

**MEETING OF THE BOARD FOR PROFESSIONAL
ENGINEERS AND LAND SURVEYORS**

**Mission Inn
3649 Mission Inn Avenue
Riverside, California, 92501
(951) 784-0300**

Wednesday, November 18, 2009, beginning at 10:00 a.m.

Board Members Present: Gregg Brandow; James Foley; David Luzuriaga; Ray Satorre; Jerry Silva; Patrick Tami; Michael Trujillo; and Paul Wilburn.

Board Members Absent: Kim Blackseth, President; and Mike Modugno, Vice President.

Board Staff Present: David Brown (Executive Officer); Linda Brown (Administrative Manager); Paula Brown (Transition Manager of the Geology and Geophysicist Program); Mike Donelson (Staff Electrical Engineer); Nancy Eissler (Enforcement Program Manager); Jennifer Fyfe (Board Liaison); Kurt Heppler (Legal Counsel); Rita Lane (Deputy Attorney General); Ric Moore (Staff Land Surveyor); and Debbie Thompson (Budget Analyst).

1. Roll Call to Establish a Quorum

The meeting was called to order by Mr. Tami at 10:10 a.m. Roll call was taken, and there was a quorum.

Mr. Tami announced that he would like to make a few comments prior to public comment. Mr. Tami welcomed newest Board member Paul Wilburn who was appointed in October 2009. Mr. Tami continued by giving a brief background of Mr. Wilburn's history. Mr. Tami noted Vice President Mike Modugno was not able to make the meeting due to an emergency medical condition. President Kim Blackseth was unable to make the meeting due to a prior engagement. Mr. Tami also welcomed back the Board's re-appointed member Mr. Trujillo.

2. Public Comment

Mr. Copelan, representing PEGC, addressed Mr. Brown regarding item number seven on the Board agenda, regarding the incorporation of the Board of Geology and Geophysicists. Mr. Copelan would like to see legislation to change the Board name to Professional Engineers, Land Surveyors, Geologists and Geophysicists; to change to the composition to the Board, meaning an addition of a person licensed

under the Geologists and Geophysicists act; to change Section 6711; and to change the qualifications of the public members to exclude members who are licensed under the Geologists and Geophysicists Act.

Mr. Brown advised that agenda item 7 would be discussed the next day after the townhall meeting; the Board will go into more detail at that time.

Mr. Peterson, representing ASCE Region 9, serves as the president of the Riverside and San Bernardino branch. Mr. Peterson stated that Region 9's mission is to provide leadership in the state for a wide variety of issues that face the engineering profession today. Mr. Peterson stated that CAM 7 of the Engineers Code of Ethics states that engineers shall continue their professional development throughout their careers and should keep current in their fields by engaging in continuing education classes, reading technical literature and attending seminars. Mr. Peterson continued by stating there are currently 36 states that require continuing education credits to maintain licensure and Region 9 firmly believes doing so supports the goal of further advancement of the profession as well as supports the health and safety of the public. Mr. Peterson noted that it is because of this belief that the Region 9 Board of Governors is interested in opening a dialog mandating a mandatory continuing education for re-licensure in California and looks forward to discussing this with the Board and other societies.

Mr. Jordan, representing AEG Inland Empire Chapter, thanked the Board for accepting them and continuing their licensure. Mr. Jordan expressed his concerns primarily regarding the manner in which BGG's activities were directed to BPELS. Mr. Jordan's main concern is the Board's ability to integrate operations from BGG into BPELS, mainly the results regarding the most recent test, such as how it will be graded and how future tests will be incorporated. Mr. Jordan also expressed concerns about how ASBOG's ability to operate will be taken up by BPELS. Mr. Jordan questioned how certification will be addressed and handled by BPELS. Another issue Mr. Jordan addressed was regarding the enforcement records presently held at BGG that are marked for destruction. He requested that BPELS prevent these records from being destroyed. Mr. Jordan expressed his concern that these records are preserved and not lost in the transition.

Mr. Tami announced that items 3 and 4 of the agenda would be moved to 1:00 p.m.; item 7 would be tomorrow at 11:00 a.m.; and item 8 would be discussed during the January 2010 Board meeting.

5. Consideration of Rulemaking Proposals, as follows:

Ms. Eissler stated there are currently three rulemaking proposals pending in which the period for comments on all three ended in July. Ms. Eissler noted that staff has reviewed the comments and performed some internal review.

a. Withdrawal and Re-Notice of Rulemaking Proposals relating to Approved Curricula and Waiver of Fundamentals Examination [Board Rule 404, 424, 425, 438, and 460] (Possible Action)

Ms. Eissler presented the information and language contained in the agenda packet. Ms. Eissler noted the recommendation to withdraw the current two rulemaking proposals and to re-notice with an additional provision in Board Rule 438 which would require a new 45-day public comment period.

Mr. Tami questioned whether some of this proposal would be affected by Mr. Moore and Ms. Christ's EIT/LSIT equivalency issue. Mr. Tami questioned if some of these items should be put off until Mr. Moore and Ms. Christ have an answer to the issue. Ms. Eissler indicated that the equivalency issue would require statutory change, which would take longer and hold up other changes addressing the approved curricula. Ms. Eissler explained that these statutory changes can be made later and recommended that the Board not wait. Mr. Brown noted that if there are any statutory changes needed, the January 2010 meeting would be the time to discuss them, as February 2010 is the deadline to propose legislation.

MOTION: Mr. Foley/Mr. Tami moved to withdraw the two proposed regulations and combine them into one new regulatory proposal that will begin the rulemaking process anew.

VOTE: 8-0, motion carried.

b. Approval and Adoption of Rulemaking Proposal relating to Reference Forms [Board Rules 427.10 and 427.30] (Possible Action)

Ms. Eissler presented the information and language contained in the agenda packet. Ms. Eissler also explained the rulemaking process, which allows for public comment on the proposed language. Ms. Eissler noted the 45-day public comment period ended in July, and a public hearing was held as well.

Ms. Eissler discussed the public comment received during the 45-day period as none were received during the public hearing. Ms. Eissler noted the public comment was regarding the optional log book for Professional Land Surveyor applicants to use. The use of the log book was questioned by the public as it was not used for any other profession. Ms. Eissler explained that the Board has determined that this log book would be beneficial to applicants, and the recommendation is to move forward with the log book and reject the comment. Mr. Brown noted that this log book is optional.

Mr. Foley suggested a pilot program, which would perhaps be available to the engineers even though it is more pertinent to the land surveyors. Mr. Tami explained that a problem for applicants regarding experience is when a previous

supervisor has passed away, and therefore the applicant has lost their previous experience because the supervisor is no longer able to complete the reference forms. Mr. Tami stated it is more correct to state “reference” as opposed to “supervisor”. Mr. Tami suggested starting with the land surveyor applicants and see if it is something that should also apply to engineering applicants.

Ms. Eissler noted the recommendation to direct staff with modifications to the forms and move forward.

MOTION: Mr. Trujillo/Mr. Satorre moved to direct staff to make modifications to the proposed language of Board Rules 427.10 and 427.30 and notice these modifications for a 15-day public comment.

VOTE: 8-0, motion carried.

Mr. Silva questioned how the public comments would be addressed. Ms. Eissler clarified that the 15-day public notice allows the public to only comment on what is being changed; however, the Board has accepted all comments in the past. If there are any substantive comments they will be brought back to the Board to review and consider. Ms. Eissler suggested delegating the authority to the Executive Officer to adopt the modified language as the final language under the condition there are no adverse comments or comments requiring a response.

MOTION: Mr. Luzuriaga/Mr. Foley moved to delegate to the Executive Officer to approve the proposed language of Board Rules 427.10 and 427.30 under the stipulation there are no adverse comments.

VOTE: 8-0, motion carried.

Mr. Copelan requested a public forum regarding delegating the responsibility to the Executive Officer. Mr. Copelan noted that although in this case, the matter is not a huge issue regarding delegating this responsibility to the Executive Officer, it does set a precedent. Mr. Tami noted that he understands, but in this case the Board is only required to allow for public comment on the proposed modifications. Mr. Tami also noted the 45-day comment period had already passed. Mr. Heppler also clarified that if there were any adverse comments, they would be brought back to the Board.

Mr. Luzuriaga stated his understanding was that the intent was to help the applicants understand the reference forms are just a reference form and do not require a supervisor. Mr. Luzuriaga noted that on several of the forms there is a section requesting the name of the supervisor, whereas this is not the case of the land surveyor forms. Mr. Luzuriaga suggests they strike from the box on the front page the inclusion of “supervisor’s name” on the P.E. and S.E. forms.

Ms. Eissler noted that the “Professional Engineer Engagement Record and Reference Form” as well as the “Structural Engineer Engagement Record and

Reference Form" will be changed in the box noting supervisor's and reference's name, as Mr. Luzuriaga pointed out that this is confusing to the applicant. Mr. Luzuriaga suggested the forms be modified to match the Professional Land Surveyors form, which only asks for a reference name. Ms. Eissler noted that this would require another 15-day notice; however this can run concurrent with the current 15-day notice motion. Mr. Heppler noted that after the proposed 15-day notice, responsibility will be delegated to the Executive Officer to adopt the proposal under the stipulation that there are no adverse comments exist.

MOTION: Mr. Foley/Mr. Silva moved to adopt changes to the proposed reference forms for Professional Engineers and Structural Engineers to exclude a supervisor's name and only require the reference's name.

VOTE: 8-0, motion carried.

Mr. Copelan questioned the responsible charge of the regulation, noting supervision versus direction. Ms. Eissler noted this referred to the other proposal and not the current proposal being discussed.

6. 2010 Board Meeting Schedule

Mr. Brown discussed the calendar included in the agenda packet. Mr. Brown noted that DCA has notified the Board they are sponsoring a regulatory best practices working conference July 27, 2010 and highly recommend all boards conduct their business meetings during that week. In addition, our Board has been assigned a date of July 26, 2010, for our meeting. Mr. Brown would like to move the June 9-10 meeting to July 26-27 at the Convention Center in Sacramento if the Board approves. Mr. Luzuriaga asked if it was possible to move the meeting back from July 26-27, as that is a Monday. Mr. Brown noted that July 27 is a set workshop date; however, the Board can adjust the actual business meeting date to any time that week that the Board agrees. Mr. Tami suggested that the Board meeting be moved to July 28. Mr. Brown also noted that there will be another townhall meeting in Sacramento on December 10, 2009.

9. Amendments to Business and Professions Code sections 6755 and 8741 regarding Exemptions from the Engineer-in-Training (EIT) and Land Surveyor-in-Training (LSIT) Examinations [First Division Examinations] (Possible Action)

Mr. Moore presented the information contained in the agenda packet. Mr. Moore advised that he will have more to report at the next Board meeting.

Mr. Foley asked if looking at other states might affect the comity aspect of applications in other states. Dr. Brandow noted that model law would make a difference. Mr. Foley also questioned the issue of PhD's, stating there should be a warning somewhere for applicants since a license without a FE maybe a license that

is not available in other states. Mr. Tami noted that NCEES would be a great way to get that information out. Mr. Tami noted that an example of this was the issue in which Alabama offered military applicants extra points on the state examination and caused some problems for those seeking licensure in other states. Mr. Moore indicated that he would look into these issues.

Mr. Foley asked if there was a rule somewhere that once a person takes the PE he cannot go back and take the FE. Mr. Tami stated that he only knows that a person cannot retake the FE or PE once he has already passed the exam.

10. On-Line Renewals/Credit Card Renewals (Possible Action)

Mr. Donelson presented the information contained in the agenda packet. Mr. Donelson explained that there are different types of credit card processing which run on different systems for renewals and for new applications. Mr. Donelson stated there is a pilot program for renewal credit card payments at other boards which is set to run this month; however, this program is a little behind schedule. Mr. Donelson noted there is no time set for a pilot program for new application credit card payments; however he will be meeting with the CIO at DCA to discuss time frames and expectations.

Mr. Brown advised that the Board has a small part and small ability if any to perpetuate change with regards to IT issues. Mr. Donelson noted that from an IT perspective, the Department's goal is enforcement related; however, the CIO is often reminded of the needs of our Board in the hopes of prioritizing things in our direction. Mr. Brown added that DCA has oversight of over 42 boards and actually maintains control of all the IT databases for all the boards. Mr. Brown additionally stated that our Board does not have the luxury to maintain our own databases in house; therefore, when the Department decides to make a change such as credit card capturing, they are attempting to devise a system that will fit across the scope of all the Boards. Mr. Brown noted that although we have some say, we have no control over the timing of projects and priorities; therefore, it may take longer to produce some results as opposed to if our Board could just go purchase something ourselves.

11. NCEES Candidate ID Requirement (Possible Action)

Mr. Donelson presented the information contained in the agenda packet. Mr. Donelson reported that NCEES is currently building a computer system which will allow for the candidate ID. He has conference calls every two weeks with NCEES to check for status and progress. Mr. Donelson noted that currently we send out admission notices 2 weeks prior to the examination; however, this new system will require all examinees be set and exam notices sent within 6 weeks. Mr. Donelson also reported that the EIT/LSIT applications will be done online at NCEES and sent to the Board at the same expected date as ID registration, which is different than previous cycles. Mr. Donelson stated that to prepare for the October 2010 changes,

the Board will be sending out notices within 6 weeks for the examination for the April 2010 exam, and this will be done through the use of SME's to address the PE application review because of furloughs and reductions in staff time. Mr. Donelson also noted that final filling dates will not be changed as stated in the agenda, but rather the processing time will be changed.

Mr. Brown noted that with this 6-week deadline the Board will no longer have the luxury of setting applicants after this date as books are ordered at this time as well. Mr. Brown also noted that applicants will no longer be allowed to change sites once NCEES takes over the administration of the examination. Mr. Brown stated that there is a significant change coming for the applicants and re-education of this process is needed. Mr. Foley reminded the Board and the public that this change was implemented due to the extreme risk in terms of cost that the Board could incur if an exam is lost. Mr. Foley stated that if an examination is stolen or lost the Board incurs major fines, which can basically put the Board out of commission; therefore, the Board is delegating this risk to NCEES and reducing the Board's exposure. Mr. Tami advised that this October 2010 date is coming hard and fast and cannot be changed, and any help to get the word out through professional organizations would be appreciated.

Mr. Brown asked if there would be a start and end period for registration of each cycle. Mr. Donelson noted the end of July 2010 is when applicants can start registering with NCEES, and because of this the Board cannot release results early as the system to register would not be ready.

Mr. Donelson reminded the Board that starting October 2010 the Mechanical, Civil, and FE examinations will require applicants to register their sub-disciplines. Mr. Donelson suggested this be posted on the website.

Mr. Foley congratulated Mr. Donelson on his work and efforts in getting this project underway as the Departments technology does not make it easy.

Mr. Tami noted that the Board gives roughly 30,000 exams per year and all these candidates will have to register with NCEES and getting the word out is really important. Mr. Tami stated that he is depending on the professional organizations to spread the word. Mr. Satorre asked how many exams are given per cycle. Mr. Tami stated 15,280 candidates were set for the October 2009 exams of which 12,500 actually took the exams. Mr. Tami noted that total passing rate has not been determined at this time. Mr. Tami stated that California is the largest state NCEES has to accommodate and if they can handle us they can handle anything.

Mr. Dewitt, representing ACEC, requested the Board to develop a press release regarding the NCEES registration that they can more easily circulate. Mr. Copelan also requested the release include the information about sub-disciplines. Mr. Dewitt asked if there was a website that contains this information. Mr. Jordan reminded the Board there are 5 more tests the Board has to administer, being the Geology and Geophysicist exams. Mr. Tami thanked the public for the positive feedback

Mr. Donelson noted that NCEES will have a press release completed in December of this year, regarding the candidate ID issue.

12. Approval of Delinquent Reinstatements (Possible Action)

MOTION: Dr. Brandow/Mr. Foley moved to approve the Delinquent Reinstatements in the agenda and the handout provided at the Board meeting, as follows:

CIVIL

LORIN GARDNER

Reinstate applicant's civil license once he/she takes and passes the Board's Laws and Regulations Examination.

SHAWN VICTOR KREUZWEISNER

Reinstate applicant's civil license once he/she takes and passes the Board's Laws and Regulations Examination.

CRAIG LICHTY

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

ROBERT MCGOWAN

Reinstate applicant's civil license once he/she takes and passes the seismic principles examination, the engineering surveying examination, Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

ELECTRICAL

FASSIL T FENIKILE

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

CLARENCE WAYNE LAY

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

MECHANICAL

RAWLEY DOUGLAS BRODEEN

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.

EDWARD S CARTLIDGE

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.

ARTURO R SAAVEDRA

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.

VOTE: 8-0, motion carried.

13. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Dr. Brandow/Mr. Foley moved to approve the handout Comity List.

Mr. Foley questioned the chemical applicant number 102130, which notes a waived EIT. Mr. Donelson clarified that the applicant meets California's EIT comity waiver.

VOTE: 8-0, motion carried.

14. Administration

i. Fund Condition (Possible Action)

Ms. Thompson gave an update on revenue projections included in the fund condition for FY 2009-10 using revenue received through September 30, 2009. For the 2008-09 fiscal year, the actual revenue that came in was \$30,000 less for renewals and fairly the same for examinations. Ms. Thompson noted that the BCPs were included in the projections for next fiscal year; however Department of Finance has not approved all of them. Ms. Thompson stated that the General Fund loan was excluded because it is not clear at this point how that will be paid back to the Board back over the 9 years. Ms. Thompson noted she also included the \$61,000 in savings the Board is required to have in our budget for this year. The Board's fund reserve remains consistent with projecting a 6-8 month reserve for the next 3 fiscal years.

ii. FY 2009-10 Budget (Possible Action)

Ms. Thompson discussed the projected expenditure assumptions, noting one of the big assumptions is now that we have merged with BGG we are assuming that part of our lease will be covered by their budget; however the budgets will be kept separate at this time, meaning each Board's expenses will come out of the separate accounts. Ms. Thompson noted some expenses shown on the "Expenditure Projections" are more than the projected cost and this is due to the contract amounts encumbered which are over and above what is actually spent. Expense reports through September 30, 2009 show a projected year-end deficit balance of \$143,819. Ms. Thompson stated that a lot of this has to do with the \$61,000 in savings the Board is required to experience as a part of the 15% cut. In order to meet this 15% cut the Board has reduced the exam development meetings cost by holding them in Sacramento. The Board has also reduced the exam development contracts by 10%. Ms. Thompson noted there should also be some salary savings, all of which should reduce the deficit somewhat. Ms. Thompson stated she was able to review the exam numbers since this report and

noted there is a significant decrease in EIT/LSIT applicants; however, there is an increase in PE applicants which balances each other out. Mr. Tami asked how significant the decrease in LSITs was. Ms. Thompson noted a drop of 42%; however a drop in LSITs has been occurring since 2008. The EITs have dropped by about 5%; however there is a projected 5% decrease in April as well.

Mr. Brown noted that last meeting the Board discussed a number of drills regarding the 15% reductions and the Board directed staff to determine if the Board had to postpone an examination to meet the reduction which would have the least impact. Mr. Brown stated that the staff has not determined this yet, as a part of this drill Ms. Christ and Mr. Moore looked at contracts with exam consultants and discussed that the Board might no longer require to maintain the competency of the examination. Mr. Brown noted that there will be some flexibility to the expenditures in regards to these contracts and the Board will be in a better position in January 2010 to determine this. Ms. Thompson further noted that these projections might be a little high at this point but will perhaps go down with time.

Mr. Brown stated that staff has no information regarding the BGG budget and hope to have this by January 2010. Ms. Thompson noted that her understanding was that this matter was a legislative issue in terms of mergers and the Board is waiting to hear about this.

iii. FY 2010-11 Budget Change Proposals (Possible Action)

Ms. Thompson discussed the BCPs included in the agenda packet. Ms. Thompson noted that of the 3 BCPs the Board went forward with, 2 were denied; she is still waiting information as to why they were denied. Ms. Thompson stated that in the past the Board received write-ups explaining the denial; however, those were not provided this time.

iv. Land Surveyor Registrar Position (Possible Action)

Ms. Thompson reported on the Land Surveyor position. The final filing date was last week and interviews are expected to be conducted soon to create a hiring list. Ms. Thompson noted that because it was open for so long it have been temporarily filled. Mr. Tami asked when after the interviews would the applicant be expected to be hired. Mr. Brown clarified that the interviews discussed are those held by the State Personnel Board to create a list. Mr. Brown discussed the state hiring process and noted that January or February 2010 is most likely when the new hire will join the Board.

v. Publication Review (Possible Action)

Ms. Eissler discussed the Local Officials Guide and the Technical Expert Manual; both drafts have been received from the DCA Publications Unit. Ms. Eissler

noted that the staff is reviewing these drafts, and the changes will be returned to the Publications Unit to address. The last step would be the final proof. After this the Board will receive an electronic copy to place on the website and to provide to the public electronically. Ms. Eissler noted that the Board will have to determine printing at this point. DCA does offer printing; however, there is a charge for the printing; all of the other costs are covered under our DCA pro rata in our budget.

Ms. Eissler noted that Ms. Fyfe is coordinating the newsletter which has been moved to the Administrative Unit. Ms. Fyfe is currently working on obtaining articles.

Ms. Thompson noted that there is a budget of \$9,000 for the Guide and Manual. Ms. Eissler noted more might be necessary as the DCA digital printing is expensive.

vi. NCEES Exam Fee Pass Through and Exam Administration (Possible Action)

Ms. Thompson discussed the information provided in the agenda packet. Ms. Thompson stated that legislation needs to be approved in regards to Board fees. Ms. Thompson noted that the temporary authorization fee, renewal fee, and retired license fee are all tied to the current application fee, which once split will only be \$55 as opposed to the previous \$275. Mr. Tami stated to the public if any professional associations have issues with the Board splitting off application fees to appropriately charge separate application and examination fees the Board would like to work with them to resolve the matter. A member of the public asked if there was any legislation for this yet. Mr. Tami responded there was no language yet. Ms. Thompson noted that the Board tried to get the language in last session, but it was unsuccessful.

Mr. Moore stated that currently if an applicant is denied for testing they receive a ½ refund of the application fee and questioned how this would work once NCEES takes over administration. Ms. Thompson responded that refunds will no longer be feasible as NCEES does not produce refunds and the \$55 fee the Board will charge would just cover the cost of processing and review.

Mr. Thams, of AEG, asked if the BGG reserve is kept separate. Ms. Thompson responded that all monies are kept separate between the two funds. Mr. Thams asked about operating expenses and reserves. Ms. Thompson noted that currently the Board has no budget or BCP for BGG; all the Board obtained was the two staff positions. Mr. Brown further noted that BGG reserves will stay where they are. The BCP process allows use of the reserves if needed; however this requires legislative and Governor approval to use reserves. Mr. Thams asked if it would be the Board requesting to use the reserves. Mr. Brown stated yes.

Mr. Copelan suggested that one of the 2 positions obtained from BGG be a licensed Geologist. Mr. Jordan stated a few years ago BGG was running in the red, and then they raised fees and began running in the black; BGG was penalized for being self sufficient. Mr. Jordan further stated that the additional funding for the seven staff positions of BGG that did not transfer over should go to reserves and not used by BPELS and kept separate.

3. Hearing on the Petition for Reinstatement of Revoked License of Dana W. Hall (OAH No. 2009100550)

The hearing on this Petition will be held on Wednesday, November 18, 2009, beginning at 1:00 p.m., or as soon thereafter as the matter may be called.

4. Closed Session – Administrative Adjudication [Pursuant to Government Code section 11126(c) (3)] – This Closed Session will be held immediately following the hearing on the Petition.

20. 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. **Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492)**
- b. **Discrimination Complaint (Authority for Closed Session Discussion pursuant to Government Code section 11126(e)(2)(B)(i))**

21. Open Session to Announce the Results of Closed Session

Ms. Eissler reported that the Board discussed pending litigation as noticed, specifically: Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492); and the Discriminations Complaint (Authority for Closed Session Discussion pursuant to Government Code section 11126(e) (2) (B) (i))

Ms. Eissler reported that the Board directed the administrative judge to prepare a decision related to the petition for reinstatement of the revoked license of Dana W. Hall.

Ms. Eissler reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the other portions of the examinations.

Ms. Eissler reported that the Board approved the appeal results from the April 2009 examination.

Ms. Eissler reported that the Board adopted the Stipulations regarding William Catlin, Paul Durand, Marvin Kirkeby, Debra Peterson, and Fu Him Yim; the Proposed Decisions regarding Patrick Osborne and Michael Soderstrand; and the Default Decision regarding Michael William Foster.

15. Technical Advisory Committee (TAC) Reports

i. Board Assignments to TACs (Possible Action)

Mr. Brown noted there was nothing to report.

ii. Appointment of TAC Members (Possible Action)

Mr. Brown noted there was nothing to report.

16. Liaison Reports (Possible Action)

a. ABET

Dr. Brandow stated he attended the University of California, Irvine, visit.

Mr. Tami stated he attended the California State University Chico EAC visit. Mr. Tami noted the major priority was regarding funding.

Mr. Donelson stated he attended the San Diego State University visit. Mr. Donelson noted that it was the same situation regarding funding.

Mr. Tami explained the Board members' and staffs' role as observers on ABET visits to new Board members and the public.

b. NCEES

1. Report from the Annual Meeting

Mr. Brown stated he attended his first convention in Birmingham, Alabama. Mr. Brown noted he received a lot of information. There were separate sessions set aside for members that are not licensed. Mr. Brown explained there was an educational campaign to work towards developing scenarios between states. Mr. Brown discussed an enforcement identification database to post statistics and disciplinary actions taken so an administrator can see the relationship and how it is dealt with in other states. Mr. Brown also attended classes related to administration. Mr. Brown noted a few other Board members also attended.

Mr. Tami noted it was a 4-day event in which states can exchange information. The next meeting will take place in Denver, Colorado in August

of 2010. Mr. Tami also noted that the NCEES Board of Directors had a meeting in San Diego a few weeks ago.

Mr. Brown noted that this is the time that NCEES takes solicitations for distinguished service awards and he will be sending out materials regarding this to the Board members. Mr. Tami noted the "Model Law surveyor" and is now recognized by ANSI.

c. Technical and Professional Societies

Mr. Jordan stated he wanted to bring to the Board's attention that the State Mining and Geology Board has technical advisory committees. One of the TACs is working on modifications of the Geologist Act. The TAC is leaning toward allowing certified geologists to conduct investigations to allow buildings to be built on top of active faults. Mr. Jordan wanted to bring this attention to the Board as it will be their responsibility in regards to the quality of the work that will be asked of the State Mining and Geology Board.

17. President's Report

Mr. Tami updated the Board regarding the status of Vice President Modugno. Vice President Modugno is out of surgery and is doing well.

18. Executive Officer's Report

I. Legislation

a. Discussion of Proposed Legislation for 2009: AB 484, AB 645, SB 275, SB 284, SB 389, SB 502, SB 599, SB 638, SB 819, SB 820, and SB 821 (Possible Action)

Mr. Brown discussed the two bills, for which language is contained in the agenda packet, that have passed and are effective January 1, 2010, which are AB 645 and SB 819. Ms. Eissler noted that there was some confusion from the public regarding when AB 645 went into effect, so the Board was waiting to post this on the website until it was closer to the effective date.

Mr. Foley asked if there was ever any resolution to the structural engineering exam issue regarding the NCEES exam and the California exam. Mr. Brown responded that nothing happened during the previous legislative session; the Board will need to discuss what action to take when legislation is discussed in January 2010. Dr. Brandow noted the previous resolution was shot down. Mr. Foley asked if right now the NCEES S.E. is 16 hours, so it will have to be a 3-day exam. Mr. Brown responded yes. Dr. Brandow noted this will be more expensive and take longer. Mr. Wilburn asked if this was regarding SB 821. Mr. Brown noted it was, but at this point the Board will have to start over.

Mr. Foley stated he spoke to ACEC and thought they would do something; however, no action was taken. Ms. Thompson noted she will be preparing a spring finance letter to request more funding if the cost goes up. Mr. Foley stated the fees will have to go up; he noted if societies do not do anything to help; we cannot do anything other than follow the rules. Mr. Copelan asked about the additional cost. Mr. Tami responded the Board is unsure of the cost, but he is aware that the structural exam is the most expensive and if it is not subsidized it will be very expensive. Mr. Foley stated its \$800 for the NCEES exam and this cost cannot be controlled; the Board will have to dissolve their current exam and start over. Dr. Brandow discussed that the exam will have to cover state specific issues that are not covered in this new 16-hour exam. Mr. Copelan stated there will be a new definition of structural engineering.

b. Regulation Status Report

Mr. Brown stated this was reported on earlier.

II. Personnel

a. New Hires

Mr. Brown noted there was nothing to report.

b. Vacancies

Mr. Brown noted there was nothing to report.

III. Enforcement

Ms. Eissler noted there is a typographical error on page 67 of the agenda packet; 67 cases were closed in October, not 64.

Ms. Eissler had the opportunity to meet with the 2 area commanders of the Division of Investigation. Ms. Eissler discussed the Nursing Board making the L.A. Times headlines regarding delays in enforcement cases. Because of this, DOI has implemented the 365 Project which has been implemented to speed up the process of investigating cases over a year old. DOI investigators are hard to hire due to the P.O.S.T. training requirement and all the testing and background checks that are involved. To increase the DOI's ability to speed up the process, they have created an intake unit, made up of non-sworn investigators that can obtain court document and locate people through various databases.

Ms. Eissler stated that DOI really appreciates that our Board shows judgment when submitting cases to DOI and does not just delegating all cases to DOI. However, DOI is looking at the statute of limitations to make the investigative process more uniform and quick. Mr. Brown noted there is an indirect effect to

us, in which it is possible for DOI to get to our cases; however, if there are more medical cases, we are again put on the back burner and not getting enough attention. Mr. Brown further noted that is why in the BCP the Board requested their own in-house investigators that are dedicated to our program.

Mr. Tami noted that the Board staff is getting more work done in less time, with furloughs and all, and he congratulates the staff on their efforts. He congratulated the enforcement unit on continuing to reduce the age of cases. Ms. Eissler noted that the Enforcement Unit appreciates the Board support.

Mr. Satorre asked if there was any investigation of the Bay Bridge collapse. Ms. Eissler suggested the Board refrain from discussing the issue further since the Boards discussion of potential investigations could cause problems with the investigations.

Mr. Wilburn asked if the in-house pending cases listed on the enforcement statistics chart includes cases current at DOI. Ms. Eissler replied they do include them; the DOI number is a subset of the complaint cases.

Mr. Luzuriaga left the meeting at 4:00 p.m.

IV. Exams/Licensing

No further report.

V. Marketing/Publications/Website

a. College Outreach

No further report.

b. Newsletter

No further report.

c. Website Activity

No further report.

VI. Other

a. DCA Update

Mr. Brown discussed the recent exams. Mr. Brown stated that the October 2009 administration was the first time the geotechnical engineer exam was all multiple choice, and they went very well with approximately 100 candidates.

Mr. Brown noted that development of the new geotechnical engineer exam test plan, with the addition of a new occupational analysis is under way through our test vendor, Prometric.

Mr. Brown stated that approximately 350 candidates took the structural engineer exam and the grading will begin next month. Development for the October 2010 exam will begin in February of 2010. Mr. Brown stated that approximately 2,400 candidates took the special civil exams. The April 2010 examinations have already been developed with the first field test to occur in January 2010.

Mr. Brown noted he will report on the Geology exams tomorrow.

Mr. Tami noted that he likes the addition of the numbers on the chart on page 159 of the agenda and would like to see that on other charts such as the one on page 160. Mr. Foley noted he would love to see them in color.

22. Approval of Consent Items (Possible Action)

(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 July 23, 2009 Board Meeting**
- b. Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

MOTION: Mr. Satorre/Mr. Silva moved to approve the July 23, 2009, Board Meeting Minutes and approve Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

VOTE: 8-0, motion carried.

The Board recessed at 4:40 p.m.

Thursday, November 19, 2009, beginning at 11:00 a.m.

Board Members Present: Gregg Brandow; James Foley; Ray Satorre; Jerry Silva; Patrick Tami; Michael Trujillo; and Paul Wilburn.

Board Members Absent: Kim Blackseth, President; Mike Modugno, Vice President; and David Luzuriaga.

Board Staff Present: David Brown (Executive Officer); Linda Brown (Admin Manager); Paula Brown (Transition Deputy of Geology and Geophysicist Program); Mike Donelson (Staff Electrical Engineer); Nancy Eissler (Enforcement Program Manager); Jennifer Fyfe (Board Liaison); Kurt Heppler (Legal Counsel); Charles Kull (Technical Expert); Ric Moore (Staff Land Surveyor); and Debbie Thompson (Budget Analyst).

1. Roll Call to Establish a Quorum

The meeting was called to order by Mr. Tami at 11:05 a.m. Roll call was taken, and there was a quorum.

2. Public Comment

Mr. Thams, representing AEG Southern California section, requested that BPELS keep BGG separate so they can be easily separated as the merger was unconstitutional. Mr. Thams requested that the Board assign a hands-on person to be in responsible charge, preferably an Engineering Geologist. Mr. Thams requested that the Board give preferential treatment to a technical advisor over an administrative one because he believes it is a dereliction of duty if administration is chosen over technical. Mr. Thams asked the Board to keep all BGG files separate and intact, that the Board hold off on the current retention schedule, and that the Board keep all current exam schedules intact. Mr. Thams noted it had come to his attention that the exams were cancelled. Mr. Thams also asked the Board if BGG funds had been transferred and if BPELS had access to them. Mr. Thams provided a printed copy of his comments.

7. Assumption of Duties and Responsibilities of the Geologists and Geophysicists Act pursuant to Chapter 18 (Assembly Bill 20), 2009-2010 Fourth Extraordinary Session (Possible Action)

Mr. Brown stated that since the implementation of ABX420, BPELS took jurisdiction, responsibility, and authority of the former BGG. Mr. Brown noted that an FAQ handout was available during the townhall meeting; it decreases the steps the Board

has taken to implement the provisions of the bill. Mr. Brown noted in addition to this handout, there was a townhall meeting immediately preceding this meeting. A second townhall meeting will take place December 10 in Sacramento. Mr. Brown intends is to put together the comments from both meetings and develop action items for the Board to consider at the January 2010 meeting.

Mr. Heppler provided the public with a brief summary of what was presented in the townhall meeting. The topic included: the Board change its name to add Geologists and Geophysicists; enact legislation to include a limitation that a public Board member could not be a Geologist or Geophysicist; continuity of enforcement actions; name change to "Design Professionals"; questions about public record; legal question as to the retention and selection of 2 positions in active legislation; retain all sub-disciplines; maintain committees and committees reconstituted; exam results and final filing dates be changed; appointment of someone to help with transition; record retention and whether records were being scheduled for destruction; legislation will have an impact on the national scene; long standing dichotomy between the two disciplines going back to the 1950's; do not lose the Geophysicists.

Mr. Brown stated no records were being destroyed but all records following the current retention schedule.

Mr. Brown added that a comment was made that the Board post some immediate press release of what changes have been made so the public is more aware of the process the Board is taking.

Mr. Heppler clarified that there will be another townhall meeting in December and the findings of both meetings will be brought to the Board in January for further action. Mr. Tami stated that he would like to recognize Paula Brown for her hard work in the transition.

23. Adjourn

The Board adjourned at 11:20 a.m.

PUBLIC PRESENT

Peter Thams, AEG Southern California Section

Joanna Stanford, CPIL

Craig Copelan, PECG

Scott Peterson, ASCE/TKE Engineering

Bob Dewitt, ACEC

Frank Jordan, AEG

James Ashby, Former BGG Member/Mission Geoscience