

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

2535 Capitol Oaks Drive, Third Floor Conference Room
Sacramento, CA 95833

February 9-10, 2015

**Monday, February 9, beginning at 9:00 a.m. and continuing on
Tuesday, February 10, beginning at 9:00 a.m., if necessary**

Monday, February 9, 2015

Board Members Present:	Kathy Jones Irish, President; Robert Stockton, Vice President; Natalie Alavi; Asha Brooks; Diane Hamwi; Eric Johnson; Coby King; Mohammad Qureshi; Karen Roberts; Ray Satorre; Jerry Silva; Patrick Tami; and Erik Zinn
Board Members Absent:	Philip Quartararo; Hong Beom Rhee
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Jeff Alameida (Administrative Manager); Larry Kereszt (Examinations Manager); Michael Donelson (Registrar); Michael Santiago (Legal Counsel); and Gary Duke (Legal Counsel).

I. Roll Call to Establish a Quorum

President Jones Irish called the meeting to order at 9:02 a.m. Roll call was taken, and a quorum was established. Mr. Moore updated Board Members and staff on the new requirements of recording votes in accordance with the Bagley-Keene Open Meeting Act.

II. Public Comment

Mr. Copelan, representing PEEG, commented on the proposed regulatory changes eliminating the waiver of the fundamentals examination. He requested more information on the proposed changes.

III. Legislation

A. Legislative Calendar

Mr. Alameida reviewed the legislative calendar from February through April, calling attention to February 27, 2015 which is the last day for bills to be introduced. He added that it is the beginning of a two year session.

Mr. Satorre arrived at 9:07

B. Discussion of Legislation for 2015: AB 177

Mr. Alameida reported that this bill is the Sunset Bill that extends the Board's Sunset date out until January 1, 2020. He proposed a recommendation to support AB 177. Ms. Eissler indicated that the Assembly

is aware that the Professional Land Surveyors' Act section was omitted, and it will definitely be added.

MOTION:	Mr. King and Mr. Stockton moved to support
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				
Erik Zinn	X				

C. Proposal from SEAOC regarding Significant Structures

Mr. Moore explained that the Board asked the Structural TAC to review this issue over a year ago when the Structural Engineers Association of California (SEAOC) first approached the Board regarding their proposal. Members of SEAOC provided a presentation during two TAC meetings. This is also one of the new issues to be addressed during the Board's Sunset Review.

Don Schinske and Ryan Kersting representing SEAOC reported that the language included in the meeting agenda packet is the language they are proposing. Their effort is focused on including this language in the Board's Sunset legislation. Mr. Schinske clarified that they believe that over time there is a public benefit to having the extra expertise, extra testing, and experience that would be demonstrated by requiring the structural engineer license. Mr. Kersting indicated that the motivation is public safety and in direct response to the changes in practice. Dr. Brandow explained that this is a minimum standard for structural engineers; it is not raising the bar, just meeting the minimum standards. Mr. Copelan, representing PECG, expressed PECG's support for the portion of the proposal that would allow currently licensed civil engineers to continue to perform structural engineering for significant structures. Several of the Board members expressed concerns with the specific items listed in the proposed definition of significant structures. Mr. Kersting advised that SEAOC would be willing to work with the Board on changes to the language. Ms. Eissler advised

that the Assembly and Senate Business and Professions Committees have asked if the Board has considered SEAOC’s proposal, and that it is likely to be an item that will be addressed through Sunset. She explained that, at this point, the Board would need to decide if the Board is absolutely opposed to this idea or if they are willing to work with SEAOC with the understanding that there is always a possibility that the Board could decide to oppose it in the future.

MOTION:	Ms. Alavi and Ms. Brooks moved to continue to work with SEAOC on this proposal.
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				
Erik Zinn	X				

IV. Consideration of Rulemaking Proposals

- A. Request from CalGeo to Amend Title 16, California Code of Regulations section 461 (Testing Laboratory Reports)

Mr. Moore reported that a Joint TAC meeting between the Civil Engineer, Structural Engineer, and Geologist & Geophysicist TACs was held to discuss CalGEO’s proposal to revise Board Rule 461. The understanding was there was some much needed outreach to educate current licensees where their responsibility needed to be and clearly define where there may be unlicensed practice issues. There were two TAC members appointed to write an article on testing laboratories for the Board bulletin. Until there is proposed language from CalGeo, the Board will continue to monitor the education efforts.

- B. Adoption of Proposed Amendments to Title 16, California Code of Regulations sections 416 and 3060 (Substantial Relationship Criteria)

Ms. LaPerle provided some background and reported that at the August 2013 Board meeting, the Board made a motion to direct staff to generate language to change the two regulations. In February 2014, the Board

approved the proposed language to begin the rulemaking process. During the initial public comment period, there were six comments submitted, and a public hearing was held in July 2014. The six public comments and proposed modified text were reviewed at the November 2014 Board meeting, and the Board approved the modified text to amend Sections 416(c) and 3060(b) and directed staff to move forward with the 15-day public comment period. During that comment period, seven comments were received. However, none of those comments were specific to the modified text as noticed as they all commented on language and issues the Board had already discussed at its November meeting.

Mr. King expressed his concerns in that it seemed there are different standards in statute. Mr. Duke stated that Mr. King is correct in the sense that Section 490 in the Business and Professions Code, which refers to licensees, specifically refers to a conviction of a crime. There are acts that do not rise to the level where there would be a conviction of a crime which is why Section 480, which refers to applicants, refers to “crimes or acts” and does not use the word “conviction”. Mr. King believes the language needs to be revised and suggested splitting the regulation into two sections so that one would address applicants and the other licensees. Ms. Eissler suggested that the Board could direct staff to amend the language for review and consideration at the next Board meeting. After further discussion, the Board directed staff to draft language to present to the Board later during the meeting in order to avoid further delays in the process.

Mr. Greenlaw expressed various concerns with the proposal.

Mr. Burfield provided his opinion on the subject.

MOTION:	Mr. King and Mr. Stockton moved to table the item until such time as staff presents a new draft.
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				

Patrick Tami	X				
Erik Zinn	X				

C. Proposal to Amend Title 16, California Code of Regulations section 438 (Waiver of Fundamentals Examination)

Mrs. Williams reviewed the proposal outlining the removal of the language identifying “eight-hour” from the regulation related to the Fundamental examinations. She indicated that the Fundamental examinations are no longer eight hours and are identified by the criteria within the exam versus the actual time. Secondly, Business and Professions Code Section 8741 was amended in 2013 to remove the provision that allowed an Engineer-in-Training to waive the Fundamentals of Land Surveying exam.

MOTION:	Mr. Tami and Mr. King moved to approve the proposed amendment to Board Rule 438 and direct staff to begin the formal rulemaking process to adopt the regulations.
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				
Erik Zinn	X				

D. Update on Title 16, California Code of Regulations section 3003(b) and (e) (Definitions of Engineering Geology and Professional Geophysical Work)

Mr. LaPerle provided an update indicating that the regulation change was approved by the Office of Administrative Law and endorsed by the Secretary of State’s Office on November 13, 2014, and became effective on January 1, 2015.

VII. Executive Officer's Report

A. Strategic Plan

Ms. Calderone reported that based on the goals and objectives the Board established, staff met and determined that the objectives outlined in the Board meeting materials should be the Board's year-one goals.

Mr. Silva would like it noted that the items outlined are for the 2015 calendar year.

Mr. Satorre suggested receiving updates via e-mail. Mr. Moore indicated that he would send an update via e-mail on a monthly basis, and any Board member could request that a specific item be included on the agenda for discussion at future Board meetings.

B. Legislation and Regulation Workgroup Summary

Mr. Alameida reported that the workgroup is comprised of three staff members; Kara Williams, Tralee Morris, and Billie Baldo; and two Board members; Coby King and Bob Stockton. Their roles are to track regulations and proposed legislation. The committee was formed to take on the workload, and the formation coincides with one of the Strategic Plan objectives.

Mr. King and Mr. Stockton would like to be kept apprised of the approach being taken by receiving any written materials provided during staff briefings.

C. Sunset Report

Mr. Moore introduced Christian Jagusch, representing the Assembly Business and Professions Committee staff. Ms. Eissler explained that the Committee staff are currently preparing the background paper which will outline the issues that the Board will need to address at its Sunset hearing. At this time, the hearing date may either be March 18 or March 23, 2015.

Ms. Eissler reported that the meeting with the Assembly Business and Professions Committee staff was very positive, and they were receptive to the Board's proposals and understanding of the Board's goals with enforcement and focusing on internal challenges to decrease the aging of cases while recognizing that help is necessary to address outside influences. They also expressed interest in the merging of the two funds. She felt it was beneficial to speak to them during the process of preparing the background paper.

D. Personnel

Mr. Moore reported that the fingerprinting position currently occupied by Jennifer Mueller is moving to the Enforcement Unit. He introduced Tiffany Criswell as the new Enforcement Manager; Carmen Jimenez is now an Office Assistant, (Permanent Intermittent); Brandon Smith replaced Kate Tibbitts as an Evaluator; and Nicole Ochoa and My Pham have been hired

as seasonal employees to aid in the licensing workload. Interviews are currently being conducted for the Program Technician II (Permanent Intermittent), an evaluator position, and an AGPA position in the Licensing Unit. Staff is working with CalHR, the State Personnel Board, and DCA for the Senior Registrar Position for the Geology program.

E. BreEZe Update

Mr. Moore indicated that he is waiting on the finalization of the audit and that the contract is being restructured.

IX. Approval of Delinquent Reinstatements

MOTION:	Mr. King and Ms. Alavi moved to approve.
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				
Erik Zinn	X				

XI. Liaison Reports

A. ASBOG

Mr. Zinn reported that he attended the Council of Examiners Meeting and the delegate meeting for ASBOG. The Executive Officer of ASBOG has stepped down, and the position is currently being filled by an Interim Executive Officer. There will be a teleconference for delegate votes in which the Board will be able to participate. Mr. Zinn reported there are more candidates taking the Fundamentals of Geology than there are taking the practice examinations which overall indicates that candidates are not moving on to licensure. It has been a long term issue, and he believes it is an outreach issue.

B. ABET

Mr. Johnson participated as an ABET observer. He indicated that there is a definite need for outreach, and Mr. Donelson reported he participated at another school as an ABET observer as well.

C. NCEES

2. Board Presidents Assembly Report

President Jones Irish reported that she attended the very informative Board Presidents Assembly meeting. She indicated the descriptions provided by NCEES relating to their structure, mission, and vision relating to licensure was very informative, adding that the presentation itself was concise and helpful. Mr. Moore noted that travel to the Board Presidents Assembly was approved. President Jones Irish expressed the importance of the Board's presence and the opportunity to provide input. It demonstrated to stakeholders that participation is welcomed and extremely essential.

D. Technical and Professional Societies

Bob DeWitt, representing ACEC, expressed interest in participating in the upcoming Sunset hearing.

IV. Consideration of Rulemaking Proposals (Continued)

B. Adoption of Proposed Amendments to Title 16, California Code of Regulations sections 416 and 3060 (Substantial Relationship Criteria)

Mr. Duke presented modified proposed text in response to suggestions made by the Board.

MOTION:	Mr. King and Mr. Stockton moved to approve modified text as amended and move forward with the rulemaking process.
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				
Erik Zinn	X				

VIII. Exams/Licensing

A. Fall 2014 Examination Results

Mr. Kereszt reviewed the Fall 2014 Professional Engineer, Land Surveyor, and Geologist examination statistics. He added that the Geotechnical Engineer exam is omitted from the statistics as it is now a continuous exam. He reported that over the course of one month, there were 15 candidates for the geotechnical examination. He will provide statistics for the geotechnical exam at the next Board meeting.

B. FE/FS 2014 Examination Results

Mr. Phayer presented the Board with an outreach package to aid in the promotion of the Fundamentals Examinations. President Jones Irish appointed Board Members Diane Hamwi and Asha Brooks to assist in outreach efforts.

C. Fingerprinting Update

Mr. Kereszt reported that the Board has been legally mandated to require fingerprints from all applicants prior to licensure. He introduced Jennifer Mueller, Billie Baldo, and Patty Smith, who make up the fingerprinting team. It was recently determined that the Board had the capability and DCA had properly fixed the legacy system to receive the fingerprinting information. The target date is set for July 1, 2015. Anyone in receipt of a license after this date is required to be fingerprinted. The cost is the responsibility of the applicant. The motivation behind the requirement was the Board was one of the few boards not receiving the criminal history of its applicants. There was a concern with people who had criminal convictions obtaining licenses and their potential harm to the public. Through the Board's last Sunset Review, the language was added to the laws to require fingerprints from the applicants for the purposes of checking their criminal history for convictions. If there is a conviction, it would be determined whether or not the person has been rehabilitated sufficiently to become licensed. If a candidate is denied licensure or certification because of a conviction, they have appeal rights. There are regulations in place that describe the criteria for rehabilitation that the Board must consider.

D. Approval of Washington State Specific Engineering Geology and Hydrogeology Examinations for Comity Licensure.

MOTION:	Mr. Zinn and Dr. Qureshi moved to accept the Washington State Specific Engineering Geology and Hydrogeology examinations as equivalent to the California examinations for the purposes of licensure by comity.
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				

Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				

XI. Liaison Reports (Continued)

C. NCEES

1. Liaison Report for 2015 Western Zone Interim Meeting

The upcoming May 14-16, 2015 Southern/Western Zone agenda was distributed and discussed. The Board selected Dr. Qureshi and Ms. Eissler to attend the meeting as the funded delegates.

V. Administration

A. FY 2014/15 Budget Summary

Mrs. Williams reviewed the 2014/15 PELS Projected Revenue. This information is based on historical data and current year revenue. She noted that most of the revenue comes from the renewal fees. She continued with reviewing the 2014/15 PELS Projected Expenditures in which personnel services is where the Board expends most.

She explained the new financial statement that was added to the report which outlines last year's revenue and expenses in comparison to current year's data.

Most of the revenue from the Geology fund comes from renewal fees, and examinations topped the expenditures. She also reviewed the financial statement for the Geology program.

B. Governor's Proposed FY 2015/16 State Budget

Ms. Williams reported on the allocated funds designated by the Governor for Fiscal Year 2015/16. She indicated the Geology fund was allocated \$1.4 million, and the PELS fund was allocated \$9.6 million.

VI. Enforcement

A. Enforcement Statistical Report

Ms. Eissler reported that, as decided by the Board at its previous meeting, the basic statistical reports would be provided at every meeting and the full reports would be provided at the end of the fiscal year. She expressed concern with the aging of the cases with the Division of Investigation as that builds into the aging of the Board’s investigations. Ms. Criswell is working with the Chief and Deputy Chief of the Division of Investigation to coordinate a meeting along with Mr. Moore to discuss the Board’s concerns.

B. Policy on Disclosure of Complaints and Enforcement Actions

Ms. Eissler explained the Disclosure Policy pertaining to what information is disclosed regarding complaints and enforcement actions. The March 2011 revisions added geology and geophysicists and updated the language regarding enforcement actions.

Mr. King suggested that more research should be done on the current statutory provisions that may affect the current disclosure policy and what it should be. Ms. Eissler indicated that they should have something for the next Board meeting.

XII. President’s Report/Board Member Activities

President Jones Irish attended the Riverside/San Bernardino CLSA chapter meeting.

Rob McMillan, representing CLSA, indicated that the Sacramento Chapter meetings are conducted the first Thursday of the month and extended an invitation for Board members to attend.

XIII. Approval of Consent Items

A. Approval of the Minutes of the November 13, 2014, Board Meeting

MOTION:	Mr. King and Ms. Alavi moved to approve.	
VOTE:	Motion passed	Absent: Mr. Quartararo and Dr. Rhee Abstentions: Vice-President Stockton; Mr. Johnson; Mr. King; and Mr. Zinn

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton			X		
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson			X		
Coby King			X		
Philip Quartararo				X	
Mohammad Qureshi	X				

Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				
Erik Zinn			X		

XIV. Other Items Not Requiring Board Action

Discussion of the March 26-27, 2015 Board meeting took place in relation to the Sunset Hearing. It was proposed to change the date one to two weeks later. Mr. Moore noted that additional proposed dates would be provided.

The Board recessed at 4:50p.m.

Tuesday, February 10, 2015

Board Members Present:	Robert Stockton, Vice President; Natalie Alavi; Asha Brooks; Diane Hamwi; Eric Johnson; Coby King; Mohammad Qureshi; Karen Roberts; Ray Satorre; Jerry Silva; Patrick Tami and Erik Zinn
Board Members Absent:	Kathy Jones Irish, President; Philip Quartararo; Hong Beom Rhee
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer; Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Susan Christ (Registrar); Michael Santiago (Legal Counsel); and Gary Duke (Legal Counsel).

I. Roll Call to Establish a Quorum

Vice-President Stockton called the meeting to order at 9:02 a.m. Roll call was taken, and a quorum was established.

II. Public Comment

No public comment

X. Technical Advisory Committees (TACs)

A. Board Assignments to TACs

No report given

B. Appointment of TAC Members

No report given

C. Reports from the TACs

Ms. Christ reported that the Civil Engineer and Geologist & Geophysicist TACs are working with the Department of Water Resources to include a statement in the new guidebook that clarifies that all engineering and geology work must be performed by or under the responsible charge of an appropriately licensed individual.

Dr. Qureshi followed up on an item brought up at the last TAC meeting regarding the traffic vs. civil discussion. He explained that there was some areas of overlap, although not clear, which needed to be better defined and perhaps put into regulation. It was decided to create a special committee to further discuss.

XV. 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, Court of Appeal, Third Appellate District, Case No. C075779 (Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS)
3. Ruvyn Grutman v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles Superior Court Case No. BS145675
4. Ruvyn Grutman v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles Superior Court Case No. BS145796
5. Sassan Salehipour v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles County Superior Court Case No. BS146185
6. Paul Christopher Ehe v. Board for Professional Engineers, Land Surveyors, and Geologists (San Bernardino Superior Court, Case No. CIVDS1413253)

XVI. Open Session to Announce the Results of Closed Session

Mr. Duke reported that during Closed Session the Board discussed litigation as noticed, adopted two proposed decisions, and remanded one decision back to the Administrative Law Judge for further clarification. Ms. Eissler reported that the Board took action on six stipulations and one default decision.

XVII. Adjourn

The meeting adjourned at 10:24 a.m.

PUBLIC PRESENT

Gregg Brandow
 Curt Burfield, CalTrans
 Craig Copelan
 Talia Cortese, CPIL
 Bob DeWitt, ACEC
 Charles O. Greenlaw, S.E.
 Steve Hao, CalTrans
 Roger Hanlin, CLSA
 Christian Jagusch, Assembly Business and Professions Committee
 Ryan Kersting, SEAOC
 Betsy Mathieson
 Rob McMillan, CLSA
 Neil Moore, NMA
 Don Schinske, SEAOC
 Carl Josephson, SEAOC