



Oregon Geologist Examiner

September 2002

Official Publication of the Oregon State Board of Geologist Examiners

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Next Board Meeting:

September 11, 2002

9:00 AM Board Work Session

1:00 PM Board Meeting

The Association Center
COSA Conference Room
Salem, Oregon

Board Revokes License

In a Special Teleconference Meeting held July 22, 2002, the Board unanimously voted to approve the Stipulated Final Order (see related information on page 5 of newsletter) to revoke the license of Harold J. Slavik, Jr. In concluding this case, the Board also "moved to draft an explanation of this case for the newsletter as a tool to emphasize to registrants the seriousness of this case."

Division 20 of the Oregon Administrative Rules 809 contains the CODE OF PROFESSIONAL CONDUCT for geology registrants. It is required reading of each new registrant and is presented to each registrant at the time they are noticed of pending registration. Each registrant is held to this standard. Failure to practice according to these standards can result in the revocation of the geology license.

While reviewing reports in the spring of 1999 prepared for the Department of Environmental Quality (DEQ), a Registered Geologist (RG) noted questionable data. Two reports for two different sites had the exact same data. Further investigation by DEQ revealed that many other reports had been falsified in a like manner. In December 1999, the RG acted as required in the CODE OF PROFESSIONAL CONDUCT OAR 809-020-0006 (7), RESPONSIBILITY TO PROFESSION and came before the Board with his concerns.

The Board was aware of the findings of DEQ, but delayed their investigation until concluding action by DEQ. A Final Order was issued by DEQ in late August of 2000. In DEQ's Final Order, Slavik's Underground Storage Tank (UST) Service Provider license for his company as well as his individual UST Supervisor license were revoked. Following the Board's initial review of the information, a Compliance Committee meeting was held with Slavik and his attorney in the spring of 2001. At that meeting, Slavik, through his attorney, invoked his constitutional rights under the Fifth Amendment and refused to participate in the proceedings.

At the December 2001 meeting, the Board voted to issue a NOTICE OF PROPOSED ACTION TO REVOKE LICENSE AND IMPOSE FINES (see related information on page 3 of newsletter) to Harold Slavik. In addition to the revocation, a \$10,000 civil penalty was to be assessed. Slavik subsequently requested a hearing in the matter. Since the December 2001 meeting, the Board's attorney has been preparing the case for an August 28, 2002, hearing date. Ongoing negotiations led to the Special Meeting in July at which time the Board accepted revocation only and removed the civil penalty.

Slavik's registration as a geologist was revoked effective August 1, 2002.

Board Closes Three Cases

At the June 10, 2002, Board meeting, action occurred on three cases. Two cases dealt with non-registered individuals and one case dealt with a GIT.

A LETTER OF CONCERN was issued to an individual urging caution when compiling information prepared by geologists and then presenting the compilation in a public

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Knight's Notes

While summer is often a slower, quieter time, this summer at the office has lacked that content. A close look at various documents posted in this newsletter will lead you to recognize that this Board is actively working, even during the summer. The Board is currently seeking input on rule changes affecting examination cutoff dates, procedure for reviewing failed examinations, and procedure for appealing examination scores. In addition, documents pertaining to the recent revocation of a registrant's license to practice are also printed.

Another issue seems to be frequently on my desk of late. When it is your month to renew, your help is needed. **Your renewal form must bear your signature.** Please send your *entire renewal form* with your payment. Any address change information must be completed on the top half of the form. When the entire form is returned, it confirms that you indeed had no changes. In addition, if you tear off the bottom section, it often creates problems here at the office. If your signature is unreadable or you fail to sign your name *and* a company, bank, etc. (without reference to a registration number) prepares your check, it becomes difficult to determine credit for the payment. Your assistance will make the renewal process run much more efficiently.

Also, please keep email addresses current. If you have no email address on record, but have recently acquired one, please enter it on your renewal form or forward it via email to osbge@osbge.org. We are still considering an email procedure for this newsletter document.

Thank you to those of you who have kept the office updated with address changes. This ensures your receipt of renewal notices and other mailings. If your address is not current, you may not receive a renewal notice. However, it is your responsibility to keep your license current even if you do not receive a notice.

Susanna Knight
Administrator

Board Proposes Two Rule Changes

The Board recently submitted a Notice of Proposed Rulemaking and Statement of Need and Fiscal Impact regarding two issues: 1) the proposed change in the ASBOG exam cutoff date and 2) review of failed exams and adjustment of appeal process. Details are provided below.

Amend: OAR 809-040-0001 -- Date of Application

Rule Summary: The postmark cutoff date for receipt of exam applications is set at 120 days prior to exam date.

Need for the Rule(s): The National Association of State Boards of Geologist, administrators of the national exam, has changed the order exam cutoff date. In order to meet the national deadline requirement, we must also adjust our application cutoff deadline.

Documents Relied Upon: Notification documentation from the Association of State Boards of Geologist.

Fiscal and Economic Impact: This change will have no financial or economic impact.

Administrative Rule Advisory Committee Consulted?

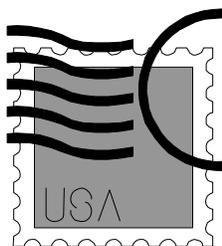
No. This change is necessary to carry on the timely work of the Board staff. It is not a change in the profession.

Public comments regarding this rule change must be submitted in writing to the Board staff by September 1, 2002.

Amend: OAR 809-040-0020 -- Review of Examination
809-040-0021 -- Appeal

Rule Summary: The Board will allow review of the national exam should a candidate fail. The Certified Engineering Geology exam and the Oregon Geology exam will not be available for review should the candidate fail to pass. Since the CEG exam and the Oregon Geology exam are not reviewed, there will be no appeal process. The national exam has a process for reviewing that includes the opportunity to rescore.

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Important Renewal Notice

If your company's accounting department prepares and sends your renewal payment, *please* communicate with them regarding the correct address for receipt of payment. A blue, self-addressed envelope is provided for forwarding payment, but many of the accounting departments use a windowed envelope. The address in their check-writing program is a PO Box. However, in the fall of 2001, the Board changed banks, and the PO Box number also changed. But the accounting people are not verifying the correct PO Box. It would be best if they use the Board street address in their check writing program if they choose not to use the blue envelope. Then your payment will arrive at the office rather than at an incorrect banking establishment which will indeed delay your renewal process. *Thank you!*

Amended Notice of Proposed Disciplinary Action, Imposition of Civil Penalties, and Opportunity for Hearing

STATE OF OREGON BOARD OF GEOLOGIST EXAMINERS

In the Matter of License to Practice as a Registered Professional Geologist:

Harold J. Slavik, Jr, RPG
Case No: 00-04-002

TO: Harold J. Slavik, Jr.

The Oregon State Board of Geologist Examiners is the state agency responsible for licensing and disciplining geologists and regulating the practice of geology within the State of Oregon. Harold J. Slavik, Jr (licensee), is licensed by the Board to practice as a registered professional geologist in the State of Oregon.

1. On December 19, 2001, the Board voted to initiate proceedings to revoke Licensee's license to practice as a registered professional geologist in the State of Oregon and impose civil penalties. The Board also voted to issue this Notice of Proposed Disciplinary Action, Imposition of Civil Penalties and Opportunity for Hearing. The Board has authority to issue this notice and impose sanctions pursuant to ORS 672.675(2), ORS 672.690(1) and ORS 183.310. Any of the violations alleged herein would alone constitute sufficient grounds for revocation. The Board proposes to revoke Licensee's license and impose a \$1,000 civil penalty for each of the five violations of OAR 809-020-0006(5), OAR 809-020-0030(3), and OAR 809-020-0030(6), or in the alternative OAR 809-020-0006(3), and impose a \$1,000 civil penalty for each of five violations of OAR 809-020-0001(2). The alleged violations are more particularly described as follows:

1.1 At all relevant times, SML Associates, Inc. (SML) was an active Oregon corporation and Licensee was the president and secretary. SML was incorporated on November 30, 1994.

1.2 Licensee holds a registered professional geologist (RPG) License No. G1237 and held this RPG during 1998 and 1999.

1.3 As requested by the Oregon Department of Environmental Quality (DEQ), Oregon Analytical Laboratory (OAL) and Columbia Inspection, Inc. (Columbia) provided DEQ with copies of original laboratory reports for samples submitted by SML for analysis as provided herein. All of the original OAL laboratory reports and Columbia laboratory reports, as noted herein, had been transmitted to Licensee and/or SML near the time the samples were collected in 1998 and 1999.

1.4 Licensee, through SML, submitted a report (SML Pate report) to DEQ dated November 14, 1999 for the Pate Residence heating oil tank cleanup project, DEQ File No. 26-99-1070. The SML Pate report includes analytical results for twelve separate chemical compounds for sample number RP-4 that differ from the original laboratory results of OAL report number L13310 (samples collected September 30, 1999). The SML Pate report also includes data from samples collected on October 14, 1999, that differ from the original laboratory results obtained from OAL report number L13494. In both cases, the analytical data submitted by SML/Licensee was false. The SML Pate report was signed and sealed by Licensee and substantially misrepresented the magnitude of contamination at the site. Licensee knowingly made the misrepresentations or, at the least, signed and sealed inaccurate work. Based on the November 14, 1999 SML Pate Report, DEQ would have closed the project without additional requirements. The site was more contaminated than the SML Pate report showed. Licensee's misrepresentations failed to protect public health, welfare and property.

1.5 Licensee, through SML, submitted a report (SML Melcher report) to DEQ dated November 1999, for the Jeff Melcher heating oil tank cleanup project, DEQ File No. 34-99-1235. The SML Melcher report includes analytical results for two soil samples that differ from the original laboratory results obtained from OAL report number L13565, samples collected October 19, 1999. The analytical data submitted by Licensee, through SML, was false. The SML Melcher Report was signed and sealed by Licensee and substantially misrepresented the magnitude of contamination at the site. Licensee knowingly made the misrepresentations or, at the least, signed and sealed inaccurate work. Based on the November 1999 SML Melcher Report, DEQ would have closed the project without additional requirements. The site was more contaminated than the SML Melcher report showed. Licensee's misrepresentations failed to protect public health, welfare and property.

1.6 Licensee, through SML, submitted a report (SML Tooke report) to DEQ dated March 12, 1999, for the Tooke residence heating oil tank cleanup project, DEQ File No. 26-98-1029. The report contains what purports to be a copy of OAL report L9718 for samples collected January 19, 1999. A comparison of report L9718 as obtained from OAL with the version Licensee submitted to the DEQ as part of the SML Tooke report, reveals that Licensee substantially misrepresented the

concentration of TPH-D found in sample MK-7. In addition, Licensee omitted critical data. OAL provided analytical report L8858 to Licensee/SML in approximately November of 1998. The OAL report L8858 contained critical data yet the results were not included in the SML Tooke report. The analytical data submitted by Licensee, through SML, was false and the report omitted critical data. Licensee thereby made substantial misrepresentations and may even have knowingly made the misrepresentations. At the least, Licensee signed and sealed inaccurate and/or misleading work. Based on SML Tooke Report, DEQ closed the project file and issued a letter to the Tookes that no further action was required. Had DEQ been aware of the omitted and falsified data, further analysis and work would have been required before closure of the project. Licensee's misrepresentations failed to protect public health, welfare and property.

1.7 Licensee, through SML, submitted a report (SML Babuska report) dated September 1998 for the Babuska heating oil tank cleanup project, DEQ File No. 26-98-0377. The SML Babuska report includes analytical results from soil samples that differ from the original laboratory results Licensee obtained from Columbia Inspection, Inc. The analytical data submitted by Licensee, through SML, is false. Based on the SML Babuska Report, DEQ would have closed the site without additional requirements. The SML Babuska Report was signed and sealed by Licensee and substantially misrepresented the magnitude of contamination at the site. Licensee knowingly made the misrepresentations or, at the least, signed and sealed inaccurate work. The site was more contaminated than the SML Babuska report showed. Licensee's misrepresentations failed to protect public health, welfare and property.

1.8 Licensee, through SML, submitted to DEQ a report (SML Howell report) dated July 1999 for the Howell residence heating oil tank cleanup project, DEQ File No. 26-99-052. The SML Howell report includes analytical results for soil samples that differ from the original laboratory results obtained from Columbia Inspection, Inc. The analytical data submitted by Licensee in the SML Howell report, is false. The SML Howell Report is signed and sealed by Licensee and substantially misrepresents the magnitude of contamination at the site. Licensee knowingly made the misrepresentations or, at the least, signed and sealed inaccurate work. Based on the SML Howell report, DEQ would have closed the project without additional requirements. The site was more contaminated than the SML Howell report showed. Licensee's misrepresentations failed to protect public health, welfare and property.

1.9 Licensee signed each SML report described in paragraphs 1.4 through 1.8 above, and stamped each with his RPG stamp.

1.10 Licensee either authorized or reviewed and approved each SML report described in paragraphs 1.4 through 1.8 above.

2. The Board alleges that the acts and conduct of Licensee described above constitute misconduct in the practice of geology. Therefore, pursuant to ORS 672.675(2), the Board proposes to revoke Licensee's license to practice as a registered professional geologist in the State of Oregon.

2.1 In addition, the Board proposes to impose a \$1,000 civil penalty for each of five violations of OAR 809-020-0006(5) and OAR 809-020-0030(3), and proposes to impose a \$1,000 civil penalty for each of five violations of OAR 809-020-0001(2).

3. You are entitled to a hearing as provided by the Administrative Procedures Act (chapter 183, Oregon Revised Statutes). If you want a hearing, you must file a written request with the Board within 21 days of the date this notice was mailed. If a request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived. Any request for hearing must be sent or delivered to the Board's office at:

Oregon State Board of Geologist Examiners
707 13th Street SE, Suite 275
Salem, OR 97301

3.1 If you request a hearing, you will be notified of the time and place of the hearing. You may be represented by legal counsel at the hearing. You will be provided information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing.

3.2 If you do not request a hearing within 21 days, or if you withdraw a request for a hearing, notify the Board or hearing officer that you will not appear or fail to appear at a scheduled hearing, the Board may issue a final order by default revoking your license and imposing the civil penalties as provided. If the Board issues a final order by default, the Board designates its files on this matter as the record for the purpose of proving a *prima facie* case upon default.

Board Closes Cases

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forum. The appearance may lead the public to believe that the materials are prepared as required by a Registered Geologist. When the author is not a Registered Geologist and when there is no original work in the document, it cannot be a stamped document. The Board requested that any such document contain a disclaimer at the front stating that this is a compilation prepared by a citizen. The Board appreciated the cooperation by the individual in this case throughout the entire review process.

A LETTER OF CONCERN was also issued to another citizen acting as the manager in a project. A city had issued a complaint about the work product of a project due to cost overruns. A review by the Board revealed that the work was not contracted as geology work but rather boring work. As the project developed, the city began seeking additional information that was not part of the contract. The Board urged caution when projects grow beyond their scope and become more technical.

In the third case, a GIT was issued a LETTER OF CONCERN for doing work that required supervision. Although the project was not contracted as geology work, it was the opinion of the Board that an Engineering Geologist should have supervised the project. As a GIT working on a geology project, a registrant with proper certification should have supervised the work.

Rule Changes

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Need for the Rule(s): The Certified Engineering Geology exam and the Oregon Geology exam have a reusable pool of exam questions. It is important for exam security to drop review of failed exams. Because no review will be allowed, the appeal process will also be adjusted.

Documents Relied Upon: Attorney-Client Memorandum that confirmed the Board's authority to make this rule change. Recommendation by the psychometricians that assisted in the development of the exam questions for the engineering geology exam. Consultation with the Washington Board of Geology that shared in the development of the exam questions.

Fiscal and Economic Impact: No impact will result.

Administrative Rule Advisory Committee Consulted?

No. The Board made this change due to recommendations from the psychometricians in order to ensure the quality and content of the exam.

Public comments regarding this rule change must be submitted in writing to the Board staff by September 15, 2002.

Board Issues Stipulated Final Order

In the Matter of the License to Practice as a Registered Professional Geologist of:

HAROLD J. SLAVIK, JR, RPG
Case No. 00-04-002

The Oregon State Board of Geologist Examiners (Board) is the state agency responsible for licensing and disciplining geologists and regulating the practice of geology within the State of Oregon. Harold J. Slavik, Jr. (Licensee), is licensed by the Board to practice as a registered professional geologist in the State of Oregon.

A Notice of Proposed Disciplinary Action, Imposition of Civil Penalties and Opportunity for Hearing was served on Licensee via certified, return receipt mail on January 3, 2002. An Amended Notice of Proposed Disciplinary Action, Imposition of Civil Penalties and Opportunity for Hearing (Amended Notice) was mailed to Licensee on July 1, 2002. The Board proposed to revoke Licensee's license to practice geology and to impose a civil penalty of \$5,000 for five violations of OAR 809-020-0006(5), OAR 809-020-0030(3), and OAR 809-020-0030(6), or in the alternative OAR 809-020-0006(3); and \$5,000 for five violations of OAR 809-020-0001(2).

Licensee and the Board now propose to resolve this matter informally through the following stipulation.

1. Licensee admits to each of the allegations in the Amended Notice as outlined in Paragraphs 1.1 through 2.1.
2. Licensee stipulates to violations of OAR 809-020-0006(5), 809-020-0030(3), 809-020-0030(6), and 809-020-0001(2).
3. Licensee will not perform or offer to perform geological service or work for the general public that falls within the jurisdiction of the Board of Geologist Examiners in the State of Oregon.
4. Licensee stipulates to the Board's revocation of his license.
5. This Stipulated Final Order constitutes the final resolution of the contested case proceeding for the violations alleged in the Amended Notice, including any right to any appeal therefrom.
6. Licensee agrees that any violation of this Stipulated Final Order constitutes grounds for imposition by the Board of the \$10,000 civil penalty originally proposed in the Amended Notice in addition to any other sanction provided by law.

Oregon State Board of Geologist Examiners

707 13th Street SE, Suite 275
Salem, OR 97301



Lapsed Licenses

The registration of the following individuals lapsed during the second quarter of 2002.

Amoroso, Lee, G1546; **Bergeron**, Brent N, G1959;
Carroll, Lauren L., G1444; **Dinkelman**, Scott D,
G1319; **Ganahl**, Jerome B, T1718; **Garrison**, Noah
J., T1903; **Gribi**, James E, G1752; **Pate**, Kimerly AL,
G1841; **Rapp**, John S, E1526; **Smith**, Andrew J,
G1651; **Werle**, James L, E1635

If your name appears above and you *did* pay your renewal fee, please contact the Board office so the database can be corrected. Otherwise, those listed are not allowed to practice geology in the state of Oregon until their registration is brought current.

As of February 2002, the Restoration Fee has been changed. The \$10 late fee is required when renewal payment is received within 90 days from the due date. If payment is postmarked between 90 and 179 days, the fee is \$50. A \$100 fee is required when renewal payment is received after 179 days from the due date.

2002 Calendar of Upcoming Events

- Sept. 10: Governor's New Board Member Training
Salem
- Sept. 11: Board Work Session -- 9:00 AM
Board Meeting -- 1:00 PM
COSA Conference Room
The Association Center, Salem
- Oct. 4: National Geology, Oregon Geology, and
Certified Engineering Geology Exams
- Nov. 4 - 10: National Meeting of State Boards of Geologist
Examiners, Biloxi, Mississippi
- Nov. 6 & 7: Council of Examiners Workshop
Biloxi, Mississippi
- Nov. 9: Cutoff Date for December Oregon Geology
Exam
- Dec. 6: Oregon Geology Exam, 1:00 to 3:00 PM
Salem, Oregon
- Dec. 9: Board Meeting, Portland
Location to be Announced