

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

**San Bernardino County Public Works, Hearing Room
825 E. 3rd Street
San Bernardino, CA 92415**

**November 5, 2015
Thursday, November 5, beginning at 9:00 a.m.**

Board Members Present:	Robert Stockton, President; Coby King, Vice President; Kathy Jones Irish; Natalie Alavi; Asha Brooks; Chelsea Esquibias; Mohammad Qureshi; Karen Roberts; Jerry Silva; and Patrick Tami
Board Members Absent:	Eric Johnson; Betsy Mathieson; Hong Beom Rhee;
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Kara Williams (Budget Analyst); Larry Kereszt (Licensing Manager); and Gary Duke (Legal Counsel)

I. Roll Call to Establish a Quorum

President Stockton called the meeting to order at 9:03 a.m., and a quorum was established.

Mr. Silva arrived at 9:04 a.m.

II. Public Comment

Carl Josephson, representing SEAOC, expressed appreciation to the Board for facilitating the joint Civil/Structural TAC meeting to discuss SEAOC’s significant structures proposal. They believe good progress was made.

Kenneth Rosenfield, representing ASCE, informed the Board about the “Raise the Bar” initiative. This proposal would increase educational requirements for licensure. He reported that NCEES recently adopted a policy statement on this issue. He also offered meeting space for future Board meetings in the City of Laguna Hills City Council Chamber.

Art Sutton, representing CSPE, discussed the legislative analysis regarding AB320 which references the CSUS Title Act study.

Chris Ehe, representing Environmental Hightech Engineering, provided background on his family business. He received his PLS license in 1983. He got

behind in filing many surveys and the San Bernardino County Surveyor's Office filed a complaint with the Board. He claimed the Board turned his case over to the Attorney General's Office without "peer to peer" discussions. He felt he never had an opportunity to discuss his case, and his license was revoked. He has since recorded all surveys, and there was no harm to the public. He requested to meet with all Board members to discuss the future of his license.

Kerry Cato, representing AEG, welcomed the Board to the area between major faults. The feedback he has received from their members indicate they appreciate the dialogue that has been opened up and look forward to continuing the relationship with the Board.

III. Legislation

A. Discussion of Legislation for 2015

Ms. Williams outlined important legislative dates:

- January 1 statutes take effect.
- January 4 legislature reconvenes.
- January 22 is the last day committees will hear and report to the floor for bills introduced in their house in 2015. This is also the last day to submit new bill requests to the Office of Legislative Counsel.
- January 31 is the last day for each house to pass any bills introduced in 2015.

AB 320 This bill would add the title "Environmental Engineer" to the Board's title acts. The Board is opposed to adding new title acts to our statute because title acts do not regulate the practice of title engineering they only regulate the title itself. Additionally, adding the title environmental engineering would be difficult to define in regulation due to the need to prevent overlap with regulated practices such as civil engineering and geology. This Bill is currently in Senate Appropriations Committee.

The Board has taken a position of "Oppose" on this bill, as amended 7/8/2015.

AB 85 This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar. The Board already follows the Bagley-Keene Open Meeting Act. This bill would further define a "state body" to include groups of two or more. Gov. Jerry Brown vetoed this bill September 28, 2015.

The Board had taken a position of "Oppose" on this bill, as amended 4/15/15.

AB 12 This bill would require every state agency, board, bureau, or other entity to review and revise regulations to eliminate inconsistent, overlapping, duplicative, and outdated provisions and adopt the revision. This bill is currently in Senate Appropriations Committee.

The Board has taken a position of “Watch” on the most current version of this bill.

AB 507 This bill would, on or before March 1, 2016, require the Department of Consumer Affairs to submit an annual report to the Legislature and the Department of Finance for third phase BreZE implementation. This bill is currently in the Senate Business, Professions and Economic Development Committee.

The Board has taken a position of “Watch” on the most current version of this bill

SB 209 This bill would require the Department of Conservation to offer continuing education opportunities for lead agency employees to become certified and have opportunities for continuing education. Additionally this bill would require the inspection surface mining operation’s to be performed by an appropriately licensed California licensed professional. This bill is currently on the Assembly floor.

Staff recommends the Board take a “Support” position on this bill as amended September 4, 2015.

MOTION:	Vice-President King and Ms. Alavi moved to support SB 209 as amended September 4, 2015.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Asha Brooks	X				
Chelsea Esquibias	X				
Eric Johnson				X	
Kathy Jones Irish	X				
Betsy Mathieson				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
William Silva	X				
Patrick Tami	X				

AB 177 This is the Boards Sunset Bill. This bill was chaptered October 2, 2015, Chapter Number 428, Statutes of 2015.

AB 181 This is the Omnibus Bill which was originally SB 799. This bill was chaptered October 2, 2015, Chapter Number 430, Statutes of 2015.

SB 284 This is the limited liability partnership bill which was sponsored by ACEC-CA. It was chaptered on August 10, 2015.

B. Legislative Proposals for 2016

Ms. Eissler provided an overview of the legislative proposal process. Ms. Williams listed the following proposals:

- 1) Clarification of Application Process
- 2) Examination on California Laws and Rules
- 3) Separate Renewal and Application Fees
- 4) PG-PGp Sign and Seal
- 5) Geology Examination Contract

MOTION:	Mr. Tami and Ms. Brooks moved to direct staff to pursue the legislative proposals listed above.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Asha Brooks	X				
Chelsea Esquibias	X				
Eric Johnson				X	
Kathy Jones Irish	X				
Betsy Mathieson				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
William Silva	X				
Patrick Tami	X				

IV. Consideration of Rulemaking Proposals

No report given.

V. Presentation Regarding North Carolina Board of Dental Examiners v. Federal Trade Commission (113 S.Ct. 1101 (2015)) and California Attorney General Opinion 15-402

Ms. Eissler and Mr. Duke provided an informational presentation to the Board on the Supreme Court decision and the advice provided by the California Attorney

General. Mr. Duke read a statement prepared by DCA's Legal Office. Ms. Eissler explained that the real issue is whether a claim against the Board for anti-trust violations could be immediately dismissed under the state action immunity defense, not whether the Board has actually engaged in anti-competitive behavior. She pointed out that even if the Board did not meet the new higher standards to have the matter immediately dismissed, it did not mean that it would be proven that the Board had engaged in anti-competitive behavior. Ms. Eissler stressed that it was important for the Board to ensure that it is always acting in accordance with the legislatively-mandated purpose for licensing and regulating professions, which is to protect the health, safety, welfare, and property of the public, rather than in a manner that only benefits licensees.

VI. Enforcement

A. Enforcement Statistical Report

Ms. Criswell reported that, in October, a large number of investigations that were conducted by the Division of Investigations have been closed. However, there was a spike for the average days to completion because of the aging of the cases as the investigations were conducted by the Division of Investigations.

VII. Exams/Licensing

A. Fall 2015 Examination Update

Mr. Kereszt reported that the California Seismic Principles and the Engineering Surveying examinations are still currently being administered. There is a three-week testing window, and this window will conclude November 10. The testing sites have indicated that the administration is going very well. Several candidates experienced computer issues and BPELSG staff is working with Prometric on resolutions to those incidents including the implementation of safeguards to prevent future occurrences. The results for most of the exams should be available by the January 2016 meeting.

B. Plans for California State Specific Examinations

Mr. Kereszt provided history on the evolution of the California state specific examinations and future plans which include NCEES administering the National Professional Surveyor examination year-round by CBT beginning in October 2016, and the Board beginning to administer the California Civil Seismic Principles and Engineering Surveying, California Professional Land Surveyor, Traffic Engineer, California Geologist, and Professional Geophysicist examinations year round by CBT by January 2017.

During Public Comment, Rob McMillian, representing CLSA, reported he was contacted by candidates who expressed their frustration regarding the computer issues with the exam at the Sacramento site.

IX. Administration

A. FY 2015/16 Budget Summary

Ms. Williams reported the information provided is a summary of the Engineers and Land Surveyors fund and the Geologists and Geophysicists fund. The data provided is based on the approved Governor's Budget, projected expenditures, revenue, projections to year-end, applications received, and renewals processed through September for the current Fiscal Year 2015/16 and prior year Fiscal Year 2014/15.

President Stockton requested additional details for the expenditure report be included in future reports.

VII. Exams/Licensing (Cont.)

C. Delinquent Reinstatement Requirements

Ms. Eissler provided an overview on data that was provided in the meeting materials using statistics obtained from the Applicant Tracking System (ATS). The tables represented applications received per year by discipline for engineering and land surveying.

Not all applications submitted are completed by the applicants for various reasons, such as requiring additional information, outstanding fees, and possibly having to retake the examination. This explains why there is a difference between the numbers received versus the number completed.

There has been a steady reduction in reinstatement applications received by the Board over the last few years.

President Stockton suggested aligning the PE and PLS requirements with the Geologists and Geophysicists requirements.

Vice-President King suggested a renewal cut-off date to renew a license, requiring the candidate to go through further requirements to become reinstated. President Stockton noted that if it has been over five years and the licensee is in another state while continuing to practice engineering and meeting the experience requirements, he would suggest requiring them to take the state specific portion.

Ms. Eissler explained that if someone were licensed in another state, they could apply for a new license via the comity process. Comity applicants must take and pass state specific examinations.

Ms. Eissler will provide scenarios of various options and data regarding delinquent geology licenses at the next meeting for further consideration in this discussion.

D. Credit for Overlapping Experience When Applying for Licensure or Certification

Ms. Eissler followed up on a request from the Board regarding how qualifying experience is credited and counted for applicants for licensure or certification especially relating to how overlapping experience time periods are counted. One example for engineers is they must demonstrate qualifying experience in the discipline in which they are applying. Part of that experience can come from education. There is also a provision in the regulation that indicates if someone is applying for a license in another discipline, the education credit can be counted again but not the experience credit and the new experience credit cannot overlap with the other experience. The additional provision for engineers is that if they are using an education degree as part of their qualifying experience, the work experience cannot be counted until after the date the degree is awarded.

Mr. Tami questioned whether there is anything in the law that prevents a Civil Engineer from double-counting experience already claimed for the civil engineer license when applying for a land surveyor license and vice versa. Mr. Duke advised that the Board could request an opinion from the DCA Legal Office on this issue since it would require an in-depth review of both acts and their related combined regulations. The Board directed staff to submit a request to the Legal Office on this matter.

VIII. Approval of Delinquent Reinstatements

MOTION:	Mr. Silva and Ms. Jones Irish moved to approve the reinstatements.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Asha Brooks	X				
Chelsea Esquibias	X				
Eric Johnson				X	
Kathy Jones Irish	X				
Betsy Mathieson				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
William Silva	X				
Patrick Tami	X				

IX. Executive Officer's Report

A. Legislation and Regulation Workgroup Summary

Mr. Moore reported on the regulations the Board is currently in the process of amending. The Corner Record proposal has been approved for the 45-day comment period, which will begin November 13 and close on January 4, 2016. The hearing is scheduled for January 5, 2016.

B. Personnel

Mr. Moore reported that the Licensing and Enforcement Units received new seasonal help. A new Permanent Intermittent employee was hired for the receptionist position. A limited term position was approved for the Personnel Selection Consultant which will be the in-house psychometrician. This position will assist with exams and has received preliminary approval from the Department of Finance.

C. BreEZe Update

Release II is scheduled to go live January 19, 2016. The legacy systems will be down for a few days preceding the release. The Office of Information Services has been helpful in the completion of the Request for Qualifications for the business needs assessment.

D. ABET

Dr. Qureshi reported that he met with the students and discovered that the students were more interested in licensure than the faculty.

Mr. Silva reported that the accreditation process was interesting. He provided his observations during debriefings.

Ms. Roberts was really impressed with the rigorous evaluation process.

Ms. Racca attended two accreditation visits. She provided contrasts between the two schools and reported the ABET evaluators were very consistent.

E. ASBOG

Mr. Moore reported Ms. Racca will attend the Counsel of Examiners meeting and will attend the annual meeting with Ms. Mathieson via webcast.

Mr. Moore added that correspondence from the Board to ASBOG was sent prior to the Annual Meeting regarding fee increases including a recommendation for computer based testing and exam administration.

Ms. Racca reported that the Interim Executive Director may fill the position permanently.

F. NCEES

1. 2016 Interim Zone Meeting

Mr. Moore reported that the Western Zone meeting will take place May 19-21, 2016 in Anchorage, AK. Mr. Tami suggested that the President and Vice-President attend with Dr. Qureshi as a back-up.

2. Nomination of 2016/2017 NCEES President-Elect

Mr. Moore recommended that the Board formally nominate Mr. Tami to serve as the NCEES President-Elect so that the representatives at the Western Zone meeting may place his name in nomination.

MOTION:	Mr. Silva and Mr. King moved to nominate Mr. Tami to serve as NCEES President-Elect.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Asha Brooks	X				
Chelsea Esquibias	X				
Eric Johnson				X	
Kathy Jones Irish	X				
Betsy Mathieson				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
William Silva	X				
Patrick Tami			X		

During public comment, Mr. Josephson announced there will be a PAK study to evaluate the structural exam. NCEES is looking for three people from California to participate in a 20-person group. He is working with Ms. Roberts for recommendations.

Mr. Tami attended the Board of Directors meeting and reported that they the replacement cost for any exam would be \$5.5 to \$7 million dollars. They are updating the examinee registration system, known as the E3 system for 2016 roll-out. They will not be changing the calculator policy.

Mr. Tami added that the Structural exam is a two-component exam, and a candidate must achieve an acceptable score on both components within a 5-year period to pass the exam. He indicated that some boards' laws do not allow for that and that it will come up at the next annual meeting.

G. Outreach

Mr. Moore spoke at the ACEC Board of Directors meeting and attended the Joint Monterey area ACEC-CA and CLSA meeting Engineers/Surveyors meeting. Ms. Racca met with UOP students and faculty and talked to about 30 students and discussed the Geologist-in-Training (GIT) exam. She met with the professors and department chairs to get input since the Board is considering changing the education requirements for geologists. They are supportive and also wanted to ensure their curriculum was geared for licensure. She also visited CSU San Bernardino and will visit UC Riverside. In December she will visit the Fresno Association of Engineering Geologists and in January she will meet with the Ground Water Resources Association in Sacramento, UC Davis, and possibly CSU Bakersfield. Most professors are not licensed and are seeking a pathway to licensure if not practicing in the field.

Mr. Moore reported that Mike Donelson and Susan Christ are scheduled to visit CalPoly San Luis Obispo to discuss applications and licensing with students and faculty.

Mr. Silva reported that the Society of Hispanic Professional Engineers expressed interest in receiving information and possible outreach from the Board.

President Stockton will attend the California Baptist University engineering orientation class to provide outreach.

Mr. Moore attended the Sacramento and Central Valley CLSA exam preparation course in September and October.

Mr. Tami attended the Modesto Engineers Club and discussed the new NODD form. Mr. Moore reported that the NODD form has brought about much discussion and questions from the public, particularly in regards to the topic of responsible charge criteria.

During public comment, a member of the public reported the Inland Geological Society chapters have a strong outreach program primarily in Riverside, Cal State San Bernardino, and CalPoly. They try to emphasize practical experience and communicate required curriculum.

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

A. Assignment of Items to TACs

No Report Given.

B. Appointment of TAC Members

No Report Given.

C. Reports from the TACs

Dr. Qureshi reported on the Traffic TAC meeting. They made significant progress on identifying traffic engineering activities and civil engineering activities. They will meet again in early 2016.

Mr. Tami reported the Land Surveyor TAC met the day before and discussed Board Rule 464, relating to Corner Records, and Board Rule 425, which is the experience requirements for licensure as a land surveyor. They also suggested revisions to the Guide for City and County Officials.

XI. President’s Report/Board Member Activities

No Report Given.

XII. Approval of Consent Items

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

A. Approval of the Minutes of the September 10, 2015, Board Meeting

MOTION:	Vice-President King and Ms. Jones Irish moved to approve the September minutes.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Asha Brooks	X				
Chelsea Esquibias	X				
Eric Johnson				X	
Kathy Jones Irish	X				
Betsy Mathieson				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts			X		
William Silva	X				
Patrick Tami	X				

XIII. Other Items Not Requiring Board Action

A. 2016 Board Meeting Schedule

The Board reviewed the proposed calendar and suggested changing the June meeting date from June 23-24 to June 9-10.

XIV. 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. 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)
2. Joseph Elfelt v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Sacramento Superior Court Case No. 34-2015-80002130

XV. Open Session to Announce the Results of Closed Session

During Closed session, the Board took action on five stipulations, three default decisions, one proposed decision, and discussed pending litigation as noticed.

XVI. Adjourn

Meeting adjourned at 5:19 p.m.

PUBLIC PRESENT

John Weber, USD CPIL
Kenneth Rosenfield, ASCE
Joe R. Silva, AIChE
Art Sutton, CSPE
Carl Josephson, SEAOC
Stan Horwitz, CSPE
Rob McMillan, CLSA
Bill Hofferber, UNAVCO
Bob DeWitt, ACEC
Kerry Cato, Cato Geoscience Inc.