

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

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**Thursday, January 31, 2013, beginning at 10:00 a.m.**

**Board Members Present:** Paul Wilburn, President; Erik Zinn, Vice President; Kathy Jones Irish; Carl Josephson; Mike Modugno; Hong Beom Rhee; Ray Satorre; Robert Stockton; and Patrick Tami

**Board Members Absent:** Philip Quartararo; Jerry Silva; and Michael Trujillo

**Board Staff Present:** Ric Moore (Executive Officer); Joanne Arnold (Assistant Executive Officer); Nancy Eissler (Enforcement Manager); Celina Calderone (Board Liaison); Susan Christ (Staff Civil Engineer); Ray Mathe (Staff Land Surveyor); Jeff Alameida (Budget Analyst); Erin LaPerle (Analyst, Geology Program); Larry Kereszt (Enforcement Analyst); Tiffany Criswell (Enforcement Analyst); Brooke Phayer (Outreach Coordinator); and Gary Duke (Legal Counsel).

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

The meeting was called to order by President Wilburn. Roll call was taken and a quorum established at 10:01 A.M.

## **II. Public Comment**

No public comment

## **VII. Exams/Licensing**

### **A. Examination Update**

#### **1. Geologist and Geophysicist Statistics**

Ms. Smith presented the October 2011, March 2012, and October 2012 geologist and geophysicist examination summaries.

#### **2. Professional Engineer and Land Surveyor Statistics AND**

### **B. Fall Administration of California Professional Land Surveyor Exam**

Mr. Mathe presented statistics for the October 2012 state engineering and land surveying examinations and indicated that the numbers do not deviate much from historical statistics. He reported that the fall exam administration went well. The Civil seismic principles and engineering surveying examinations were offered as CBT (Computer Based Testing)

for the first time. He also added that there is a large civil candidate population. Mr. Tami also reported that 547 candidates took the NCEES surveying principles and practice (PS) exam nationwide with a 50% pass rate and 683 took the NCEES Fundamentals of Surveying (FS) examination with a 60% pass rate. He pointed out that NCEES typically prefers to look at first time test takers for the statistics. Mr. Mathe discussed that the California land surveying exam has traditionally been offered only once per year. Since the Board has begun administering the NCEES PS exam it is been offered twice per year. Before CBT, it was not practical to consider going to twice per year for the California Land Surveyor exam as it would have been quite expensive with the design essay questions. Scoring it required the recruitment of 40-50 land surveyors to grade the examinations. CBT offers flexibility with 22 testing centers in California alone and over 250 sites in North America. The land surveying candidate population traditionally is just California candidates. There is a small percentage of comity or out of state applicants. This April will be the second administration using CBT for the California land surveying exam. Multiple choice questions have been developed and the item bank is being built. As the item bank grows, it is viewed as being at minimal cost to administer twice per year. The land surveyor candidate population is not as large as the civil population, which can be 2,000-3,000 per administration twice per year, whereas the land surveyor population would be around 400 candidates once per year Mr. Mathe explained that the national exam is offered twice per year while the California exam is only offered once which makes it difficult to become licensed in a timely manner. Mr. Mathe would like consideration to work towards offering the California land surveying exam twice per year, not necessarily commit to administer the examination this October but in the future be in line with the national examination.

Mr. Tami concurred with Mr. Mathe and indicated that the national PS exam is moving towards windows of administration similar to the fundamentals exams. He would like to see how much it would cost to administer the California exam twice or possibly three times per year and to determine what it would take to develop enough items in the bank. Mr. Modugno inquired if the exam is not offered in October 2013 when would be the next opportunity. Mr. Mathe indicated that it would take place in April 2014. Mr. Stockton asked if there is a database with NCEES in which exam problems exist. Mr. Tami has worked on the national examination and indicated that NCEES retires questions but there may be a security issue. They can be approached to possibly provide examples to the item writers, however the odds are slim. Mr. Moore explained that exam development has evolved. Items are continually being written. While the exam development team already has the examination set up for April 2013, there are many more items that are in various stages of

development. In addition, exam development meetings have been scheduled every month.

Mr. Tami moved that the Board move towards administering exams more often when fiscally and logistically possible no later than October 2014.

**MOTION:** Mr. Tami and Mr. Josephson moved to support.

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

C. California Civil Engineer Exam Strategy

Mr. Mathe provided an update for the California civil engineer exam strategy in that the plan has been adjusted and are currently working towards a five year plan to get to a LOFT (Linear on the Fly) delivery. This means there are enough tested, proven, and evaluated items in the item bank to test what is just competent for both Engineering Surveying and the Seismic Principles exams. The definition of LOFT is that an exam would not be pre-assembled; a date set, and have the delivery of the exam. There could be continuous testing where the candidate goes to the testing center and the test is created as they log in. There would be some pretest items that would not count towards their score. It is a big commitment to make the item bank larger and acquire the statistics that support the problems. A big candidate population is needed for the statistics and to show whether or not the problems are effectively measuring the candidate's performance. There would be a mix of problems to fit the various content areas. Mr. Mathe hopes that in 2016, there will be four windows and deliver the exams via LOFT by 2017. Ms. Jones Irish inquired if there is any outreach to convey the new information. Mr. Phayer indicated that he is communicating with colleges and universities and NCEES.

John Ware representing Prometric explained how exams are being equated and scored today. After the test, the items are reviewed and an analysis is done to ensure there is fairness. When you move into a LOFT model where a deep bank of items are developed to fulfill the examination, there will be a percentage of easy, medium, and hard questions. You ultimately get to pre-equating so the cut score is established ahead of time. Whatever the section of the exam would be, it would be a distribution amongst the individual test takers as the form is being assembled it is equally calibrated, easy, medium, and hard questions. This is how the algorithm works. He explained pre-testing involves newly written items that are interwoven into an examination as a way of gathering data. These items would not necessarily affect the score but will help create an item bank and acquire the necessary statistics. Mr. Mathe will provide updates as it progresses.

3. EIT/LSIT Application Statistics

Ms. Mueller reported that currently, 48% of those that have passed the Fundamentals of Engineering (FE) exam from October 2012 have received their certificate. 52% of those that passed the Fundamentals of Surveying (FS) exam from October 2012 have received their certificates. There are approximately 800 more that are in the middle of being processed.

Mr. Moore added that Ms. Mueller provided him with a list of 263 more candidates to approve. Mr. Donelson and Ms. Brown both have sent e-mails reminding those who sat for the exam and passed, that they must apply for certification, explaining that passing the exam alone was not certification.

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

#### **A. Legislation**

1. Discussion of Legislation for 2013  
No report given.

2. Legislative Proposals

- a. Update on Amendments to Business and Professions Code Section 27 Regarding Address of Record Available Via the Website

Ms. Arnold reported that she met with Mr. Tami, Mr. Moore, Mr. Duke, and Tracy Rhine of DCA's Legislative Unit surrounding the possible controversy.

Thursday Mr. Moore and Ms. Arnold met with Senator Cannella's staff, during which they provided them with a copy of the proposed legislation. They agreed to put the language into bill form allowing Ms. Arnold to find an author; this legislation is referred to as "unbacked" legislation. They are currently waiting to meet with Senator Cannella as he was unavailable at the time.

Mr. Alameida provided information on a mass e-mail that he sent to all analysts of each board and bureau that are listed in B&P section 27. He received responses from 9 of the 20. Six oppose any change to B&P 27 as it is currently, as they see it as a transparency issue that they are willing to provide the address of record. Of those six responses, they have indicated there are other options such as a P.O. Box as written in B&P 27. Three others support the proposed change but one would like to keep the city and county in place and remove the address. He added that one of the responders initially opposed being included in B&P 27 and they do not comply with it and agree that it is a safeguard issue for the licensee. In some cases, the

issue was stalking and they did not want to be a part of it because of this reason. Others maintain that the addresses should be public as it is the only source of communication and that it is necessary for consumers to contact them.

Mr. Tami's concern for the Board is non-compliance with the Government Code which does not allow for posting of the home addresses of elected, appointed, and peace officers. He is interested in the nine boards that opposed and how they gathered the data so that they are not posting the addresses of those individuals and how they circumvent the liability issue.

Ms. Grisby representing the Center for Public Interest Law inquired how this would protect the consumer's interest as the Board does not have a duty to protect the licensee's privacy but the consumer. Mr. Wilburn pointed out that the Board is trying to find a balance and does not have a lot of traction to support the issue. Mr. Moore indicated that any consumer doing business with a licensee should have access to that information, but for the most part, the public is doing business with the company and not directly with the licensee.

Mr. Tami pointed out that the addresses for most licensees of other boards are not available on the internet and questioned why the Board treats its licensees differently. Mr. Alameida advised that 19 of 36 regulatory board and bureaus institutes that participate in B&P section 27, 14 provide a full address, 3 provide county only, and 3 provide city and state only.

President Wilburn asked for an update at the next meeting.

b. Update on Certificates of Authorization for Engineering, Land Surveying, Geological, and Geophysical Businesses

Mr. Alameida is continuing to compare similarities and differences between California and other states. He has received most of the information from other states that participate in a COA and is currently reviewing the various laws and regulations. He hopes to have more information at the next Board meeting.

c. Update on Temporary Authorization Repeal for Engineering, Geology, and Geophysics (Business and Professions Code Sections 6760, 7848, and 7848.1)

Ms. Arnold indicated that it was placed in the Omnibus Bill, but the Republican Caucus stated that they did not want to include it, and therefore it was pulled. It has been submitted to the

Legislative counsel to print in bill form so that Ms. Arnold may seek an author.

- d. Update on Recommendation to Establish a Retired License Status for Professional Geologists and Geophysicists  
Ms. Arnold reported that it will go into the Omnibus Bill.
- e. Update on Recommendation to Establish Written Contracts for Professional Geologists and Geophysicists  
Ms. Arnold reported that Senator Roth agreed to carry this proposal; it is Senate Bill 152.

B. Strategic Plan Update

1. Action Plan Summary for FY 2012- 2013

Mr. Alameida provided an update on various sections of the Strategic Plan. He previously asked Board Members to provide input on the plan's progression. He received some responses requesting more information, such as providing additional columns to identify outcomes based on real numbers, identify an objective of where the plan is going, and add a task or objective to the current plan.

C. Personnel

An Office Technician was hired and will start March 4, 2013 for the Geologists and Geophysicists program. A class specification is being modified to incorporate a registered geologist.

CalHR recently initiated a review of the Board's recruitment performance and the Board was notified that it is in compliance.

D. Administrative Task Force

The first item is for the workgroup to assist in evaluations and recommendations toward improving the investigation process and decrease the aging of cases. Former Board members Gregg Brandow and Jim Foley are both active in the workgroup. Mr. Moore and Ms. Eissler are working with the enforcement staff. They will schedule a conference call with the workgroup in February to progress further.

The additional topics for the Task Force include the application review process and the review of the Board and TAC's operating procedures.

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

- A. Dennis William McCreary vs. Board for Professional Engineers, Land Surveyors, and Geologists, Sierra County Superior Court Case No. 7361

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

Ms. Eissler reported that pending litigation was discussed as noticed in the agenda and action was taken on a petition for reconsideration, a stipulation, a default decision, and two proposed decisions. Mr. Duke reported that the Board discussed personnel issues and examination preparation.

**VI. Enforcement**

**A. Enforcement Statistical Reports**

Ms. Eissler went over the statistical charts pertaining to various areas of enforcement.

She also presented to the Board the latest copy of the Board-published 2013 Handbook of Laws and Regulations.

**VII. Approval of Delinquent Reinstatements**

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

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

**VIII. Consideration of Rulemaking Proposals**

**B. Recommendation to Amend 16 CCR 3024**

Ms. LaPerle presented the Board with a handout of the Recommendation and Proposal to Amend Title 16, California Code of Regulations Section 3024. She explained that it pertains to abandoned Geologist and Geophysicist applications, postponements and the partial refund of exam fees for exam no-shows. The proposal is to change the regulation to be more in line with the engineering and land surveying regulations.

The PE/PLS regulations require the submission of the postponement request after the exam occurs and the PG/PGp regulations require the submission of the request prior to the exam. Postponements made prior to the exam are not conducive to unforeseen emergencies or other industry standard and acceptable postponement reasons.

She recommended the Board approve the proposal and direct staff to begin the formal rulemaking process to amend title 16, California Code of Regulations Section 3024 and create a separate section for postponements.

**MOTION:** Mr. Zinn and Mr. Satorre moved to approve proposed recommendation.

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

**A. Adoption of Proposed Board Rules 420.1 and 3021.1, (16 CCR 420.1 and 3021.1), Engineers, Land Surveyors, and Geologists Fingerprints**

Mr. Alameida reviewed the proposal to add Title 16, California Code of Regulations sections 420.1 and 3021.1 and requested that the Board adopt the final language and direct staff to finalize the rulemaking files for submittal to the Department of Consumer Affairs and the Office of Administrative Law for Review and approval.

**MOTION:** Ms. Jones Irish and Mr. Josephson moved to adopt proposed changes and direct staff to the rulemaking file.

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

## **IX. Administration**

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

Mr. Alameida reported that as of December 31, 2012 PELS expenditures have been reduced as a result of no longer administering national exams. Applications have decreased as a result of no longer requiring EIT and LSIT applications prior to sitting for examinations. The Board projects applications to increase after the first exam cycle.

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

### **B. Proposed Governor's Budget Overview – No report given.**

## **X. Technical Advisory Committees (TACs)**

### **A. Board Assignments to TACs**

#### **1. Request for Regulatory Action – Request to Amend Title 16, California Code of Regulations section 424 (Experience Requirements – Professional Engineers)**

Mr. Moore indicated that the Board received a letter from PEGC requesting a change in Board Rule 424. He recommends that the Board assign it to the Civil TAC for discussion and further recommendation to the Board. President Wilburn directed it to be assigned to the Civil TAC.

#### **2. Report on Subsurface Utility Locating, Bill Owen, PG Geology TAC chair**

Mr. Owen, Chair of the Geology TAC, introduced himself. He indicated that he is the Chief of Geophysics and Geology Branch for the California Department of Transportation. He reported that one of the things that the department is becoming involved in is the field of Subsurface Utility Engineering. Subsurface Utility Engineering is a branch of engineering practice that combines civil engineering, land surveying, and geophysics in order to mitigate risks to construction

projects due to underground utilities. He explained that it is a process that has been pushed by the Federal Highway Administration. Currently, 24 states have adopted a form of Subsurface Utility Engineering practice. The contract administration process evaluation report (CAPE) in 2010 indicated that 44% have an impact due to unknown utilities that were identified as a risk. Two-thirds suffered project delays due to unknown utilities.

The American Society of Civil Engineers issued their standard guidelines in 2003 which attempted to outline the process. One thing established were the quality levels for subsurface utility information. Purdue University did a study that found the return on investment on the use of the Geophysical techniques was nearly 4-1 and the range of unknown utilities range from 10-50%.

Mr. Owen noted from his estimates 90-130 companies exist in California that offer subsurface utility services. Many of these companies are advertising themselves as subsurface utility engineering firms in which some are not qualified.

His proposal to the Board is to establish a work group within the TAC to evaluate this issue further and provide recommendations.

**MOTION:** Mr. Tami and Mr. Zinn moved to direct staff to pursue a comprehensive evaluation of this topic with the assistance of the Geology, Civil, and Land Surveying TAC members and present a report to the Board at a future date outlining their findings and recommended course of action.

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

- C. Reports from the TACs
  - 3. Reports from the Geology and Geophysics TAC
    - a. Geology and Geophysics TAC Work Plan

**MOTION:** Mr. Zinn and Ms. Jones Irish moved to adopt a draft of a new GEO TAC workplan with added item #10 review and recommend potential changes to the BPELSG 2013 Handbook of Laws and Regulations that are relevant to the practice of Geology and Geophysics.

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

- B. Appointment of TAC Members

**MOTION:** Mr. Stockton and Ms. Jones Irish moved to appoint Jim Foley to the Civil TAC and Douglas C. Hohbach to the Structural TAC

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

**XI. Liaison Reports**

- A. ASBOG – No report given
- B. ABET – No report given
- C. NCEES

2. CBT Webinar

Mr. Moore explained that NCEES is scheduled to complete the transition of the Fundamentals of Engineering and Fundamentals of Surveying exams to computer-based testing (CBT) on January 2, 2014 and therefore no more pencil to paper examinations will be administered. There will be open windows, two months on, one month closed, four open windows per year. During an analysis with the psychometric contractor, they have shortened the overall CBT appointment time from eight hours down to six, which includes a tutorial, exam time, a break, and a survey. The exam will consist of 110 questions for both FS and FE. Results will be received with 48 hours. Candidates will be allowed to sit for the exam up to three times per year as defined by 12 months from the first time the candidate takes the exam.

1. Online License Verification System

Mr. Moore outlined the electronic NCEES verification system in which California has been part of the initial testing group. A licensee will log on to the NCEES website where they can enter their licensing and examination information. From there it is sent to our board's representative to be completed and submitted to the requesting Board. NCEES will begin processing March 1, 2013 and they are asking all boards to be active on this system by June 14, 2013 in time for the October exam administration.

A webinar was also presented that thoroughly explained the process and procedure in order for the licensee to obtain verification and the process of providing verification from the Board.

3. Western Zone Interim Meeting Update

Mr. Moore outlined registration costs and what is included. He also is hoping all members can attend as it may be the only opportunity to attend due to out-of-state travel restrictions. He also noted that Senator Anthony Cannella, P.E. is scheduled to present the Welcome Message and the surveyor and engineer involved with the challenges associated with moving the space shuttle from LAX to the museum would be presenting at the Friday luncheon.

**MOTION:** Mr. Satorre and Mr. Tami moved to nominate Mr. Moore to Western Zone Secretary Treasurer at the Western Zone Interim Meeting.

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

D. Technical and Professional Societies  
No report given.

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

No report given

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

Mr. Tami suggested looking into the NCEES credentialing program as an item for discussion at a future meeting.

**XIV. Approval of Consent Items**

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

A. Approval of the Minutes of the December 7, 2012 Board Meeting

**MOTION:** Mr. Zinn and Mr. Stockton moved to approve

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

**XV. Adjourn**

Meeting Adjourned at 4:01 P.M.

**PUBLIC PRESENT**

Roger Hanlin, CLSA

Guadalupe Castillo, DCA Division of Legislative and Policy Review

Bob DeWitt, ACEC

Erin Grisby, CPIL USD School of Law

Steve Hao, CalTRANS

Richard Markuson, ASCE

Joanna Gin, Assembly Business, Professions, and Consumer Protection Committee