

MEETING MINUTES

OREGON STATE BOARD OF GEOLOGIST EXAMINERS

JUNE 11, 2010

Members Present

Richard Heinzkill, Public Member
Dr. Vicki McConnell, RG, State Geologist
Dr. Stephen Taylor, RG, Board Chair
Rodney Weick, RG, CEG [arrived at 1:00 PM]
Mark Yinger, RG

Members Excused

Chris Humphrey, RG, CEG, Board Vice-Chair

Staff Present

Susanna Knight, Administrator

Visitors Present

No Visitors Present

Chair *Taylor* convened the Work Session portion of the meeting to order at 8:35 AM in Conference Room B of The Association Center. He asked for one additional agenda item to be added to the Work Session agenda, 5) Brief Discussion of the Bylaws.

At 8:40 AM, the Chair then read the following statement:

“The Board will now meet in executive session for the purpose of reviewing documents or records that are exempt by law from public inspection under ORS 192.660(2)(f).

“Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced.

“No decision will be made in executive session. At the end of the executive session, the Board may meet in public session to make a decision under ORS 183.482(6).”

At 10:35 AM, the Board returned to the public meeting. The Chair announced that no action from the Executive Session would occur at this time and announced a 15 minute break.

Signing and Stamping Procedures At 10:50 AM, Chair *Taylor* invited Public Member *Heinzkill* to lead a discussion on Signing and Stamping Procedures. *Heinzkill* offered that he is surprised at variances in stamping and sealing and asked the Board to consider some of the items he is raising. He offered that without an Administrative Rule, the Board has “no teeth” and offered four items for discussion: 1) Where to sign? 2) Where to indicate expiration date? 3) Where to stamp? 4) How to submit signed and sealed document in electronic format?

- 1) Where to sign? *Heinzkill* noted that this question is being addressed in the new rule on Signatures. The rule is under consideration today and directs that the registrant place the signature across the seal.

- 2) Where to indicate expiration date? The Board concurred that including the expiration date near the seal would be good practice as it would assist the registrant in maintaining current registration.
- 3) Where to stamp? *Weick* offered that the stamp should be placed on the signature page or at the end of a letter. *Yinger* inquired about the signature page vs. the cover page. *Taylor* stated that the signature page is bound with the report. *Yinger* indicated that he is amazed at how often the signature is missing. *Heinzkill* stated that the guidelines talks about stamping documents. *Weick* offered that ORS 672.525 does not indicate where the stamp should be placed. *McConnell* stated that it would be annoying if the stamp was embedded in the document. She noted that the guidelines say two different things. *Taylor* concluded that volumes that stand alone must be stamped and the Board would rather be broad in its approach.
- 4) How to submit signed and sealed reports in electronic format? The Board talked about electronic documents and the required seal and signature. *Weick* indicated that the signature page must be included with the electronic document and not submitted separately. *McConnell* suggested that the Board should develop a rule. *Heinzkill* confirmed that a rule would clarify that the signature page must be incorporated with the geologic document and not be submitted separately. Draft language was distributed by *Heinzkill* and discussed.

Biennial Report *Taylor* directed the Board to the Biennial Report, a document distributed last meeting. This is the mandated report that is completed by all semi-independent Boards to summarize the work of the Board during the biennium. The report is submitted to the Governor's Office, to the Office of the Speaker of the House and President of the Senate, and to the Legislative Fiscal Office by January 1 of the even numbered years. *Taylor* suggested that in the future, the draft be reviewed by the Board prior to submitting. *Taylor* acknowledged that the deadline for the report did not accommodate a Board review. *Knight* directed the Board to Appendix 11 which is a breakout of Licensure Activities and explained that after passing the examination, candidates apply for registration. This allows for staff to maintain accurate records of new registrants and the time between applying and receiving registration. *Heinzkill* referred the Board to Appendix 12 which outlines Enforcement Activities. He noted that the complaints in year one of this biennium are about equal to all of the prior biennium.

Professional Practices, White Paper: *Taylor* inquired about this agenda item. *Knight* explained that this document remains on the web page in draft format and is inquiring as to the Board's plan for it. *Humphrey* shared in a pre-meeting note that he will work on this document to complete a final draft. *Taylor* asked that the draft be prepared by the September Work Session.

Bylaws: *Taylor* inquired about the development of Bylaws for the Board. *Knight* stated that a draft was now complete. *Taylor* asked that the draft be issued electronically for Board Members to review and prepare for the next meeting.

Lunch was served up at noon. During lunch, *McConnell* reported on recent map presentations by DOGAMI to the City of Newport and Washington County. The 2004 DOGAMI maps identify zones of hazardous areas and are available to inform the public about hazards. When cities or counties adopt updated maps and disclosure requirements for development purposes, struggles with science vs. policy can occur.

Newport Zoning Ordinance: Board discussion continued about the May 27, 2010 draft of the City of Newport's Proposed Amendments to Section 2-4-7 of the Newport Zoning Ordinance. *Taylor* offered that the language correctly identifies that if a Geologic Report is establishing that a site is suitable for a proposed development that report must be prepared by a Certified Engineering Geologist. *Weick* stated that the draft Geologic Reconnaissance Form is for planning purposes and not the approach for Engineering Geology Reports or Geologic Hazards Reports. *McConnell* suggested that the city could request the form in addition to an engineering geology report, but from the Board's point of view, the form alone would not meet the standard of practice.

The Board agreed that a letter should be submitted to Newport's Planning Department objecting to the Geologic Reconnaissance Form referenced in 2-4-7.025. E. as it does not meet the current standard of practice in the industry. The Board did not oppose the form as an attachment to an Engineering Geology Report or a Geologic Hazards Report, but did oppose the use of the seal and signature on such a form.

The Board was also concerned that the city would allow a Registered Geologist to complete the Geologic Reconnaissance Form in consultation with an Engineer. ORS 672.525(7) does not allow a Registered Geologist to perform activities of an Engineering Geologist as defined in ORS 672.505(3).

The Board also noted that 2-4-7.030 should reflect the current version of the Guidelines at the time a study is completed. The Board concurred that a letter should be presented to Newport for its upcoming meeting if there was still time to submit. *McConnell* suggested that a comment be included that the Board wishes to assist the city in making this an effective ordinance.

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Chair *Taylor* called the quarterly meeting of the Board to order at 1:09 PM.

1. Visitor Introductions: No visitors were present.

2. Agenda: The following additional agenda items were presented:

- 4.f. Status on Guideline Revisions
- 10.c. CEG Score Reporting
- 11.a. RG application request
- 8.e. AC 10 06 117: Inquiry regarding registration requirements
- 8.f. AC 10 06 153: Letter from Architect Board
- 8.g. AC 10 06 155: Letter from registrant
- 8.h. AC 10 06 156: Letter from OSBEELS
- 13. Announcements: Changes to OSU Geosciences' program

Taylor moved to approve the agenda with the additions. *Seconded. Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes. Motion approved.*

3. Minutes: *McConnell* moved to approve the March 4, 2010 meeting minutes as presented. *Seconded. Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes. Motion approved.*

4. Administrator Report

a. Summary of Staff Activities: Knight directed the Board to the Summary of Staff Activities since 3/4/2010 (AR 2010-2). In particular, she noted that Oregon candidates again had a high passing percentage on both the fundamental (86% passing rate) and the practice (83% passing rate) ASBOG examinations. All four Oregon Engineering Geology examination candidates received passing scores for the OR/WA Engineering Geology examination. Staff continues to monitor renewal numbers. The budget factored in a 5% non-renewal projection for the biennium. The last few months of renewals are coming in a bit higher than that projection.

b. Updated Revenue/Expense Report for Current Biennium: The Board reviewed the report and noted that the income from fees is just over \$5000 under budget with a month remaining in the fiscal year. *Taylor* asked to watch how the funds go to determine if ASBOG participation could occur in the Fall. The Board did not budget for participation this biennium. *McConnell* asked staff to research the payroll figures, as the amount paid out is currently under budget. The Revenue and Expense Report indicate that the net ordinary income is \$12,278 over expenses through May 28, 2010. In reviewing the Balance Sheet, *Weick* inquired about the Payroll Liability of Accrued Vacation. Knight indicated that was the amount of vacation due on the books at the end of the biennium. *Weick* also asked about the Equity, Vacation time accrued of negative \$1581.90. Knight will check on this.

c. Approve Check log. *Weick* moved to approve check log #3124 through #3169 and #9123 to #9128. *Seconded. Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes. Motion approved.*

d. 3-Year Comparison of Changes in Monthly Renewals: Knight reported that May is just completing and has a substantial non-renewal rate. Whether this is a sign of the difficult economy or a sign of registrants late in renewing will be determined.

e. Update on Edward Jones CD Balance: The Board reviewed the statement and noted that the interest rate continues to drop. The current CD balance is \$70,822.97.

f. Status Report on Guidelines: *Knight* reported that no volunteers responded to the newsletter article about the strategies for the Guidelines and the need for volunteers. *Taylor* offered that footwork needs to be done to locate interested parties for technical writing. *McConnell* suggested Roy Haggerty, OSU as a contact.

5. Break / Visitor and Board Introductions: *Taylor* announced a 5-minute break. No visitors were present.

6. Compliance Report: Compliance Chair *Heinzkill* reported on numerous cases.

a. CC#08-04-008: The complaint is that an Oregon RG stamped fraudulent work in Arizona with an Oregon stamp. *Heinzkill* moved to close the case with a Letter of Concern. *Seconded. Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes. Motion approved.*

b. CC#10-01-002: The complaint is against an RG that payment for work was not forthcoming. Complainant asks Board to "make note of this complaint" and that "should the Board ever be requested to advocate an opinion regarding respondent's professionalism that this compliant be duly noted." *Taylor* offered that business is business and the Board does not become involved in fee disputes. *Heinzkill* stated that since the complaint arrived on the official complaint form, the Compliance Committee followed up on the concern but that the closing letter should state that the Board does not get involved in fee dispute. *Taylor* moved to close with no action as the issue is not relevant to the Board. *Seconded. Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes. Motion approved.*

- c. CC#10-01-003:** *Heinzkill* had no recommendation at this time. The Board will conduct further investigation.
- d. CC#10-01-004:** *Weick* moved to close the case with a Letter of Concern and forward that to the Joint Compliance Committee. *Seconded. Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes. Motion approved.*
- e. CC#10-01-005:** *McConnell* moved to close the case with a Letter of Concern. *Seconded and passed. Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes.*
- f. CC#10-03-007:** *Heinzkill* reported that this individual submitted a report which contained the practice of geology without the seal of a Registered Geologist. The Soil Matrix license does not preclude the requirement for a Registered Geologist to sign and stamp work which is the public practice of geology. *Taylor* moved to close the case with a Letter of Concern. *Seconded. Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes. Motion approved.*
- g. CC#10-03-008:** The complaint is that an individual performed the public practice of geology without registration or without having a Registered Geologist as an employee for the firm. *Weick* moved to close the case, allegations unfounded. *Seconded.* In additional discussion, the Board confirmed that proposals for geologic work are not stamped but final documents must be stamped. *Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes. Motion approved.*
- h. CC#10-03-009:** The complaint is that a city is in violation of ORS 672.695. *Taylor* moved to close the case with an outreach letter to the city informing the city of ORS 672.695 with copies to the respondent and the complainant. *Seconded.* In additional discussion, the Board confirmed that an employee means either directly or through a subcontractor. However the firm should have informed the city that a Registered Geologist would be on the team. *Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes. Motion approved.*
- i. CC #10-04-010:** The complaint is that a report stamped by an RG is deceitful because it states boring logs were done by an RG when they were not done by the RG. This case remains under review.
- j. CC#10-04-011:** The complaint is against an individual for logging borings when not under the direct supervision or control of an RG at the time the borings were logged. This case remains under review.
- k. CC #10-04-012:** The complaint is that work done by an RG on groundwater flow is not accurate. This case remains under review.
- l. CC #10-04-013:** Complaint is that an RG is guilty of negligence because care, skill and diligence not shown as RG has been billing client for unnecessary work in monitoring groundwater for several years. This case remains under review.

7. Committee Reports

- a. Administrative Rules:** *Yinger* distributed a summary of the work of the Rules Advisory Committee. A new Division 45 has been drafted outlining Registration Procedures but has not yet been reviewed by the committee. *Yinger* directed the Board to the language submitted for approval.
- A. OAR 809-030-0025:** Following discussion of this rule which outlines qualifications for the fundamental examination, *Weick* moved to approve the submitted language with the following revisions: under (2), add “the equivalent of” following ‘all applicant must have’; remove invertebrate paleontology and planetology; add geostatistics. *Seconded. Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes. Motion approved.*

B. OAR 809-010-0001: *Yinger* noted that three fee changes are addressed. ASBOG is increasing the fee for the practice examination by \$50.00; a \$25.00 file maintenance fee was inadvertently dropped and is being added back for maintaining exam scores for examinees that do not choose to register in Oregon; and a \$50.00 fee for a list of all registrants is being added. *Weick* moved to accept the fee changes as presented. *Seconded. Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes. Motion approved.*

C. OAR 809-050-0005: *Yinger* directed the Board to the new rule on Signatures. *Weick* offered that the Board has been working with this topic for some time and reminded the group of a presentation on digital stamping. The Board agreed that the registrant should also include the registration expiration date. *Weick* moved to approve the draft rule with an additional sentence in (1) The registrant shall write the registration expiration date directly below the seal; and adding (3)(d) include the registration expiration date. *Seconded. Heinzkill, yes; Taylor, yes; Weick, yes; Yinger, yes. Motion approved.*

b. Joint Compliance Committee: *Taylor* inquired whether OSBGE approves minutes of the JCC. *Humphrey* raised an objection to information in the draft minutes based on his understanding of the current practice. *Taylor* supported *Humphrey's* position that the JCC does not define the practice. *McConnell* offered that the discussion goes on and practice becomes part of the discussion. *Weick* offered that the investigators should be eliminated. *Taylor* will attend the next meeting to see about the balance and be on the agenda. He observed that the JCC should approve the minutes.

c. Legislative *McConnell* offered that the concept was submitted as reported in the Administrator's Report and that she does not anticipate an early delivery of drafts. When drafts are released, there is a 10-day turnaround for revisions.

d. Outreach: *Taylor* distributed a document from the UO Oregon Career Information System which provides a description of geologists and geophysicists. They are requesting that the document be reviewed and input provided. *Taylor* asked staff to forward the electronic information to the Board Members so input could be obtained. *Knight* noted that no reference to Hydrogeology is included in the document.

e. Professional Practice: *Humphrey* offered input in his absence that he would be completing the White Paper draft.

8. Correspondence

a. **AC 10 04 110:** A registrant inquired about being asked to stamp work that he did not agree was the practice of geology and is looking to the Board for guidance. He offered that as the division between disciplines grows narrower, clearer guidance on what constitutes "geology" in Oregon is needed. The Board concurred that a geologist may do work as part of geology that may not have to be stamped. The inquiry will be referred to the Professional Practices Committee.

b. **AC 10 04 123:** The Board discussed the draft Newport Geologic Hazards Code during lunch and will respond to Newport if public comment is still being accepted for the Monday planning meeting.

c. **AC 10 05 129:** The 2010 OWEB Conference is scheduled in Pendleton in November and OWEB is soliciting participants. The Board participated in Eugene in 2008. Due to the distance and the unbudgeted costs that would be associated with participation, the Board will

perhaps participate in 2012 when the conference should be on the west side. *Yinger* helped with the 2008 effort and was not convinced of the value of participation.

d. **AC 10 05 134:** An individual is inquiring about the use of a mock geologist stamp in an outreach fact sheet about stormwater management practices along the Oregon Coast. Stormwater management is part of Engineering Geology. The Board asked for a draft of the document to review the text for appropriateness.

e. **AC 10 06 117:** An applicant is requesting that the Board honor credit for continuing education toward meeting the 45 required quarter hours for geology registration. The Board concurred that it cannot grant credit as the coursework is not quarter hours. An application must provide the minimum required hours as outlined in OAR 809-030-0025. The Board thanked the individual for the additional information.

f. **AC 10 06 153:** The Architect Board responded to an inquiry from the Board about participating in the publication titled Reference Manual for Building Officials. The Architect Board is pleased to include the Board but indicated that consideration must be given to both the development and cost which is rotated between the two current participants, the Engineering and Architect Boards.

g. **AC10 06 155:** This letter from a registrant presented support for another registrant involved in a compliance case.

h. **AC 10 06 156:** The Engineering Board responded to an inquiry from the Board about participating in the publication titled Reference Manual for Building Officials. The Board agreed that it would not attempt to provide something for the 7th edition which is nearing completion but would appreciate the opportunity to possibly be included in the 8th edition. Timeline and costs need to be known.

9. Break / Visitor and Board Introductions: No visitors were present and the Board chose not to take a break.

10. Old Business

a. Action List: The Board reviewed the Action List. It was suggested that the newsletter include an article on stamping.

b. Revision to Renewal Form: Table for the next meeting as the revision was not available.

c. Request for Exam Score: *Taylor* reported that the Oregon and Washington Boards work collaboratively on the Engineering Geology examination and are in alignment. Numeric scores are not provided to examination candidates.

11. New Business

a. Other supervised experience: *Heinzkill* requested that the Board consider other supervised experience for an applicant. The supervisor did not have a current registration so that experience time could not be counted. The company may have other geologists or may work with outside geologists that could provide documentation of experience for the applicant.

12. Public Comment: No public was present.

13. Announcements

a. The Annual Board Picnic is scheduled for July 17, 2010 at the Orr Farm. The date is not working out for numerous current Board Members. Staff will work with the host about continuing, postponing or canceling for this year.

- b. The next quarterly Board Meeting is scheduled for September 10, 2010, in Salem, Oregon at the Board office conference room.
- c. The ASBOG and OR/WA Engineering Geology exams are scheduled for October 1, 2010.
- d. *McConnell* reported that changes are underway with the OSU Geoscience Department. Due to student numbers in some programs, reorganization is occurring and three tracks will be offered in a new College: Geology, Geography, and Environmental Science. *Taylor* reported that WOU's Earth Science program was established in 2002 and follow-up is underway. He requested a letter of support from DOGAMI and from the Board.

14. Adjournment: The meeting was adjourned at 5:18 PM.

Respectfully submitted,

Susanna Knight
Administrator