



## BOARD FOR GEOLOGISTS AND GEOPHYSICISTS

May 2005

[www.geology.ca.gov](http://www.geology.ca.gov)

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### EXECUTIVE OFFICER'S REPORT

Greetings to all! It has been a very exciting time at the Board for the last few months. We have two new staff members, which is a welcome relief after enduring the last several years with the total number of workers frozen at three. DeLesa Swanigan is our new Office Manager and Sarina Best is our new Enforcement Program Assistant. George Dunfield, Enforcement Manager, Pam Hopper, Examination Coordinator and myself round out your dedicated staff.

In other news, the Board successfully survived not only the Joint Legislative Committee on Boards, Commissions and Consumer Protection's Sunset Review process, but also the 'tabled-for-now' Governor's Reorganization Plan 1. Additionally, recent legislation changed the name of Registered Geologist to Professional Geologist (pending legislation will change the name of Registered Geophysicists to Professional Geophysicists) and a soon-to-be promulgated regulation will slightly increase the renewal fees for licensure, allowing the Board to provide even better services that it has become known for.

Enforcement continues to be the Board's top priority and enforcement activity is on the rise. Please look on Pages 4 and 5 for more information regarding license revocations and cite and fine actions.

The Board and its Technical Advisory Committee have made significant progress in improving the practice of geology by licensed Professional Geologists in the preparation and review of Timber Harvest Plans. More information can be found on Page 2.

Please take a look at this newsletter and let us know what you think. Also, please bookmark our website: [www.geology.ca.gov](http://www.geology.ca.gov), and keep an eye out for our "Hot Topics" section for developments as they occur.

Thank you for taking the time to let us better acquaint you with some of what we have been accomplishing. Have a safe Summer!

Sincerely,

Paul Sweeney  
Executive Officer

# Geology News...

## Annual Examinations

The Board's licensing examinations were held in Sacramento and Carson, on Friday, March 4, 2005. There were 293 individuals taking the ASBOG Fundamentals of Geology exam, 278 taking the ASBOG Practice of Geology exam, and 433 taking the California-specific examination. In addition, there were 57 participants in the Certified Hydrogeologist exam, 68 in the Certified Engineering Geologist exam and 5 Registered Geophysicist applicants. The results of the examinations are expected to be released by the end of May.

## Licensing Fee Increase

The Board's fund condition is relatively healthy; however, an increase in the license renewal fees is being considered. The Department of Consumer Affairs has indicated to the Board that a 35% increase in the fees should be sufficient to cover the Board's operating costs for the foreseeable future. Statutory authority to increase the fees was authorized with the passage of SB 363 (Figueroa – Statutes of 2003).

## California Specific Examination

The Board and the Examination Committee are taking a comprehensive look at the California Specific examination that is required, along with passing the national ASBOG examinations, to obtain licensure in California. Is the exam a barrier or filter towards geologic licensure? Should it be retained, eliminated or modified?

A meeting was held at the Board's office on April 29, 2005 to address this issue. Stay tuned for more information on this topic.

## Forestry and Geology

The Geology Board has been intimately involved with resolving long-standing issues between foresters, regulators, citizens and the licensee community in regards to Timber Harvest Plans. There have been correspondence and ongoing discussions between the Board and other regulatory agencies on when licensure is required. For more information, please contact the Board's office.

## Geologist-In-Training Certification

On January 1, 2005, the Board announced a new trainee certification towards the "Professional Geologist" license in the State of California. New legislation signed by Governor Schwarzenegger in 2004 (SB 1914) allows college graduates with majors in Geology to take the National Association of State Boards of Geology (ASBOG) "Fundamentals of Geology" exam, which is given once a year on the first Friday of March. Once the graduate passes the exam, he/she will be issued a certificate as a Geologist-in-Training. The ASBOG Fundamentals of Geology examination is the first of three examinations necessary to become licensed in California (the other two are the ASBOG "Practice of Geology" examination and the Board's "California specific" examination).

This certification will be a strong qualification for graduates to add to resumes as they conduct a job search. After working with a Professional Geologist for three (3) years [with a BA/BS degree] or two (2) years [with a MA/MS/PhD degree], graduates can apply to take the ASBOG "Practice of Geology" and California-specific exams for licensure as a Professional Geologist in the State of California.

**Eligibility:** BA/BS degree in Geology. Students graduating in May, August and December 2005 will be eligible to take the exam in 2006.

## Professional Geologist Name Change

With the passage of Senate Bill 1914 (Figueroa) in the Fall of 2004, the name for licensed geologists in the State of California changed from Registered Geologist (RG) to Professional Geologist (PG). This change in the law became effective on January 1, 2005.

Individual license numbers will remain the same; however, all new pocket licenses and wall certificates will state Professional Geologist. Existing wall certificates and pocket licenses are still valid and do not need to be replaced.

The intent of the law is to bring California licensees in line with what every other State utilizes to identify their licensed professionals. This will facilitate cooperative licensure (reciprocity) with other States. It should also mitigate the confusion caused to consumers by Registered Geologists being grouped with Registered Environmental Health Specialists (REHS) and Registered Environmental Assessors (REA), both of which are unlicensed titles.

The titles Certified Engineering Geologist (CEG) and Certified Hydrogeologist (CHG) are still valid and are not affected by this change. Registered Geophysicists (RGP) did not have their license renamed. The following is the link to the legislation: [http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb\\_1901-1950/sb\\_1914\\_bill\\_20040929\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb_1901-1950/sb_1914_bill_20040929_chaptered.pdf)

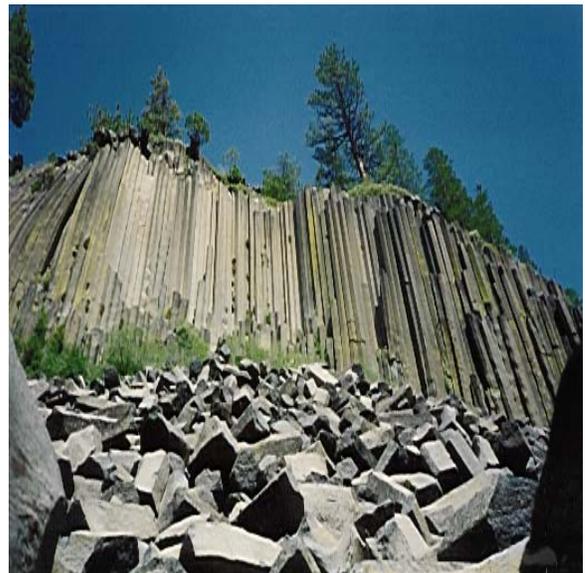
Specifications for the new stamp can be found at: [http://www.geology.ca.gov/laws\\_regs/sect3008.pdf](http://www.geology.ca.gov/laws_regs/sect3008.pdf)

## *GRP 1 versus CPR*

Governor Schwarzenegger's proposed Governor's Reorganization Plan 1, which called for the elimination of the Board Members from overseeing the operations of the Board for Geologists and Geophysicists (and having staff report directly to the Director of the Department of Consumer Affairs) was withdrawn from consideration by the Little Hoover Commission by the Governor in February 2005. Also, the recommendation for the consolidation of the BGG with the State and Mining Geology Board, as recommended in the California Performance Review (CPR) was not mentioned in either the Governor's proposed 2005-06 Budget or in any legislation that was submitted by the Legislature for the current session. Therefore, the Board will continue to operate under the same authority that it has since its inception in 1968, when the original Geologist and Geophysicist Act was signed by then Governor Ronald Reagan.

## Address Changes

Please remember that it is the licensee's responsibility to inform the Board of a change of address. This can be accomplished quickly and effectively by sending the Board an e-mail at [geology@dca.ca.gov](mailto:geology@dca.ca.gov).



# Enforcement Actions

## **Gary Johnson Professional Geologist No. 4315**

The Board revoked Professional Geologist (PG) license No. 4315 issued to Mr. Gary Johnson. The PG license was revoked as part of a settlement of a Stipulated Revocation of License and Order in resolution of Accusation Number No. 01-2002-14 pursuant to Business and Professions Code §§7860(b)(2), 7860(b)(3); and 7860(3), specifically, California Code of Regulations, Title 16 §§3065(a)(2), 3065(b)(4) and 3065(b)(8) for unprofessional conduct. Professional Geologist Gary Johnson failed to exercise reasonable care in determining and reporting the exact locations of the former subsurface structures and geologic conditions located at a contamination release site. The professionally certified reports were subsequently submitted to the Leaking Underground Storage Tank Cleanup Fund (Fund) for reimbursement. The exact locations of former subsurface facilities on the site were critical not only to pinpoint investigation and remediation activities but also to determine whether the project was reimbursable by the Fund. In addition, Mr. Johnson's expert testimony regarding underground storage tank locations and the subsurface contamination pathways of oil in the vadose (unsaturated) zone did not have a basis in fact or experience. Mr. Johnson testified that in the absence of preferential pathways, oil contamination could migrate upward. In the circumstances of this case, there is no plausible scientific mechanism to cause upward migration of oil in the vadose zone. Mr. Gary Johnson failed to accurately characterize contamination sources and subsurface contaminant migration pathways, therefore, he departed from the standard of care of a licensed Professional Geologist practicing under similar circumstances and conditions.

In the event Mr. Johnson petitions the Board for reinstatement of his license at some time in the future, Mr. Johnson agreed, as a condition to granting any petition for reinstatement or applica-

## **Gary Johnson, Contd.**

tion for relicensure, that he will pay \$13,000.00 to the Board for costs of investigation and enforcement of Accusation No. 01-2002-14 pursuant to Business and Professions Code section 125.3 for investigation, expert witness and prosecution costs.

Mr. Johnson agreed that all of the charges and allegations contained in Accusation No. 01-2002-14 will be deemed true solely for the purpose of the Board's evaluation on whether to grant or deny the petition or application.

In Stipulated Revocation of License and Order, dated January 12, 2005, Mr. Gary Johnson agreed that cause for discipline existed and consequently surrendered his revoked Professional Geologist license No. 4315 to the Board. The case was closed on February 24, 2005, by adoption of the Stipulated Revocation of License and Order.

## **David Irwin Professional Geologist No. 5708 Certified Engineering Geologist No. 1988**

The Board for Geologists and Geophysicists (Board) issued a Citation and Fine of \$2,500.00 to David Irwin (Professional Geologist license No. 5708 and Certified Engineering Geologist No. 1988) for violation of Business and Professions Code section 7872(h) and section 7860 and for violation of section 3065(b)(1) of the California Code of Regulations (misrepresenting his professional affiliations).

Mr. Irwin provided various professional environmental services relating to an underground storage tank cleanup site, including assembling Request for Reimbursement (RR)

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## Enforcement Actions, Continued

### David Irwin, Contd.

No. 2 (with its attached Invoice No. DE04-019) for submittal to the Underground Storage Tank Cleanup Fund (Fund).

Mr. Irwin signed the name of the Fund claimant to RR No. 2, and forwarded it to the Fund in April 2004. The Fund issued a reimbursement check for \$1,213.75 payable to the claimant and mailed it to the claimant together with a copy of RR No. 2 with claimant's name as signed by Mr. Irwin. The claimant returned the check to the Fund because claimant had not signed RR No. 2 and had not authorized Mr. Irwin to sign the claimant's name to RR No. 2. The Fund subsequently requested an investigation by the State Controller's Office. State Controller's Office, Special Investigations Bureau (SCOSIB) investigated and concluded that there was no fraud in this case. The Fund then referred the matter to the Board for review with respect to the Business and Professions Code requirements of a Professional Geologist and to take appropriate action.

RR No. 2 signed by Mr. Irwin in the name of the claimant misrepresented his professional project affiliations, in that he signed the claimant's name without express, written authority. While such misrepresentation was not fraudulent in the circumstances of this matter, Mr. Irwin's actions fell below the standard of practice of a Professional Geologist or Certified Engineering Geologist conducting work under similar circumstances, which requires a Professional Geologist to obtain written authority (e.g., a power of attorney or other appropriate authorization) and explicitly disclosing such authority when signing the name of another person to any document.

In accordance with section 125.9(d) of the Business and Professions Code which specifies that payment of the fine does not constitute admission of the violation charged and represents satisfactory resolution of the matter, David Irwin agreed to pay the fine and the case was closed on March 3, 2005.

### **John M.D. Kammer Professional Geologist No. 6295 Certified Hydrogeologist No. 502 Certified Engineering Geologist No. 2118**

The Board for Geologists and Geophysicists (Board) imposed discipline on Professional Geologist (PG) license No. 6295, Certified Hydrogeologist (CHG) No. 502, and Certified Engineering Geologist (CEG) license No. 2118 issued to Mr. John M.D. Kammer. Mr. Kammer's licenses were disciplined as part of the "Stipulated Settlement and Disciplinary Order", dated March 9, 2005 in resolution of Accusation Number No. 01-2002-10 that charged Mr. Kammer with acts of misrepresentation, negligence and unprofessional conduct and therefore, subjected his licenses to discipline.

Professional Geologist John Kammer failed to provide fundamental geologic data, proper site-specific geologic mapping and sufficient documentation to establish an appropriate setback for the geologic conditions for a proposed single-family residence site (site). Mr. Kammer also failed to provide sufficient geologic documentation or analyses concerning the current Factor of Safety (FS) of landslides that are present adjacent to the slopes on the site and to describe the extent the proposed sub-drains and minimal grading would increase the FS to an acceptable level. In addition, Mr. Kammer failed to provide geologic documentation regarding the nature of possible movement within the bedrock, impacts on slope FS and to utilize the findings from earlier geologists' report for the site that documents a prominent site bedrock shearzone. Kammer's undefined proposed building site, inaccurate descriptions and misrepresentations of the geologic conditions at the site are significant deviations from professional standards of practice and are critical to accurately evaluating the geologic/construction safety conditions at the site.

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## Enforcement Actions, Continued

### John M.D. Kammer, Contd.

Mr. Kammer has agreed to have his licenses placed on probation for a three-year period. He is required to pay \$7,500.00 to the Board for costs of investigation and enforcement of Accusation No. 01-2002-10. In addition, Mr. Kammer agreed to the following conditions: 1) to obey all federal, state and local laws, and all rules and regulations of the Board governing the practice of geology and geophysics in California; 2) a full and detailed account of any and all violations of law to be reported by Mr. Kammer to the Board in writing within 72 hours of occurrence; 3) fully cooperate with representatives of the Board in its monitoring and investigation of Mr. Kammer's on-going Stipulated Settlement and Disciplinary Order compliance; 4) submit such declarations and verification of actions relative to compliance and provide copies of all written professional reports and immediately release all information forms as are required by the Board; and 5) a peer review process to be paid by Mr. Kammer to evaluate his professional work products for compliance with local and state standards as may be directed by the Board. It is understood by Mr. Kammer that if he violates any aspect of probation, the Board will revoke his probation-stayed license revocation and therefore revoke Mr. Kammer's PG, CHG and CEG licenses.

For the purpose of resolving the Accusation 01-2002-10, Mr. John M.D. Kammer agreed that, at a hearing, the Board could establish a factual basis for the charges in Accusation 01-2002-10 and thereby gave up his right to contest those charges and agreed to the above-referenced conditions. The case was closed on May 25, 2005 by Board adoption of the Stipulated Settlement and Disciplinary Order.



### **Richard A. Pfof** **Professional Geologist No. 4104** **Certified Engineering Geologist** **No. 1281**

The Board for Geologists and Geophysicists (Board) imposed discipline on Professional Geologist (PG) license No. 4104 and Certified Engineering Geologist (CEG) license No. 1281 issued to Mr. Richard A. Pfof. Mr. Pfof's licenses were disciplined as part of the "Stipulated Settlement and Disciplinary Order", dated March 9, 2005 in resolution of Accusation Number No. 01-2002-11 that charged Mr. Pfof with acts of misrepresentation, negligence and unprofessional conduct and therefore, subjected his licenses to discipline.

Professional Geologist Richard A. Pfof failed to provide fundamental geologic data, proper site-specific geologic mapping and sufficient documentation to establish an appropriate setback for the geologic conditions for a proposed single-family residence site (site). Mr. Pfof also failed to provide sufficient geologic documentation or analyses concerning the current Factor of Safety (FS) of landslides that are present adjacent to the slopes on the site and to describe the extent the proposed sub-drains and minimal grading would increase the FS to an acceptable level. In addition, Mr. Pfof failed to provide geologic documentation regarding the nature of possible movement within the bedrock, impacts on slope FS and to utilize the findings from earlier geologists' report for the site that documents a prominent site bedrock shearzone. Pfof's undefined proposed building site, inaccurate descriptions and misrepresentations of the geologic conditions at the site are significant deviations from professional standards of practice and are critical to accurately evaluating the geologic/construction safety conditions at the site.

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## Enforcement Actions, Continued

### Richard F. Pfof, Contd.

Mr. Pfof has agreed to have his licenses placed on probation for a three-year period. He is required to pay \$7,500.00 to the Board for costs of investigation and enforcement of Accusation No. 01-2002-11. In addition, Mr. Pfof agreed to the following conditions: 1) to obey all federal, state and local laws, and all rules and regulations of the Board governing the practice of geology and geophysics in California; 2) a full and detailed account of any and all violations of law to be reported by Mr. Pfof to the Board in writing within 72 hours of occurrence; 3) fully cooperate with representatives of the Board in its monitoring and investigation of Mr. Pfof's on-going Stipulated Settlement and Disciplinary Order compliance; 4) submit such declarations and verification of actions relative to compliance and provide copies of all written professional reports and immediately release all information forms as are required by the Board; and 5) a peer review process to be paid by Mr. Pfof to evaluate his professional work products for compliance with local and state standards as may be directed by the Board. It is understood by Mr. Pfof that if he violates any aspect of probation, the Board will revoke his probation-stayed license revocation and therefore revoke Mr. Pfof's PG and CEG licenses.

For the purpose of resolving the Accusation 01-2002-11, Mr. Richard A. Pfof agreed that, at a hearing, the Board could establish a factual basis for the charges in Accusation 01-2002-11 and thereby gave up his right to contest those charges and agreed to the above-referenced conditions. The case was closed on May 25, 2005 by Board adoption of the Stipulated Settlement and Disciplinary Order.

## New Staff Members

### **DeLesa Swanigan Office Manager**



DeLesa Swanigan serves as the Board's new Office Manager. She is responsible for performing administrative functions for the Board and for serving as the administrative liaison to the Department of Consumer Affairs.

DeLesa comes to us from the Commission on Correctional Peace Officer Standards and Training where she served as the Administrative Services Division Manager prior to moving to Atlanta, GA in August 2003. DeLesa has over 18 years of state service and has a wealth of knowledge and experience in the various areas of administration. We are happy to have her as a member of the Board's staff.

### **Sarina Best Enforcement Program Assistant**



Sarina Best is the Board's new Enforcement Program Assistant. Her primary responsibility is to provide administrative support for the Enforcement Program. In addition to working at the Board, Sarina also attends school full-time and will be graduating from Cosumnes River College in May 2005 with an AA Degree in Management. The Board welcomes Sarina as the newest member of our staff.



# BOARD FOR GEOLOGISTS AND GEOPHYSICISTS

## 2005 CALENDAR OF EVENTS

<u>EVENT</u>	<u>DATE</u>	<u>LOCATION</u>
Examination Committee	January 14	Sacramento
Holiday – Martin Luther King, Jr.	January 17	
Technical Advisory Committee	January 28	Sacramento
<b>Board Meeting</b>	February 11	Sacramento
Holiday – Presidents’ Day	February 21	
Examinations	March 4	Carson
Examinations	March 4	Sacramento
Holiday - Caesar Chavez Day	March 31	
Enforcement Oversight Committee	April 8	Sacramento
<b>Board/Examination Committee</b>	April 29	Sacramento
Technical Advisory Committee	May 6	Sacramento
<b>Board Meeting</b>	May 20	Sacramento
Holiday – Memorial Day	May 30	
Technical Advisory Committee	July 1	Sacramento
Holiday – 4 <sup>th</sup> of July	July 4	
<b>Board Meeting</b>	July 15	Sacramento
Holiday – Labor Day	September 5	
Holiday – Columbus Day	October 10	
ASBOG Annual Meeting	October 31- November 6	Portland, MN
Holiday – Veterans’ Day	November 11	
Technical Advisory Committee	November 18	Sacramento
Holiday – Thanksgiving	November 24-25	
<b>Board Meeting</b>	December 2	Sacramento
Holiday – Christmas (25 <sup>th</sup> )	December 26	

To have an item considered at a Board or Committee meeting, please submit the request to the Board’s Executive Officer no later than three weeks prior to the meeting date. For example, to have an item considered for the February 11 Board Meeting, the request should be made by January 21.