



# Oregon

**State Board of Examiners for  
Engineering & Land Surveying**

670 Hawthorne Ave. SE, Suite 220

Salem, OR 97301

(503) 362-2666

Fax (503) 362-5454

E-mail: osbeels@osbeels.org

**Oregon Board of Examiners for Engineering and Land Surveying  
Law Enforcement Committee Meeting Minutes  
Thursday, August 2, 2007, 10:30 a.m.**

Members Present:

Dan Linscheid, Chair

Ed Butts

Grant Davis

John Seward

Others Present:

Bob Neathamer (Observer)

Joanna Tucker-Davis, AAG

Mari Lopez

Jenn Gilbert

James R. (JR) Wilkinson

Law Enforcement Committee (LEC) Chair Dan Linscheid called the meeting to order in the conference room of the OSBEELS office at 10:35 a.m., Thursday, August 2, 2007.

Chair Linscheid announced that the LEC met with Thomas H. Burton for case number 2462 in an informal conference prior to the LEC meeting. The LEC and Burton reached a settlement agreement. The LEC recommended that the Board approve the agreement. A Final Order to accept the settlement agreement has been prepared for Board President signature.

Cases Reviewed: The Committee reviewed no cases.

Miscellaneous Issues:

*Bellevue, WA, Crane Collapse:* The LEC reviewed a staff memorandum regarding a crane leased by Salem-based Morrow Equipment Co. that collapsed in Bellevue, WA, on November 16, 2006. The crane operator rode the crane to the ground and sustained minor injuries.

Unfortunately, an occupant in an adjacent building was killed. Robert Fuller, Deputy Executive Director for the Washington Board of Registration for Professional Engineers and Land Surveyors, conducted interviews with Morrow Equipment employees at the OSBEELS office on July 3, 2007. Magnusson Klemencic Associates (MKA) in Seattle is also being investigated because their engineers produced the design for the tower crane foundation, which is suspected of failure causing the collapse. Two Oregon registrants are employed at MKA. The memorandum concluded that OSBEELS should be prepared to take action if the Washington Board finds that Oregon registrants were culpable in the collapse. The LEC also reviewed a thank-you letter from Fuller.

*Hearing Schedule for Ruben Martinez:* The LEC reviewed a staff memorandum regarding the revocation of Ruben Martinez, PLS. Martinez has retained legal representation for a hearing scheduled with an Oregon Administrative Judge on November 27-28, 2007. AAG Tucker-

Davis briefed the LEC on the administrative hearing process and the schedule. The hearing will occur in the OSBEELS conference room. A discovery request has been received and staff is preparing a response.

*National Water Surveying:* The LEC reviewed a staff memorandum regarding National Water Surveying. However, a letter was subsequently found indicating the LEC had already addressed National Water Surveying. The LEC wrote a February 25, 2003, letter to Suzanna Knight, OSBGE, stating “they did not feel that the term ‘survey’ in the ad was any type of violation the Board would take action against.” Based on the 2003 letter, the LEC directed staff to send a letter of inquiry to the OSBGE asking if an investigation was initiated against National Water Surveying and the outcome.

*Practical Example of LIDAR use:* As the result of previous discussions, the LEC reviewed an illustrative example of LIDAR done by OTAK to overlay slope and land use patterns for the East Happy Valley Comprehensive Plan. Lot lines are depicted on the map, but not in an authoritative manner. The LEC discussed potential uses of LIDAR to show property lines. The subject example appeared to be a real-time scan of features done by air borne acquisition. The LEC still has questions about whether or not the use of LIDAR constitutes the practice of land surveying.

*Dale Marx cases 2291/2425:* The LEC reviewed a memorandum on status of Marx’ Settlement Agreement for case 2291 and his Final Order Upon Default for case 2425. The LEC learned that Marx has hired Dan Bauer to manage his surveying activities. Based on a telephone conversation with Marx, Mr. Wilkinson relayed to the LEC that it appeared Marx was not interested in a timely closure of these two cases. For 2291, Marx has paid the \$3,000 civil penalty, but he needs to finish the ethics course and notify the Board. For 2425, Marx needs to pay the \$1,000 default civil penalty. In order for the Board to seek collections, the appeal period needs to have ended. Staffs and AAG Tucker-Davis are to discuss collection options.

*Status of Expert Reviewer:* The LEC reviewed a memorandum regarding revisions to the Request for Qualifications (RFQ) coversheet. Members agreed to remove the proposal due date and update the contact information.

*Darryl Anderson:* The LEC reviewed a July 26, 2007, email from Darryl Anderson regarding County Surveyors. Anderson questioned if there are requirements for a County Surveyor to submit their records of survey to another County Surveyor for approval when they are practicing inside their county. ORS 92.100 addresses approval of plats, but he found nothing to address records of survey. LEC members discussed that an ORS 209 review is for compliance and not for “approval.” Approval is an active analysis of methodology while a review is to ensure that elements required in ORS 209 are present. The members understood the potential conflict of interest issue, but the current laws and rules do not prohibit a County Surveyor from approving his records of survey. If Anderson believes there are violations of the Rules of Professional Conduct, he should review the rules and statute and determine an allegation to file a complaint (also see OAR 820-010-0720). Since the LEC does not issue opinions, it was recommended to refer this question to the Professional Practices Committee.

*The Locating Company:* The LEC reviewed a late agenda item from Ed Graham, PLS. He sent an email to the Board investigator with a link to a webpage for The Locating Company. The LEC observed the site for a firm based in Minnesota, which offered to locate property monuments. Presumably, their services are available in Oregon since there were no limitations placed on the offering of land surveying services. Staff is to contact the company and determine if a law enforcement case is necessary.

**Settlement Agreement Monitoring:**

*2455 – Hammond:* The Board investigator made contact with David B. Hammond, PE, regarding a Notice of Intent to Issue a Civil Penalty against him for case 2455. Staff had not heard from Hammond and proposed issuing a Final Order Upon Default. In response to a phone call, Hammond faxed a letter for LEC review asking them to reconsider a Final Order Upon Default. He explained his illness has kept him from responding, but he would like an informal conference with the LEC to resolve the case. Hammond believed that by October he could meet with the LEC. After some discussion about options, LEC member John Seward and Board member Bob Neathamer agreed to meet with Hammond at his convenience. The LEC also agreed that a conference call could be accommodated. However, the members stated the last date to meet would be no later than the October LEC meeting. Staff is to draft a letter to Hammond who would need to respond in writing.

*2408 – Reece:* David Reece, PE, contacted the Board office regarding the status of his Grant's Pass project office. According to the settlement agreement to close case 2408, Reece was to either close the Grant's Pass office at end of project or hire a registrant in responsible charge. His EIT Geoff Vaughn passed the PE exam and will take over responsible charge of that office. Also, the LEC found no requirement to notify the Board of changes to project offices. In this case, however, Reece was governed by the agreement and was required to notify the Board.

**Case Status Report:**

The LEC briefly reviewed the current case status list.

The meeting adjourned at 10:28 a.m.