

# OREGON STATE BOARD OF GEOLOGIST EXAMINERS

## MEETING MINUTES

MARCH 22, 2013

**Members Present:**

Mark Yinger, RG, Chair  
Peter Stroud, RG, CEG, Vice Chair  
Richard Heinzkill, Public Member  
Vicki McConnell, PhD, RG, State Geologist\* \*\*  
Kenneth Thiessen, RG, CEG

**Members Excused:**

Todd Jarvis, PhD, RG, CEG

**Staff Present:**

Christine Valentine, Administrator  
Marilou Arrobang, Registration Specialist\*\*

**Guests:\*\***

Kyle Martin, AAG, Dept. of Justice (counsel)  
Deborah Bogart, Dept. of Admin. Services  
Andrea Peters, Dept. of Admin. Services  
Dr. Steve Taylor, PhD, RG

(\*Ex Officio member, does not vote on motions, \*\*as noted in minutes)

*LOCATION: ASSOCIATION CENTER, 707 13<sup>TH</sup> ST. SE, SALEM, OR, CONF. ROOM "A", 2<sup>ND</sup> FLOOR*

<b>***WORK SESSION MINUTES***</b>
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**Chair Yinger convened the work session at 8:33 AM.**

Board members Jarvis and McConnell were excused due to work-related conflicts; all other members were present along with Administrator Valentine.

### **Welcome/Introductions/Agenda**

The Board and staff welcomed new member Kenneth Thiessen. Thiessen's appointment was effective March 1, 2013. He fills the position previously held by Rodney Weick, RG, CEG. Thiessen talked briefly about his current work at the Department of Environmental Quality and his past work in the private practice.

Yinger led the Board through a quick review of the day's agenda. One addition was proposed for the afternoon agenda, a new item under New Business to discuss a recent inquiry from the Association of State Boards of Geology (ASBOG) about obtaining a registrant list. Valentine briefly noted that the standard order of business for the quarterly meeting was shifted to best accommodate the participation of Counsel and other guests.

## **Budget – 2013/2015 Biennium**

Marilou Arrobang, OSBGE Registration Specialist, joined the board for the budget discussion. Valentine noted the valuable contributions Arrobang made to the budget process.

Chair Yinger opened discussion on the Board's proposed budget for the 2013-2015 biennium. Yinger and Valentine spoke to the need for the Board to review and finalize the budget for 2013-2015 today in order to facilitate completion of the associated rulemaking process at the Board's May 31, 2013 meeting.

Valentine provided an overview of the documents included in the meeting packet and also spoke briefly to the schedule for the associated rulemaking process for adoption of the operating budget rule. She mentioned the importance of Board review of the revenue and expense assumptions, as the budget will need adjustment if the Board does not agree with the assumptions. Briefly, she mentioned that on the revenue side, the budget assumes flat licensing revenues, no fee increases for 2013-2015, and a substantial increase in the monthly payment from the Oregon State Landscape Architect Board (OSLAB) to cover increased personal services costs.

The Board discussed its intent to continue a relationship with OSLAB, with personal services costs and staff time split 50/50. Valentine summarized how the personal services costs were estimated based on best available information about salary and benefits costs. Valentine confirmed for Yinger that a substantial increase in PERS employer rates is the primary driver behind the increase in personal services costs. Valentine noted that actual personal services costs would need to be monitored in the 2013-2015 biennium as legislative action on PERS in the current session could influence the PERS employer rates for 2013-2015. She also noted that the State of Oregon benefits package for management, which OSBGE generally has followed, will not be final until after contract bargaining concludes sometime in the coming months. Changes in PERS rates and benefits would then impact the contract cost for OSLAB. She reported that OSLAB again confirmed its intent to continue its relationship with OSBGE for another biennium. She recommended that the Board put the OSBGE-OSLAB interagency agreement on the agenda for review and discussion at the May 31 quarterly meeting.

Valentine addressed how a reserve funds analysis was a new step in the budget process this time and described how the analysis was carried out. The budget does presume the use of reserve funds, defined as "carryover" or remaining funds from 2011-2013 and other reserve funds in existing Board accounts, to balance the 2013-2015 budget. She pointed out where the reserve funds are shown in the draft budget. She further explained that the draft Reserve Funds policy was included to help explain the philosophy behind looking at reserve fund management as part of the budget process. The Board is not mandated to have such a policy but may find such a policy to be a useful management tool and way to provide direction to staff with respect to financial management.

The Board did not propose any changes to the revenue side of the budget and next shifted to discussion of the expense side of the budget. Various line items were discussed, with the most time spent discussing: (a) the types of expenses included under the professional services line item, (b) whether there is a need for funding a CEG exam task analysis or other work related to the exam, and (c) the legal requirements, pros/cons and potential costs of a financial audit vs. financial review. The Board ultimately did not make any changes to the proposed budget for professional services or financial audit/review. The Board discussed pursuing a financial review for the analysis of the 2011-2013 budget period, with some limited risk assessment added in recognition

of recommendations from the Legislative Fiscal Office. The Board concluded that there was not a need to budget funds for CEG exam work, particularly given feedback from the Washington State Geology Licensing Board about its lack of interest in pursuing such work for the 2013-2015 biennium. The Board directed that the placeholder line item marked as To Be Determined in the draft either be removed or listed with zero expenditure. No other changes to the expense line items were proposed by the Board.

The Board returned to discussion of the draft Reserves Policy. Valentine was asked to summarize the policy, including its genesis and review to date. Yinger led the Board in discussion of whether the Board should adopt the policy or address reserves management perhaps through budget development procedures. After discussing various pros and cons, the Board opted to consider a vote to adopt the policy during the quarterly meeting.

In closing the budget discussion, the Board briefly looked at what would be needed to authorize issuance of rulemaking notice for revision to operating budget rule. Valentine noted that the number that goes in the rule is the maximum expenditure for the biennium, which is shown on line item 52 of the proposed budget, Draft Version 2, and is \$557,159. Valentine noted that the rule hearing would be held mid-May, with comments brought to the Board at the May 31 meeting, final rule adoption May 31, and the rule filed in early June with an effective date of July 1.

Chair Yinger called for a break at 10:05 AM. The Board reconvened at 10:20 AM.

## **Guidelines Project**

Chair Yinger opened discussion of the guidelines agenda item. Valentine spoke briefly about the documents in the meeting packet – the Request for Proposals (RFP) and the one proposal received in response to the RFP. She suggested that the Board focus on the proposal received in response to the RFP and noted that the primary choices before the Board appeared to be: (a) decide to accept the proposal and pursue a personal services contract, (b) take some action to solicit additional proposals, or (c) not proceed further with the project.

The Board reviewed the proposal received. Topics discussed included (1) the key person(s) that would be involved in the project and qualifications, (2) the idea of a CEG as the lead and secondary role by a professional engineer working in collaboration with the CEG lead, (3) past Board discussions about how the project could possibly be done in a variety of ways with the work lead either in the public or private sector, (4) need to adjust the project schedule outward due to check in points at Board meetings and the dates for those meeting, (5) importance of the review panel in the proposed project and the Board role in approving review panel members, (6) need to clarify the purpose of the fact sheet (i.e., not to define CEG practice but instead to draw attention to the role of the CEG and the purpose of the CEG guidelines), and (7) whether to build in a survey of all registrants or other outreach mechanisms such as newsletter articles along with how and when such steps might be feasible.

The Board then discussed next steps for moving the project forward. The Board talked about entering into negotiations with the contractor that submitted a proposal to clarify understandings and finalize a statement of work. The Board would want to see negotiations and contract drafting completed before the next meeting such that the Board could review and make a decision on the proposed contract at the May 31, 2013 meeting. Chair Yinger summarized that the Board was considering a motion for the quarterly meeting that would direct Board members Stroud and Jarvis to continue as the ad-hoc team working on the project and to have them work with Valentine to

meet with the proposer to proceed with contract negotiations. Valentine briefly covered the requirements of the Board's contracting policy. She noted that the Board will need to approve the actual contract if cost is over \$10,000, as appears likely.

## **Rules Review**

Yinger opened discussion on the rules agenda item. Valentine reminded the Board of its discussions at the September 21 and December 7, 2012 Board meetings about allowing proctored reviews for ASBOG and CEG exams, respectively. The Board decided at these meetings that it would like to see proctored reviews made available to anyone who requests this and asked Valentine to draft an interim policy statement and conditions for proctored reviews for use in the short-term. Valentine also said that she would obtain counsel advice on whether the change in services and fee for service needed to be addressed in rule. (Counsel advised that the Board address these in rule.) The Board briefly debated the value and challenges of offering proctored reviews but did not suggest a change in overall approach.

Yinger and Valentine briefly discussed the draft rule amendments and draft policy/procedures documents in the packet for both types of exams. The draft rules would make it clear that the Board provides for proctored reviews and charges an appropriate fee for the service. Yinger noted that the documents have been shared with the Rules Advisory Committee but a quorum of the Committee could not be secured for a meeting prior to this March 22, 2013 meeting. Yinger suggested that the rules committee process continue, the rules also go to counsel, and then the full package come back to the Board at the May 31, 2013 meeting.

Valentine shared with the Board how the proctored review idea in relation to CEG exams has been presented to the Washington State Geology Licensing Board (WSGLB), first through a CEG exam committee meeting in early February and then brought to the full Board at its late February meeting. Staff for WSGLB reported back that the proctored review idea was met with limited enthusiasm and some skepticism by WSGLB board members. They apparently expressed some uncertainty about the need for and motivations behind offering this type of review. Apparently WSGLB is contemplating a hefty fee (i.e., several hundred dollars) for the proctored review service. Valentine opined that such a fee would likely serve as a deterrent to Washington CEG candidates otherwise interested in the service.

Chair Yinger called for a break around 11:30 AM, with the Board reconvening at 11:40 am. The Board was joined at this time by Counsel Kyle Martin.

## **Complaint Case Reviews**

The Board started with an update from Heinzkill and Valentine on active cases. Heinzkill introduced complaint cases CC#13-01-005, 13-01-006, and 13-01-007, all filed with the Board since the last quarterly meeting. He explained that the cases revolve around a single project report but that three separate complaints were filed. Three cases were opened since there were three complaints and because each individual may have played a different role. Also, the Board could conceivably come to different conclusions with respect to each individual. Valentine briefly addressed the documents included for the Board's review. She also noted that the Complainant is the Board Chair and how the Board may want to ask him some questions about the cases as the complainant. Otherwise, the Board Chair has agreed to recuse himself from the Board discussion and any decision-making since the complainant is not a party to OSBGE cases.

Stroud had a question for the complainant. He noted that the report mentions future work in drilling, etc. and wondered if Yinger knew if other work was done. Yinger stated that he had no knowledge about this. There were no other specific questions directed at Yinger by the Board.

The Board proceeded to discuss the cases. Thiessen noted that the consulting firm has an Oregon office and wondered why the geologist involved did not request that an Oregon-registered geologist from their Oregon office be involved. Stroud agreed that there is some question about why they did not involve their Oregon office. Stroud further stated that he sees some possible confusion about what is geology and what is engineering as well as questions about citing a report vs. interpreting geologic data. He noted that the response to the complaint suggests only published information was used but that the report in question uses language that suggests more than that occurred as part of report preparation.

The Board discussed various examples of the tasks the report team did and what elements might be the public practice of geology vs. practice of geotechnical engineering. Several had noticed that the report did not include references for the second and third sections of the report, suggesting that the individuals involved must have extracted the information from original work or interpretation.

Stroud and Thiessen discussed the issue of practice overlap, i.e., what work can a geotechnical engineer do in the PE scope of practice that would also be considered practice of geology and what is practice of geology that does not fall within the PE scope of practice. Stroud noted there is traditionally some overlap in hydrogeology and geotechnical engineering. He suggested that the Board might narrow down its focus on just those work elements that traditionally have been viewed as geology with no question of overlap. Thiessen supported this approach, saying he sees some examples of work that falls in the area of practice overlap but at least one example that appears to not generally be something done by an engineer.

At this juncture, the Board was ready to discuss written legal advice with counsel. Yinger, who had been listening to the Board discussion in public session, now left the room, and Stroud as Vice Chair took over the duties of Board Chair. At 11:58 AM, Stroud announced that the Board was entering Executive Session to consider written legal advice from counsel, and read the script.

At 12:48 PM, Stroud announced that the Board was returning to public session. No decisions were made by the Board during the Executive Session. The Board opted to have the staff briefing on other compliance-related matters as part of the Quarterly session and ended the work session.

## \*\*\*QUARTERLY MEETING MINUTES\*\*\*

**At 1:05 PM, Chair Yinger convened the Board for its quarterly meeting.**

Member McConnell joined the Board shortly thereafter. Jarvis was absent. Visitors arrived at 1:15 PM.

### **Visitor Introductions**

Chair Yinger opened the meeting with visitor introductions. Deborah Bogart and Andrea Peters from the Department of Administrative Services – Risk Management introduced themselves to the Board. Former Board member Steve Taylor, PhD, RG also joined the Board, introducing himself to new Board member Thiessen. Board members, staff, and counsel introduced themselves also.

### **Agenda Review**

Chair Yinger reminded the Board that an additional topic (item e. – ASBOG request) was added to Agenda Item 10 per discussion during the work session. No other changes were made to the agenda.

### **Minutes**

Chair Yinger lead the Board in a review of meeting minutes from December 7, 2012. He had a question related to wording on page 5 about SIBA discussions on Board consolidation. He asked that the minutes be clarified so as to not give the possible impression that the Board is interested in consolidation. The Board discussed and would like the language to be revised to refer to seeking efficiencies in Board operations. Hearing no other comments on the draft minutes, Chair Yinger asked for a motion. *Stroud moved that the Board adopt the December 7, 2012 minutes with the revision on page 5 noted. McConnell seconded the motion. Chair Yinger asked for discussion on the motion. Hearing none, he called for a vote, and all approved.*

### **Committee Reports**

#### Legislative Committee

Valentine noted that the committee report would focus on the Board's legislation, HB 2269 and not a general legislative update. She noted that the Board could find a general legislative update in the Administrators Report

McConnell opened discussion on the status of HB 2269. She and Valentine summarized the fate of the bill, i.e. assignment to the Judiciary Committee and Legislative Counsel (LC) assigned to the Judiciary Committee advising the Committee staff that all such bills granting immunity from civil liability raise issues under the Oregon Constitution. Valentine and Counsel explained that the basis for the LC advice turned out to be a 2009 written advice letter from LC to the Committee Administrator. Some discussion with LC and the Committee staff ensued, but ultimately the LC advice was inflexible. The Board's bill was caught between a difference in DOJ and LC legal opinions on what is constitutional with respect to immunity from civil liability based on a Supreme Court decision, Clark vs. Oregon Health Sciences University. At this point, the Legislative Committee and Counsel concurred that the only viable option was to drop pursuit of the legislation.

Counsel was asked if there was a way to break the deadlock between LC and DOJ. He suggested no short path exists and that it likely would take another court case to prompt further focus on this

issue at DOJ. While the Board could ask DOJ for a formal opinion, that would be very costly and the outcomes unpredictable.

Valentine commented that she did not want to just drop the issue of liability coverage for technical reviewers given how important this issue has been to the Board. She therefore started to look at what other options might exist absent a legislative change. She briefly described four avenues explored – volunteers, agents, independent contractors, or direct purchase of insurance. The first two options require coordination with the Department of Administrative Services - Risk Management. She noted that Risk Management is the sole authority to provide and purchase insurance coverage for volunteers or agents of state agencies, boards, and commissions. She noted that direct purchase of insurance by the Board for reviewers is not authorized under state law so that idea quickly turned into a dead end.

Valentine asked the Risk Management staff (Bogart and Peters) to briefly explain the role of Risk Management to the Board. They did so and emphasized how Risk Management works with individual agencies, boards, and commissions on a case-by-case basis to look at levels of risk, willingness to accept as risk exposure, and available risk mitigation tools. They noted how most liability is covered under the state self-insurance program, which is paid for by all agencies, boards, and commissions. They briefly covered claims management, claims payment, and who is covered, i.e. “agents of the state” which generally means employees, temporary employees, board members, and volunteers. They went over OSBGE’s past claims, of which there have only been three filed with one denied outright, another reviewed and ultimately dismissed, and one paid. The one that was paid was related to a Board complaint investigation that was found to not be warranted.

Discussion ensued about working with technical reviewers as volunteers, some other kind of agent of the state, or independent contractors. Valentine, Bogart, Peters, and counsel all pointed to legal and insurance challenges with saying reviewers are non-volunteer agents of the state and advised the Board to focus on engaging technical reviewers as either bona fide volunteers or independent contractors. Board members asked some questions about this advice and ultimately agreed, shifting the conversation to the pros and cons of reviewers as volunteers vs. reviewers as independent contractors. Some of the factors considered by the Board included compensation for reviewers, the level of direction and control exercised by the Board, what insurance a reviewer would need to carry as an independent contractor, and whether enough registrants are willing to serve as volunteer reviewers. Heinzkill reminded the Board about its previous decision to provide compensation to technical reviewers and also asked counsel about how other boards approach this matter. Counsel said most boards engage technical reviewers as independent contractors.

Valentine, Bogart, and Peters shared the criteria that a volunteer must meet to be covered for liability purposes through the state self-insurance fund. Bogart and Peters explained that generally it is the agency that has the responsibility to make sure volunteers meet these criteria. They recommended the Board consider a volunteer policy and that every volunteer be required to fill out the Risk Management volunteer form. Valentine confirmed that the Board has required the volunteer form for past reviewers. Peters pointed out how the form gives the reviewer information about the liability coverage provided as well a description of the work they are doing for the Board. Peters explained that three tiers of volunteer coverage can be provided by the Board: (1) no worker compensation coverage but tort liability coverage, (2) limited worker injury coverage and tort liability coverage, and (3) full workers compensation coverage and tort liability coverage. Bogart and Peters explained the potential costs to the Board for these coverage tiers.

The Board ultimately decided that it should invest in development of a volunteer policy and procedures to support continued use of volunteer technical reviewers in a manner that would qualify those reviewers for coverage under the state self-insurance program. The Board noted that volunteer reviewers have been used for a long time without too many issues arising. The Board recognized that it would have the option of hiring a technical reviewer as an independent contractor if this were necessary for any particular case.

In conclusion, the Board and staff thanked Bogart, Peters, and Counsel for participating in this discussion. Those three left the meeting at this time.

#### Administrative Rules Committee

*Budget Rule:* Chair Yinger noted that the Board needs to approve the 2013-2015 budget, with one change to delete budget line 49 (CEG Task Analysis and/or Anghoff) and with a total expenditure of \$557,159. He asked for a motion. *McConnell moved that the Board approve the 2013-2015 budget as presented in the Draft Version 2 budget document with total expenses of \$557,159 and total revenues of \$556,334 revenues with one change to strike line 49. Stroud seconded the motion. Chair Yinger asked for discussion of the motion. The Board clarified that the motion be amended to also state that the Administrator is authorized to proceed with rulemaking notice. Chair Yinger called for a vote on the amended motion, and all approved.*

*Proctored Review Rules:* Chair Yinger noted that action on the proctored review rules is held until the next meeting. The Rules Advisory Committee and counsel reviews will be completed first.

#### Joint Compliance Committee

Stroud reported that there have been no meetings of the Committee.

Valentine updated the Board on discussions with the OSBEELS administrator about scheduling a general meeting of the JCC to allow introduction of new members and discussion of committee procedures. OSBEELS discussed this at its last meeting and is apparently more broadly interested in re-evaluating how OSBGE and OSBEELS can best work together via the JCC or otherwise. OSBEELS proposed the idea of joint board meeting to discuss the existing memorandum of understanding (MOU) and whether the JCC is the best option for inter-board coordination going forward. OSBEELS also no longer has a member especially qualified in geotechnical engineering so this presents a new challenge for OSBEELS in terms of the JCC. Board members were interested in the idea of a joint meeting and asked for two actions: (1) Valentine to discuss the joint meeting idea further with the OSBEELS administrator and (2) schedule time on May 31, 2013 for further discussion of the existing MOU.

#### Professional Practices Committee

McConnell stated that there was nothing to report from the Committee as the recent focus on professional practices has been with the engineering guidelines project. Work session discussions on that project were summarized for McConnell's benefit since she could not attend the AM session. *Stroud then moved to authorize the Vice Chair to go into negotiations with the firm that submitted a proposal to the RFP to develop a refined statement of work and proposed contract, returning to the May 31 meeting with a final proposed contract. Heinzkill seconded the motion. Chair Yinger opened discussion on the motion. The negotiation and contract approval processes were briefly discussed. Hearing no further discussion, Chair Yinger called for a vote, and all approved.*

#### CEG Examination Committee

Valentine noted that she would provide the Committee report since Jarvis could not be present and Weick, the other committee member, is no longer on the Board. She referred the Board to the meeting summary included in the packet, stating that this describes the outcomes of the joint Oregon-Washington CEG exam committee meeting held in early February. Valentine noted that the Washington State Geology Licensing Board (WSGLB) considered the meeting summary at its recent meeting, and she has updates from WSGLB administrator to share with OSBGE. She went through the committee meeting outcomes and updates simultaneously.

*California acceptance of OR/WA exam results and idea of regional CEG exam (CA/OR/WA):* WSGLB directed its staff to continue discussions with the California board (CA) about a reciprocity agreement for the CEG exam. WSGLB has learned that CA is in middle of task analysis plus is short staffed so this has delayed their providing WSGLB with a proposed reciprocity agreement, which is something CA said would be required. In the process, WSGLB staff learned that the CA CEG exam is a “title” exam, meaning geologists registered with CA do not need to pass the test to practice as CEGs in CA, only to use the title CEG in CA. This information has impacted the WSGLB urgency about a reciprocity agreement. It has also apparently left WSGLB uncertain about pursuing discussions on a regional exam, as was proposed at the exam committee meeting. It is unclear when or if WSGLB will want to discuss the idea of a regional exam further. OSBGE did not make any decision about whether to pursue these ideas further.

*Cut scores/Passing Scores/Anghoff process:* WSGLB did not agree to pursue the Anghoff process proposed by the exam committee due to expense and time commitments required. The board apparently concluded that risk is limited and demand for exam not high enough to warrant the expense. WSGLB is ok with the status quo of 70 as the passing score for existing exams. OSBGE was comfortable with the status quo given the WSGLB position.

*Supervision of Work Experience:* WSGLB continues to accept for CEG exam qualification purposes work experience under the supervision of PEs especially qualified as geotechnical engineers. The OSBGE representatives at the exam committee meeting seemed to agree that this is might be reasonable in some limited circumstances. Valentine noted that this raised an issue under the Board’s revised rules related to supervision and responsible charge. OSBGE briefly discussed and noted that the issue would need further discussion at a future meeting.

*Proctored reviews:* Valentine noted that this issue was discussed in the AM work session and briefly recapped that WSGLB is not as motivated about this idea as OSBGE. OSBGE opted to continue with its consideration of rule amendments and policies allowing for proctored reviews.

*Proctoring Hydrogeology exam in Oregon:* WSGLB is ok with this idea in concept but would request an examination security agreement be in place before OSBGE proctors any exams on WSGLB’s behalf. WSGLB staff looked at past examinees, found only five since 2007 that have been Oregon residents, and posed the question of whether there would be much benefit to OSBGE’s registrants if the exam is proctored in Oregon. The Board briefly discussed whether interest level would change if the exam was proctored in Oregon. Valentine informed the Board that the WSGLB is held in July so proctors would need to be secured for that additional day in July compared to the status quo for ASBOG/CEG exams. OSBGE did not make any decision about whether to pursue this idea further.

*Interagency Agreement:* Valentine stated that work is proceeding on an interagency agreement for WSGLB and OSBGE regarding administration of the CEG examination given that the current agreement expires June 30, 2013. The WSGLB asked for an extension of the agreement (extend through the end of 2013), to allow more time for legal sufficiency review of the new agreement. Even though no substantive changes are proposed other than duration (proposed for six years starting July 1, 2013), WA and OR counsel will need to review the agreement. Valentine noted that the legal sufficiency review for OSBGE likely would not take long, but the amendment proposed by WSGLB does not create any great burden if this is helpful to WSGLB.

### Outreach Committee

Valentine reported on behalf of Jarvis. She noted that Jarvis participated in an outreach event for students and faculty at OSU on February 8, 2013. OSBGE paid for the lunch, similar to the event held in December at Portland State University. Jarvis reported to staff that attendance by students and faculty was good.

Valentine reminded the Board that the May 31, 2013 meeting was slated as the next “outreach” event, with the Board next going to the University of Oregon (UO). She noted that this would be discussed further under New Business.

Valentine noted that the new consumer page is posted as of yesterday and thanked Heinzkill for his work on the text and to all board members that provided information to help Heinzkill with particular questions. She encouraged all to take a look at the website to review the new content.

The Board Chair called for a break at 3:30 PM. He reconvened the Board at 3:41 PM.

### **Compliance Report**

Heinzkill presented the compliance report. He noted the following:

CC #10-04-013: The Respondent agreed to take coursework as part of a settlement agreement. On Feb.21, 2013, the Board Administrator sent a letter to the respondent confirming the Board’s pre-approval of the selected course. No further action required at this time.

CC#11-06-018: Although this case is officially closed, the respondent has subsequently contacted the Board about it. Heinzkill noted that Valentine handled this, and Valentine briefly described the nature of the inquiry and how she responded. Valentine also updated the Board on OSBEEL’s settlement of its case with this OSBGE registrant. No further action required at this time.

CC#13-01-005, CC#13-01-006, CC#13-01-007: Complaints are that three individuals working on the same project were not registered in the State of Oregon to publically practice geology. Heinzkill noted that these cases were discussed in the Board work session and that possible action on CC#13-01-005 was discussed. Heinzkill noted that CC#13-01-006 and CC#13-01-007 were not ready for action (i.e., continued investigation).

*Stroud moved that for CC#13-01-005, the Board send a letter to OSBEELS identifying specific areas of practice tied to this case and asking for that board’s opinion on whether those specific areas of practice are within the scope of practice for a Professional Engineer (PE) and that the Board authorizes the Vice Chair to prepare and send the letter prior to the next Board meeting. Heinzkill seconded the motion. Chair Yinger asked if there was any discussion about the motion.*

*Stroud clarified that he does not think this case needs to go through the JCC, as the Board's concern is not with practice overlap but instead with when work would fall outside the PE scope of practice. Hearing no further discussion, Chair Yinger called for a vote but did not participate in the vote. All other board members present voted to approve the motion.*

Valentine informed the Board that she recently heard from OSBEELS staff about that board's companion case to OSBGE's CC#11-12-003. OSBEELS scheduled its case for discussion by its Law Enforcement Committee in April. She will monitor the OSBEELS case regarding outcomes specific to the CEG and issues related to responsible charge for project design elements.

## **Administrator Report**

### Narrative portion, Administrator Report

Valentine asked if there were any specific questions regarding the topics addressed in the report. Yinger asked for discussion of application procedures as noted in the report. Valentine said she would address this as well as highlight a few other topics.

Valentine addressed an ongoing staff review of application procedures. It came to the attention of staff that the status quo procedures likely need some updating to address how decisions regarding incomplete or inadequate applications for exams and licensure are handled. She plans to have updated procedures and a related delegation of authority document for the Board to consider at the May meeting. McConnell agreed to assist with the review of these documents prior to then.

Valentine needs to notify the Secretary of State this month whether OSBGE will pursue a financial review or financial audit for the 2011-2013 period. She noted that this was discussed during the work session on the 2013-2015 budget, and the Board will pursue the financial review. She clarified that this is for the next biennial report and that the review occurs this summer or fall to facilitate report preparation and Board review of the draft report prior to April 2014. She noted that she would look into the feasibility of additional risk assessments.

Valentine mentioned ongoing work to create an interagency agreement for shared administrative services with the Oregon State Landscape Architect Board (OSLAB). The first draft has gone to Yinger and the OSLAB chair. She anticipates both boards being asked to review and approve the agreement at their respective May meetings. The agreement needs to be effective by July 1, 2013.

### Updated Revenue/Expense Report for Current Biennium

Valentine noted how this information on the status of the 2011-2013 budget was covered during the morning work session discussion on the 2013-2015 budget. The Board did not have further questions or comments

### Approve Quarterly Check/Debit Log

Valentine addressed a few questions from board members about particular items on the log. Hearing no further discussion, Chair Yinger asked for a motion. *McConnell moved to approve the payment log dated 3/7/13 as presented for debits November 20, 2012 through February 28, 2013, checks #3528 through 3568, and checks #9179 through 9186. Stroud seconded the motion. Hearing no further discussion, Chair Yinger called for a vote, and all approved.*

### 3-Year Comparison of Changes in Monthly Renewals and Examinations

Board members briefly reviewed and discussed. Valentine briefly explained the data for the benefit of new member Thiessen.

### Update on Edward Jones Investments

Valentine noted that a new CD was purchased in January in accordance with Board investment instructions. The Board obtained a better interest rate, but only modestly so. The next CD comes due in late March and that money will also be reinvested in accordance with Board investment instructions.

### **Correspondence**

Valentine noted that this was an agenda placeholder for anticipated correspondence but that nothing was submitted for the Board's consideration.

### **Old Business**

#### Action List Review

Valentine briefly explained for the benefit of new member Thiessen what the action list is and how the Board has opted to review quarterly those actions that are still in process or pending.

Heinzkill noted that he had comments about the pending action items listed on page 2 of the list. He provided a handout summarizing his comments and asked that the Board schedule time at a future meeting to talk about these items related to compliance. He thought it was important for the Board to decide on which of these will be addressed vs. should be dropped from the action list. Board discussion on the various action items ensued, particularly surrounding options for addressing standards of practice and community of practice. The Board suggested that Jarvis be reminded about looking over the example of report guidelines handed to him by Heinzkill at the December 7, 2012 meeting and that the draft report guidelines document also be given to any consultant working on the engineering geology guidelines as an additional reference document. The Board closed the discussion with a decision to put the action items in question on the next work session agenda and for Valentine to provide the September 2011 meeting minutes plus other information deemed relevant as part of the work session packet.

#### Newsletter (Spring 2013 edition)

Valentine mentioned that Stroud's Meet-the-Board article would run in the spring edition. She also noted the need to have an article introducing Thiessen to the Board. She could cover potential rule updates. She welcomed ideas or other contributions for the newsletter.

### **New Business**

#### May 31 Mtg. – Planning for UO outreach event

She explained her communications to date with the Chair of the UO Geology Dept. The Board discussed whether its meeting date could be shifted to align with an existing careers seminar at UO but concluded that it needed to stick with the May 31, 2012 date. Valentine stated that she would work with the UO contacts to finalize plans.

#### Review of OSBGE Committee Assignments

The Board briefly discussed but ultimately Yinger deferred this discussion until the next meeting.

#### Board Policies-Procedures

Valentine noted that the Reserve funds policy was discussed in relation to the budget work and the Board was contemplating a motion but this could be delayed due to the late hour. Chair Yinger stated that this would be postponed until the next meeting.

Valentine stated that the automobile insurance policy memorializes existing policy in a format that can be integrated with the rest of the Board's policies instead of buried in an old letter to DAS Risk Management. *Thiessen moved to adopt the auto insurance policy. Stroud seconded the motion. Chair Yinger asked if there was any discussion and hearing none called for a vote. All approved.*

OSBGE-OSLAB IAA for 2013-2015

Valentine noted that this will be brought to May 31 meeting, as was discussed during the Administrator's report.

ASBOG Request for Emails

Yinger and Valentine addressed ASBOG's recent question about obtaining a list of emails for registrants. The Board asked Valentine to clarify whether ASBOG intends to use the emails for anything other than for the task analysis survey. The Board would not like to see ASBOG use the list for future marketing or similar efforts.

**Public Comment**

No one was present at this time.

**Announcements**

There were no announcements.

**Yinger adjourned the Board at 5:16 PM.**

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The minutes of the March 22, 2013 quarterly work session and meeting were approved with revisions incorporated herein at the May 31, 2013 Board meeting.

Christine Valentine,  
Administrator