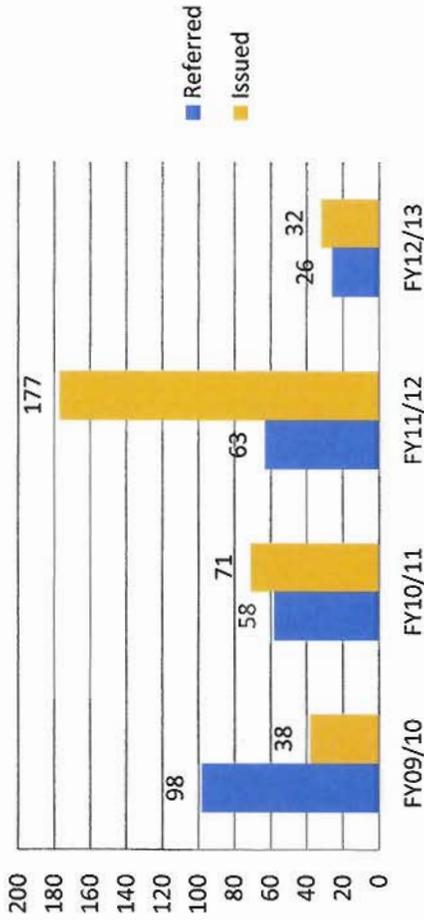
Closed = Closed with No Action Taken, includes the categories listed below:  
 NV/IE = No Violation/Insufficient Evidence  
 CO = Compliance Obtained  
 WL = Warning Letter  
 Other = Other Reason for Closing Without Action (e.g., subject deceased)  
 DA = Referred to District Attorney with Request to File Criminal Charges  
 Med. = Mediated

Cite = Referred for Issuance of Citation  
 FDA = Referred for Formal Disciplinary Action

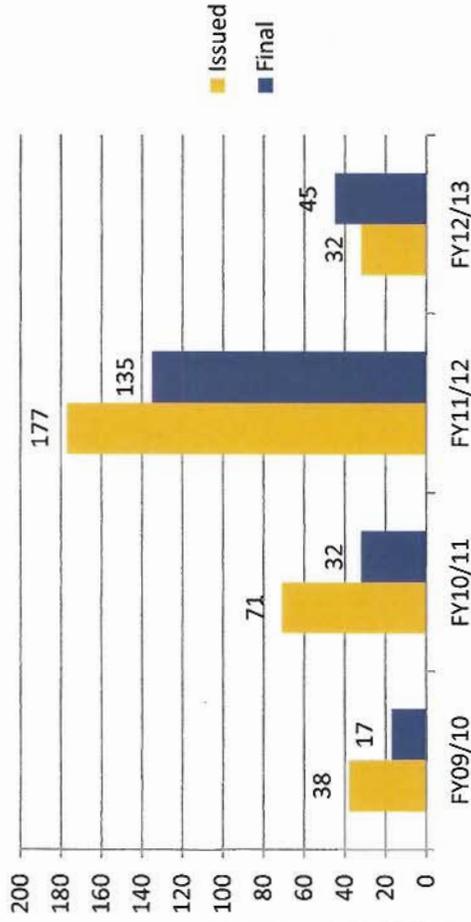
# PELS ENFORCEMENT PROGRAM

## Citations (Informal Enforcement Actions)

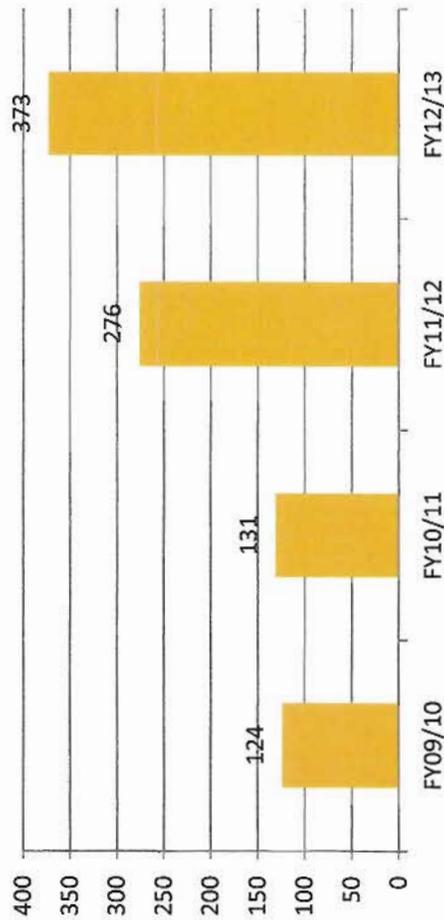
Number of Complaint Investigations Referred and Number of Citations Issued



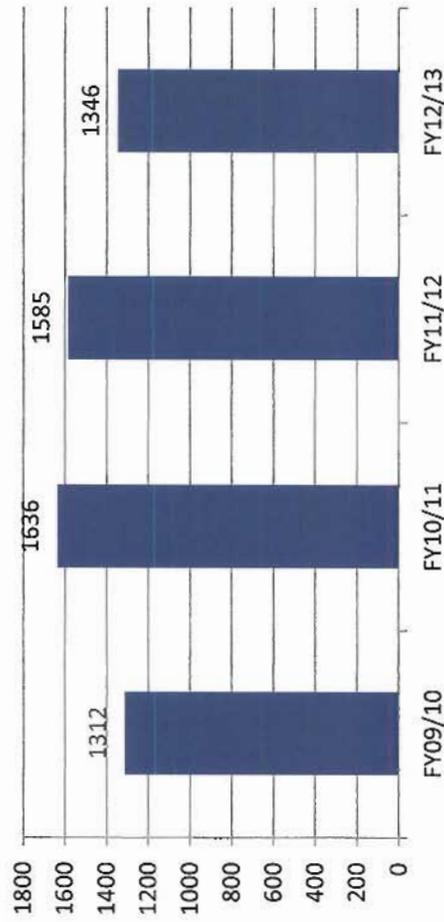
Number of Citations Issued and Final



Average Days Between Date of Issuance of Citation and Date Citation Becomes Final



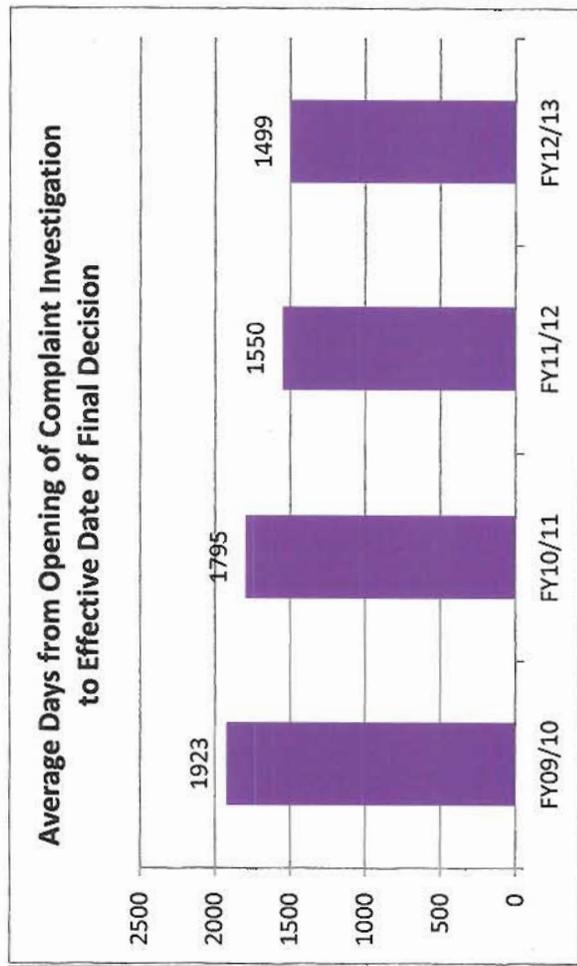
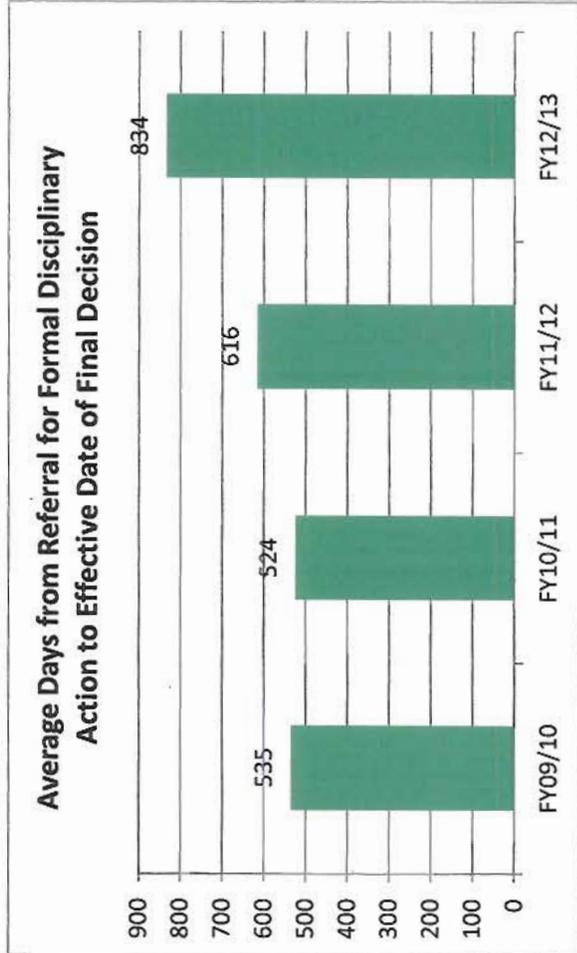
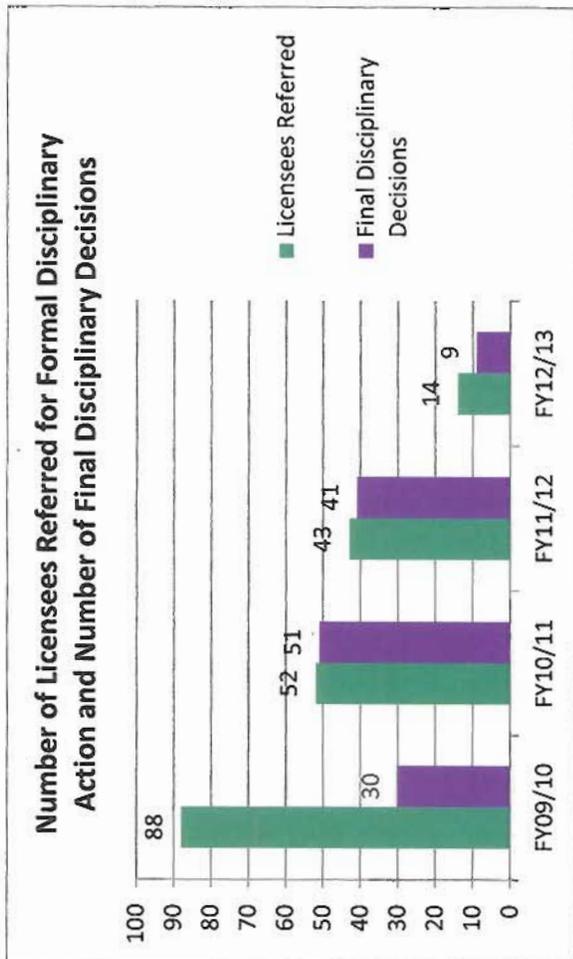
Average Days from Opening of Complaint Investigation to Date Citation Becomes Final



NOTE: All FY12/13 statistics are through October 31, 2012

# PELS ENFORCEMENT PROGRAM

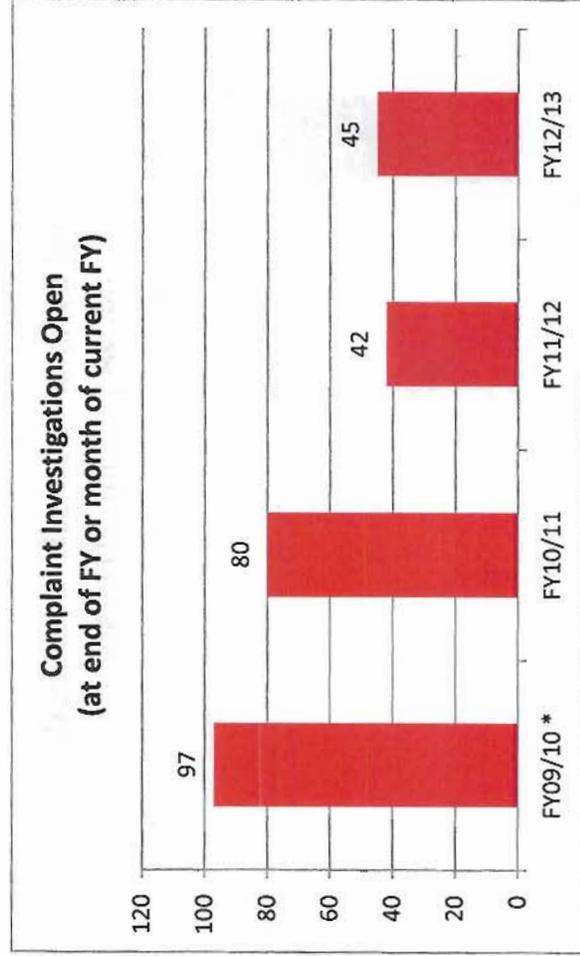
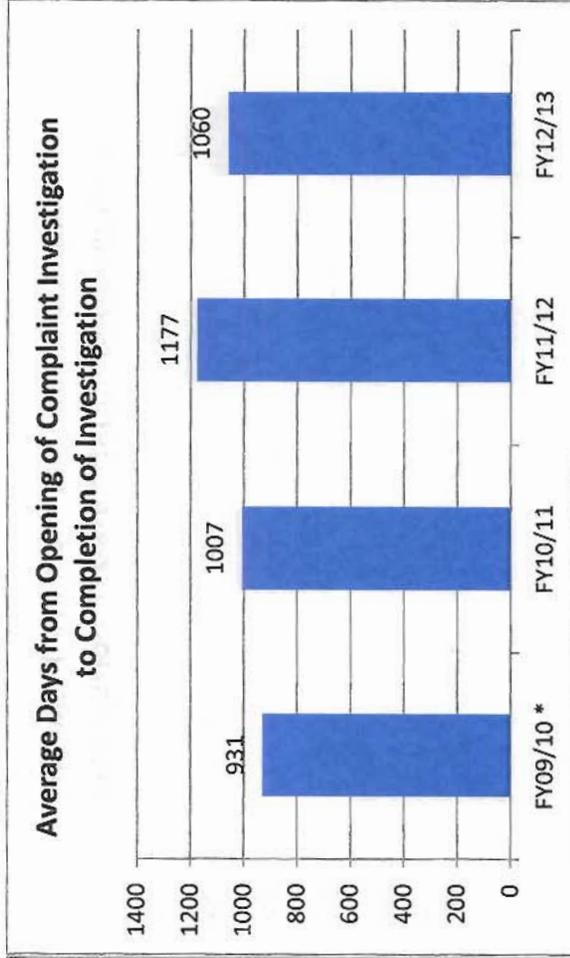
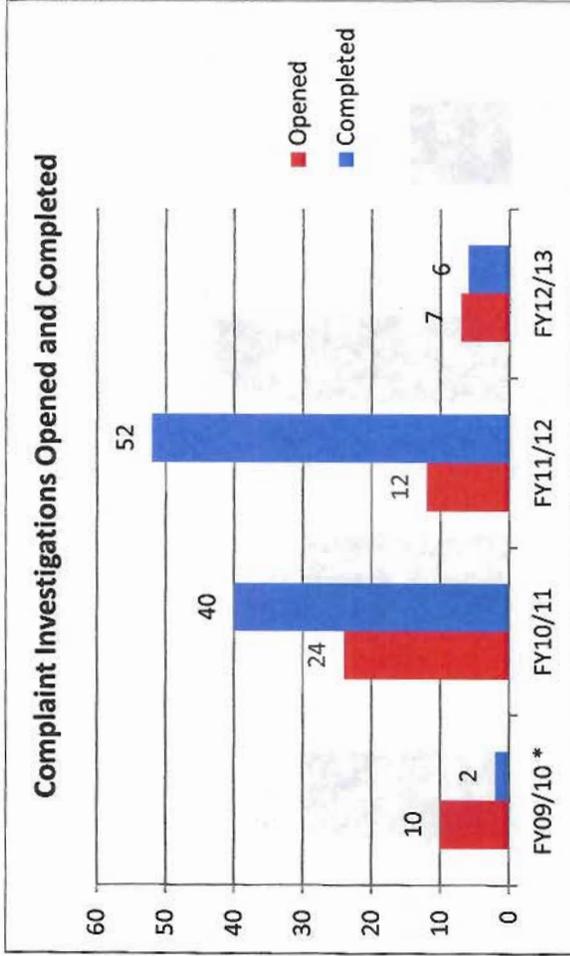
## Formal Disciplinary Actions Against Licensees



NOTE: All FY12/13 statistics are through October 31, 2012

# G&G ENFORCEMENT PROGRAM

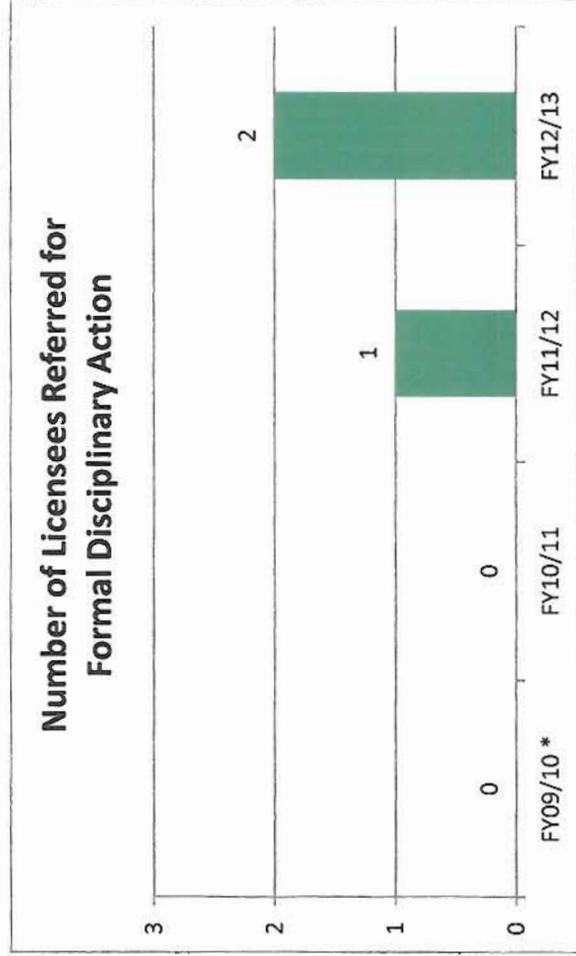
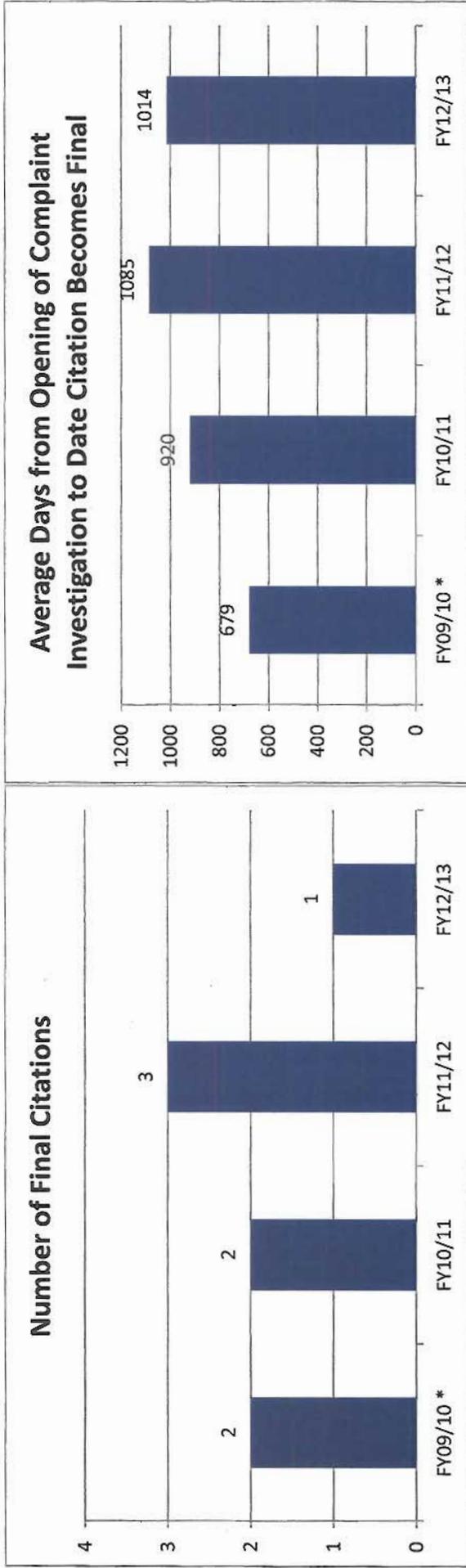
## Complaint Investigation Phase



\* FY09/10 is only from January through June 2010, when BGG was merged with BPELS  
 NOTE: All FY12/13 statistics are through October 31, 2012

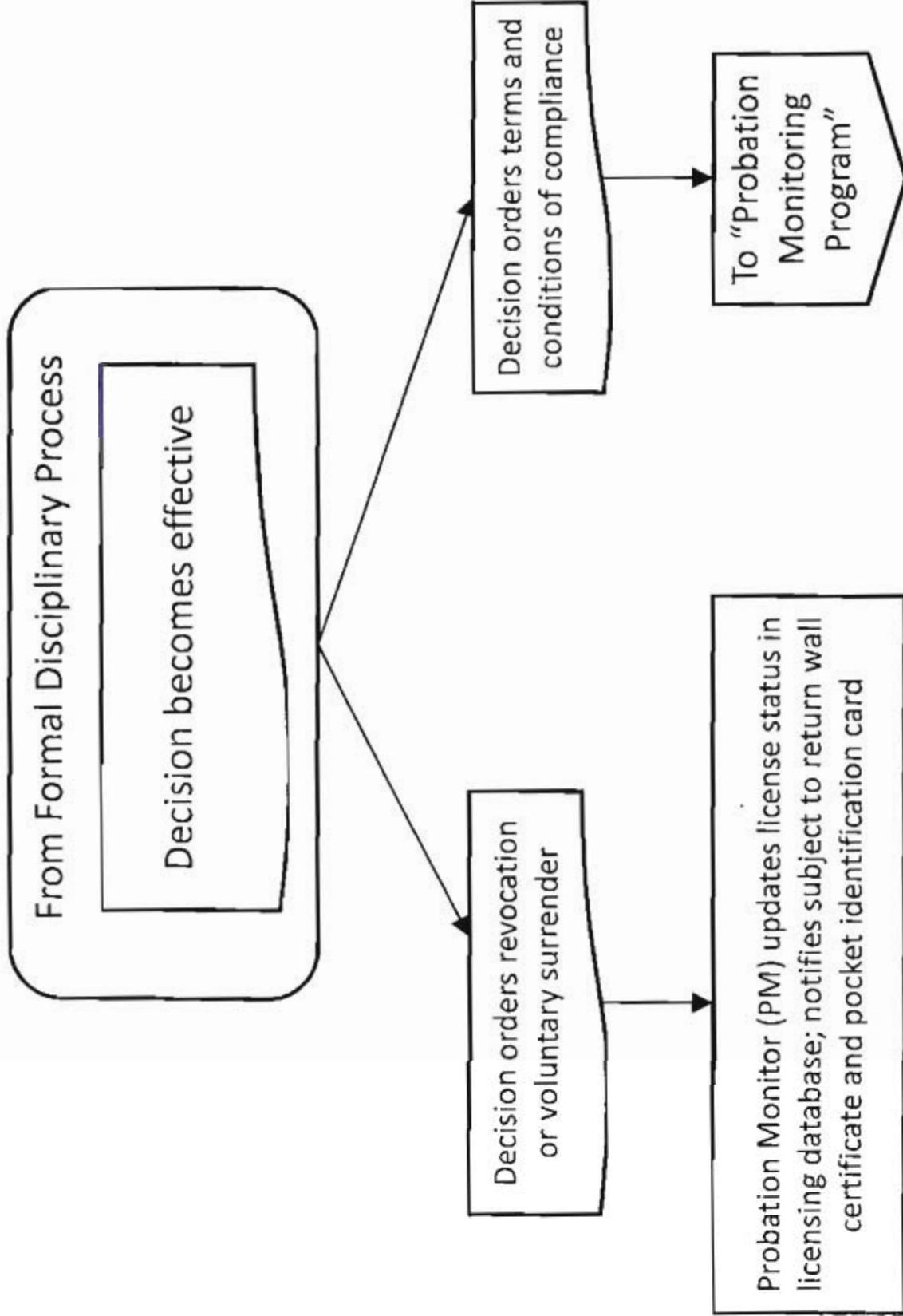
# G&G ENFORCEMENT PROGRAM

Citations (Informal Enforcement Actions) and Formal Disciplinary Actions against Licensees

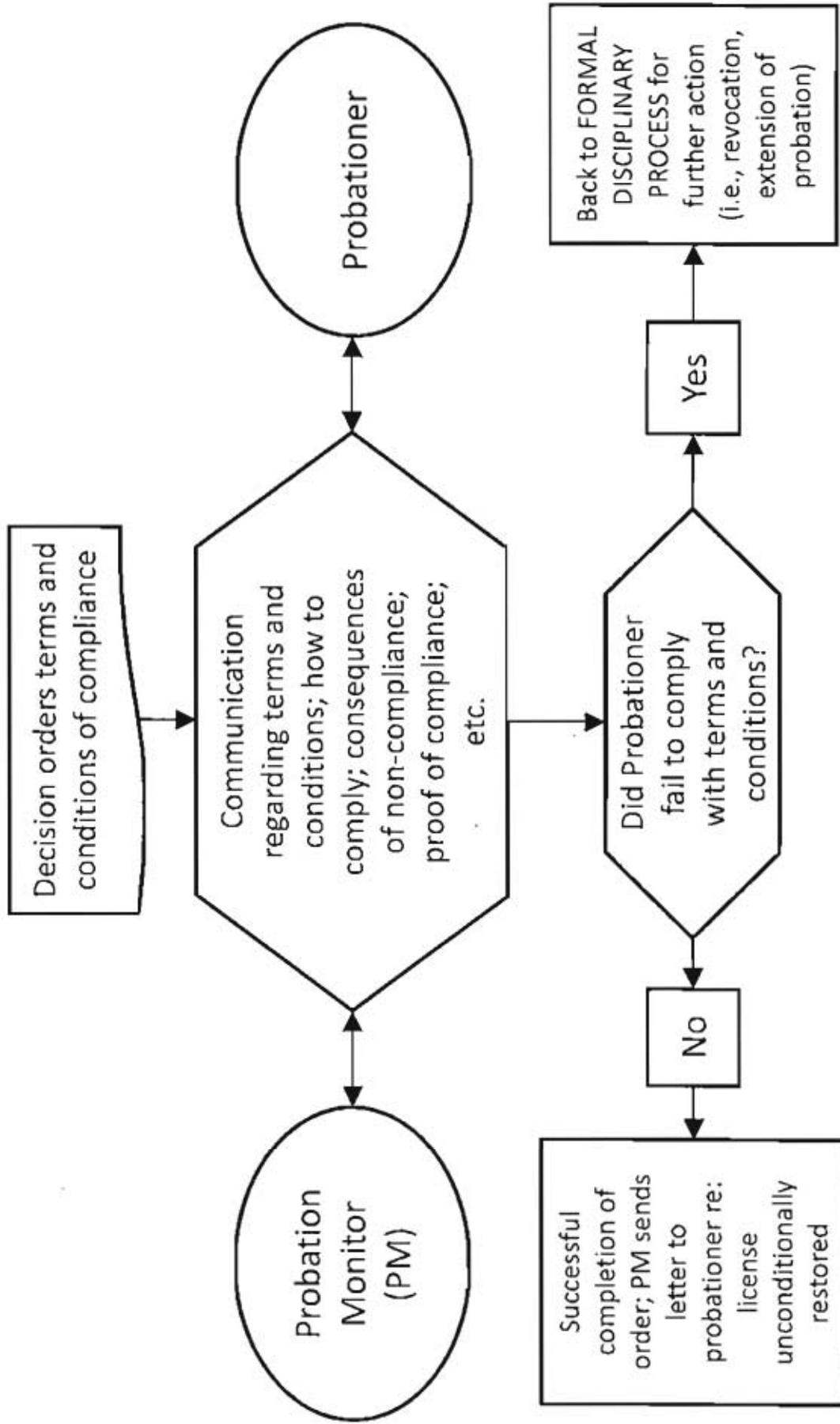


\* FY09/10 is only from January through June 2010, when BGG was merged with BPELS  
 NOTE: All FY12/13 statistics are through October 31, 2012

# “Probation Monitoring Program”



# “Probation Monitoring Program”





## BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

2535 Capitol Oaks Drive, Suite 300, Sacramento, California, 95833-2944

Telephone: (916) 263-2222 - Toll Free: 1-866-780-5370

Facsimile: (916) 263-2246

www.pels.ca.gov &amp; www.geology.ca.gov



DATE

PROBATIONER

RE: Accusation No.

Dear PROBATIONER:

This letter is regarding the Decision of the Board for Professional Engineers, Land Surveyors, and Geologists in the above-referenced matter, which became effective on EFFECTIVE DATE. Pursuant to this decision, your LICENSE is revoked. However, the revocation has been stayed, and you have been placed on probation for four (4) years upon certain terms and conditions.

Pursuant to Condition 1, you are required to obey all laws and regulations related to the practices of professional engineering and professional land surveying in California. Any violation of any laws and regulations related to the practices of professional engineering and land surveying shall constitute a violation of probation.

Condition 2 requires you to submit such special reports as the Board may require. Any failure by you to submit a special report as required by the Board pursuant to this condition will constitute a violation of probation.

Condition 3 requires you to immediately notify the Board in writing should you practice exclusively outside the State of California during the period of probation. The period of probation shall be tolled during the time you are practicing exclusively outside the State of California. Failure to so notify the Board shall constitute a violation of probation.

Condition 6 requires you to reimburse the Board for its costs of investigation and prosecution of this case in the amount of \$10,000.00 within three and one-half (3 ½) years from the effective date of the decision. Payments may be made in installments. Payment shall be made by check or money order sent to the Board office at the address listed above. Failure to pay the full amount by DUE DATE will constitute a violation of probation.

Condition 7 requires you to successfully complete and pass the *California Laws and Board Rules* examination within 60 days of the effective date of the decision. This examination, which is enclosed, is based upon the Professional Land Surveyors' Act (Business and Professions Code section 8700, et seq.) and the Board Rules (Title 16, California Code of Regulations section 400, et seq.). These laws are available on the Board's website at <http://www.pels.ca.gov> under the Quick Hits item entitled "Laws." You must complete this examination and return it to the Board office for scoring. Failure to successfully complete and pass this examination by DUE DATE will constitute a violation of probation.

Pursuant to Condition 8, you are required to successfully complete and pass a course in professional ethics, approved in advance by the Board or its designee, within three and one-half (3 ½) years from the effective date of the decision. The Board has approved the distance education course in "Professionalism and Ethics for Surveyors" offered by the New Mexico State University as meeting the

requirements of this condition. For additional information, you may contact Carol Serna, ET & SE Department Secretary, Center for Surveying Engineering Ethics, NMSU Surveying Engineering, P. O. Box 30001, MSC 3566, Las Cruces, New Mexico, 88003-8001, (575) 646-2236, [caserna@nmsu.edu](mailto:caserna@nmsu.edu). Information is also available via the internet at [http://et.nmsu.edu/academics/Syllabus\\_NMSU\\_March\\_2011\(updated\).pdf](http://et.nmsu.edu/academics/Syllabus_NMSU_March_2011(updated).pdf). You may choose another professional ethics course if you wish; however, you must seek advance approval from the Board of another professional ethics course as meeting the specific requirements of your probation. You must provide the Board with official proof of successful completion of the course. Failure to successfully complete a professional ethics course which has been specifically approved by the Board as meeting the requirements of your probation by DUE DATE will constitute a violation of probation.

Pursuant to Condition 9, you are required to successfully complete and pass, with a grade of "C" or better, one (1) college-level land surveying course, approved in advance by the Board or its designee, within three and one-half (3 ½) years from the effective date of the decision. You are required to submit courses for review and approval by the Board or its designee. You may submit either a catalog description or a course outline of the college-level courses for approval by the Board. You must provide the Board with an official sealed transcript as proof of successful completion of the course; student grade cards are not sufficient proof. Failure to successfully complete the requisite college-level course by DUE DATE will constitute a violation of probation.

The Board is aware of two colleges that offer land surveying courses on-line. They are the University of Wyoming and Great Basin College. More information about these courses may be obtained from the following websites:

University of Wyoming  
<http://outreach.uwyo.edu/ocp/landsurveying.asp>

Great Basin College  
[http://www.gbcnv.edu/bas/mod.php?mod=userpage&menu=14&page\\_id=6](http://www.gbcnv.edu/bas/mod.php?mod=userpage&menu=14&page_id=6)

Even if you choose a course from one of these colleges, you must still submit information, such as a course description, regarding the specific course you wish to complete to the Board for prior approval.

Pursuant to Conditions 4 and 5, a violation of any of the probationary conditions described in the Decision in the Matter of Accusation No. will result in the Board pursuing action to revoke the probation and to impose the revocation of your license which has been stayed. Upon successful completion of all of the probationary conditions and upon expiration of the probationary period, your license as a Land Surveyor will be fully restored.

All correspondence regarding this matter should be sent to my attention, as the Board's Probation Monitor, at the Board's address as listed above. If you have any further questions regarding this matter, please contact me at (916) 263-2241 or [Nancy.Eissler@dca.ca.gov](mailto:Nancy.Eissler@dca.ca.gov).

Sincerely,

NANCY A. EISSLER  
Enforcement Program Manager

VII.

**EXAMS/LICENSING**

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- A. Examination Update
- B. Audit of National Professional Geologist Written Examinations Outline

VIII. APPROVAL OF DELINQUENT REINSTATEMENTS

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## APPROVAL OF DELINQUENT REINSTATEMENTS

**Motion: Approve the following 3 and 5-year delinquent reinstatement applications.**

### **MECHANICAL**

**HAMILTON, LEWIS DAVID**

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

IX.

**ADMINISTRATION**

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A. FY 2012/13 Budget Overview

# Budget Overview

- Introduction
- FY 2012/13 – Summary
- Budget Going Forward

# Introduction

## Expenditure Authority

- **Non-Discretionary**
  - Salaries and Wages
  - Staff Benefits
  - Pro-Rata (DCA, DGS, SCSA, DOF, SCO)
- **Discretionary**
  - General Operating Expense
  - Travel
  - Training
  - Enforcement

# Introduction Cont.

## Revenue and Revenue Codes

- Application / License Fees
  - 125700
- Renewal Fees
  - 125800
- Delinquency Fees
  - 125900

# Introduction Cont.

- **Appropriation**
- A program's annual expenditure authority approved by Governor

3-YR EXPENDITURES		<u>2010-11*</u>	<u>2011-12*</u>	<u>2012-13*</u>
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS				
State Operations:				
0770	Professional Engineers and Land Surveyors Fund	\$8,947	\$10,438	\$9,320
0205	Geology and Geophysics Fund	849	1,335	1,365
0995	Reimbursements	41	16	16
<b>Totals, State Operations</b>		<b>\$9,837</b>	<b>\$11,789</b>	<b>\$10,701</b>

- **Fund**
- A program's account where expenditures are paid and revenue is deposited
- 0770 - Engineers, 0205 – Geology
- 0995 – Investigative Cost Recovery, OIS Public Sales

# 0770 - Board for Prof. Engineers and Land Surveyors

## Analysis of Fund Condition

(Dollars in Thousands)

FY 2012-13 Governor's Budget

	ACTUAL 2010-11	CY 2011-12	Governor's Budget BY 2012-13
<b>BEGINNING BALANCE</b>	\$ 5,638	\$ 5,707	\$ 350
Prior Year Adjustment	\$ 11	\$ -	\$ -
Adjusted Beginning Balance	\$ 5,649	\$ 5,707	\$ 350
<b>REVENUES AND TRANSFERS</b>			
Revenues:			
125600 Other regulatory fees (Citation Fines, Dup. Lic.)	\$ 14	\$ 24	\$ 24
125700 Other regulatory licenses and permits (Apprs., Exams)	\$ 3,535	\$ 3,736	\$ 3,921
125800 Renewal fees	\$ 5,356	\$ 6,273	\$ 5,397
125900 Delinquent fees	\$ 72	\$ 72	\$ 81
150300 Income from surplus money investments	\$ 39	\$ 5	\$ 2
161000 Escheat of unclaimed checks and warrants	\$ 8	\$ 8	\$ 8
161400 Miscellaneous revenues	\$ 2	\$ 3	\$ 3
Totals, Revenues	\$ 9,026	\$ 10,121	\$ 9,436
Transfers to Other Funds	\$ -	\$ -5,000	\$ -
GF Loan FY 11-12	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 9,026	\$ 5,121	\$ 9,436
Totals, Resources	\$ 14,675	\$ 10,828	\$ 9,786
<b>EXPENDITURES</b>			
Disbursements:			
8840 SCO (State Operations - State Controller)	\$ 15	\$ 10	\$ 10
8880 FISCAL (State Operations - Sect. of State)	\$ 6	\$ 30	\$ 8
1110 Program Expenditures (State Operations)	\$ 8,947	\$ 10,438	\$ 9,320
Total Disbursements	\$ 8,968	\$ 10,478	\$ 9,338
<b>FUND BALANCE</b>	\$ 5,707	\$ 350	\$ 448
Reserve for economic uncertainties			
Months in Reserve	6.5	0.4	0.6

# 0205 - Geology Analysis of Fund Condition

(Dollars in Thousands)

## FY 2012-13 Governor's Budget

	ACTUAL 2010-11	CY 2011-12	Governor's Budget BY 2012-13
<b>BEGINNING BALANCE</b>			
Prior Year Adjustment	\$ 737	\$ 1,012	\$ 682
Adjusted Beginning Balance	\$ 110	\$ -	\$ -
	\$ 847	\$ 1,012	\$ 682
<b>REVENUES AND TRANSFERS</b>			
Revenues:			
125600 Other regulatory fees	\$ 3	\$ 2	\$ 2
125700 Other regulatory licenses and permits	\$ 178	\$ 210	\$ 249
125800 Renewal fees	\$ 815	\$ 774	\$ 821
125900 Delinquent fees	\$ 14	\$ 14	\$ 14
150300 Income from surplus money investments	\$ 6	\$ 5	\$ 2
161000 Escheat of unclaimed checks and warrants	\$ 1	\$ 1	\$ 1
Totals, Revenues	\$ 1,017	\$ 1,006	\$ 1,089
Totals, Resources	\$ 1,864	\$ 2,018	\$ 1,771
<b>EXPENDITURES</b>			
Disbursements:			
8840 SCO (State Operations)	\$ 2	\$ 1	\$ 1
8880 Financial Information System for CA (State Operations)	\$ 1		
1110 Program Expenditures (State Operations)	\$ 849	\$ 1,335	\$ 1,365
Total Disbursements	\$ 852	\$ 1,336	\$ 1,366
<b>FUND BALANCE</b>			
Reserve for economic uncertainties	\$ 1,012	\$ 682	\$ 405
Months in Reserve	9.1	6.0	3.5

# FY 2012/13 - Summary

## Expenditures

- PELS Baseline Budget - \$9,320,000
- GEO Baseline Budget - \$1,365,000

## Revenue (as of 10/31/12)

- PELS Projected Revenue - \$9,135,000
- GEO Projected Revenue - \$978,000

**PROFESSIONAL ENGINEERS & LAND SURVEYORS FUND - 0770**  
**Budget Report**  
**Expenditure Projection**

OBJECT DESCRIPTION	FY 2011-12		FY 2012-13		PERCENT OF BUDGET SPENT	PROJECTIONS TO YEAR END	UNCUMBERED BALANCE
	ACTUAL EXPENDITURES (MONTH 13)	EXPENDITURES AS OF 10/31/2011	BUDGET ALLOTMENT	EXPENDITURES AS OF 10/31/2012			
<b>PERSONAL SERVICES:</b>							
Salaries and Wages	2,012,669	595,849	2,119,579	656,463	30.9%	2,011,111	108,468
Civil Service-Ferm	70,815	34,138	101,908	11,410	11.2%	15,273	86,635
Temp Help (907)	0	0	116,780	0	0.0%	0	116,780
Exam Proctor (915)	133,913	11,677	0	3,187	0.0%	135,000	(135,000)
Allocated Proctor Cost	3,300	34,203	93,586	34,203	3.7%	102,348	(8,762)
Statutory Exempt - EO	700	700	16,100	600	1.6%	3,600	12,500
Board/Commission (910,920)	0	0	6,429	100	0.0%	500	5,929
Comm. Member (911)	2,299	1,364	14,100	0	0.0%	2,000	12,100
Overtime (909)	827,810	267,072	854,547	301,365	35.3%	872,822	(18,275)
Staff Benefits	3,050,806	945,003	3,323,029	1,006,329	30.3%	3,142,656	180,373
Salary Savings	0	0	0	0	0.0%	0	0
<b>TOTAL PERSONAL SVC</b>							
	7,493,817	6,056,815	6,080,971	1,866,632	30.7%	4,235,026	1,845,945
<b>OPERATING EXPENSE AND EQUIPMENT:</b>							
Fingerprints	46,081	17,009	46,813	20,628	44.1%	65,397	(18,584)
General Expense	48,377	29,140	24,312	5,889	24.2%	46,273	(21,961)
Printing	22,327	5,468	23,106	8,262	35.8%	25,497	(2,389)
Communication	77,323	17,158	36,140	20,050	57.1%	94,237	(49,097)
Postage	135	135	0	0	0.0%	118	(118)
Insurance	41,702	5,722	66,990	6,745	7.6%	70,060	18,913
Travel In State	0	0	0	0	0.0%	0	0
Travel Out-of-State	130	215	13,863	70	0.6%	2,000	11,863
Training	261,785	354,785	369,619	323,064	80.1%	351,900	18,119
Facilities Operations	326,456	158,505	5,012	105,572	2106.4%	377,015	(372,003)
C/P Services - Internal	0	0	0	0	0.0%	0	0
C/P Services - External	0	0	0	0	0.0%	0	0
<b>Departmental Services:</b>							
Interagency	28,534	384,440	1,052,360	526,181	50.0%	1,052,360	(28,179)
All Other DCA Pro Rata	1,027,393	34	17,235	362	2.1%	450	16,786
Consolidated Data Center (Teale)	34	990	33,256	16,605	49.9%	56,138	(22,882)
Information Technology	11,736	100,132	394,941	96,735	25.0%	394,941	0
Central (State) Adm Pro Rata	400,548	0	0	0	0.0%	1,000	(1,000)
Examinations:	567	236,566	363,457	581	0.2%	581	362,876
Exam Supplies/Materials	131,686	4,319,475	2,230,830	166,352	7.5%	266,352	1,964,478
Exam Rent	3,734,823	0	145,322	0	0.0%	0	145,322
Admin - External SVS	0	0	0	0	0.0%	0	0
C/P SVS - Expert Exa	3,725	2,868	2,893	0	0.0%	0	308
Major Equipment	0	0	0	0	0.0%	0	0
Other Items of Expense	0	0	0	0	0.0%	0	0
Vehicle Operations	0	0	0	0	0.0%	0	0
<b>Enforcement:</b>							
Attorney General	600,745	225,093	608,188	232,528	38.2%	661,217	(53,029)
Office Admin. Hearing	126,404	45,834	162,611	49,452	30.4%	126,404	36,207
Evidence / Witness Fees	163,508	54,482	77,077	69,256	89.9%	205,703	(128,626)
Court Reporters	13,925	2,882	0	910	0.0%	18,000	(18,000)
DCI - Investigation	390,176	95,476	362,760	176,376	50.0%	362,760	0
Minor Equipment	35,686	0	8,000	0	0.0%	0	(8,000)
Special Adjustments - OE&E	0	0	0	0	0.0%	0	0
Board of Control Claims	0	0	0	0	0.0%	0	0
<b>TOTALS, OE&amp;E:</b>	7,493,817	6,056,815	6,080,971	1,866,632	30.7%	4,235,026	1,845,945
<b>REIMBURSEMENTS:</b>							
Scheduled	(8,000)	(16,000)	(8,000)	0	0.0%	0	(8,000)
External & Unscheduled	(8,000)	(68,000)	(8,000)	0	0.0%	0	(8,000)
Distributed Cost - Int Geology	(58,000)	(68,000)	(58,000)	0	0.0%	0	(68,000)
<b>TOTAL REIMBURSEMENTS:</b>	(84,000)	(84,000)	(84,000)	0	0.0%	0	(84,000)
<b>NET APPROPRIATION:</b>	10,460,623	6,917,818	9,320,000	2,872,960	30.8%	7,377,682	1,942,318
<b>SURPLUS/(DEFICIT):</b>							20,84%

October 31, 2012  
 Current Fiscal Month: 4  
 Months Remaining: 8

FUND NO. 0205  
EXPENSE INDEX 5100

GEOLOGISTS AND GEOPHYSICISTS PROGRAM  
BUDGET REPORT  
EXPENDITURE PROJECTION

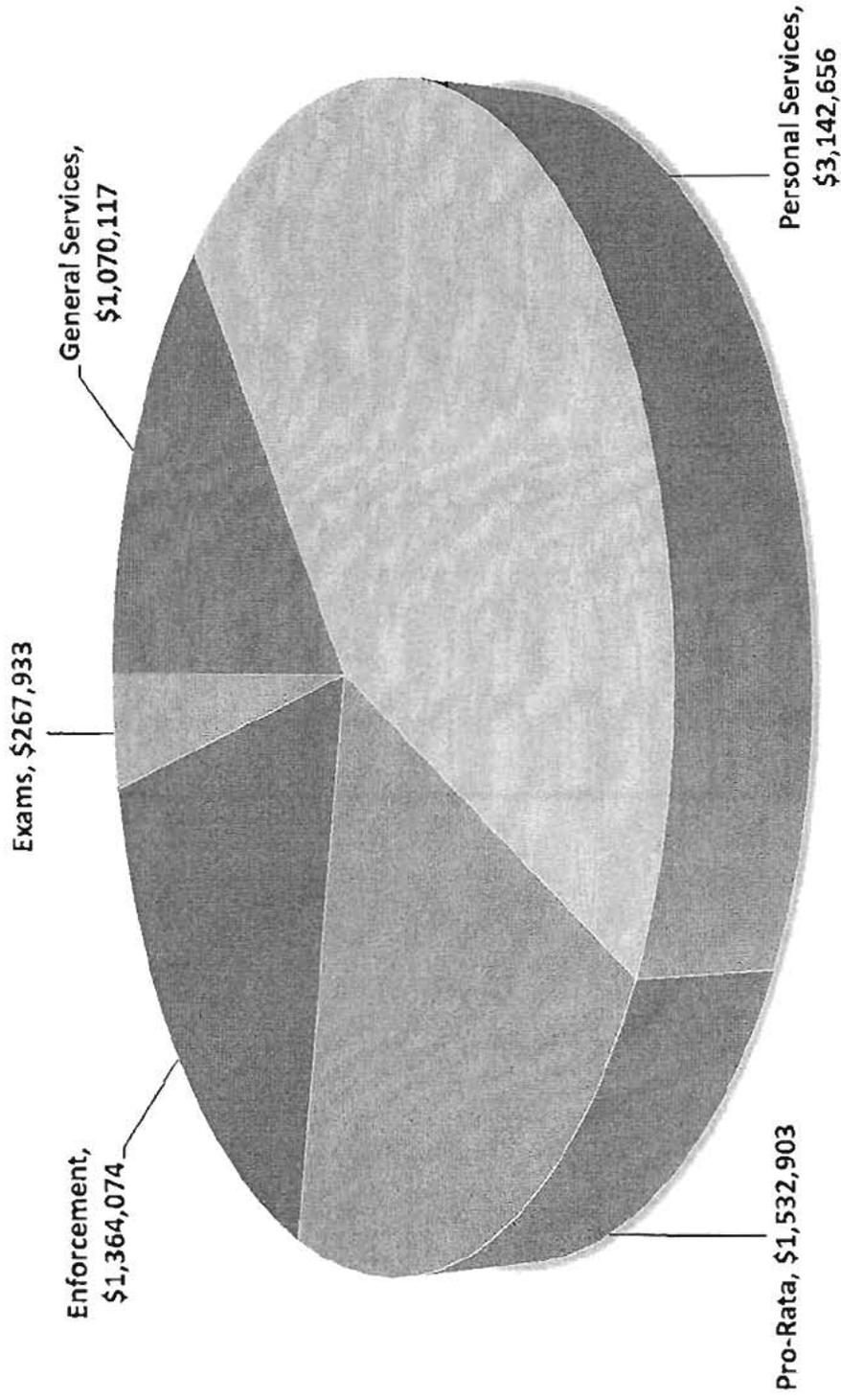
October 31, 2012

MONTH 4

Mo. Remaining: 9

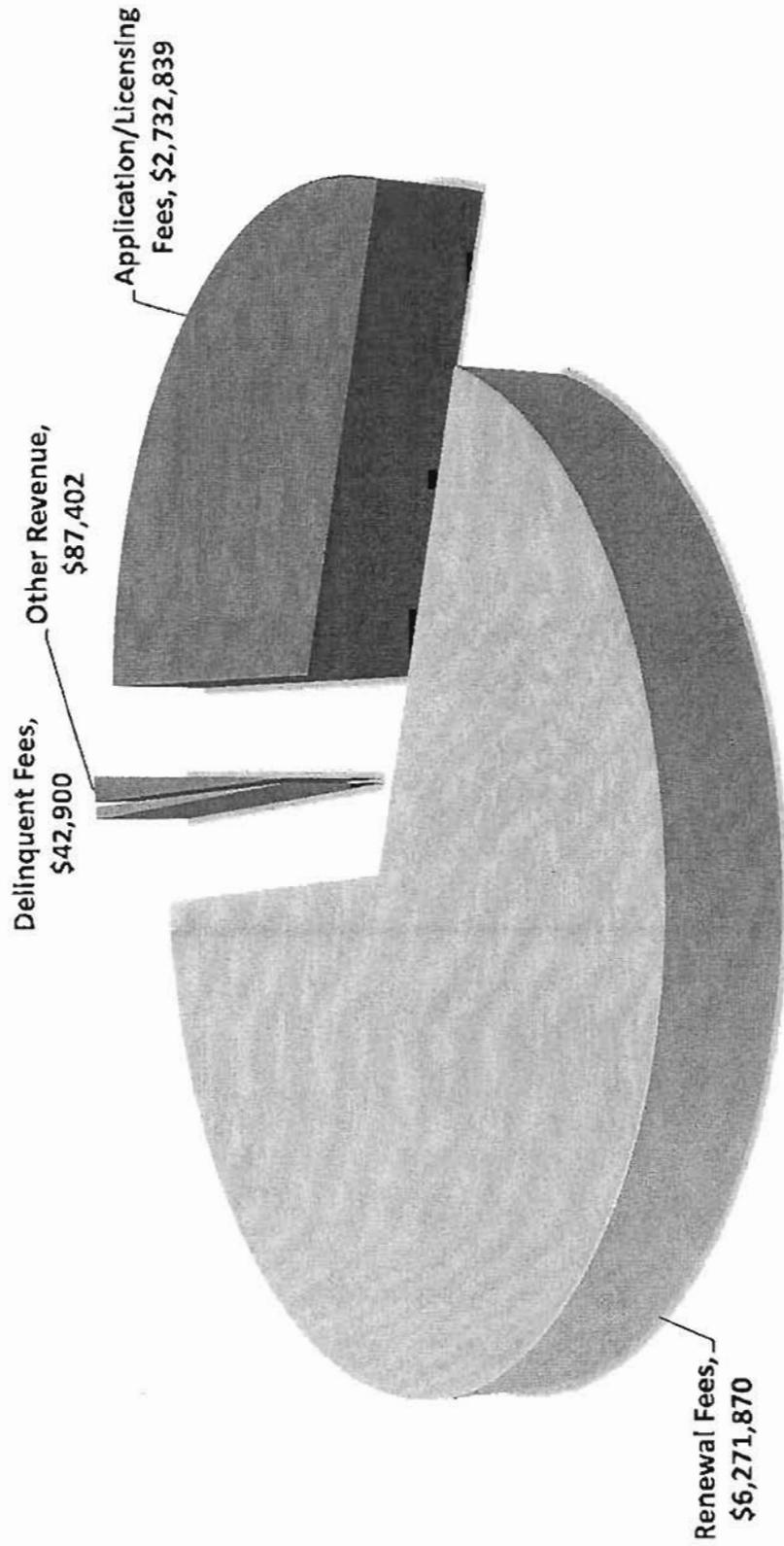
OBJECT DESCRIPTION	FY 2011-12		FY 2012-13		UNENCUMBERED BALANCE
	ACTUAL EXPENDITURES (MONTH 13)	PY EXPENDITURES (03/31)	BUDGET ALLOTMENT	PERCENT OF BUDGET SPENT	
<b>PERSONAL SERVICES:</b>					
Salaries and Wages	174,606	61,875	236,204	27.6%	15,153
Civil Service-Perm					
Statutory Exempt	2,400		18,932	0.0%	16,533
Temp Help (907)	19,165	5,602	9,282	50.6%	(8,474)
Allocated Proctor Cost				0.0%	0
Board/Commission (910, 920)	700	300		0.0%	700
Committee Member (911)	1,557	303		0.0%	(2,000)
Overtime (909)	80,287	24,834	112,708	29.7%	13,236
Staff Benefits	0	0	(12,097)	0.0%	(12,097)
Salary Savings					
<b>TOTAL, PERSONAL SVC</b>	<b>278,715</b>	<b>92,914</b>	<b>363,040</b>	<b>28.3%</b>	<b>21,360</b>
<b>OPERATING EXPENSE AND EQUIPMENT:</b>					
General Expense	7,903	4,080	26,519	2.8%	16,519
Fingerprint Reports	3,583	1,809	4,731	15.3%	1,231
Printing	8,323	229	8,276	2.1%	7,275
Communication		1,141	3,731	30.7%	(4,269)
Postage				0.0%	0
Insurance	15,342	3,232	1,427	62.9%	(16,473)
Travel In State	0	0	0	0.0%	0
Travel Out-of-State					
Training			2,231	0.0%	1,731
Facilities Operations			9,006	75.5%	500
C & P Services - Intercept	0	0	59,100	0.0%	2,206
C & P Services - External			1,511	21.6%	59,100
DP Billing (OIS)	40,668	12,377	326	60.0%	811
Indirect Distributed Cost (OAS & I)	13,740	5,040	16,326	60.0%	0
Interagency Services	68,000	43,420	21,710	60.0%	43,420
Interagency Agreement (OER)	205,476	52,036	25,761	0.0%	68,000
DOI Prorata	30	201	264,024	0.0%	(276,124)
Public Affairs Office	0	422	0	0.0%	0
Consumer & Comm Rel. (CCED)	844	264	2,965	60.1%	0
Consolidated Data Center (Tea)	44		4,074	0.0%	4,030
Data Processing Maint/Supplies					
Central Admin Pro Rata	61,036	15,259	67,695	25.0%	4,108
<b>EXAMINATIONS:</b>					
Exam Supplies/Materials			142	0.0%	142
Exam Rent - Non State	1,440	1,500	5,153	0.0%	6,153
Administrative External Svcs	149,172	137,000	359,936	46.8%	258,629
C/P Svcs - Ext Expert Examiners	115,459	10,961	110,319	24.1%	6,003
C/P Svcs - Sub Matter Experts	828	0		0.0%	(828)
Major Equipment				0.0%	0
Minor Equipment	1,435	1,435		0.0%	(1,500)
Special Adjustments					
<b>ENFORCEMENT:</b>					
Attorney General	510	120	215,333	1.2%	205,401
Office Admin. Hearing Fees	298		7,783	0.0%	4,483
Evidence / Witness Fees	35,619	5,188	11,667	55.7%	(27,315)
Court Reporters					
DOI Investigation	0	4,709	4,423	50.0%	0
Court Settlement					
<b>TOTALS, OER:</b>	<b>730,972</b>	<b>257,002</b>	<b>1,001,950</b>	<b>53.4%</b>	<b>208,074</b>
<b>TOTAL EXPENSE:</b>	<b>1,009,687</b>	<b>349,916</b>	<b>1,365,000</b>	<b>46.7%</b>	<b>229,434</b>
Sched. Reimb. - Other	0	0	0	0.0%	0
Sched. Reimb. - Fingerprints	0	0	0	0.0%	0
Unsched. Reimb	0	0	0	0.0%	0
<b>TOTAL REIMBURSEMENT:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0%</b>	<b>0</b>
<b>NET APPROPRIATION:</b>	<b>1,009,687</b>	<b>349,916</b>	<b>1,365,000</b>	<b>46.7%</b>	<b>229,434</b>
				<b>SURPLUS/(DEFICIT):</b>	<b>15,81%</b>

# FY 2012/13 – PELS Projected Expenditures



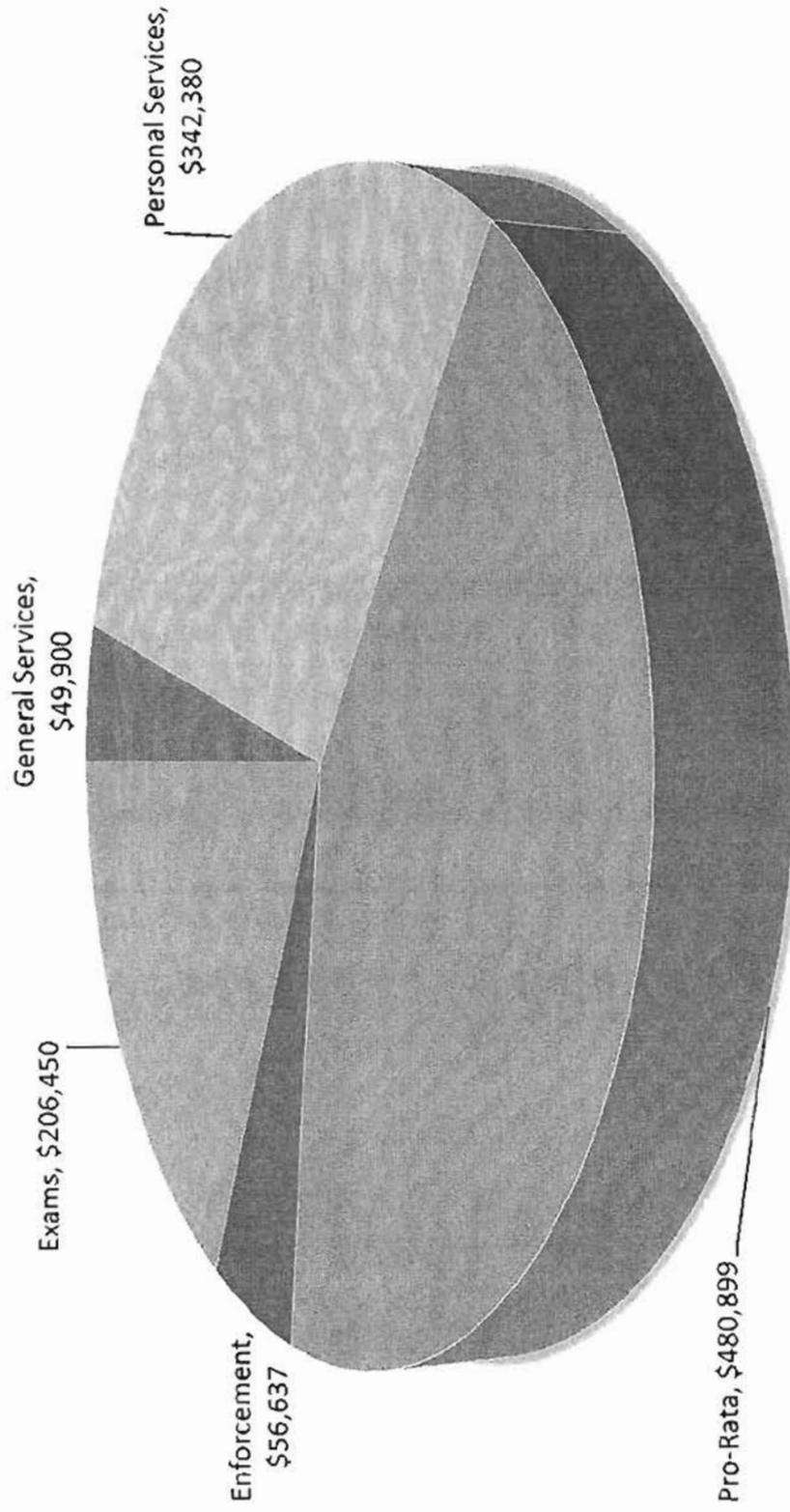
Notes: FY 2012-13 projected expenditures - \$7,377,362

# FY 2012/13 – PELS Projected Revenue



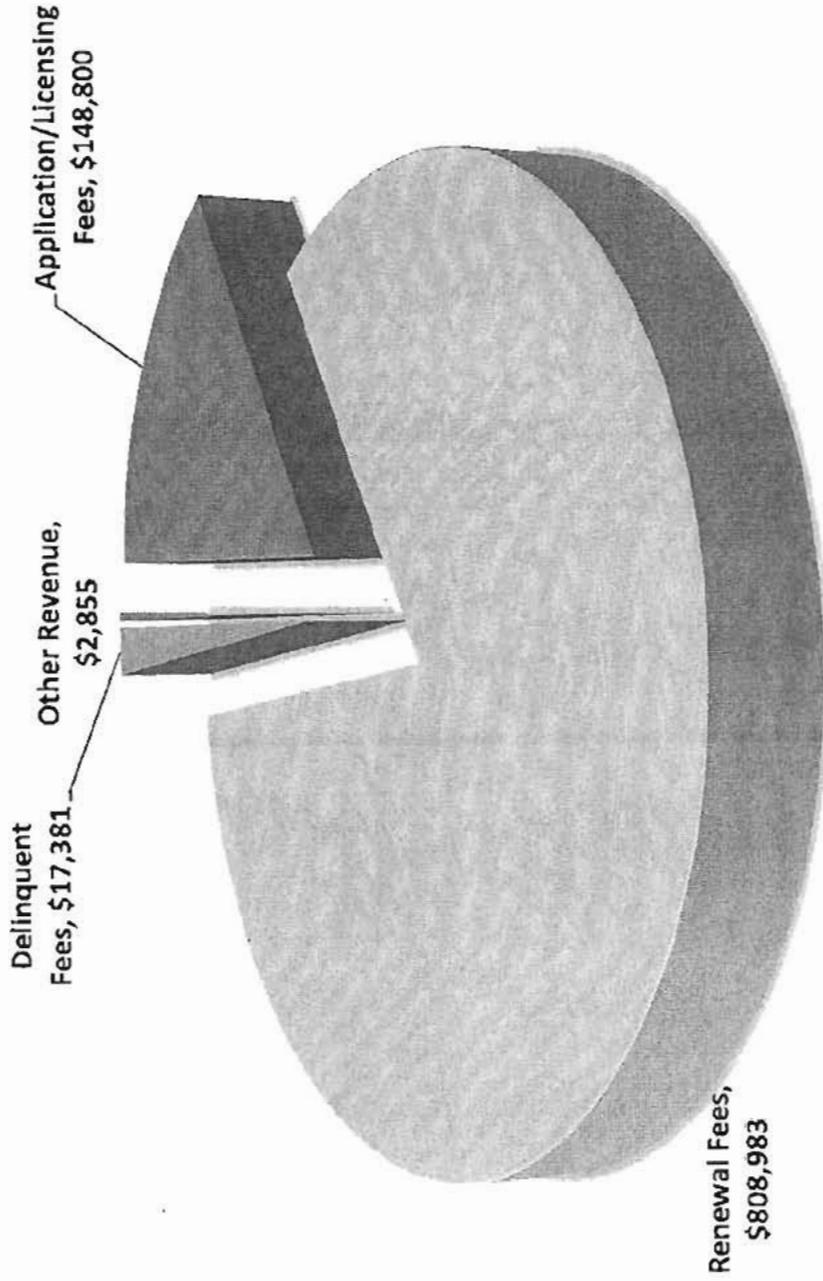
Projected Revenue: \$9,135,011

# FY 2012/13 – GEO Projected Expenditures



Notes: FY 2012-13 projected expenditures - \$1,136,266

# FY 2012/13 – GEO Projected Revenue

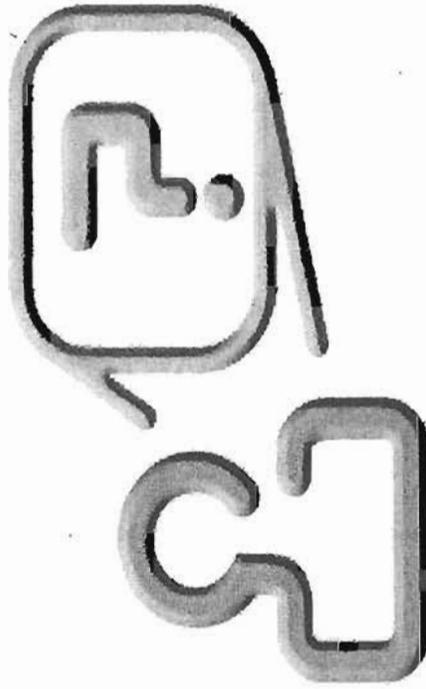


Projected Revenue: \$978,018

# Budget Going Forward

- Budget Change Proposals (BCPs) – Senior Registrar
- General Fund Loans - PELS FY 11/12 - \$5.0 million  
FY 08/09 - \$2.0 million
- Pilot Performance Based Budgeting (DCA)

Questions?



### FY 2012/13 Budget Overview:

The information provided below is a summary of the Engineers and Land Surveyors Board fund and the Geologists & Geophysicists Account. The data is based on approved Governor's Budget, projected expenditures & revenue, projections to year-end, applications received and renewals processed through October 2012.

The **Engineers and Land Surveyors (PELS) Fund** as of October 31, 2012:

	<b>FY 12/13</b>	<b>FY 11/12</b>
<b>Expenditures</b>	\$2.9 Million	\$6.9 Million
<b>Revenue</b>	\$4.0 Million	\$5.2 Million
<b>Applications</b>	3,397	7,363
<b>Renewals</b>	12,731	14,221

<b>Budget Allotment</b>	\$9.32 Million
<b>Projection to Year-End</b>	\$7.38 Million
<b>Surplus/Deficit</b>	\$1.94 Million
<b>Revenue (Year-End)</b>	\$9.14 Million

Expenditures have been reduced by \$4.0 Million versus last FY as a result of no longer administering national exams. Applications have decreased as a result of no longer requiring EIT and LSIT applications prior to sitting for examination. The Board projects applications to increase after the first exam cycle.

The **Geologist and Geophysicists (GEO) Fund** as of October 31, 2012:

	<b>FY 12/13</b>	<b>FY 11/12</b>
<b>Expenditures</b>	\$638 Thousand	\$350 Thousand
<b>Revenue</b>	\$399 Thousand	\$338 Thousand
<b>Applications</b>	88	78
<b>Renewals</b>	1,372	1,515

<b>Budget Allotment</b>	\$1.37 Million
<b>Projection to Year-End</b>	\$1.13 Million
<b>Surplus/Deficit</b>	\$229 Thousand
<b>Revenue (Year-End)</b>	\$978 Thousand

Expenditures have increased as a result of multiple exam development and occupational analysis contracts with OPES (Office of Professional Exam Services). Overall, expenditures and revenue at year-end should remain consistent with historical averages.

X. **TECHNICAL ADVISORY COMMITTEES (TACS)**

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- A. Board Assignments to TACs
- B. Appointment of TAC Members
- C. Reports from the TACs
  - 1. Reports from the Geology and Geophysics TAC
  - 2. Report from the Land Surveying TAC

XI.

**LIAISON REPORTS**

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- A. ASBOG
- B. ABET
- C. NCEES
- D. Technical and Professional Societies

XII. **PRESIDENT'S REPORT/BOARD MEMBER ACTIVITIES**

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XIII. OTHER ITEMS NOT REQUIRING BOARD ACTION

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XIV. **APPROVAL OF CONSENT ITEMS**

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- A. Approval of the Minutes of the October 11-12, 2012 Board Meeting

# MINUTES OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

2535 Capitol Oaks Drive, Third Floor Conference Room  
Sacramento, California 95833  
(916) 263-2222

Thursday, October 11, 2012, beginning at 1:00 p.m.  
Friday, October 12, 2012, beginning at 9:00 a.m.

**Board Members Present:** Paul Wilburn, President; Erik Zinn, Vice President; Kathy Jones Irish; Carl Josephson; Philip Quartararo; Hong Beom Rhee; Jerry Silva; Robert Stockton; Patrick Tami; and Michael Trujillo

**Board Members Absent:** Mike Modugno and Ray Satorre

**Board Staff Present:** Ric Moore (Executive Officer); Nancy Eissler (Enforcement Manager); Celina Calderone (Board Liaison); and Gary Duke (Legal Counsel).

## Thursday, October 11, 2012, beginning at 1:00 p.m.

I. **Roll Call to Establish a Quorum** – Roll call was taken, and a quorum was established.

### II. **Public Comment**

Alvin Cox provided a handout and spoke in reference to a complaint he previously submitted to the Enforcement Unit that he would like to see re-opened. Ms. Eissler confirmed that a complaint against a professional engineer was filed and investigated, including obtaining information from the subject engineer as well as the information provided by Mr. Cox and the County. This information was reviewed by an independent technical expert who is a licensed engineer; based on all of the information obtained, there was no evidence of a violation.

Mr. Stockton indicated that it could possibly be a contractor issue.

President Wilburn suggested that if Mr. Cox has new information that he should submit it to the Enforcement Unit for review and possibly to be placed on a future agenda.

### III. **Hearing on the Petition for Reduction of Penalty of Paul Durand**

This hearing was held on Thursday, October 11, 2012, at 1:00 p.m.

IV. **Closed Session** – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126(e)(1), and 11126(e)(2)(B)(i)]

**V. The Board Recessed at 3:25**

**Friday, October 12, 2012, beginning at 9:00 a.m.**

**Board Members Present:** Paul Wilburn, President; Erik Zinn, Vice President; Kathy Jones Irish; Carl Josephson; Hong Beom Rhee; Jerry Silva; Robert Stockton; Patrick Tami; and Michael Trujillo

**Board Members Absent:** Mike Modugno; Philip Quartararo; and Ray Satorre

**Board Staff Present:** Ric Moore (Executive Officer); Nancy Eissler (Enforcement Manager); Celina Calderone (Board Liaison); and Gary Duke (Legal Counsel).

## **II. Public Comment**

### **VI. Open Session to Announce the Results of Closed Session**

Ms. Eissler announced that yesterday in Closed Session the Board discussed Mr. Durand's petition for reduction of penalty was discussed and directed the Administrative Law Judge to prepare a written decision.

Ms. Eissler also announced that the Board adopted four stipulations and one proposed decision.

### **VII. Certificates of Authorization for Engineering, Land Surveying, Geological, and Geophysical Businesses**

Mr. Moore pointed out that at the August Board meeting, the Board directed staff to research the possibility of seeking changes to legislation and/or regulation for Certificates of Authorization for businesses. He provided a status update indicating that staff has researched other boards within DCA and other state boards. Our Board requires a current Organization Record form be filed according to the PE and LS Acts. The Geology and Geophysicists Act currently does not have any statutory requirements for such certificates. He would like to see that standardized throughout all practices. There are some other states that have varying degrees of how they have established fees.

Mr. Moore indicated that the Board would have to add statutory language to increase this authority, authorize the fee, and decide how much oversight we want to have over businesses and how to regulate them. If legislation is pursued, we must consider regulation fees and whether to align those with renewal fees. Consideration would also be given to workload and how the Board would notify licensees and businesses, as well as how to implement, enforce, and verify the requirements. Staff is continuing to research.

President Wilburn requested clarification that currently, the Board has no regulatory authority over businesses. Mr. Duke confirmed that and added that other DCA boards do regulate businesses. Mr. Tami did research and discovered that many boards within DCA display the business entity on their website and verified that this is not a brand new procedure. He would like to put teeth into the

existing Organization Record requirement.

Mr. Zinn indicated that AEG might oppose this proposal as they were initially opposed to the concept of required written contracts. Mr. Tami added that when the economy is bad, that is when many out-of-state firms without a California licensee come into California and are not knowledgeable of our laws.

Mr. Duke indicated that he will research the Corporations Code. The point of Business and Professions Code Section 6738 is to recognize that engineers can work in corporate forms or partnerships but also to maintain the professional judgment that can only be made by the licensed person.

Mr. Moore indicated that in the past, ALTA brokers were coming in from other states, opening offices, and hiring California licensees; now photogrammetry firms are starting to merge together due to the economy. Some are taking the photography and not doing the mapping. They are aligning the photography to the surface of the earth which is then tying in to the practice of Land Surveying or Civil Engineering.

Ms. Eissler pointed that our laws need to be strengthened and clarified. Mr. Duke indicated we license the individual. He offered an example: there is a business that has three licensees that are the corporate officers, and they do not have an organization record form on file. Do we hold all three responsible or just one? In addition, the requirements to have one on file need to be strengthened in order for the business to offer services in California, which many other states already have in place for engineering and surveying businesses. In these other states, one cannot offer services through that entity if one does not have a Certificate of Authorization issued by the licensing board; the Board will go after the business and the licensees associated with it. Whether they are called Certificates of Authorization or modeled after another state, our laws need to be strengthened independent from any kind of database capability for searching the business name or a licensee.

Mr. Moore advised that staff will continue with research and noted that NCEES has a model law for implementation.

## **VII. Executive Officer's Report**

### **A. Legislation**

#### **1. Discussion of Legislation for 2011-2012**

##### **a. Pending Legislation:**

**AB 1588** Atkins. Professions and vocations: reservist licensees: fees and continuing education. This bill would require the boards within Consumer Affairs to waive the renewal fees and continuing education requirements, if applicable, of any licensee who is a reservist called to active duty as a member of the United States Military Reserve or the California

National Guard if certain requirements are met.  
STATUS: Amended 8/22/12. Approved by the Governor,  
Chapter 742, Statutes of 2012. Effective January 1, 2013  
BOARD POSITION: Support

**AB 1750** Solorio. Rainwater Capture Act of 2012. This bill would authorize residential, commercial, and governmental land owners to install, maintain, and operate rain barrel systems and rainwater capture systems, as defined provided that the systems comply with specified requirements.  
STATUS: Amended 8/24/12. Approved by the Governor, Chapter 537, Statutes of 2012.  
BOARD POSITION: Watch

**AB 1904** Block. Professions and vocations: military spouses: expedited licensure. This bill would require a board within DCA to expedite the license process for an applicant who, holds a license in another jurisdiction, and is married to, or in a legal union with, an active duty member of the Armed Forces of the United States assigned to duty in California.  
STATUS: Amended 6/12/12. Approved by the Governor, Chapter 399, Statutes of 2012.  
BOARD POSITION: Watch

**AB 2570** Hill. Licensees: settlement agreements. This bill would prohibit a licensee who is regulated by DCA, from including or permitting to be included a provision in an agreement to settle a civil dispute that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau or program, or that requires the other party to withdraw a complaint from the department, board, bureau, or program, except as specified.  
STATUS: Amended 8/6/12. Approved by the Governor, Chapter 561, Statutes of 2012.  
BOARD POSITION: Support

**SB 975** Wright. Professions and vocations: regulatory authority. This bill would provide that the California Architects Board and the Board for Professional Engineers, Land Surveyors, and Geologists have sole and exclusive authority to license and regulate the practice of the professions they regulate. No licensing requirements, as specified, shall be imposed upon a person licensed to practice one of those professions by code or by regulation promulgated except by the applicable board.  
STATUS: Amended 8/22/12. Enrolled and Presented to the Governor 9/6/12. Vetoed by the Governor 9/25/12.

BOARD POSITION: Support

**SB 1061** Walters. Professional Engineers. This bill (which is identical to last year's SB 692) would change the disciplines currently licensed as "title act" engineers to "practice act" engineers. This bill also would authorize any licensed engineer to practice engineering work in any of those fields in which he or she is competent and proficient – but not necessarily licensed. STATUS: Introduced 2/13/12. Set for 1<sup>st</sup> hearing 4/23/12 in SEN Committee on B,P&ED. Hearing canceled at request of author. This bill is dead.  
BOARD POSITION: Oppose

**SB 1576** Committee on Business, Professions and Economic Development. Professions and vocations. This is one of the Committee's omnibus bills. (Amends section 6795 of the Engineer's Act and sections 8741, 8762 and 8773 of the LS Act.) This bill, among other things, revises the exemption from the taking of the LSIT to civil engineers licensed prior to January 1, 1982, expands the definition of "establish" when filing a record of survey to include "location, relocation, reestablishment or retracement," and corrects section 6795 to read that renewals are done every two years on a staggered quarterly basis rather than a monthly basis. STATUS: Amended 8/23/12. Approved by the Governor, Chapter 661, Statutes of 2012.  
BOARD POSITION: Support

Mr. Moore pointed out that the revision to Section 6795 is to clarify that renewals are processed on a staggered quarterly basis to align with other license renewals.

He received information from the Senate Committee for Business Professions, and Economic Development requesting proposals for any language or bills to be submitted by December 10 and provide language by January 7, they expect to have a decision back to us by January 23, 2013.

b. Amendments to Business and Professions Code Section 27 Regarding Address of Record Available Via the Website

Mr. Moore indicated that the Board directed staff to pursue revisions. Staff sought feedback from DCA's legislative unit and legal unit. Mr. Duke provided an update and stated that a colleague has been assigned to research this issue. He suspects that it will be controversial as Section 27 was put in place for the purpose of governmental transparency and to provide more access for consumers. Mr. Tami indicated 18 boards do not provide the address of record on their website. Mr. Moore reviewed those boards under Section 27 and the majority do list the full address; some only list the county, others the city and state, and others nothing at all. The Board may want to look at this jointly along with the Certificates of Authorization. Ms. Irish inquired how

Board Members can help. Mr. Moore suggested connections with legislators for help with sponsorship. Ms. Irish suggested a committee could be appointed.

In response to Mr. Tami's reference to comments in a prior Sunset Report that the Board had eliminated its standing committees, Ms. Eissler indicated that the Board decided not to appoint Board Members to standing committees due to a small Board population and because of the changes to the Open Meetings Act that any member of the Board that was not a member of the committee could not participate in committee meetings except as a member of the public. Since there was a small group of Board members at the time that barely met quorum, there did not seem to be a need to have five members to be appointed, only to discuss it again at a Board meeting. There were budgetary concerns as well.

Ms. Eissler said it is helpful if Board members have connections with legislators or professional societies to advise staff. She added that in the past, the Board President had designated a Board member to be a liaison with staff on legislation and then to present information at Board meetings regarding legislation rather than having a full committee.

#### B. Strategic Plan Update

##### 1. Action Plan Summary for FY 2012- 2013

Mr. Moore discussed the 2013 action plan. It is broken down by five major goals. Some are completed and others are ongoing and always will be. He pointed out that Board Members and Staff are intimately involved with the Strategic Plan. Updates will be provided at Board meetings.

#### C. Personnel

Mr. Moore indicated that a fingerprint technician was hired and is assisting with applications and enforcement while the fingerprint program is being established.

Joyce Hirano will retire at the end of the year as well as possibly Joanne Arnold.

President Wilburn was pleased with Mr. Moore's efforts towards succession planning.

#### D. Administrative Task Force

Mr. Moore stated that at the March 2012 meeting he presented a proposal to the Board, which approved the motion to develop an administrative committee to assist with various administrative issues. The original March minutes indicated Mr. Tami introduced the topic, and the Board discussed a Technical Advisory Committee. The Board approved a motion, but the Board did not clarify that it would be a Technical Advisory Committee, and, therefore suggests establishing an Administrative Workgroup so it is not limited to Board members but can still have Board member involvement. Mr. Moore would select the workgroup participants with approval by the Board President in accordance with the Board's current Operating Procedures. Any

recommendations or status would be provided at each Board meeting as necessary. Mr. Moore has a work plan in place for the remainder of the year. One item is the evaluation and recommendation toward the process improvement of enforcement investigations. Another task is to assist the Executive Office with facilitating an audit of the licensing applications with the goal of ensuring that the Board is appropriately and consistently performing adequate review and approval of applications. Participation would be fluid to allow participants to come in as needed.

**MOTION:** Mr. Tami/Mr. Zinn motion to approve a new motion recognizing that this administrative workgroup will be a work group as defined in the Board's current operating procedures, Article 3, in lieu of the March 2012 board motion for the sake of clarity.

**VOTE:** 10-0, Motion Carried

## VIII. Enforcement

### A. Enforcement Statistical Reports

Ms. Eissler presented statistics for engineering and land surveying as well as geology. She indicated that they are starting to track the interim time periods within the complaint investigation process and that the Administrative Workgroup would work with the Enforcement Unit on process improvement. One of the charts shows the number of complaint investigations opened and completed each fiscal year, the average days from opening to completion of the investigation, and how many are currently opened. The additional charts refer to the outcome of the completed investigations such as closed without enforcement action, if they are referred for a citation, or formal disciplinary action.

She pointed out a couple of ways to submit a complaint. There is a complaint form available on the Board's website, and at times, complaints are provided to DCA and they will forward the complaint to the Board.

Ms. Eissler indicated that the because of workload and various assignments, there was a huge backlog of cases awaiting issuance of a citation or referred to the Attorney General's Office. There was reorganization within the unit as part of the Strategic Plan, and the backlog has been reduced. She believes that by the end of the year or late January the backlog will be eliminated which will help reduce the aging of the citation cases.

The Enforcement Unit is still working through some of the cases that were inherited from the Geology and Geophysics program that needed to be reinvestigated which explains much of the aging within those cases.

Ms. Eissler will provide information on fees collected through citations at next meeting.

### B. Presentation on the Citation Process

Mr. Moore referred to the last Board meeting where the investigation process

was discussed; this is a continuation of that presentation. He pointed out that this process is much more linear in nature.

Ms. Eissler explained the citation process. The subject has 30 days after the date of issuance of the citation to appeal. If an appeal is not received within 30 days, then the citation becomes final. If an appeal is received there are three options. They can request an informal conference, a formal appeal hearing, or both. If they request both, the informal conference is held first. If an informal conference is requested, the citation analyst schedules the conference with the subject, the Executive Officer, one of the staff registrars and the enforcement analyst who handled the complaint investigation. Most often the informal conferences are conducted via telephone so that the subject does not need to travel to Sacramento. However, they can choose to come in person. Following the informal conference, the Executive Officer can decide whether to affirm, modify, or dismiss the citation.

If the citation is affirmed or modified, the subject can appeal. If it is dismissed, then it becomes final. If the subject does not appeal an affirmed or modified citation, then 30 days after the informal conference decision is issued, the citation becomes final and would go into the compliance phase. If they appeal because they now request a formal appeal hearing or because they had originally requested one and do not withdraw that request, it is then moved to the formal appeal phase.

The investigative report is prepared with all documents and evidence that was collected during the investigation and sent to the Attorney General's Office as they handle the formal appeal process. Once it is assigned to a Deputy Attorney General, they submit the request to the Office of Administrative Hearings to schedule a hearing before an Administrative Law Judge. It is often six months out from when a hearing is requested until one is scheduled. Once the hearing is held, the parties present evidence or call witnesses. The judge prepares a proposed decision which is then presented to the Board for consideration.

If the Board adopts the proposed decision as its final decision, then it is served on the subject and the citation becomes final 30 days after the Board adopts the proposed decision. If the citation is dismissed, it would still have the 30-day window because it became effective and that would be the conclusion. Once the citation is final through whatever process it has gone through, it is then moved to the compliance phase.

The subject has 30 days after the citation has become final to comply with the order. Typically, it includes an order to pay an administrative fine. If a fine is included, it can be a maximum of \$5,000.00 per violation to a minimum of \$50.00 if a fine is included. They also include an order of abatement. If the subject does not comply they are advised of the consequences of non-compliance. If it is an unlicensed person who fails to comply, and there is a fine involved, the enforcement Analyst works with the Division of Investigation

and the Department of Consumer Affairs to then submit the fine that is owed to the FTB Intercept Program through the Franchise Tax Board. The Board can recover the funds owed through possible tax refunds or any lottery winnings. If the subject is licensed, a hold on the renewal of their license can be applied until the fine is paid. Other formal disciplinary action against their license can be pursued as well.

Mr. Tami asked when information is available to the public. Ms. Wissler explained that complaint investigations are kept confidential during the investigative phase under the Board's disclosure policy. If it is determined that there is no violation, then nothing is disclosed. With complaint investigations where they are not referred for citation or formal disciplinary action, it is not disclosed on the Board's website but it would be disclosed if any member of the public contacted the Board for a duration of five years. It would be disclosed that there was a complaint that was investigated, what was involved, and what the resolution was. Once the citation is issued it is a matter of public record that would have to be disclosed if anyone were to inquire. Citations, once they are issued, are not on the website as they may still be under appeal. However, if someone contacted the Board, it would be disclosed that a citation was issued, and they would be advised that it is not yet final as it is within the 30-day window or because it is under appeal. Once the citation is final, it is a matter of public record and will appear on the Board's website.

C. Presentation on the Administrative Disciplinary Process

Ms. Eissler moved onto the Formal Disciplinary Process. She indicated that once the investigative portion is completed and it has been decided to refer the matter to the Attorney General's Office, the enforcement analyst prepares the investigative report. Ms. Eissler as the program manager reviews and approves the report, and the enforcement analyst sends the file to the Attorneys General's Office. For the last few years, there has been a backlog of cases waiting to be prepared and referred that has now been eliminated in the last two weeks. The goal now is to send cases to the Attorney General's Office within 30 calendar days from the completion of investigative portion. Ms. Eissler is very pleased with the efforts of the Enforcement Unit to eliminate the backlog as it will not be a factor in the aging of the cases.

Once the case is submitted to the Attorney General's Office, it is then assigned to a Deputy Attorney General (DAG) to review and prepare an accusation. At times, the DAG will recommend that the Board not proceed with an accusation and provides a recommendation outlining what they see as possible legal challenges.

If they feel that they can move forward with the case, they will prepare the accusation and send it to Ms. Eissler for review, who provides them to the Executive Officer for signature. It is then considered filed and returned to the Attorney General's Office for service on the respondent. There are documents that are required to be served with the accusation such as a Notice of

Defense form that the subject must return within a period of time to contest what is contained in the accusation. If the subject does not file a Notice of Defense, they are considered to be in default. The DAG would prepare the default decision, and it is presented to the Board. If the subject does file a Notice of Defense, the DAG will submit a request to the Office of Administrative Hearings for the matter to be set for hearing. During this time it is possible to move into settlement discussions. Terms may be accepted or there may be negotiations. Once all is agreed, then the DAG prepares the stipulated settlement. It is signed by the subject, and it is submitted to the Board for consideration.

If a hearing has been calendared, and a stipulation is agreed upon, the DAG asks OAH to remove the matter from the calendar. If it is not settled, then it goes to hearing where each side can present evidence and witnesses. The judge will prepare a proposed decision that is submitted to the Board.

Ms. Eissler pointed out that if a person has requested a formal appeal hearing following a citation, it goes through the same hearing process.

If the Board rejects a default decision, it would be determined what action the Board was directing be taken and move forward. If the Board rejects the stipulation, the Board can direct what alternate conditions they would be willing to accept and convey that through the DAG to the respondent. If the respondent rejects them and a stipulation agreeable to all parties cannot be worked out, then a hearing would take place. If the respondent accepts them, the new stipulation becomes the final decision. If the Board were to indicate the accusation should be dismissed, that would be the final decision. If the Board rejects the proposed decision, transcripts from the hearing are then ordered from OAH. The DAG and the respondent are then given an opportunity to provide written argument. The transcript, the evidence from the hearing, and any written argument that has been submitted is presented to the Board. The Board would direct its legal counsel to prepare a Decision After Rejection, where changes can be made to factual findings, legal conclusions, or the order. It would then become the final decision.

If the Board adopts a proposed or default decision or a stipulation, an effective date is assigned, and it is served on the DAG and the respondent. The respondent can submit a petition for reconsideration prior to the effective date. If they do not, it becomes effective on the effective date. If they do, the Board considers the petition; there is a short window of time the Board can consider petitions for reconsideration. Often, they need to be done by mail ballot. If the Board grants the petition for reconsideration, then the decision is served on the DAG and the respondent and would be implemented depending on the order. It could be setting aside the default decision and sending the matter back to the AG's Office or changing probationary conditions that have been ordered or dismissing the accusation.

If the Board denies the petition for reconsideration, that decision is served on

the parties and the disciplinary decision becomes effective on the effective date.

When the decision becomes effective, copies are sent to the complainant, the expert, and it is posted on the Board's website and the order of the decision is implemented through the Probation Monitoring Process, which Ms. Eissler will explain at the next meeting.

**IX. Exams/Licensing**

**A. Examination Update**

Mr. Moore provided an update on the October 5, 2012, ASBOG Geologist Examination administration that took place in Long Beach. It was a smooth process despite candidates not having a map to get around the campus. There were students available to direct candidates to the appropriate location. Computer Based Testing took place for the state geology examinations. There was a slight confusion with the candidate information bulletin which describes what reference books and calculators they can have and where to go. For the most part it is standardized.

NCEES examinations will take place October 26 and 27, 2012. CBT examinations for Civil, Geotechnical, and Traffic will take place in the next week.

**B. Audit of National Professional Geologist Written Examinations Outline**

Mr. Moore indicated that OPES will conduct an audit of how much of our test plan and how much of our requirements are covered in the national geologist examination provided by ASBOG.

**X. Approval of Delinquent Reinstatements**

**MOTION:** Mr. Tami and Mr. Silva moved to approve

**VOTE:** 9-0, Motion Carried

**XI. Administration**

**A. FY 2012/13 Budget Overview**

As of August 31, 2012 for the PELS Fund, expenditures are at \$1.7 million, which is lower than the previous year as we are no longer encumbered to pay NCEES directly anymore.

Applications numbers have dropped due to no longer receiving the EIT and LSIT application fees until after the examination has been administered.

The Geology and Geophysicist Account expenditures have increased as a result of multiple examination development and occupation analyses contracts with OPES. Overall, expenditure and revenue at year-end should remain consistent with historical averages.

Mr. Moore indicated that DCA is involved in the Governor's pilot program for Performance Based Budgeting. Information has been provided by DCA which

entails how the Board would participate and projects how the Board would perform. Staff is still reviewing this information.

**XII. Technical Advisory Committees (TACs)**

**A. Board Assignments to TACs**

No report given

**B. Appointment of TAC Members**

No report given

**C. Reports from the TACs**

**1. Proposed LS TAC Workplan**

Ray Mathe and Pat Tami assembled a Land Surveyor TAC workplan and are seeking approval to proceed for Fiscal Year 2013.

**MOTION:** Mr. Zinn and Ms. Irish moved to adopt

**VOTE:** 9-0, Motion Carried

Mr. Stockton expressed interest in starting the Civil TAC and Mr. Josephson, the Structural TAC. Mr. Zinn inquired if the Civil TAC encompasses geotechnical engineering as well. Ms. Eissler stated that when the Board had a Geotechnical Engineer Board member, the Civil and Geotechnical TAC met jointly in the past. The Civil Engineer Board Member was the liaison for both committees when there was no Geotechnical Engineer Board Member.

Mr. Josephson requested clarification between GE, CE, PG, CEG, and CHG professions and suggested a presentation by the TACs.

**XIII. Liaison Reports**

**A. ASBOG –** Mr. Moore indicated that there is an Annual Meeting that the Board will be unable to attend.

**B. ABET –** Mr. Josephson thought that ABET visits were confidential. Mr. Tami indicated that he had not heard that but understands that the materials are confidential. Mr. Moore indicated he would get clarification on this issue.

**C. NCEES –** Mr. Josephson indicated that NCEES is going to conduct an item writing session in Sacramento in January 2013 for the Structural examination, and they are currently trying to recruit structural engineers to participate. He has been working with various professional societies in an attempt to recruit.

Mr. Moore added that the Board is still in the negotiation process and looking for speakers for the NCEES Western Zone meeting to be held April of 2013 in San Francisco.

**D. Technical and Professional Societies**

Mr. Moore indicated that the Board has been trying to get the word out regarding the new fees and examination structure to various societies. DCA has been very cooperative in allowing staff to attend these speaking engagements. We are making every attempt to coordinate these meetings

with other engagements to help defray the cost of travel.

**XIV. 2013 Board Meeting Dates**

- Postpone January 2013 meeting from 24-25 to January 31-February 1, 2013
- Postpone August 2013 meeting from 22-23 to August 28-29, 2013
- Move up the December 2012 meeting to December 7, 2012

**XV. President's Report/Board Member Activities**

President Wilburn thanked staff for their hard work.

**XVI. Other Items Not Requiring Board Action**

No other items.

**XVII. Approval of Consent Items**

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

**A. Approval of the Minutes of the August 30, 2012 Board Meeting**

**MOTION:** Mr. Tami and Mr. Zinn move to approve

**VOTE:** 9-0, Motion Carried

**XVIII. The meeting Adjourned at 12:39 p.m.**

**PUBLIC PRESENT**

Paul Durand

Erin Grisby, CPIL USD School of Law

Shahnawaz Ahmad, ASCE