



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

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

**December 5, 2013  
9:00 a.m.**



**Board for Professional Engineers, Land Surveyors,  
and Geologists  
2535 Capitol Oaks Drive  
Third Floor Conference Room  
Sacramento, CA 95833  
(916) 263-2222**

# TABLE OF CONTENTS

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

BOARD MEETING LOCATION

DECEMBER 5, 2013

Board for Professional Engineers, Land Surveyors, and Geologists  
2535 Capitol Oaks Drive, Third Floor Conference Room  
Sacramento, CA 95833

### BOARD MEMBERS

Board Members: Erik Zinn, President; Kathy Jones Irish, Vice President; Diane Hamwi; Carl Josephson; Coby King; Mike Modugno; Philip Quartararo; Hong Beom Rhee; Ray Satorre; Jerry Silva; Robert Stockton; and Patrick Tami

<b>I.</b>	<b>Roll Call to Establish a Quorum</b>	3
<b>II.</b>	<b>Public Comment</b> <b>NOTE:</b> The Board cannot take action on items not on the agenda. The Board will allow for Public Comment as well as during the discussion of each item on the agenda.	5
<b>III.</b>	<b>Executive Officer's Report</b>	7
	A. Legislation	
	1. Discussion of Legislation for 2013: AB 186, AB 1057, AB 1063, and SB 207 (Possible Action)	
	2. Legislative Proposals for 2014 (Possible Action)	
	a. Recommendation to Establish a Code Section Regarding Petitions for Reinstatement or Modification of Penalty in the Geologist and Geophysicist Act	
	b. Recommendation to remove Petroleum Geologists certification from code section 7842	
	B. Presentation regarding Sunset and Legislative Process G.V. Ayers, Consultant SBPDC	
	C. Strategic Plan 	
	D. Personnel	
	E. Administrative Task Force (Possible Action)	
	F. BreEZe Status Update	
<b>IV.</b>	<b>Enforcement</b>	25
	A. Enforcement Statistical Reports (Possible Action) 	
<b>V.</b>	<b>Exams/Licensing</b>	27
	A. Update on October 2013 Exams (Possible Action)	
<b>VI.</b>	<b>Approval of Delinquent Reinstatements (Possible Action)</b>	29
<b>VII.</b>	<b>Consideration of Rulemaking Proposals (Possible Action)</b> 	33
	A. Update on Board Rules 420.1 and 3021.1 (16 CCR 420.1 and 3021.1), Engineers, Land Surveyors, Geologists, and Geophysicists Applicants Fingerprints	
	B. Update on California Code of Regulations sections 416 and 3060 (Substantial Relationship Criteria)	
	C. Update on Board Rules 442 and 3035 (16 CCR 442 and 3035) Examination Subversion	

D.	Update on Board Rules 411, 412, 3008, and 3009 (16 CCR 411, 412, 3008, and 3009), Engineers, Land Surveyors, Geologists, and Geophysicists Seal, Signature, and Address Change	
<b>VIII.</b>	<b>Administration</b>	<b>35</b>
A.	FY 2013/14 Budget Overview (Possible Action)	
B.	Out-of-state Travel Update (Possible Action)	
<b>IX.</b>	<b>Technical Advisory Committees (TACs)</b>	<b>41</b>
A.	Board Assignments to TACs (Possible Action)	
B.	Appointment of TAC Members (Possible Action)	
C.	Reports from the TACs (Possible Action)	
<b>X.</b>	<b>Liaison Reports</b>	<b>43</b>
A.	ASBOG (Possible Action)	
B.	ABET (Possible Action)	
C.	NCEES (Possible Action)	
1.	Patrick Tami - Nomination for Western Zone VP (Possible Action)	
D.	Technical and Professional Societies (Possible Action)	
<b>XI.</b>	<b>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)]</b>	<b>45</b>
A.	Civil Litigation	
1.	<u>Dennis William McCreary vs. Board for Professional Engineers, Land Surveyors, and Geologists</u> , Sierra County Superior Court Case No. 7361	
2.	<u>Thomas Lutge v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Sacramento</u> Superior Court Case No. 34-2012-80001329-CU-WM-GDS	
3.	<u>Ruvim Grutman v. Board for Professional Engineers, Land Surveyors, and Geologists</u> , Los Angeles Superior Court Case No. BS145675	
4.	<u>Ruvim Grutman v. Board for Professional Engineers, Land Surveyors, and Geologists</u> , Los Angeles Superior Court Case No. BS145796	
<b>XII.</b>	<b>Open Session to Announce the Results of Closed Session</b>	<b>47</b>
<b>XIII.</b>	<b>President’s Report/Board Member Activities</b>	<b>49</b>
<b>XIV.</b>	<b>Approval of Consent Items (Possible Action)</b> (These items are before the Board for consent and will be approved with a single motion. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)	<b>51</b>
A.	Approval of the Minutes of the October 10, 2013, Board Meeting	
<b>XV.</b>	<b>Other Items Not Requiring Board Action</b>	<b>69</b>
<b>XVI.</b>	<b>Adjourn</b>	<b>71</b>

I. **ROLL CALL TO ESTABLISH A QUORUM**

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II. PUBLIC COMMENT

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### III. EXECUTIVE OFFICER'S REPORT

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- A. Legislation
  - 1. Discussion of Legislation for 2013: AB 186, AB 1057, AB 1063, and SB 207 (Possible Action)
  - 2. Legislative Proposals for 2014 (Possible Action)
    - a. Recommendation to Establish a Code Section Regarding Petitions for Reinstatement or Modification of Penalty in the Geologist and Geophysicist Act
    - b. Recommendation to remove Petroleum Geologists certification from code section 7842
- B. Presentation regarding Sunset and Legislative Process  
G.V. Ayers, Consultant SBPDC
- C. Strategic Plan
- D. Personnel
- E. Administrative Task Force (Possible Action)
- F. BreZE Status Update



# Board for Professional Engineers, Land Surveyors, and Geologists

## 2013 Legislative Session

- AB 186** Maienschein. Professions and vocations: military spouses: temporary licenses. This bill would authorize a board within DCA to issue a temporary license for 12 months to an applicant who meets certain requirements.  
STATUS: Introduced 1/28/13. Last amended 6/24/13. Passed Assembly. Heard in SEN B,P&ED Committee 7/1/13 - testimony taken. Further hearing to be set – this is now a 2 year bill.  
BOARD POSITION: Oppose unless amended
- AB 1057** Medina. Professions and vocations: licenses: military service. This bill would require each Board within DCA to inquire in every application for licensure if the applicant is serving in, or has previously served in, the military – commencing January 1, 2015.  
STATUS: Signed by Governor 10/03/13. Chapter 693, Statutes of 2013.  
BOARD POSITION: Watch
- AB 1063** Eggman. Surveyors and engineers. (Amends Sections 6732, 8751, 8772 of, and adds Section 8764.6 to the B&P Code) This bill would prohibit the use of certain titles using the words engineer or surveyor unless the person is appropriately licensed. Additionally it would authorize a licensed surveyor to include additional information, as specified, with a record of survey. This bill would require any monument set by a land surveyor or civil engineer to be marked as specified, and to be marked with the name of the agency and the political subdivision it serves, if set by a public agency.  
STATUS: Introduced 2/22/13. Last amended 5/6/13. Heard in ASM Appropriations 5/24/13 – held under submission. This is a 2 year bill.  
BOARD POSITION: Oppose unless amended
- SB 207** Cannella. Department of Consumer Affairs: license information. (Amend Section 27 of B&P Code) This bill will eliminate the requirement that the Board for Professional Engineers, Land Surveyors, and Geologists disclose its licensee's address of record. This is a Board sponsored bill.  
STATUS: Introduced 2/8/13. Scheduled to be heard in SEN BP&ED Committee 4/15/13 - bill pulled by author. This is a two year bill.  
BOARD POSITION: Support

**Board for Professional Engineers and Land Surveyors**  
**Bill Analysis**  
**2013 Legislative Session**

**BILL:** AB 186

**AUTHOR:** Maienshein  
**COAUTHOR:** Hagman

**TOPIC:** Professions and vocations: military spouses

**DATE OF INTRODUCTION:** 1/28/13

**MOST RECENT VERSION:** 6/24/13

**ANALYSIS DATE:** 8/5/13

**BILLS LEGISLATIVE HISTORY:** Passed Assembly. Heard 7/1/13 in Senate Committee on Business, Professions, & Economic Development – testimony taken. Further hearing to be set. This is now a two year bill.

**BOARD POSITION:** Oppose unless amended

**SUMMARY:** Assembly Bill 186 seeks to authorize military spouses, who have moved here on active duty orders and who have a valid professional license in another state, to receive a 12 month temporary license in the same profession for which they are applying for licensure. The licensee applicant must provide sufficient evidence of being married to, or in a domestic partnership or legal union with, an active duty member of the United States Armed Forces. Also, the licensee applicant shall not have been disciplined by another licensing entity and shall confirm, in writing, that all application information is accurate.

**HISTORY:** According to Assembly member Maienshein's office, "A recent study by the California Research Bureau has found that California has approximately 72,500 military spouses residing in the state at any given time. It is estimated that over one third of these individuals are involved in a profession that requires some sort of licensing requirement." "According to the Department of Defense, military spouses are ten times more likely to have moved across state lines in the last year compared to their civilian counterparts." With the implementation of provisional licensing through AB 186, military spouses will be able to immediately look for employment to help support their families while taking all the necessary steps to apply and receive a license from the state.

In 2011/12, AB 1904 (Chapter 399, Statutes of 2012), introduced temporary licensure or provisional license for a spouse or domestic partner of an active duty member of the Armed Forces of the United States. AB 1904 was amended, and passed, to require boards within the Department of Consumer Affairs (DCA) to expedite the license process.

AB 186 reestablishes a temporary license, limited to 12 months, while the individual's application is processed for licensure. To receive a temporary license, the individual must have a clean criminal history and verify, in writing, that all application information is accurate. DCA has not taken a formal position regarding the current version.

**COMMENT:** The Board currently issues a temporary authorization for engineers, geologists, and geophysicists. However, this is not considered a license and authorization is granted for a specific project and is not to exceed a certain number of days. For engineers, authorization is granted for 180 days; for geologists and geophysicists, it is 60 days. Since 1995, the Board has issued temporary authorizations to forty civil engineers. However, only one (1) has been issued since December 2010. If the individual is granted a temporary authorization they are required to take the

**Board for Professional Engineers and Land Surveyors**  
**Bill Analysis**  
**2013 Legislative Session**

next administration of the California specific examination. Several individuals have failed to pass the California-specific exam. Recently, the Board has proposed legislation to repeal “temporary authorizations”. Senate Bill (SB) 152 has been introduced to remove sections 6760, 7848, and 7848.1 from Business and Professions Code pertaining to temporary authorizations being issued to practice professional engineering, geology, or geophysics.

In addition to a temporary authorization, the Board provides comity licensure to all out-of-state individuals that meet the Board requirements. All applicants who’ve taken and passed a national exam shall receive a license if passage of a national exam is all that is required. If the Board has a California specific exam, like civil engineering, the individual must take and pass that exam prior to receiving licensure from the Board and also have the education, experience, and reference letters to meet licensing requirements. If the individual is not approved and requires additional qualifications the applicant may work under responsible charge of a California licensee until those requirements are met.

Historically, the Board’s concern when issuing a temporary authorization has been public safety, specifically related to the practice of civil engineering. The concern is the same if a temporary license is available to a licensee applicant from another state. The Board cannot guarantee that the individual meets California competency levels for licensure until that individual passes the California-specific exams. Specifically, the applicant needs to demonstrate knowledge of seismic forces in the design of structures. Because California has distinctive geography experience and education is necessary before the applicant practices civil engineering proficiently. Allowing any individual to provide professional engineering, geology, or geophysics to a California consumer without proper qualifications and competency opens up California, the consumer, and the Board to potential problems.

It is unknown at this time how many active military licensees the Board has licensed as current systems do not track this information. Most likely this number is very low, if any at all, but to allow a temporary license especially for a civil engineer may be detrimental to consumer safety.

Currently, the author’s office has accepted the Board’s proposed amendments that require these applicants (military spouses) take and pass any California specific examination before being issued a temporary license. The amendments have not been placed in the bill since the amendments were taken in Committee and the bill was held in Committee – as a two year bill.

**Board for Professional Engineers, Land Surveyors, and Geologists**  
**Bill Analysis**  
**2013 Legislative Session**

**BILL:** AB 1063

**AUTHOR:** Eggman

**TOPIC:** Surveyors and engineers

**DATE OF INTRODUCTION:** 2/22/13

**MOST RECENT VERSION:** 5/6/13

**ANALYSIS DATE:** 8/5/13

**BILL'S LEGISLATIVE HISTORY:** Heard in Assembly Appropriations 5/24/13. Held under submission.

**BOARD POSITION:** Oppose unless amended

**SUMMARY:**

This bill would prohibit a person from using the title "city engineer," "county engineer," "city surveyor," or "county surveyor," unless the person is licensed as an engineer or surveyor, respectively, as specified. This bill would also authorize a licensed surveyor to include additional information to be filed simultaneously, as a separate document, as specified, with a record of survey. Additionally this bill would require a monument to be marked by the surveyor or civil engineer and to be marked with the name of the agency and political subdivision it serves, if the monument is set by a public agency. (Amends Sections 6732, 8751, and 8772 of, and adds Section 8764.6 to, the Business & Professions Code)

**COMMENT:**

Board staff had concerns that some of the language in AB 1063 is either not needed or may be confusing. Based on the Board's discussion at its April Board meeting, a few proposed amendments were proposed to both the author and the sponsor (ACEC-CA) but have not been included in the bill. The bill was heard 5/24/13 in Assembly Appropriations Committee and was "held under submission." This bill is now a two year bill.

This bill is being sponsored by ACEC - CA.

**Board for Professional Engineers, Land Surveyors, and Geologists**  
**Bill Analysis**  
**2013 Legislative Session**

**BILL:** SB 207

**AUTHOR:** Cannella

**TOPIC:** Department of Consumer Affairs: licensee information (Section 27 of the B&P Code)

**DATE OF INTRODUCTION:** 2/08/13

**MOST RECENT VERSION:** 2/08/13

**ANALYSIS DATE:** 8/5/13

**BILL'S LEGISLATIVE HISTORY:** Was scheduled to be heard in Senate Business, Professions and Economic Development Committee 4/15/13 – bill pulled by author. This is a two year bill.

**BOARD POSITION:** Support

**SUMMARY:**

Currently, specified boards and bureaus within the Department of Consumer Affairs (DCA) are required to disclose on their respective websites, "public record" information regarding the status of their licensees. The Board would like to amend Section 27 of the Business and Professions Code to remove the requirement that licensees of the Board for Professional Engineers, Land Surveyors, and Geologists have their address of record included on the Board's website.

**IDENTIFICATION OF PROBLEM:**

Currently all licensees of the Board for Professional Engineers, Land Surveyors and Geologists are required to provide an address of record that is to be published on the Board's website. The Board believes that this is a problem due to a number of unintended consequences that have recently come to our attention. At a past Board meeting, a licensee spoke during public comment stating that she had concerns about having her address of record available to anyone with access to the Internet. She indicated that she works for a state agency where they had a disgruntled employee who obtained her address from the Board's License Lookup on the Board's website. As a result of him having her address he was able to show up at her home and she reported that he made threatening comments to her. She disputed the need for her address to be made public and thought it would be more useful to list an email address or telephone number for consumers to reach her. As stated above, currently the Board is required by law (Section 27 of the Business & Professions Code) to include licensee's address of record as part of the information available through License Lookup. The Board is also aware that licensees may use a business address or a post office box but these choices may not be available or appropriate.

Another potential problem regarding the Board's listing of licensee's address of record on its website has recently come to light. Publishing the address of "elected, appointed and public safety personnel" is not allowable under Government Code Section 6254.21. Currently the Board has no way of tracking or identifying its licensees who are protected

**Board for Professional Engineers, Land Surveyors, and Geologists**  
**Bill Analysis**  
**2013 Legislative Session**

by Government Code Section 6254.21.

**BACKGROUND & LEGISLATIVE HISTORY:**

Senate Bill 492, Rosenthal - (Chapter 661, Statutes of 1997) required Internet disclosure of licensee information for a number of boards and bureaus of the Department of Consumer Affairs, and the Department of Real Estate. This information, excluding personal information, on the Internet relative to the status of every license issued by the entity, including information relative to suspensions and revocations of licenses issued by the state agency or regulatory board and other related enforcement action taken against persons, businesses, or facilities subject to licensure or regulation by a state agency or regulatory board, as specified. The information shall not include personal information including home address (unless used as a business address), home telephone number, date of birth, or social security number.

Senate Bill 1889, Figueroa – (Chapter 927, Statutes of 2000) required specified boards and bureaus within the Department of Consumer Affairs, that issue licenses, to disclose information regarding the status of the licenses of their licensees on the Internet. It also required those entities to disclose the address of record of licensees, and required those entities and the Department of Real Estate to allow the licensees to provide a post office box number or other alternative address, instead of a home address. Those boards and bureaus would also be authorized to require licensees to provide a physical business address or residence address, as specified.

**PROBABLE SUPPORT & OPPOSITION:**

Support – have nothing official but numerous professional organizations – ASCE, ACEC-CA, Cal GEO, CLSA -, and numerous individual licensees have indicated support.

This bill is sponsored by the Board

## Recommendation for Proposed Legislation

### Petitions for Reinstatement or Modification of Penalty

Board staff recommends that legislation be pursued in order to add a section to the Geologist and Geophysicist Act (Business and Professions Code section 7800, et seq.) to specifically address petitions for reinstatement of revoked licenses and petitions for reduction or modification of penalty probation orders for enforcement cases.

Staff recommends that legislation is pursued for the following reasons:

- The Geologist and Geophysicist Act does not have separate statutory provisions regarding petitions for reinstatement of revoked licenses and petitions for reduction or modification of penalty probation orders; however, the Professional Engineers Act and Professional Land Surveyors' Act does specifically address this issue (Business and Professions Code sections 6780 and 8785).
- Due to the fact that the Geologist and Geophysicist Act does not have separate statutory provisions, the Board must follow the provisions of Government Code section 11522 for Professional Geologists and Geophysicists enforcement cases.
- Government Code section 11522 allows an individual to submit a petition for reinstatement or reduction of penalty after one year. One year is often not enough time for an individual to become sufficiently rehabilitated after an enforcement case. The time periods indicated in Business and Professions Code sections 6780 and 8785 provide time frames that are more conducive to public health and safety.

#### **RECOMMENDED MOTION:**

Board staff recommends that the Board approve the above proposal and direct staff to pursue legislation to create a section in the Geologist and Geophysicists Act that specifically addresses petitions for reinstatement of revoked licenses and petitions for reduction or modification of penalty probation orders.

## Recommendation for Proposed Legislation

### Petroleum Geologist Qualifications

Board staff recommends that legislation be pursued to amend Section 7842 of the Geologist and Geophysicist Act (Business and Professions Code section 7800, et seq.) to remove language providing for the qualifications for a certification in Petroleum Geology because the Board does not issue a certification in Petroleum Geology.

Staff recommends that legislation is pursued for the following reasons:

- A Professional Geologist's license authorizes a licensee to perform petroleum geology.
- There appears to be no record of an applicant applying for certification in Petroleum Geology since the creation of the Geologist and Geophysicist Act in 1968. Therefore, there does not appear to be any rationale for this language to remain in the statute.
- The Board has adopted a goal in its 2011-2014 Strategic Plan to promote laws that are clear, relevant, unambiguous, and functional. The inclusion of qualifications for Petroleum Geology meets none of these criteria.

This legislative amendment would only remove language that provides for the qualifications for certification in Petroleum Geology. Business and Professions Code section 7822 would remain unchanged allowing for additional certifications of the Professional Geologist license, including Petroleum Geology, if such an addition would be deemed necessary in the future.

#### **RECOMMENDED MOTION:**

Board staff recommends that the Board approve the above proposal and direct staff to pursue legislation to remove language that specifies the qualifications for a certification in Petroleum Geology.

## BPELSG Action Plan 2011-2014

	Completed	In Progress	Remaining
<b>Goal 1: Protect consumers by effectively discouraging violations of the law before they happen and by aggressively investigating and adjudicating violations.</b>			
<b>Objective 1.1 – Reduce the aging of enforcement cases to align with DCA’s standards.</b>			
<ul style="list-style-type: none"> <li>• Reorganize work assignments to focus on citation process improvement</li> <li>• Increase staff through Budget Change Proposal - Fingerprint BCP, Geologist Registrar BCP</li> <li>• Develop and submit a Budget Change Proposal for a Geologist Registrar</li> <li>• Focus on reducing aging while maintaining high quality standards for enforcement cases</li> </ul>	2/1/2011	7/1/12, 7/1/13	7/1/2012
<b>Objective 1.2 – Develop and implement a proactive plan to expand the enforcement outreach program.</b>			
<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>	4/18/2012	✓	✓
<b>Objective 1.3 – Discourage unlicensed and incompetent activity through efficient enforcement actions.</b>			
<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>		✓	✓
<b>Objective 1.4 – Improve consumer friendliness of the Board’s Web site.</b>			
<ul style="list-style-type: none"> <li>• Create web mapping to combine the Professional Engineers and Geology Web sites</li> <li>• Develop online address changes and incorporate a paperless process</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>	7/5/2012	3/21/2012	7/5/2012
<b>Objective 1.5 – Establish web accessible information, including linking businesses with licensees.</b>			
<ul style="list-style-type: none"> <li>• Coordinated with the release of BreEZe. (Breeze dependent)</li> </ul>		See objective 1.1	✓
<b>Objective 1.6 – Significantly reduce the number of backlogged enforcement cases.</b>			
<ul style="list-style-type: none"> <li>• See objective 1.1</li> </ul>		See objective 1.1	✓
<b>Objective 1.7 - Encourage DCA to improve their license lookup functionality on the Web site.</b>			
<ul style="list-style-type: none"> <li>• Pending the release of BreEZe. (Breeze dependent)</li> <li>• Coordinate with the BreEZe team to express business needs on decision posting. (Breeze dependent)</li> <li>• Coordinate with the BreEZe team to express business needs on license functionality. (Breeze dependent)</li> </ul>		See objective 1.7	✓
<b>Objective 1.8 - Participate in preparations towards the BreEZe conversion.</b>			
<ul style="list-style-type: none"> <li>• See objective 1.7. (Breeze dependent)</li> </ul>		See objective 1.7	✓
<b>Objective 1.9 - Publish enforcement actions on the Board’s Web site.</b>			
<ul style="list-style-type: none"> <li>• Update and post final disciplinary decisions on the Board’s Web site</li> </ul>		See objective 1.7	✓

## BPELSG Action Plan 2011-2014

	Completed	In Progress	Remaining
<b>Goal 2: To promote laws and regulations that are clear, relevant, unambiguous, and functional.</b>			
<b>Objective 2.1 - Evaluate current laws and regulations and pursue changes where appropriate, with due consideration for economic impact.</b>			
<ul style="list-style-type: none"> <li>Review licensing and certification fees for businesses as potential legislative action.</li> </ul>		See objective 2.6	
<b>Objective 2.2 - Seek fingerprinting and criminal history authority through legislation.</b>			
<ul style="list-style-type: none"> <li>Received authority for applicants in approved 2011 Sunset legislation. SB 543, Statutes of 2011.</li> <li>Move forward with legislation to obtain authority for licensees</li> <li>Submit Budget Change Proposal for the hiring of fingerprinting staff</li> <li>Develop and adopt regulations to implement applicant fingerprinting</li> </ul>	2011		✓
<b>Objective 2.3 - Implement restructuring of examination and application fees.</b>			
<ul style="list-style-type: none"> <li>Restructure fees and receive regulation approval for both PELS and Geologists &amp; Geophysicists programs</li> <li>Publicize the fee restructure once regulations are approved</li> </ul>	4/30/2012 4/30/2012		
<b>Objective 2.4 - Review delinquent reinstatement requirements and act on the findings if appropriate.</b>			
<ul style="list-style-type: none"> <li>Consult the Board for proper direction</li> </ul>		✓	✓
<b>Objective 2.5 - Conduct a review of the penalty structure for unlicensed activity.</b>			
<ul style="list-style-type: none"> <li>Review has been conducted. General statutory language affects the maximum fine. Any changes affect other boards/programs.</li> </ul>	✓		
<b>Objective 2.6 - Seek statutory authority to require Certificates of Authorization for businesses.</b>			
<ul style="list-style-type: none"> <li>Consult Board for further direction</li> <li>Identify staffing requirements of implementing business authorization</li> </ul>		✓	✓
<b>Objective 2.7 - Eliminate Business and Professions Code section 6760 (temporary authorization to practice engineering).</b>			
<ul style="list-style-type: none"> <li>On November 2011 Board agenda.</li> <li>Research has been completed. Staff are currently pursuing legislation. SB 152.</li> </ul>	11/1/2011 8/27/2013		
<b>Objective 2.8 - Amend regulations that allow appeals of national examinations.</b>			
<ul style="list-style-type: none"> <li>Completed - effective June 18, 2012.</li> </ul>	✓		
<b>Objective 2.9 - Review statutes and regulations regarding Geologist in Training certification.</b>			
<ul style="list-style-type: none"> <li>Qualification requirements added to statute during 2011 legislative session</li> </ul>	6/18/2012	✓	
<b>Objective 2.10 - Review statutes and regulations to provide consistency among all of the Board's regulated professions.</b>			
<ul style="list-style-type: none"> <li>Review statutes and regulations for consistency across both programs</li> </ul>	1/1/2012	✓	✓

## BPELSG Action Plan 2011-2014

	Completed	In Progress	Remaining
<b>Goal 3: Increase Licensure</b>			
<b>Objective 3.1 - Participate in development, grading, and standard-setting of national examinations.</b>			
<ul style="list-style-type: none"> <li>Contract with professional community volunteer as Subject Matter Experts (pending travel freeze exemptions)</li> <li>Increase outreach to colleges and professional societies</li> <li>Add information to Web site's "Exams" tab including links to NCEES and ASBOG</li> <li>Get report from NCEES on California licensees overall involvement in exam development and track for future reporting</li> </ul>		✓	
<b>Objective 3.2 - Convert all State-specific examinations to computer based testing and provide flexible testing dates.</b>			
<ul style="list-style-type: none"> <li>Geotechnical Engineer</li> <li>California Specific Examinations for Professional Geologist &amp; Professional Land Surveyor</li> <li>Traffic Engineer/Civil Engineer/ Certified Engineering Geologist/ Certified Hydrogeologist / Geophysicist</li> <li>Phased implementation for flexible testing dates - Civil</li> </ul>	8/12/2013 1/1/2013	✓	
<b>Objective 3.3 - Review applications and respond to applicants in a timely manner.</b>			
<ul style="list-style-type: none"> <li>Contact DCA Strategic Planning &amp; Development Unit to engage in process improvement sessions</li> <li>Streamlining of cashing and EMS approvals pending BreEZe. (Breeze dependent)</li> </ul>	10/1/2011 3/1/12, 4/1/12 9/1/12, 10/1/12 10/1/2012		✓ ✓ ✓
<b>Objective 3.4 - Maintain and expand the pool of licensees to help develop State-specific examinations.</b>			
<ul style="list-style-type: none"> <li>Recruit for development of exams through outreach and direct contact professional associations</li> </ul>		✓	
<b>Objective 3.5 - Protect the validity of the content and security of examinations.</b>			
<ul style="list-style-type: none"> <li>Consistently monitor exam validity of each test and begin administering through CBT</li> <li>Engage NCEES in the administration of national exams for PELS</li> <li>Continue auditing exam information for security, and monitor how it is presented to the CBT vendor</li> <li>Provide occupational analysis as required for each exam</li> </ul>	10/1/2012 10/1/2012		
<b>Objective 3.6 - Accept credit card and PayPal payments for application and examination fees.</b>			
<ul style="list-style-type: none"> <li>Credit transactions pending BreEZe. (Breeze dependent)</li> </ul>	2011-2013	✓	✓
<b>Objective 3.7 - Participate in ABET visits.</b>			
<ul style="list-style-type: none"> <li>Coordinate Board Member / Staff participation as observers at ABET visits every fall pending travel freeze exemptions.</li> <li>Encourage public board member participation</li> </ul>	10/1/2012 11/1/2012		
<b>Objective 3.8 - Pursue the National Council of Examiners for Engineering and Surveying (NCEES) and the Associate of State Boards of Geology (ASBOG) administration of national examinations.</b>			
<ul style="list-style-type: none"> <li>Begin National Council of Examiners for NCEES administration</li> <li>Researched ASBOG implementation. Determined to be unfeasible at this time.</li> </ul>	10/1/2012	✓	
<b>Objective 3.9 - Actively participate and attend NCEES and ASBOG meetings to vote on new policies and procedures relating to examinations.</b>			
<ul style="list-style-type: none"> <li>Pending out-of-state travel exemptions</li> <li>Organize NCEES Western Zone meetings in San Francisco, California</li> </ul>	5/1/2013 4/18/2013		

## BPESLG Action Plan 2011-2014

	Completed	In Progress	Remaining
<b>Goal 4: To pursue and obtain adequate resources to meet the Board's mission and vision.</b>			
<b>Objective 4.1 - Develop incentives and restructure compensation to retain a quality Executive Order.</b>	✓		
<ul style="list-style-type: none"> <li>• Completed</li> </ul>	7/1/2011		
<b>Objective 4.2 - Pursue authorization and funding, if needed, to increase attendance at NCEES meetings and ASBOG meetings.</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>	2012/2013	✓	
<b>Objective 4.3 - Develop and implement career succession plan for Board Staff.</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>	2012/2013	✓	
<b>Objective 4.4 - Pursue funding and hiring freeze exemptions for additional staff in all units and programs as needed.</b>	✓		
<ul style="list-style-type: none"> <li>• Seek hiring freeze exemptions - currently lifted.</li> <li>• Budget Change Proposal for Enforcement Unit staff and Geologist Registrar have been approved at agency level</li> <li>• Budget Change Proposal for the hiring of fingerprint staff</li> </ul>	2011 7/1/2013		
<b>Objective 4.5 - Pursue limited-term positions for specific projects.</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>	7/1/2012		✓
<b>Objective 4.6 - Pursue authority and funding to hire a staff geologist.</b>		✓	
<ul style="list-style-type: none"> <li>• Rewrite class specifications</li> </ul>		✓	

## BPESLG Action Plan 2011-2014

	Completed	In Progress	Remaining
<b>Goal 5: Outreach</b>			
<b>Objective 5.1 - Expand Enforcement Outreach Program to local and state agencies, professional associations, and consumer groups.</b>			
• See objective 1.2		See objective 1.2	
<b>Objective 5.2 - Obtain resources, including staff, funding, and out-of-state travel approval, to fully support outreach.</b>			
• See objective 1.2		See objective 1.2	
<b>Objective 5.3 - Expand the licensure outreach programs to associations, college career fairs, and schools (e.g. Math Counts, Trigstar).</b>			
• Review engineering magnet schools		✓	
• Publicize at college career fairs			✓
<b>Objective 5.4 - Develop and revise the Board's publications, as needed.</b>			
• Develop and release new tri-annual newsletter.		See objective 5.6	✓
• Revise the local officials guide to include all disciplines			✓
• Update and revise consumer guide to include all disciplines			✓
• Develop paper promotional materials for colleges			✓
<b>Objective 5.5 - Regularly attend NCEES, ASBOG, and ABET meetings.</b>		✓	
• See objective 3.9		See objective 3.9	
<b>Objectives 5.6 - Regularly develop and distribute an electronic newsletter.</b>		✓	
• See objective 5.4. (Develop and release new tri-annual newsletter)		✓	
<b>Objective 5.7 - Keep abreast of emerging technologies and apply them appropriately.</b>			
• Research feasibility of creating a Board "app" for smartphones, and contact DCA Public Affairs office to discuss social networking opportunities. (Breeze dependent)			✓
• Develop license lookup through smartphone "app". (Breeze dependent)			✓
• Develop business lookup through smartphone "app". (Breeze dependent)			✓
• Make website more user friendly and "mobile app" friendly. (Breeze dependent)			✓
• Explore Use of Social Media to Improve Communication (i.e. Facebook, Twitter, LinkedIn)			✓
	Spring 2013		



Item III E. Administrative Task Force

2012-13 Report

March 2013      The ATF was officially formed as a Work group in accordance with Section 3.1.2 of the Board's Operating Procedures.

*A work group is an informal body assembled at the discretion of the Board President to perform designated tasks. Work groups can be comprised of Board members, Board staff, consumers, professionals or any combination thereof.*

May/June 2013      ATF Meeting

June 2013      Board Report – ATF evaluated recently closed cases and provided recommendations for the purposes of reducing the timeframe for investigating complaints to a reasonable level.

1. *Implement a "tracking system" designed to monitor status of the investigations. Designed so that each analyst could quickly view what the status was of each assigned case in an effort to keep that information in front of them. Manager would be able to view status globally and per each analyst. Tool must be useful without becoming too cumbersome to maintain.*
2. *Monitor adjustments in workload volumes/completion to "balance the load".*
3. *Possibly consider assigning an "unlicensed case coordinator" to encourage follow up and monitoring of those cases particularly when utilizing the services of DOI.*
4. *Utilize staff licensees more effectively (i.e., outreach, general inquiries, etc.)*
5. *Utilize TAC members more effectively (i.e., general inquiries, to unburden peripheral / technical issues)*
6. *Establish timeframe criteria on whether complaint is within board's jurisdiction prior to opening official case. (i.e., repeat correspondence = open case. If more information is required to determine jurisdiction, open case)*
7. *Develop a checklist to assist with effective communication with experts.*
8. *Consider implementing a regular case monitoring meeting where the group can assess cases that are not on schedule.*
9. *Utilize TAC members to assist with review of legal reporting cases.*
10. *(possibly future) Assign someone to regularly monitor AG workload*



IV. **ENFORCEMENT**

A. Enforcement Statistical Reports

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V. **EXAMS/LICENSING**

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A. Update on October 2013 Exams



VI. APPROVAL OF DELINQUENT REINSTATEMENTS

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## APPROVAL OF DELINQUENT REINSTATEMENTS

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

### CHEMICAL

#### **PESINOVA, VERONIKA**

Reinstate applicant's chemical license once he/she pays all delinquent and renewal fees.

### CIVIL

#### **GARD, MARK FREEMAN**

Reinstate applicant's civil license once he/she takes and passes the NCEES Civil Engineering Professional Examination, the California Seismic Principles Examination, and the California Engineering Survey Examination.

### MECHANICAL

#### **HOFFMAN, ROBERT DAVID**

Reinstate applicant's mechanical license once he/she pays all delinquent and renewal fees.

#### **WOLGAST, STEPHEN**

Reinstate applicant's mechanical license once he/she pays all delinquent and renewal fees.

### LAND SURVEYOR

#### **MCGUINNESS, MICHAEL DENNIS**

Reinstate applicant's Land Surveyor license once he/she pays all delinquent and renewal fees.



VII. **CONSIDERATION OF RULEMAKING PROPOSALS**

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- A. Update on Board Rules 420.1 and 3021.1 (16 CCR 420.1 and 3021.1), Engineers, Land Surveyors, Geologists, and Geophysicists Applicants Fingerprints
- B. Update on California Code of Regulations sections 416 and 3060 (Substantial Relationship Criteria)
- C. Update on Board Rules 442 and 3035 (16 CCR 442 and 3035) Examination Subversion
- D. Update on Board Rules 411, 412, 3008, and 3009 (16 CCR 411, 412, 3008, and 3009), Engineers, Land Surveyors, Geologists, and Geophysicists Seal, Signature, and Address Change



VIII.

**ADMINISTRATION**

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- A. FY 2013/14 Budget Overview
- B. Out-of-state Travel Update (Possible Action)



**FY 2013/14 Budget Overview:**

The information provided below is a summary of the Engineers and Land Surveyors 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 2013.

The **Engineers and Land Surveyors (PELS) Fund** as of October 31, 2013:

	<b>FY 13/14</b>	<b>FY 12/13</b>
<b>Expenditures</b>	\$3.6 Million	\$3.0 Million
<b>Revenue</b>	\$4.1 Million	\$4.0 Million
<b>Applications</b>	3,836	3,397
<b>Renewals</b>	13,918	13,448

<b>Budget Allotment</b>	\$9.87 Million
<b>Projection to Year-End</b>	\$8.17 Million
<b>Surplus/Deficit</b>	\$1.69 Million
<b>Revenue (Year-End)</b>	\$8.74 Million

Expenditures have increased versus last FY as a result of increased contract costs with Prometric, our California Specific exam developer. Overall, the Board is generating more revenue than allocated expenses and is projected to have a surplus at the end of the year. Applications have increased mainly due to EIT and LSIT continuous filing.

The **Geologist and Geophysicists (GEO) Account** as of October 31, 2013:

	<b>FY 13/14</b>	<b>FY 12/13</b>
<b>Expenditures</b>	\$485 Thousand	\$660 Thousand
<b>Revenue</b>	\$371 Thousand	\$399 Thousand
<b>Applications</b>	169	76
<b>Renewals</b>	1,605	1,515

<b>Budget Allotment</b>	\$1.38 Million
<b>Projection to Year-End</b>	\$1.19 Million
<b>Surplus/Deficit</b>	\$192 Thousand
<b>Revenue (Year-End)</b>	\$997 Thousand

Expenditures will remain consistent with the last FY, we are still contracting with OPES for occupational analysis of our state exams. Applications are up across the Board for GIT, PG, CEG and CHG. Overall, revenue at year-end should remain consistent with historical averages.

# 0770 - Board for Prof. Engineers and Land Surveyors

## Analysis of Fund Condition

Prepared 11/20/13

(Dollars in Thousands)

### Governor's Budget 2013-14

**\*\$7.0 million GF loan outstanding**  
Includes FY 2012-13 year-end revenue and expenditures

**Governor's  
Budget  
CY  
2013-14**

**BY  
2014-15**

	<b>ACTUAL 2012-13</b>	<b>Governor's Budget CY 2013-14</b>	<b>BY 2014-15</b>
<b>BEGINNING BALANCE</b>	\$ 697	\$ 1,904	\$ 5,011
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 697	\$ 1,904	\$ 5,011
<b>REVENUES AND TRANSFERS</b>			
Revenues:			
125600 Other regulatory fees	\$ 88	\$ 90	\$ 90
125700 Other regulatory licenses and permits	\$ 2,560	\$ 2,578	\$ 2,578
125800 Renewal fees	\$ 5,415	\$ 6,005	\$ 6,005
125900 Delinquent fees	\$ 57	\$ 56	\$ 56
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 8	\$ 1	\$ 1
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 8	\$ 8	\$ 8
161400 Miscellaneous revenues	\$ 1	\$ 2	\$ 2
Totals, Revenues	\$ 8,137	\$ 8,740	\$ 8,740
Transfers from Other Funds			
FO0001 Proposed GF Loan Repayment per item 1110-011-0770, Budget Act of 2008	\$ -	\$ 2,000	\$ -
FO0001 Proposed GF Loan Repayment per item 1110-011-0770, Budget Act of 2011	\$ -	\$ 500	\$ 500
Totals, Revenues and Transfers	\$ 8,137	\$ 11,240	\$ 9,240
Totals, Resources	\$ 8,834	\$ 13,144	\$ 14,251
<b>EXPENDITURES</b>			
Disbursements:			
8840 SCO (State Operations)	\$ 13	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 50	\$ 43	\$ -
1110 Program Expenditures (State Operations)	\$ 6,867	\$ 8,090	\$ 8,252
Total Disbursements	\$ 6,930	\$ 8,133	\$ 8,252
<b>FUND BALANCE</b>			
Reserve for economic uncertainties	\$ 1,904	\$ 5,011	\$ 5,999
Months in Reserve	2.8	7.3	8.6

# 0205 - Geology

## Analysis of Fund Condition

Prepared 11/20/2013

(Dollars in Thousands)

Governor's Budget 2013-14	Governor's		
	ACTUAL	Budget	BY
Includes FY 2012-13 year-end revenue and expenditures	2012-13	CY	2014-15
<b>BEGINNING BALANCE</b>	\$ 1,041	\$ 1,047	\$ 851
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 1,041	\$ 1,047	\$ 851
<b>REVENUES AND TRANSFERS</b>			
Revenues:			
125600 Other regulatory fees	\$ 1	\$ 2	\$ 2
125700 Other regulatory licenses and permits	\$ 221	\$ 224	\$ 224
125800 Renewal fees	\$ 815	\$ 753	\$ 753
125900 Delinquent fees	\$ 14	\$ 14	\$ 14
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 4	\$ 2	\$ 2
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ 2	\$ 2
161400 Miscellaneous revenues	\$ -	\$ -	\$ -
Totals, Revenues	\$ 1,055	\$ 997	\$ 997
Totals, Revenues and Transfers	\$ 1,055	\$ 997	\$ 997
Totals, Resources	\$ 2,096	\$ 2,044	\$ 1,848
<b>EXPENDITURES</b>			
Disbursements:			
8840 FSCU (State Operations)	\$ 1	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 7	\$ 6	\$ -
1110 Program Expenditures (State Operations)	\$ 1,041	\$ 1,187	\$ 1,211
Total Disbursements	\$ 1,049	\$ 1,193	\$ 1,211
<b>FUND BALANCE</b>			
Reserve for economic uncertainties	\$ 1,047	\$ 851	\$ 637
Months in Reserve	10.5	8.3	6.2



IX. **TECHNICAL ADVISORY COMMITTEES (TACs)**

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- A. Board Assignments to TACs
- B. Appointment of TAC Members
- C. Reports from the TACs



X. **LIAISON REPORTS**

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- A. ASBOG
- B. ABET
- C. NCEES
  - 1. Patrick Tami – Nomination for Western Zone VP
- D. Technical and Professional Societies



XI. **CLOSED SESSION**

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A. Civil Litigation

1. Dennis William McCreary vs. Board for Professional Engineers, Land Surveyors, and Geologists, Sierra County Superior Court Case No. 7361
2. Thomas Lutge v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS
3. Ruvn Grutman v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles Superior Court Case No. BS145675
4. Ruvn Grutman v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles Superior Court Case No. BS145796



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

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

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XIV. **APPROVAL OF CONSENT ITEMS**

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Approval of the Minutes of the October 10, 2013, Board Meeting



## DRAFT MINUTES

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

**October 10, 2013**  
**Beginning at 9:00 a.m.**

**Thursday, October 10, 2013**

**Board Members Present:** Erik Zinn, President; Kathy Jones Irish, Vice President; Diane Hamwi; Carl Josephson; Coby King; Dr. Hong Beom Rhee; Ray Satorre; Jerry Silva; Robert Stockton; and Patrick Tami

**Board Members Absent:** Michael Modugno and Philip Quartararo

**Board Staff Present:** Ric Moore (Executive Officer); Joanne Arnold (Assistant Executive Officer); Nancy Eissler (Enforcement Manager); Celina Calderone (Board Liaison); Jeff Alameida (Budget Analyst); Raymond Mathe (Examinations Manager); Brooke Phayer (Outreach Analyst); Erin LaPerle (Geology Program Analyst); Tiffany Criswell (Enforcement Analyst); and Gary Duke (Legal Counsel).

**I. Roll Call to Establish a Quorum**

The meeting was called to order by President Zinn at 9:02 a.m. Roll Call was taken, and a quorum established.

- II. Public Comment** – Mark Gilligan, SE, addressed the Board and offered comments to start a discussion to change the enforcement process. He indicated that he had recently reviewed disciplinary actions posted on the Board's website and feels that the Board's enforcement program is flawed. The key problems he has found is that the program is ineffective in communicating with engineers what is and what is not acceptable. The Board appears to have no policies or the policies are being ignored. He believes that the Board believes that any error or omission is grounds for discipline, but the majority of these omissions do not present any harm to the public, and one cannot expect perfection. He commented that the Board focuses on sole practitioners and small businesses, while larger firms are immune to disciplinary action. He noted that there is no consistency in disciplinary actions. He stated that contractual obligations that do not exist are being imposed by the Board. An example he gave is an error in drawings is considered a contract violation. He pointed out that engineers cannot contractually promise perfection. He stated that these issues could result in a fundamental challenge to the legality of the Board's enforcement activities. He would like procedures and policies and expressed the need for transparency and peer reviews of recommendations by technical experts. He suggested that independent reviewers should do post-mortems to identify problems and lessons learned. He also stated that the Board should

make available on its website administrative hearing rulings where the Board did not prevail. He hopes this starts a dialogue and brings about change.

Mr. Tami asked if Mr. Gilligan has offered to become a technical expert for the Board. Mr. Gilligan indicated he had not because he believes the problem is larger than one individual as a Technical Expert. Mr. Satorre asked if Mr. Gilligan could provide his comments in writing with specific examples. Mr. Gilligan said he could provide examples and supplemental information; however, he believes it is more important for the Board to engage in a dialogue regarding these issues first.

Mr. Silva arrived at 9:06 a.m.

### III. Executive Officer's Report

#### A. Legislation

1. Discussion of Legislation for 2013. Ms. Arnold reported on the following bills:

**AB 186** Maienschein. Professions and vocations: military spouses: temporary licenses. This bill would authorize a board within DCA to issue a temporary license for 12 months to an applicant who meets certain requirements.

STATUS: Introduced 1/28/13. Last amended 6/24/13. Passed Assembly. Heard in SEN B,P&ED Committee 7/1/13 - testimony taken. Further hearing to be set – this is now a two-year bill.

BOARD POSITION: Oppose unless amended

**AB 1057** Medina. Professions and vocations: licenses: military service. This bill would require each Board within DCA to inquire in every application for licensure if the applicant is serving in, or has previously served in, the military – commencing January 1, 2015.

STATUS: Enrolled and sent to the Governor 9/9/13.

BOARD POSITION: Watch

**AB 1063** Eggman. Surveyors and engineers. (Amends Sections 6732, 8751, 8772 of, and adds Section 8764.6 to the B&P Code) This bill would prohibit the use of certain titles using the words engineer or surveyor unless the person is appropriately licensed. Additionally it would authorize a licensed surveyor to include additional information, as specified, with a record of survey. This bill would require any monument set by a land surveyor or civil engineer to be marked as specified, and to be marked with the name of the agency and the political subdivision it serves, if set by a public agency.

STATUS: Introduced 2/22/13. Last amended 5/6/13. Heard in ASM Appropriations 5/24/13 – held under submission. This is a two-year bill.

BOARD POSITION: Oppose unless amended

**SB 152** Roth. Geologists and Geophysicists: written contracts. (Add Section 7839.2 to B&P Code) This bill would require Geologists and Geophysicists to use a written contract when contracting to provide geological or geophysical services, as specified. It will provide for consistent operations among engineers, land surveyors, geologists and geophysicists. This bill also repeals temporary authorizations for engineers, geologists and geophysicists. This is a Board-sponsored bill.

STATUS: Signed by the Governor. Chapter 178, Statutes of 2013.

BOARD POSITION: Support

**SB 207** Cannella. Department of Consumer Affairs: license information. (Amend Section 27 of B&P Code) This bill will eliminate the requirement that the Board for Professional Engineers, Land Surveyors, and Geologists disclose its licensee's address of record. This is a Board sponsored bill.

STATUS: Introduced 2/8/13. Scheduled to be heard in SEN BP&ED Committee 4/15/13 - bill pulled by author. This is a two-year bill.

BOARD POSITION: Support

**SB 679** Berryhill. Licensees: reporting requirements. (Amend Sections 6770, 6770.1, 6770.2, 8776, 8776.1, and 8776.2 of the B&P Code) This bill would revise the amount for a licensed engineer or land surveyor to report a civil action judgment, settlement, arbitration award, or administrative action to the Board from "\$50,000 or more" to "more than \$50,000." It also reduces the reportable amount of any civil action judgment or binding arbitration award or administrative action of \$25,000 or greater.

STATUS: Signed by the Governor. Chapter 471, Statutes of 2013

BOARD POSITION: Watch

**SB 822** Committee on Business, Professions and Economic Development. Professions and vocations. (Amend Section 7887 of, and add Section 7851 to, the B&P Code) This is one of the Committee's omnibus bills. Among other things it creates a "retired registration" for geologists and geophysicists. Language provided by the Board.

STATUS: Signed by the Governor. Chapter 319, Statutes of 2013.

BOARD POSITION: Support

Ms. Arnold noted that G.V. Ayers, Senate Business and Professions Committee consultant, is scheduled to attend the December Board meeting to review the Sunset process that will commence in May 2014.

B. Strategic Plan

1. Presentation by DCA SOLID Representative

Mr. Moore introduced Mr. Dennis Zanchi, with the Department's SOLID Unit. Mr. Zanchi provided a handout that outlined the Strategic Plan Development process and explained the various phases of the Strategic Plan.

Ms. Jones Irish inquired who decides what questions are asked. Mr. Zanchi indicated that it is a collective effort among the Executive Officer and the Board to review the questions in advance; typically, the questions are comprised of the six main functions of the Board. SOLID will provide a draft plan for the Board's review. Mr. Zanchi advised that the Sunset Committee often reviews the boards' Strategic Plans. Ms. Jones Irish indicated that there have been issues raised during past meetings that have been placed on hold that will need to be included in the new plan. Mr. Copelan representing PECG indicated that they would be willing to send the stakeholder survey to their members, and Mr. Gilligan suggested including SEAOC.

Mr. Moore addressed a request made at the August Board Meeting to include tracked changes on the Strategic Plan's Action Plan and pointed out that the items in red are updates.

C. Personnel

Mr. Moore introduced Alicia Newcomb as the new Enforcement Analyst.

D. Administrative Task Force

Mr. Moore reported that during a conference call October 2, the task force provided some suggestions for revisions to the Board and TAC Operating Procedures. Ms. Eissler and Mr. Moore will review them and present them to the Board at a future date for approval.

A meeting has been scheduled for October 22 to review a closed case per Mr. Modugno's request, as he was concerned about the length of time spent on the case. This is an opportunity to see where some of the issues are that add to the aging of the cases. In addition, the task force will also be reviewing Board Rule 425 that pertains to the land surveying application, experience, and education requirements. They will also look at Section 7841(b) of the Geologist and Geophysicist Act that pertains to the required geological degree for applicants. Currently, it simply states that a "geological sciences" degree is required; however, that is a very broad term. Staff has assembled information from other states' boards and universities to provide to the Administrative Task Force to review regarding possibly adding regulations to better define this information.

Mr. Zinn explained that Geological Sciences is a broad term, and there is no national association similar to ABET, so it is difficult for individuals to know if a degree qualifies as a "geological sciences" degree. Mr. Satorre asked for a written summary of what transpired during the task force meetings. Mr. Moore advised that he would provide a summary at the next meeting.

E. BreEZe Status Update

Mr. Moore reported that it appears that the release one boards were successful. There were some issues with restarting the legacy systems which were initially down, but they have since successfully been brought back up. Currently, there are no dates set for the release two and release three boards.

IV. Enforcement

A. Enforcement Statistical Reports

Ms. Eissler provided two handouts and reviewed enforcement statistics. The investigations of a group of older cases, which were all related, were completed in August. She reminded the Board that when older investigations are completed, the average age at closure statistic increases. The citation program is moving on flow basis now due to the elimination of the backlog. She indicated that Mr. King requested statistics that showed the breakdown of the outcomes of the investigations and the age at completion, which were provided with the handouts. Mr. King noted that the graphs were informative and requested they be included in the future. President Zinn asked if we could link the data to the budget talks to help with funding for temporary staff to relieve the aging. Ms. Eissler indicated that it is something to look into; however, with the enforcement process, it is difficult to bring someone in who has no experience as training someone on the process can be lengthy to the point where it does not help speed up the process. President Zinn suggested an analyst pool from DCA that boards could draw upon. Mr. Tami inquired as to what is an acceptable time for a technical expert to have a case. Ms. Eissler advised that experts are initially given 30 days to review the file and prepare a report; however, that can be extended if additional information needs to be obtained or if there is a voluminous amount of information to review. Ms. Eissler explained that in reviewing the aging of disciplinary actions and citations that go to a formal appeal, it appears the biggest delay is the scheduling of the administrative hearing through the Office of Administrative Hearings (OAH). This is a DCA-wide issue for all of the boards. When the Board's cases are heard by OAH is largely dependent upon how backlogged the hearing calendar is and the anticipated number of days required to conduct the hearing. Mr. Gilligan commented that these cases are disruptive to the licensees under investigation, and he believes the idea of a generic analyst could create problems. Mr. Moore indicated that he will discuss with Ms. Eissler and

Candace Cummins, the Board's Personnel Liaison, opportunities to work with DCA personnel to bring in temporary help.

- B. Presentation regarding Selection of Technical Expert Consultants
- Ms. Eissler reported that the Board requested information regarding the selection of technical experts. She advised that the Board's Technical Expert Training Manual was included in the agenda packet, and she reviewed the prerequisites to become a Technical Expert. Experts are compensated \$75.00 per hour and travel expenses, if necessary. She explained that the compensation is standard among the licensing boards within DCA. President Zinn commented that \$75.00 per hour is very low. Ms. Eissler noted that being a technical expert for the Board should not be viewed as a money-making effort but as a way to assist the profession. Mr. Moore noted that he believes quite a few experts do it pro bono as a way to give back to their profession. Mr. Josephson asked how the experts are reviewed for their effectiveness once they were done. Ms. Eissler stated that it is determined by how well they have conveyed their opinion in writing, their timeliness in reviewing the case, and input from the attorneys if the case proceeds that far. She added that the information regarding experts is shared among the Enforcement Analysts. Mr. Silva suggested that this is a good topic for the Strategic Plan. Mr. Stockton expressed concern that someone with five years of experience may not have sufficient knowledge and experience to render an opinion pertaining to standard of care. He believes that the experience requirements should be looked at more closely and suggested a selection panel. Mr. Copelan would like to see this continue at the Board level rather than the ATF to aid in transparency. Mr. Moore shared his experience as a Technical Expert before being employed by the Board. President Zinn asked if there is difficulty maintaining a list of qualified experts. Mr. Moore indicated that there is; there are very few applications that come in. Ms. Eissler reported that solicitation is done through the Board's website and newsletter. She explained that some firms do not want their employees working on outside projects during work time, whereas other firms believe it is owed to the profession and allow their employees to do the work on "company time." Steve Hao representing CalTrans inquired whether or not State employees are able to contract with the Board. Ms. Eissler indicated that it is prohibited by law for a State employee to contract with another State agency and that it would be questionable even if they offer their services for free. Mr. Moore expressed that training of the contracted experts was key to their success in delivering effective reports and that he and Ms. Eissler have discussed preliminary plans for re-introducing multiple training dates in the future, hopefully during 2014.

Ms. Jones Irish would like to see a recruitment and outreach plan to aid in identifying new talent. In addition, she indicated that information should

be provided to identify where Board members can help and that the outreach efforts of Board members should be tracked.

Mr. Tami would like to see this on a future agenda. Mr. Moore requested ideas and suggestions from the Board on how to recruit and develop selection criteria. President Zinn recommends that the Board members review the Technical Expert Training Manual and process and provide comments to the staff.

Mr. Moore indicated that staff would discuss the recruitment, selection, and training of Technical Experts with the Administrative Task Force and will provide recommendations at a future Board meeting.

C. Presentation regarding Reimbursement of Enforcement and Investigative Costs pursuant to Business and Professions Code section 125.3

Ms. Eissler reviewed the information she provided in the agenda packet regarding the laws relating to the costs that the respondents in administrative disciplinary actions can be ordered to pay to the Board. Cost recovery is addressed in a general section of the Business and Professions Code, and it applies to all the boards, bureaus, and programs with exception of the Medical Board. The law became effective in 1993 and was sponsored by DCA. In years past, various boards had pursued legislation to add it in to their own statutes, but it appeared that DCA and the legislature felt it would be good to have a general section to make it standard for all boards. The law allows the Board to order a licensee who has been found to have committed violations of the licensing laws in a formal disciplinary proceeding to pay the Board a sum not to exceed the reasonable cost of the investigation and enforcement of the case. The Administrative Law Judge (ALJ) hearing the matter is required to include in the Proposed Decision a finding of the reasonable costs; the costs that can be included are those incurred up to the date of the hearing, including any charges from the Office of the Attorney General. The law prohibits the Board from increasing the amount that has been specified by the ALJ, but it does allow the Board to reduce or eliminate the amount or to remand the matter back to the ALJ to make a finding on the costs if one has not been made or to clarify the findings. The origin behind these laws was that it was viewed as unfair that all licensees, through their renewal fees, had to bear the cost of the investigation and enforcement of licensees who had been found to have committed violations. There were also concerns that requiring a licensee to pay all of the costs would discourage them from pursuing a defense through the hearing process and encourage them to settle quickly in an effort to avoid incurring more costs.

When cost recovery is requested, fees included are the technical expert consultant fees, if applicable; the Division of Investigation charges, if applicable; and the Attorney General's charges; Board staff time is not

included. The costs can be included up through the date the hearing begins. Any costs incurred from the Office of the Attorney General, the Office of Administrative Hearings, or the court reporter once the hearing starts cannot be included. As such, the amount of cost recovery requested or ordered is never the full amount it costs the Board for the investigation and enforcement of the cases. The law specifies that the costs are to be considered a reimbursement of costs incurred and to be deposited in the fund of the Board that is available upon appropriation by the Legislature. The monies received do not go back into the Board's spending authority, so it is not a direct reimbursement to the line item it was charged against. The law specifies the Board cannot renew a license if the full amount has not been paid unless a payment plan has been previously established. In the majority of cases, a time period is specified in which the payment must be paid.

Mr. Stockton was surprised that staff does not charge their time and that staff's time is not tracked. Mr. Moore stated that tracking is being done, but not an hourly breakdown but just how much time elapses in a case. Mr. Moore noted that he will meet with Ms. Eissler to discuss ways to appropriately track time. President Zinn commented that it may assist in justifying supplemental staff to aide in workload reduction.

**XI. 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)]**

**A. Civil Litigation**

1. Dennis William McCreary vs. Board for Professional Engineers, Land Surveyors, and Geologists, Sierra County Superior Court Case No. 7361
2. Thomas Lutge v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS

**XII. Open Session to Announce the Results of Closed Session**

Ms. Eissler reported that during Closed Session the Board discussed the two lawsuits as noticed and took action on three petitions for reconsideration and a proposed decision.

**V. Exams/Licensing**

**A. Update on October 2013 Exams**

Mr. Mathe reported on the fall exams and reviewed the exams administered and those scheduled for the month of October. He added that it appears that the no-show rate is declining possibly due to the new exam fees.

Mr. Tami inquired how the Board is publicizing the change to Computer Based Testing for the Fundamentals examinations, which starts in January 2014. Mr. Phayer reported that information is being disseminated via Facebook, Twitter, and the Board's Website. He is also tailoring information provided by NCEES to better suit California's process. He is hoping that Board members can assist in outreach. He discussed the organization Engineers Without Borders and its recent meeting and how he was denied approval to attend due to it being a "conference" and that it did not conform to the Governor's Executive Order on travel.

Ms. Jones Irish would like to see a list of these events provided to Board members to possibly attend based on geography as to not incur travel expenses.

Mr. Mathe advised that he has provided presentations to various groups and although they are aware of the computer based testing, but many are not aware of the details.

**VI. Approval of Delinquent Reinstatements**

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

**VOTE:** 10-0, motion passed

**VII. Consideration of Rulemaking Proposals**

**A. Proposal to Amend Title 16, California Code of Regulations Sections 464 (Corner Records)**

**MOTION:** Mr. Tami and Mr. Stockton moved to approve the proposed amendments to Board Rule 464 (Corner Record), as shown in the agenda packet, and to direct staff to begin the formal rulemaking process to amend the regulations.

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

**B. Proposal to Amend Title 16, California Code of Regulations sections 416 and 3060 (Substantial Relationship Criteria)**

Ms. Eissler provided an update. She reminded the Board that Sections 416 and 3060 provide the "substantial relationship criteria" to determine if a criminal conviction is "substantially related" for the purposes of disciplinary action against a licensee or for denying issuance of a license and that the Board, at its August meeting, had directed staff to perform further research of the regulations of other boards and to provide a recommendation to the Board regarding possible changes to Sections 416 and 3060. Staff is continuing to research the matter and will provide a recommendation at a future meeting.

- C. Adoption of Proposed Amendments to Title 16, California Code of Regulations sections 3061 (Criteria for Rehabilitation), and 3064 and 419 (Disciplinary Orders)

Ms. LaPerle reported that she followed up with the Office of Administrative Law, and they indicated that a 15-day notice was not necessary to remove Section 3060 from the rulemaking proposal; it could be explained in the final rulemaking file that the Board had chosen not to move forward with the proposed amendments.

**MOTION:** Mr. King and Ms. Jones Irish moved to adopt the proposed changes to Title 16, California Code of Regulations sections 3061, 3064, and 419 and direct staff to finalize the rulemaking file for submittal to the Department of Consumer Affairs and the Office of Administrative Law for review and approval and to delegate to the Executive Officer the authority to finalize the rulemaking file.

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

- D. Proposal to Amend Title 16, California Code of Regulations Section 3005, Add a Retired Status Fee for Geologists and Geophysicists

Ms. LaPerle reported that Senate Bill 822 adds Business and Professions Code Section 7851 and amends Section 7887, which authorizes the Board to issue a retired license to Professional Geologists and Geophysicists, effective January 1, 2014. As such, it is necessary to establish the fee for the retired license in regulation.

Staff recommends adding a subsection to Section 3005 to establish a fee to implement the retired license status for Professional Geologists and Professional Geophysicists. The proposed fee is \$62.50, which is the same fee that is currently established for Professional Engineers and Professional Land Surveyors in accordance with Board Rule 407(f) since the workload to process and issue retired licenses will be the same.

**MOTION:** Mr. King and Mr. Josephson moved to approve the proposal and direct staff to begin the formal rulemaking process to amend Title 16, California Code of Regulations Section 3005.

**VOTE:** 10-0, Motion carried.

## VIII. Administration

- A. FY 2013/14 Budget Overview

Mr. Alameida provided a summary of the budget overview. It detailed the professional engineers and land surveyors and geologists and geophysicists funds expenditures, revenue, applications, and renewals through August 31, 2013.

The professional engineers and land surveyors fund expenditures have increased as a result of increased contract costs. So far, the Board generated more revenue than allocated expenses and is projected to have a surplus at the end of the year. Applications have increased mainly due to EIT and LSIT continuous filing.

As for the geologists and geophysicists fund, the expenditures have increased versus last fiscal year due to a full staff and contracts that have been encumbered for the present year. Revenue remains consistent, applications are on the rise, and renewals have decreased. Mr. Alameida added that the issue with the geologists and geophysicists fund is that expenditures are exceeding revenue. He suggested a possible fee change or a change in the appropriation may be in store for the future.

Mr. Alameida explained that, overall, revenue at year-end should remain consistent with historical averages.

President Zinn inquired whether supplemental staff could be brought in on a temporary basis to address the aging of cases for the 2014-2015 fiscal year. Mr. Alameida indicated that it could be funded with the surplus that has been generated; however, it may be difficult to obtain approval to hire. In terms of getting retired annuitants approved, he knows that it may be a possibility if it is for BreEZe implementation but may not be simply for enforcement workload; more justification may be required. Mr. Tami inquired if now is the time to submit a BCP for next fiscal year to request more staff to handle the current and anticipated case load. Mr. Alameida explained that it was too late in the process to submit a normal BCP but a late Spring BCP could be submitted if the situation was considered an emergency or unexpected event; however, it would be difficult to show the emergency or unexpected event since the aging has occurred over several years. Mr. Tami indicated that given the enforcement statistics over the years, he believes permanent positions would be more beneficial than temporary positions.

**MOTION:** Mr. Tami and Mr. King moved to investigate a BCP for two permanent enforcement staff positions.

Ms. Jones Irish, while supporting Mr. Tami's motion, would like to know the options and what is politically feasible; she would like the Board to consider the options of both temporary and permanent help.

After further discussion, Mr. Tami and Mr. King withdrew the motion.

**MOTION:** Mr. King and Mr. Silva moved to direct staff to prepare the necessary BCPs to address the enforcement aging on both a temporary/short term and permanent/long term basis.

**VOTE:** 10-0, motion carried

Mr. Satorre asked if the Professional Engineers and Land Surveyors fund could be combined with the Geologist and Geophysicist fund. Mr. Alameida explained that legislatively, the Board is mandated to keep them separate.

**B. Out-of-state Travel Update**

**1. Cost Analysis to Develop/Administer All National Examinations in Lieu of Contracting with National Organizations**

Mr. Alameida presented the handout he prepared based on direction from the previous Board meeting. He reported that staff analyzed expenditures from the California specific licensing exams over the last two years to extrapolate anticipated expenses necessary to develop and administer replacement exams as an alternative to NCEES exams. His analysis indicated that current annual California exam development and administration costs are \$1.4 million; the projected increase to develop and administer replacement exams would be \$8 million for a total annual budget of \$9.4 million. In addition, the appropriate fees necessary to support development and administrative expenses were also identified. The current cost per candidate is \$150. The actual cost is \$185. The projected increase per candidate is approximately \$265, for an estimated California examination fee of approximately \$600. Mr. Alameida noted there would be a significant staff increase, multiple legislative changes would need to occur to remove the term "national" from the statutes as it would now be known as the California examination, statutory fee limits would have to be amended, there would likely be a reduction in applications as a result from the increased fees, renewal fees would have to be increased to supplement the cost for development, there would likely be comity issues, and the approval of BCPs would need to take place.

Mr. King asked how this relates to out-of-state travel. Mr. Tami explained that currently the Board utilizes the national exams to determine minimum competency and to ensure comity with other jurisdictions. Since the Board cannot travel to out-of-state meetings, it cannot review the actual content currently included in the exams and cannot participate in the votes that determine exam content, fees, or procedures. If the Board cannot be part of the process, NCEES's decisions could be detrimental to the State of California and its licensees and consumers. If the Board cannot travel to national meetings, California should not use the national exams to determine minimal qualifications of California licensees.

Mr. Silva inquired whether there was web-based conferencing available. Mr. Tami explained that NCEES looked into it and

considering there are 500 people voting, providing input, and discussion, considered it logistically unfeasible.

Mr. Silva reported on ideas he and Mr. King discussed. He inquired who is holding the Board back, DCA, Agency, or the Governor's Office. Mr. Moore indicated that DCA is not the issue, but he is not sure if it stops at Agency, Department of Finance, or the Governor's Office. They would like to meet with Agency and identify where the problem is.

Mr. Alameida indicated that he attended an Executive Officers' meeting at the Contractors State License Board that morning where out-of-state travel was discussed with James Goldstein, the Undersecretary to Agency Secretary Anna Caballero. There were certain procedures that were identified to aid in out-of-state travel approval. There is a need to demonstrate a benefit to the state and how it would be detrimental if the Board was not able to attend. These items can be discussed with Mr. Goldstein prior to submitting a justification. Mr. Alameida explained that there are other programs within DCA with the same issue. Mr. Moore noted that personal meetings with the Agency Secretary have been conducted before and suggests meeting with the undersecretary and that he will discuss this with the DCA Director after this meeting.

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

A. Board Assignments to TACs  
No report given.

B. Appointment of TAC Members

**MOTION:** Mr. Tami and Mr. Stockton moved to reappoint Michael Butcher to the Land Surveying TAC.

**VOTE:** 10-0, motion carried.

C. Reports from the TACs  
No report given.

**X. Liaison Reports**

A. ASBOG

President Zinn reported that there is a national meeting in Tennessee that he cannot attend on behalf of the Board.

B. ABET

Mr. Moore reported about the ABET visits; he advised that Mr. Stockton and Ms. Christ will be participating in ABET visits. Mr. Mathe reported on his visit; he was impressed with thoroughness and the process. Mr. Mathe added that ABET evaluators must be approved by various professional organizations and feels ABET is doing a great job. They

ensure that the programs they offer are appropriate for California candidates. Mr. Stockton observed a lack of licensure at the academic level during his visit last year. Mr. Mathe noted that at the California state level there are more licensed instructors than at the UC level; UC campuses typically are more research oriented. Mr. Tami indicated that several states require licensure to teach.

C. NCEES

Mr. Tami reported that more people from California were appointed to committees than in years past.

D. Technical and Professional Societies

Mr. Moore reported that CLSA was contacted by a delegation of land surveying and mapping professionals from China to discuss surveying methods in California. CLSA requested assistance from the Board in facilitating this meeting. Representatives from CalTrans and CLSA were also in attendance.

**XII. President's Report/Board Member Activities – No report given**

**XIV. Approval of Consent Items**

(These items are before the Board for consent and will be approved with a single motion. 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 28-29, 2013, Board Meeting

Ms. Jones Irish indicated that her comments regarding plastic identification cards were omitted in reference to printing them in an environmentally conscious manner and suggested minor editing changes on Pages 142 and 147.

**MOTION:** Mr. Tami and Mr. Satorre moved to adopt the amended minutes.

**VOTE:** 10-0, motion carried

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

A. 2014 Board Meeting Schedule

Ms. Eissler reported that at the last Board meeting, it was agreed to have the last 2013 meeting December 5 and 6. The Board reviewed the 2014 Board meeting dates. After discussion, it was determined that February's meeting would be held on February 12 and 13, instead of February 13 and 14, in San Diego; that June's meeting would be held in Santa Cruz; and that September's meeting would be held in Los Angeles.

**XVI. Adjourn**

Meeting adjourned at 3:04 p.m.

**PUBLIC PRESENT**

Mark Gilligan

Dennis Zanchi, DCA, SOLID Planning Solutions

Steve Hao, CalTrans

Roger Hanlin, CLSA

Bob DeWitt, ACEC

Craig Copelan, PECG

Andrew Shinnfield

Matt LaTerza, CPIL

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XV. OTHER ITEMS NOT REQUIRING BOARD ACTION

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XVI. ADJOURN

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