

MEETING MINUTES

OREGON STATE BOARD OF GEOLOGIST EXAMINERS

December 1, 2006

Hamersly Library, Western Oregon University, Monmouth, Oregon

Members Present

Christopher Humphrey, RG, CEG
Vicki McConnell, Ph.D., RG, State Geologist
Allen Morris, Public Member
Gary Peterson, RG, CEG
Steve Taylor, PhD., RG, Board Vice Chair
Eileen Webb, RG, Board Chair

Staff Present:

Susanna Knight, Administrator

Guests Present:

Rachel Pirot, WOU student (arrived at 11:30 AM, departed at 1:30 PM)
Andrew Akerson, WOU student (arrived at 11:30 AM, departed at 1:30 PM)

Work Session: The Board meeting was preceded by a Work Session convened at 9:00 AM. The Board began a preliminary discussion of Marion County's Sensitive Groundwater Ordinance [SGO] as it relates to the Board's Final Order in a recent compliance case. The Board discussed the maps accepted by Marion County in the peer review process. The Board confirmed that the map quality and presentation did not meet the expected standard. At 9:15 AM, Lisa Milliman of Marion County Planning Department arrived to visit with the Board about their peer review process. She clarified to the Board that Marion County has never had a staff geologist. *Humphrey* shared that the peer reviewer is generally NOT redoing the investigation or the science, but rather looking at the standard of practice utilized in the investigation. The Board stated that they applaud Marion County's program. *Taylor* commented that it appears as though the Marion County program is exemplary. The intent of the recent Final Order of the Board in which the SGO was referenced was to point out that the written requirements of the county are very close to the Board's requirements, but the registrant's work did not meet this standard. *Peterson* stated that this Final Order in the recent enforcement case reinforces that the geology stamp does mean something. *Humphrey* offered that the Board limited changes to the wording in the Administrative Law Judge's (ALJ) Proposed Order in approving the Final Order, and *Peterson* added that the Board was glowing in the ALJ's conclusions to the Board's case. *McConnell* asked that the next newsletter include a discussion of the case and use the teaching moment of this case to inform all those practicing geology in Oregon. *Taylor* inquired if a map is required in the reports. *McConnell* stated yes, and *Peterson* added that the overlay was adjusted by the respondent. *McConnell* stated that outside geology reviewers want to see 1) a copy of a real map with clear references or 2) a map that states "I mapped via this method." The newsletter article should make it clear that the Board was not judging Marion County's program, and that the Board applauds this protective program. The Board's concern was that the actual reports prepared by the respondent in the multiple compliance cases failed to meet the Board standard. Milliman distributed an updated Marion County Hydrogeology Review Manual and pointed out that the manual includes a statement that questionable reports will be forwarded to the Board. Two Registered Geologists assisted Marion County in this revision. *Taylor* inquired if any other county has such a program. *McConnell* advised that four critical groundwater areas exist in Umatilla County and they have an ordinance. *Chair Webb* declared that the Board is appreciative of

Ms. Milliman's attendance and asked if there was anything else she wished to address. Milliman indicated that wells are another issue as all the county has is the well owner's name. *Humphrey* stated that sometimes the county will need the logs and sometimes they will need an *explanation* for the well log data. *McConnell* finds two issues regarding well information in reports: 1) What is the standard for locating wells? How much time should be invested in this process? And 2) If Water Resources database states there are 45 wells, then this number should be certified by locating a certain number, and explaining why the remainder were not found. Following additional discussion, *McConnell* stated that the Board would be happy to visit with the County Commissioners and that it is important to keep registrants informed so that they are clear about the standard. *Milliman* suggested that it might be helpful to have a list of key questions that the public could ask a geologist in seeking one as a consultant. At 10:30 AM, the Chair asked for a break.

At 10:40 AM upon returning from a break, the following statement was read by the Chair:

“The Board will now meet in executive session for the purpose of reviewing documents that are exempt by law from public inspection under ORS 192.660(2)(f). Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state that general subject of the session as previously announced. No decision will be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.”

The Board returned to the Open Meeting at 11:30 AM and the Chair stated that no conclusions were met.

Guests from Western Oregon University arrived. Board Members introduced themselves and gave background on their involvement with the Board, stated their work position, and described their work. The following guests introduced themselves:

- Ray Broderson, RG, Emeritus WOU Professor of Geology and former Member of OSBGE
- Steve Scheck, Dean, College of Liberal Arts
- Leta Edwards, WOU, Vice-President for Development,
on behalf of President Minahan
- Kathryn Schmidt, Professor of English;
- Rachel Pirot, WOU student;
- Andrew Akerson, WOU student.

Knight reported on the exemplary role Professor Schmidt accepted in volunteering to review a document titled BEST PRACTICES OF SEMI-INDEPENDENT GOVERNMENT compiled by the Administrators of semi-independent Boards for presentation to the Joint Legislative Audit Committee. Professor Schmidt applied her technical writing skills to the 30+ page document prior to official publication. The document was one year in development and Professor Schmidt's assistance in this undertaking was greatly appreciated.

Board Member Taylor presented a PowerPoint for the first time seen by the Board of the history of the Board. The PowerPoint was displayed on a laptop screen at the Board's booth at the Association of Oregon Counties meeting in Eugene November 15 & 16. The Board thanked *Taylor* for his efforts in preparing the presentation.

Additional students and Earth Science faculty arrived *and* lunch was enjoyed over discussion of the regulation of geology.

Chair Webb called the meeting to order at 1:05 PM.

I. Approval of the Agenda: *Webb* asked for additional agenda items. *McConnell* requested to include an agenda item under VII.B. Report on Coastal Processes' Working Group. *Morris* moved to approve the agenda with this addition. *Seconded and passed.* *Humphrey, yes; Morris, yes; Peterson, yes; Taylor, yes; Webb, yes.*

II. Approval of Minutes: *Peterson* moved to approved the minutes as presented of the September 14, 2006, Board meeting. *Seconded and passed.* *Humphrey, yes; Morris, yes; Peterson, yes; Taylor, yes; Webb, yes.* *Morris* moved to approve the minutes of the October 20, 2006, Board Meeting. *Seconded and passed.* *Humphrey, yes; Morris, yes; Peterson, yes; Taylor, yes; Webb, yes.*

III. Announcements:

A. Board Exams: *Knight* stated that although March may seem a long ways away, the next Board meeting will be after the exams are administered so now is the time to seek volunteers to proctor. *Morris* volunteered to proctor the morning section of the ASBOG examination, and the afternoon if needed. *Webb* will assist if available. *Humphrey* volunteered to proctor the CEG examination.

B. Meeting Dates, 2007: The Board set meeting dates on Thursday, March 15, 2007; Thursday, June 7, 2007; and Friday, December 7, 2007. The Board directed *Knight* to contact Eastern Oregon State University to determine if there is interest in hosting a Board meeting on that campus in September 2007. Discussion will be placed on the March 2007 meeting agenda. The Board policy currently includes annual meetings rotating through the following campuses: Portland State University; Oregon State University; University of Oregon; Southern Oregon University; and Western Oregon University as each of these universities have geology programs.

IV. Reports

A. Office Reports: The Board reviewed the Action List and directed that two CEG guideline entries be combined. Numerous **other** entries were eliminated.

1. Report #AR2006-04: *Knight* distributed an update on staff activities since the last Board meeting. The report revealed that the Oregon ASBOG candidates again received high marks with a fundamental exam passing rate of 88% and a practice exam passing rate of 89%. These are very high marks, and Oregon has a history of high marks. The CEG exam pass rate was 66% with two

new CEG's now on the roster. *Knight* also informed that Board that the office would close on Friday, December 22, 2006 and reopen on Tuesday, January 2, 2007 as staff will be on holiday.

2. Budget Updates for 2005-07: *Knight* directed the Board to financial information and stated that the Board has \$34,626 available to cover the low income months of January, February and March. Attorney General charges are over the biennial budget of \$25,200 due to the costs associated with the revocation hearing. A draft budget for the 2007-09 biennium will be prepared for the March Board meeting.

B. Committee Reports:

1. Engineering Geology Examination Committee: *Humphrey* serves as chair of this committee and former Board Member David Michael served as a volunteer in a joint review of the October 6, 2007, exam results with the Washington Board on October 16, 2006. A meeting of volunteer CEG's will be convened on January 9, 2007, in Vancouver, Washington, to Anghoff two new exam versions. *Knight* will seek six volunteers to assist in this process.

2. CEG Guideline Committee: *Peterson* shared that he did not have the time to accomplish what he had intended with the guidelines during his tenure on the Board. However, he is interested in serving on the committee that will update these guidelines. *Peterson's* Board replacement should be announced soon and that appointee will chair this committee.

3. Compliance Committee: *Morris* distributed an updated spreadsheet on the status of current open cases.

a. CC#06-02-005: *Peterson* reminded the Board that a NOTICE OF INTENT TO ISSUE A CIVIL PENALTY was previously approved for this case. He has been working with the committee and reviewing the available documents to confirm the violations of statute. The respondent violated the statute when publicly practicing geology without a registration at two different locations in eastern Oregon. The Board discussed that they are stepping into uncharted territory with this case and it could have a ripple effect. But the Board is charged with public safety on public lands. *Peterson* moved to revise the prior motion to read a Notice of Violation of the Geology Statute rather than a Notice of Intent to Issue a Civil Penalty. *Seconded and passed. Humphrey, yes; Morris, yes; Peterson, yes; Taylor, yes; Webb, yes. Knight* will draft the notice for review by the committee and then send it on to the AAG.

b. CC #06-05-007: *Humphrey* stated that he has reviewed this complaint and recommends that the Board take no action at this time. The complaint was presented by a citizen against the registrant whose license was recently revoked. Following additional discussion, *Humphrey* moved that the Board take no action on this case unless the respondent applies for reinstatement of his registration. *Seconded and passed. Humphrey, yes; Morris, yes; Peterson, yes; Taylor, yes; Webb, yes.*

c. CC#06-10-008: *Morris* stated that in his preliminary review, he thought that the respondent in this case, a Registered Geologist, was immune from a complaint because of the role he played in serving as a expert witness for the Board per OAR 809-020-0025 (2). After consultation with the

Board's attorney, *Webb* was asked by *Morris* to provide her professional review of the complaint letter. *Webb* stated that the only information provided by the complainant was a four page letter. No support documents for validating the complaint were included. She stated that each of the Board members was provided with a copy of the complaint letter in their meeting packet as the only information for the complaint. Following additional discussion, *Morris* moved to send written notification to the complainant stating that per OAR 809-055-002(e)(A) information is insufficient to support a cause of action. *Seconded and passed. Humphrey, yes; Morris, yes; Peterson, yes; Taylor, yes; Webb, yes.*

4. Geology Reports Guideline Committee: *Webb* reported that she will be reassigning one of the sections as she has had no response from the registrant assigned to this section. The project is off the ground and the group is moving forward.

5. Joint Compliance Committee: *Peterson* stated that the committee is not scheduled to meet again until January so there is no new information to report at this time.

6. Legislative Committee: *McConnell* reminded the Board that we have one bill drafted for this session which is the revision developed during the past year to our compliance statute. Key talking points will be prepared in a bulleted format and provided to each Board Member. Board members have clout and each must be prepared to testify when the bill is scheduled should they be needed at the hearing.

7. Outreach Committee: *Taylor* stated that the luncheon PowerPoint was compiled as an outreach presentation at the Board's booth at the Association of Oregon Counties annual meeting in Eugene November 15 & 16. *Webb and Knight* manned the booth on behalf of the Board. *Webb* shared pictures of the Board's booth and various other booths so that the backdrops could be viewed. She stated that the Board should solicit for a donated backdrop. *Morris* offered to build any props that might be needed. The Board concurred that this is a good outreach effort and should attempt to participate in the even number years.

8. Professional Practices Committee:

a. **THE WHITE PAPER** *Humphrey* reported that everyone should have reviewed the final draft and apologized for missing *Webb's* input on updates to the federal ALL APPROPRIATE INQUIRY (AAI) on the 2002 Brownfield's Amendments to CERCLA property as it relates to completion of Phase I Environmental Reports. After updating that information into the draft, the final draft will be forwarded to staff. *Humphrey* asked if Professor Katherine Schmidt, WOU, might be asked to review the document. When that technical review is complete, the document should be posted on the web page and registrants should be asked to read and provide input.

b. **Continuing Education:** *McConnell* suggested that a committee be established to do continuing education research. A review of the Board's statute must locate empowering legislation for continuing education. The newsletter should solicit participation in the committee. A comprehensive study of models should be conducted. *Humphrey* stated that he will work to provide various models for discussing at the March Work Session.

9. Administrative Rules Committee: *Webb* stated that a discussion of fee changes, including an increase in the ASBOG practice exam fee in 2008, will be tabled to the next meeting.

V. CORRESPONDENCE

A. AC 06 10 356: The Board stated that the Administrative Rules are clear that the ASBOG examination is required and the Board has not changed their mind since the last meeting when they discussed this type of request. Staff is directed to write a letter informing the individual that the request to waive the ASBOG examination is denied.

B. AC 06 11 381: This correspondence was a Commendation to the Board from G550, Charles Rosenfeld, upon his decision not to continue with his registration, and encouragement to the Board to continue the fine job of regulating the practice.

VI. OLD BUSINESS

A. Report on Council of Examiners (COE): *Taylor* reported that he participated in the fundamental section of ASBOG's COE convened in Park City, Utah, on November 1 & 2, 2006. Staff was unable to locate a volunteer to participate in the practice session of the COE. *Taylor* reported that the October examination was reviewed; the Spring examination was prepared; and the content areas were retooled and percentages revised. *Webb* asked that *Taylor* also report on the National ASBOG meeting convened Saturday, November 4, 2006. *Taylor* reported that an ASBOG Foundation is being developed and the foundation requested a \$30,000 line item from the ASBOG budget. *Peterson* inquired as to the goal of the foundation. *Taylor* replied that the purpose was to provide long term funding of the COE, as the projection is that no states are developing regulation at this time which would boost the annual income for ASBOG. *McConnell* commented that this is a pricey start. *Taylor* stated that the examination is a very good value, but the organization is questionable. *Webb* stated that with no ASBOG agenda for the Board to discuss, how can the states approve a \$30,000 line item in the budget when none of the states were able to discuss this and approve it ahead of time? The Board also discussed the process for electing members to the Executive Council. Those names should come to each state Board for discussion and approval ahead of time. Staff is directed to draft a letter to ASBOG requesting the national meeting agenda ahead of time and indicating the Oregon Board's concern about funding a new organization without the state's prior discussion and approval.

B. Status of ASBOG Resolution to Fund the COE: *Webb* inquired of *Taylor* if ASBOG voted about funding the COE at the national meeting. *Taylor* stated that there was a lengthy discussion and a motion was made and passed to direct the Executive Council to budget for funding this part of ASBOG. *Taylor* inquired if ASBOG knew of the actual cost for each Board in sending a COE to participate and if not, encouraged the Executive Board of ASBOG to survey member boards for that information. The discussion at the national meeting was difficult to follow, as the funding of the COE was wrapped into the concept of a Foundation. [Note: The national meeting minutes are not available until after the ASBOG Executive Council meets in January to confirm the final action with regards to the Foundation and funding the COE.]

C. Revision of STIPEND GUIDELINES FOR BOARD MEMBERS: *Peterson* stated that revisions to the GUIDELINE must be written to carefully consider both statutes that define the parameters of stipends and suggested that the Board consider a ½ day stipend for those eligible activities that do not consume the entire day. *Knight and Peterson* will draft revisions to the current GUIDELINE for the next meeting.

VII. NEW BUSINESS

A. AC 06 11 385: Hydrology vs. Geology Curriculum: *Taylor* stated that staff relies on his expertise to assist with interpreting eligibility of courses from university transcripts. When courses are questionable, staff is directed to obtain course description and syllabi. A transcript in the Board meeting packet raises questions about hydrology coursework. OAR 809-030-0025 lists the course areas and hydrology, which deals with groundwater modeling and groundwater flow, is not on the list. *Humphrey* stated that groundwater modeling has a different focus. The Board reviewed the transcript and approved most courses. They directed staff to acquire the course syllabi on INTRO-QUANTITATIVE HYDROLOGY and FLOW & TRANSPORT: HYDROLOGY SYSTEMS if those hours are necessary to meet the 36 hours upper division threshold for approving the candidate to the examination. *Taylor* can determine if these questionable courses are acceptable based on the course syllabi.

B. Coastal Processes: *McConnell* distributed the meeting notes of the November 9, 2006, Coastal Processes Working Group. *Peterson* stated that he reported on behalf of the Board and the day's presentations were very thorough as noted in the minutes. Lisa Phipps, Land Use Planner from Tillamook County Lisa Phipps, Land Use Planner from Tillamook County was not present but is interested in developing a committee to work on model ordinances for geologic / coastal hazards and geotechnical reports. *McConnell* stated that two workshops next year are being planned for next year, one for realtors and one for technical parties. This is where the Board can play a role and can plug into a relationship with this working group.

VIII. ITEMS FOR BOARD ACTION

A. Approve Check log: *Humphrey* moved to approve Check #2445 to #2498 and Check #9045 to 9055 as listed in the Board meeting packet. *Seconded and passed.* *Humphrey, yes; Morris, yes; Peterson, yes; Taylor, yes; Webb, yes.*

IX. PUBLIC COMMENT:

Taylor inquired about the question raised earlier by *McConnell* regarding the hydrology dominance in the reviewed transcript from New Mexico Institute of Mining and Technology where geosciences' courses outside of the hydrologic arena were lacking and inquired if there were any stipulations requiring specific course requirements in specific subject areas. The Board concurred that there are no specific subject requirements but that the total number of geology credit hours must be equivalent to 45 quarter hours without specification as to which subject area. It was noted that there is a potential for other future candidates to have a similar focus of course credits in one specific content area (e.g. geophysics or geochemistry). The Board then confirmed that regardless of the focus of the

45 credits hours, the candidate must pass the Fundamentals exam which covers a broad spectrum of topics. This is a fall-back safety to ensure that all candidates have a minimum competency.

The Board thanked *Taylor* for locating such a nice meeting space and for the opportunity to interact with members of both the faculty and student body of Western Oregon University.

Webb adjourned the meeting at 5:05 PM.

Respectfully submitted,

Susanna R. Knight
Administrator

The Minutes of the December 1, 2006, Board Meeting were approved with minor changes at the March 15, 2007, Board Meeting.

Respectfully prepared,
Susanna Knight, Administrator