

# OREGON STATE BOARD OF GEOLOGIST EXAMINERS

## MEETING MINUTES

MARCH 21, 2014

### Members Present:

Peter Stroud, RG/CEG, Chair  
Kenneth Thiessen, RG/CEG, Vice Chair  
Hans Feige, RG  
Todd Jarvis, PhD, RG/CEG  
Vicki McConnell, PhD, RG, State Geologist\*  
Stephen Tucker, Public Member  
(\*Ex Officio member, does not vote on motions)

### Staff Present:

Christine Valentine, Administrator

### Guests:\*\* (\*\*as noted in minutes)

Bernard Kleutsch, RG/CEG, ODOT  
Kyle Martin, AAG, DOJ

*LOCATION: ASSOCIATION CENTER, 707 13<sup>TH</sup> ST. SE, CONF. RM. "B", SALEM, OR*

Chair Stroud called the meeting of the Oregon State Board of Geologist Examiners (OSBGE) to order at 9:03 AM. All Board members were present. Chair Stroud welcomed new members Feige and Tucker. Registrant Bernard Kleutsch attending from the Oregon Department of Transportation (ODOT) also introduced himself. Valentine noted the updated Board membership roster.

**Meeting Agenda Review:** Chair Stroud noted the meeting format change to not include a separate work session. He does not want to minimize good discussion, but this approach may afford some streamlining as motions can be taken up immediately following a discussion vs. holding to the afternoon meeting.

Chair Stroud discussed the planned participation of counsel in the meeting. Vice Chair Thiessen asked if counsel would participate in the compliance report, and Valentine confirmed this. Chair Stroud asked if there were any other comments on the meeting agenda, and none were offered.

**Minutes:** Chair Stroud noted that the Board had the December 13, 2013 minutes for review and approval. He asked Valentine to make several grammatical changes, and she noted these.

*McConnell moved to approve as amended the December 13, 2013 minutes as revised. Thiessen seconded the motion. Chair Stroud asked for discussion. Hearing none, he called for a vote. Jarvis abstained, and Stroud, Thiessen, Feige, and Tucker approved.*

**OSBGE Guidelines:** Chair Stroud opened discussion on the guideline documents.

➤ Engineering Geology Report Guideline/Fact Sheet: Chair Stroud provided an update on development of the Engineering Geology Report Guideline and Fact Sheet. Valentine summarized the public review process, including coordination with the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS). Valentine also referred to the

project schedule and noted the work is on schedule. She pointed out that the Board needed to make a decision about requesting further revisions from the contractor.

Chair Stroud and Valentine summarized the comments received during the public review and how those were reviewed with the contractor. Based on that review, the contractor prepared the revised drafts before the Board. Vice Chair Thiessen also reminded the Board that he presented on the documents at a joint meeting of the Oregon chapters of the Association of Environmental and Engineering Geologists (AEG) and American Society of Civil Engineers (ASCE). This meeting was held in Portland on January 8, 2014 and was well attended.

Chair Stroud mentioned public review comments from registrants regarding CEGs as design professionals. Since CEGs contribute to design and given recognition of CEGs as design professionals in the state building code, the word “design” was inserted in several places in the guideline. He described design as a broad term related to work supporting development projects and said the guideline document does not detail all elements of design handled by CEGs vs. other design professionals. Each professional must be knowledgeable about working within his or her scope of practice and area of expertise. The Board agreed with this approach.

Chair Stroud addressed how there was some confusion expressed by reviewers about report terminology, specifically the terms geotechnical report and engineering geology report. The revised draft uses geotechnical and engineering geology report interchangeably to address work by CEGs. The revised draft uses the term geotechnical engineering report to refer to a report prepared by a geotechnical engineer. Kleutsch offered that in his experience geotechnical is used as a catch all term for work by CEGs and engineers and that this is similar to how design is also a catch-all phrase. Tucker noted that there appear to be some gray areas between engineering geology design vs. engineering design. The Board determined that this gray area could not be completely cleared up in the report preparation guideline. However, the Board did encourage Chair Stroud and Valentine to review the language once more with an eye towards further clarification on CEG prepared reports.

Vice Chair Thiessen pointed out some confusing language in the revised draft regarding other reports that a CEG may prepare. He recommended revision to be clear that the Board is not saying that a CEG is required to prepare hydrogeology and mineral reports, as these can be prepared by a RG. The Board concurred with this recommendation.

Feige asked if adding a definitions section to the guideline could help with the issues of report types, design, and types of professionals. The Board discussed what terms could be defined and ultimately decided not to add such a section. Instead, the Board requested that the text be clarified to better address these issues.

Chair Stroud opened the floor to consideration of other questions or edits. Comments from OSBEELS were also reviewed at this time. Numerous possible revisions were debated.

The Board decided to accept all changes reflected in the revised draft, asked Chair Stroud and Valentine to work on the clarifications discussed above, and also identified a handful of additional revisions that were recorded by Valentine for incorporation into the guideline.

The Board discussed next steps with the guideline. No further public review was proposed. However, Valentine was asked to share the revised guideline with the OSBEELS Administrator along with an invitation for OSBEELS to review the final draft with any additional comments needed prior to the May 30, 2014 meeting. As part of this outreach, Valentine could explain that

the CEG role as a design professional was added in several places in response to comments, with design used as a broad term and OSBGE's view being that each practitioner needs to work within scope of practice, training and expertise. Vice Chair Thiessen again reminded the Board of his presentation involving the ASCE as another route that the engineering community was consulted.

Jarvis asked Kleutsch for his thoughts on design based on his experience working with CEGs and engineers at ODOT. Kleutsch offered that in his agency the determination of who can do what work is based on what is being designed. For example, if it is a structure involving concrete and steel, an engineer would design, but if a structure of rocks and soil the CEG could also design. The Board thanked Kleutsch for taking the time to attend and for sharing his professional experience regarding CEG and engineer work with the Board.

The Board next reviewed the revised Fact Sheet. There was some question as to the documents usefulness, but the Board ultimately determined that the document might be helpful to non-practitioners with further development. The Board discussed renaming the document and possible ways to streamline it further. Chair Stroud requested that Board members provide final comments on the Fact Sheet so that a decision can be made at the May 30, 2014 meeting about where to go with this document.

➤ Professional Practice Guidance: McConnell and Valentine updated the Board on responses received during the public review and how the document was revised in response to public comment. This included Board review of OSBEELS comments on the document. The proposed revisions were generally supported by the Board.

McConnell and Valentine highlighted a handful of issues that they felt would benefit from specific discussion with the Board. They noted revisions proposed in response to comments suggesting the Board was too narrowly defining environmental geology. This was not intended so the definition of environmental geology has been broadened and language added to explain that environmental site assessment is addressed in some detail because it is an area of practice the Board has historically received many questions about. The Board discussed and supported the revisions plus decided to keep the text regarding Phase I and II site assessments.

Similar to the comments on the Engineering Geology Report Guideline, they shared that a few reviewers expressed confusion about geotechnical vs. other CEG reports. The Board's discussion of this topic earlier in the day provided guidance on this issue. There were also several requests to further clarify the roles of CEGs vs. engineers, and the Board ultimately suggested a final review to ensure consistent language with the Engineering Geology Report Guideline but not the addition of substantial new text on this topic.

McConnell and Valentine asked the Board if cone penetrometer testing can be done by either an RG or CEG, as this was raised in reviewer comments and has not been addressed in the document. The Board decided this depends on how the data are used and the purpose of the project (civil works vs. general study). The Board further decided that a non-registrant could gather data using a cone penetrometer so long as no geologic interpretation occurred.

McConnell and Valentine also shared comments regarding the hydrology vs. hydrogeology section of the document with the Board, including a question about whether groundwater modeling is exclusively the public practice of geology. The Board decided to maintain the section as revised and noted that numerous RGs call themselves hydrologists. Some view hydrology as only dealing with surface waters, but others view more broadly to include geology work. The Board further decided to address groundwater modeling only in the Hydrogeology Report

Guideline but did not conclude that such modeling work falls entirely within the public practice of geology.

Before departing, Kleutsch expressed that he felt it would be helpful for CEGs to have information from Joint Compliance Committee (JCC) case histories. He attended JCC meetings in October 2013 and February 2014 and feels that the Committee's review of practice overlap issues is informative. He encouraged the Board to consider pulling useful information from those case histories and somehow sharing lessons learned with CEGs. The Board thanked him for this idea as something to be further considered.

Kyle Martin, AAG, joined the Board at 10:45 AM.

Valentine spoke briefly about the last two guidelines and recommended that these be released for public review. She noted that Vice Chair Thiessen as editor of the Geology Report Guideline could speak about that document. She reminded the Board that former Board member Mark Yinger, RG, served as editor for the Hydrogeology Report Guideline, and the current draft represents the end of his editing role.

➤ Geology Report Guideline:

Vice Chair Thiessen said that he prepared this version for Board review incorporating his revisions as well as addressing comments provided by several Board members and staff. The Board's goal as stated at the December meeting was to have a preliminary draft ready to release for public review after the March 21, 2014 meeting. He wanted to work with Valentine on some formatting issues but otherwise felt it was ready for public review

➤ Hydrogeology Report Guideline: Valentine reminded the Board that its goal was the same as for the Geology Report Guideline, i.e., to have a preliminary draft ready for public review after the March 21, 2014 meeting. She explained that Yinger incorporated comments provided by several Board members and staff. Vice Chair Thiessen spoke briefly about his review of this guideline and supported that it should be released for public review.

All Board members ultimately agreed that both guideline documents be put out for public review by registrants and other potentially interested parties. The Board expects to consider public comments at the May 30, 2014 meeting.

Chair Stroud called for a break at 11:10 AM. Kleutsch departed at this time. He reconvened the Board at 11:23 AM and noted that the Compliance Report was next up.

**Compliance Report:** Valentine introduced the report and noted that the Board has three open cases and a potential case to discuss. The open cases are CC#13-01-005, 13-01-006, and 13-01-007. The potential case involves information from Ray Stiles, an individual working in the Portland area and with apparent concerns regarding three different OSBGE registrants. For both, the Board has written advice from counsel to consider, and she recommended executive session discussion of that advice to maintain confidentiality. She confirmed that Board members had all the documents. At 11:25AM, Chair Stroud announced that the Board was entering Executive Session to consider written advice from counsel per ORS 192.660(2)(f) and read the script.

At 12:55 PM, Chair Stroud announced that the Board was back in public session. No decisions were made by the Board during the Executive Session. No motions on the open cases or the potential case were made. There was no further discussion on the Compliance Report.

Chair Stroud called for a brief break so that Board members to get lunch but requested a working lunch since the Compliance Report discussion ran longer than anticipated. He reconvened the Board at 1:03 PM.

**Future Board Work/Meetings:** Chair Stroud introduced this agenda topic as just a brief touch point to determine if Board members were amenable to a future discussion about strategic planning and related issues. He stated that this would likely be a separate meeting added to the quarterly meeting schedule. Board members shared ideas and concerns but ultimately all agreed to participate in some form of meeting to discuss Board goals and work plan.

**Application Review Report & Consent Agenda:** McConnell presented the consent agenda dated March 21, 2014 covering exam and registration application approvals issued between November 28, 2013 and February 28, 2014. Valentine explained for the benefit of new members how the consent agenda worked. Hearing no discussion or requests to remove items, Chair Stroud asked for a motion to approve the consent agenda. *Thiessen moved to approve the consent agenda as presented for period of November 28, 2013 through February 28, 2014. Feige seconded the motion. Stroud called for a vote, and all approved.*

McConnell and Valentine presented a memo regarding rule interpretation related to application #13115658 for examination. This application raised some questions regarding crediting work experience gained in a state without geologist registration. The Board agreed with the recommendation of the memo. Valentine said the individual would be contacted and encouraged to apply for the October 2013 ASBOG examination. The Board also requested an update to its delegation of authority document such that the Administrator and Application Review Coordinator could make interpretation about qualifications to supervise for future application reviews.

**Administrator Report:** Valentine presented the report as follows:

➤ Narrative Report: Valentine highlighted several items that would not be taken up elsewhere on the agenda. She referred the Board to the IT assessment completed by the Department of Administrative Services (DAS). Staff agrees with the recommendation to purchase new filing cabinets to increase security of documents, and the Board concurred. Valentine noted that the technical issue regarding data encryption is being pursued with the Board's IT contractor.

She next mentioned the State of Oregon classification and compensation study regarding management positions. DAS has recommended that administrators for small licensing boards be slotted at the lowest tier of the proposed new classification scheme for agency directors. The compensation piece has not yet been shared and may not be for a considerable time. Valentine suggested that McConnell be designated as the Board lead to participate with the Administrator on behalf of OSBGE. Her recommendation was based on McConnell having to participate in this study for her own state agency and therefore this would be most efficient for the Board. The Board concurred with the assignment.

Valentine asked the Board about an outreach visit at a local university in 2014. She stated that Oregon State University (OSU) or Western Oregon University (WOU) come up next on the rotation. The Board discussed and decided to pursue a visit at WOU for the December meeting. Valentine said she thought the Board would need to change its meeting date by moving it up a week (December 1-5) to coincide with the last week of fall term classes and avoid final weeks when many students may be gone or otherwise not inclined to attend. As a related issue, Vice Chair Thiessen asked about whether the Board should try to hold meetings at other smaller colleges in Oregon. Valentine and McConnell explained the history of how they got to the current

list of targeted universities. Thiessen said he would look into other university programs that might offer geology programs.

Valentine told the Board about a performance audit for health licensing boards that the Secretary of State's Office recently released. The audit focused on compliance and licensing processes and overall Board governance. One audit finding was that there is no single most effective governance model for boards and commissions. The audit also recommends more training for Board members and stronger connections between boards and the Governor's Office. The Governor's Office response to the audit mentions there will be some type of upcoming mandatory training for Board Chairs and Administrators and likely some type of mandatory quarterly reporting to the Governor's Office in the future.

In closing, Valentine mentioned that staff would like to revisit the issue of accepting online payments. Staff intends to update research shared with the Board previously and then will present on this topic at a future meeting. Staff sees that demand for this service has not lessened, and OSBGE has not kept pace with the times on this issue.

➤ Update on 2014 Biennial Report: Valentine stated that the report narrative has been polished and the formatting of attachments cleaned up since the working draft distributed to the Board. The report will be submitted prior to the April 1 deadline.

➤ Updated Budget and Revenue/Expense Report: Valentine presented the budget information through February 28, 2014. She noted a revised format for the Revenue and Expense report to show a side-by-side comparison to the same timeframe in the previous year. Valentine said she expects the professional services line item to come in over the year 1 projection due to payments to contractor LEI not yet reflected in this quarter report. However, she anticipates this overage can be accommodated from the year 2 allotment. She also noted the Board has not spent anything in the fiscal year for out-of-state travel as the Board did not send a Board member to the ASBOG fall meeting.

➤ Approve Quarterly Check/Debit Log: Valentine presented the check log and requested Board approval. *Jarvis moved to approve the check log for November 25, 2013 through March 4, 2014 covering debits November 29, 2013 through February 28, 2014 and checks # 3679 through 3735. McConnell seconded the motion. Stroud called the vote, and all approved.*

➤ 5-Year Comparison of Changes in Monthly Renewals and Examinations: The Board reviewed the update.

➤ Update on Edward Jones Investments: The Board reviewed the investment statement.

Chair Stroud asked if there were any questions for Administrator about the report. Hearing none, he called for a break at 2:15 PM. He reconvened the Board at 2:22 PM.

**Committee Reports:** Chair Stroud opened discussion on committee reports.

➤ Committee Assignments: Chair Stroud noted that first the Board needed to discuss committee and coordinator assignments considering recent changes in Board membership. The Board reviewed list and the nature of the various assignments. The following assignments were made by Chair Stroud: Tucker as Complaint Coordinator, Feige as Rules Advisory Committee Chair, and McConnell to remain as Application Review Coordinator for another year. The Board will

continue discussion about the Outreach Committee at the next quarterly meeting. (Later in the day, Valentine agreed to arrange some training for Tucker and Feige regarding their new roles.)

➤ Rules Advisory Committee: The Board reviewed a memo from Valentine outlining possible rules projects. Valentine also spoke briefly to how the Committee has been engaged in the past. The Board would like to take action in the short-term on the mediation rules and asked Valentine to investigate possible temporary rulemaking on this matter. For the remainder of potential projects, Feige and Valentine will work on prioritizing and crafting a potential schedule.

➤ Joint Compliance Committee: Chair Stroud provided the report as follows:

The JCC is now meeting 3 times a year – in February, May and October. At the February meeting, the JCC did not have any new compliance cases to discuss. OSBGE provided an update on the settlement agreement proposed for CC#13-01-005, noting that the response was not yet due to the Board so there was no further discussion. OSBEELS provided an update on Case #2725 involving a CEG. This OSBEELS case relates to OSBGE closed case CC#11-12-003. OSBEELS investigation turned up additional information regarding the working relationship between the CEG and PE involved with the project. As a result, OSBEELS now anticipates closing the case against the CEG without action. This means that OSBGE will not need to revisit its case based on OSBEELS action. The next JCC meeting is scheduled for May 1, 2014.

The JCC decided to work through one year of meetings and then revisit the redrafting of the memorandum of understanding between the Boards. This has not changed.

Each Board has been asked to decide whether it wants to pursue an update to the 1984 legal opinion on practice overlap. OSBEELS discussed at its March 11, 2014 meeting and supports moving forward with the DOJ update. At the December 2013 meeting, OSBGE requested a work session with counsel to frame how best to approach an update. Valentine explained this is still planned but was delayed to the May 30, 2014 meeting due to uncertainty about counsel's availability for this meeting.

Each Board has been asked to appoint an alternate, as was also discussed at the December 13, 2013 meeting. OSBEELS has appointed three members and 1 alternate. OSBGE needs to stay with two members and 1 alternate and will need to discuss the interest in equal representation at the next JCC meeting. Chair Stroud asked Valentine to provide a list of former board member that are also CEGs, as these individuals are on the short list to ask about serving as alternate.

➤ CEG Examination Committee: The Board discussed a recent email from representatives of the OR chapter of AEG to committee members about discussions the WA Geology Licensing Board (WGLB) has engaged in with the CA licensing board about CEG exam reciprocity. Valentine shared what she knew about WGLB's efforts based on review of their meeting minutes and phone conversation with their administrator. McConnell thought the Board should continue to push for reciprocity. Jarvis said he was willing to talk with WA representatives on this issue and also asked Valentine to get the names and contact information for the CA board representatives involved. He suggested that evolution of the CEG exam may ultimately have benefits even though change is always difficult and takes time to work out.

Valentine explained how WGLB staff raised concerns about the October 2013 exam administration, and she agreed to share exam results to aid in determining if there might be problematic questions on the exam form used. The aggregation and review of data resulted in the identification of a group of questions for a limited exam review. Unfortunately, the coordination

on the exam review was less than perfect, and in the end each state's CEG exam committee held a separate meeting instead of one joint meeting. Vice Chair Thiessen mentioned that he and Valentine were able to participate by phone in the WGLB committee meeting. WGLB staff participated in part of the OSBGE committee meeting. The end results of these efforts are memorialized in a confidential memo dated January 29, 2014.

OSBGE requested a joint meeting of the two exam committees, preferably in late spring or early summer to discuss next steps from the exam review and other issues of mutual interest related to the shared CEG exam. Valentine agreed to talk with the WGLB administrator about this. Valentine will work with Vice Chair Thiessen on a proposed agenda for this.

➤ Legislative Committee: McConnell provided a brief update of the February 2014 session. She noted that any legislative concepts for the 2015 session would be due to the Governor's Office and DAS by early May. Valentine reminded all that the Board confirmed at the December 13, 2013 meeting that it would not have concepts for the 2015 session.

➤ Budget Committee: Valentine said that there was nothing to report. She may have a revised Reserves Policy ready for the Budget committee to review prior to the May 30 meeting.

➤ Outreach: There was no committee report.

**Correspondence:** Valentine presented an inquiry received regarding a registrant's use of an alternative stamp design. She reminded the Board that it has adopted stamp requirements in rule, including a specific stamp design. The Board instructed Valentine to inform the registrant that he needs to acquire a new stamp in the Board's prescribed design.

**Public Comment:** No one other than Board members and staff were present.

**Old Business:** There were two items for discussion.

➤ Manual for Building Officials Update: Chair Stroud referred to the Board's past submittal of possible language for the manual. The project was put on hold for some time, but the Oregon Board of Architect Examiners recently restarted work on the manual update. In late February, the Administrator was provided with a copy of proposed updates to the manual, including added language addressing OSBGE's Nov. 2011 letter. OSBGE now has the opportunity to review the proposed updates to the manual. Valentine suggested the Board might want to review the updates in light of work done in the last six months to refine the Board's message about CEG work as reflected in guidance documents. The Board decided that it would like to edit the OSBGE text to focus more on what a CEG does and less on the JCC. Jarvis suggested the Board glean some language from the biennial report or draft Fact Sheet, with both discussed earlier in the meeting. McConnell supported this idea and volunteered to work with Valentine on this in the next couple of weeks.

➤ Action List: The Board reviewed the action list.

**New Business:** There were two items for discussion, both regarding the national Association of State Boards of Geology (ASBOG).

➤ ASBOG Call for Nominations: Valentine confirmed that no Board members were interested in the ASBOG Secretary position. McConnell mentioned that this ASBOG opportunity could be mentioned in the next newsletter if the timing works out.

➤ ASBOG Council of Examiners (COE): Board members were contacted by email prior to the meeting about the opportunity for a registrant member to attend the ASBOG Spring COE in Buffalo, NY. Valentine confirmed that OSBGE would not send a member to this meeting. Feige said he would consider attending the fall COE and annual meeting.

**Announcements:** There were no announcements.

Chair Stroud adjourned the Board at 4:12 PM.

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The minutes of the March 21, 2014 quarterly meeting were approved as presented at the May 30, 2014 Board meeting.

Christine Valentine, Administrator