

MEETING MINUTES
OREGON STATE BOARD OF GEOLOGIST EXAMINERS
June 7, 2007

Board Members Present

Christopher *Humphrey*, RG, CEG
Vicki *McConnell*, PhD, RG, State Geologist
Allen *Morris*, Public Member
Steve *Taylor*, PhD, RG, Vice-Chair
Rodney *Weick*, RG, CEG

Members Absent:

Eileen Webb, RG, Board Chair

Staff Present:

Susanna Knight, Administrator

Guests Present for Work Session:

Ken Bierly, OWEB, Deputy Director
Melissa Leoni, OWEB, Senior Policy Coordinator

The Board Meeting was preceded by a scheduled 8:30 AM Work Session. In order to become more familiar with the Oregon Watershed Enhancement Board (OWEB), Ken Bierly, Deputy Director and Melissa Leoni, Senior Policy Coordinator, joined OSBGE for a candid discussion about the work of OWEB. As Chair of OSBGE's Outreach Committee, *Taylor* facilitated the discussion and introduced the topic by stating that OWEB is a national model and that Oregon is at the forefront in the watershed arena. He then distributed a document titled Watershed Assessment Components. In particular, numerous items on the assessment component list are directly related to the practice of geology. Bierly explained that OWEB is a funding agency and as such is a caretaker of public foundation funds that are provided by the State Lottery. OWEB is dedicated to water protection and was created by 1999 legislation. OWEB will grant approximately \$80 million in this biennium for watershed development, etc. There are approximately 90 watersheds in Oregon and 60 of those are receiving funding from OWEB. Bierly asked for clarification as to what triggers the practice of geology in watershed projects. He indicated that it would be helpful for OWEB to view an exact case where the practice of geology is present in a watershed project. The Board inquired as to whether there are any existing organizations or annual meetings of Watershed Councils. Bierly stated that Oregon has a biennial three-day conference with the next one scheduled for October or November of 2008. The Board suggested that perhaps it might be able to do a presentation about geology and the watershed. Bierly concurred with the Board that the issue of regulatory permits is significant as it relates to watersheds.

Bierly and Leoni departed at 10:30 AM with many thanks from the Board for joining them to discuss this critical area of water protection in Oregon.

McConnell commented that there are many different pieces to the river restoration process, but there is no department to deal with these pieces. *Weick* and *Taylor* concurred that many biologists are doing this type of work. *Taylor* suggested that the Board meet as an outreach effort with the Department of State Lands.

The Board then moved on to a discussion of SB 165, the Board's only bill submitted to the 2007 Legislature. *McConnell* stated that the bill died in Committee for failure to receive the majority vote to move it out of committee to the Senate Floor. She indicated that it was surprising and disappointing that the bill did not move, but now it is time to assess the pulse of the Board and determine the future of the issues of the bill. *McConnell* complimented *Webb* and *Taylor* for pulling together the fact sheets, both on the civil penalties assessed by regulatory Boards in general and the compliance case history of OSBGE. It was also noted that our Assistant Attorney General prepared a handout revealing the various Boards that do have an immunity clause in their statute. *McConnell* suggested that the Board should ask its Assistant Attorney General to present this information in a Legislative Committee environment when the bill is revived. The Board then discussed whether the immunity clause should be built as a one item bill or whether all the information in the current bill should be kept together. *McConnell* informed the Board that there is not yet a process in place for the 2008 legislative session, but the Board agreed that the bill needs to come back ASAP with a civil penalty amount of \$5000 and removal of the revisions to the revocation information. The Board has statutory authority and can write rules for reinstating of revoked registrations. *Weick* volunteered to prepare a message map outlining the components of the bill in preparation for resubmitting the bill.

During lunch, the Board discussed the Professional Practices draft document (initially identified as The White Paper) currently posted on the Board's web page. The Board reviewed comments submitted by registrants, solicited via the newsletter. The work session continued until 1:30 PM, as suggestions for revisions were discussed.

The meeting was called to order by Vice-Chair *Stephen Taylor* at 1:37 PM.

1. *Taylor* suggested that the discussion of the newsletter article on Geotechnical Reports be moved from the Work Session to the Professional Practices Committee Report. *McConnell* requested to add items for New Business: C. LIDAR Update and D. Seismic Needs Assessment. *Humphrey* moved to approve the agenda as revised. Seconded and passed. *Humphrey*, yes; *Morris*, yes; *Taylor*, yes; and *Weick*, yes.

2. *Taylor* asked if there were any corrections to the Minutes of the 3/15/2007 Quarterly Meeting.

The following questions were raised by *McConnell*:

- a. Page 4 (D), clarification of onsite septic systems; *Weick* offered that the statement is correct;
- b. Page 5(G): Are *Weick* and *McConnell* really on the continuing education committee? *Knight* offered that the statement is correct;
- c. Page 5, Correspondence: change the acronym ASBOG to examination development.

Taylor offered the following for revisions and questions:

- a. Page 1, change geomorphology to stream restoration;
- b. Page 5 (F) delete “The coastal watersheds have much happening and are also in a high-profile, high-pressure situation.”
- c. Page 3: Were the Board members updated on the payroll liability question from the last meeting? Knight stated that they were not.

Weick moved to approve the March 15, 2007, meeting minutes with the above revisions. *Humphrey*, yes; *Morris*, yes; *Taylor*, yes; and *Weick*, yes. Seconded and passed.

B. *McConnell* moved to approve the 3/23/2007 Special Meeting minutes as presented. Seconded and passed. *Humphrey*, yes; *Morris*, yes; *Taylor*, yes; and *Weick*, yes

3. ANNOUNCEMENTS:

The next quarterly Board Meeting is scheduled in Salem at the Board office on September 21, 2007.

The next exam date for both the CEG and the ASBOG is September 28, 2007, at Chemeketa Community College, Winema Place, Salem. Proctor volunteers are needed.

Taylor reminded the Board that the annual picnic will convene at the Orr Farm on Saturday, July 21, 2007. More information from staff will be forthcoming.

4. ADMINISTRATOR REPORTS

Knight referred the Board to the Administrator Report AR 2007-02: Summary of Staff Activities, presented in the Board packet, and advised the Board of additional update:

- A Public Hearing on Administrative Rule revisions for the budget and fees for the 2007-09 biennium was convened in the conference room on Friday, June 1, 2007, at 8:30 AM. No public was in attendance. No written documentation was received by staff either in support or in opposition to the proposed changes.
- The Board currently has a policy statement regarding meetings away from Salem. At the last Board meeting, a discussion about meeting on the east side occurred. Would the Board like to support a policy statement regarding such meeting locations? The Board discussed locations such as the OMSI Camp Hancock; Fossil; John Day Fossil Bed’s new facility; and the remodeled turn of the century hotel in Condon. *McConnell* moved that the Board select a geographically diverse section of Oregon one time per biennium for a quarterly Board meeting. Seconded and passed. *Humphrey*, yes; *Morris*, yes; *Taylor*, yes; and *Weick*, yes.
- The Pioneer Trust Bank balance as of 5/31/2007 is \$122,874.82. The interest rate is 3.25%.
- The current renewal statuses are as follows: for April 30, 2007: an 8% loss of renewals; for May 31, 2007: a 15% loss of renewals.
- A request was presented asking that Board members inform staff of dates they will be unavailable during the upcoming summer months due to vacation, etc.
- From the Action List, the Board recommended issuing a letter to Northwest Aquifer

Survey, a very old compliance case, and request payment of the civil penalty. After 60 days, staff is to close the case.

Knight directed the Board to the updated financials for 2005-2007. *McConnell* inquired about the missing figure for the attorney fees and how this might affect the overall balance. *Humphrey* questioned why the Net Income in the REVENUE AND EXPENSE SUMMARY report did not appear in the financial report of ACTUAL VS. BUDGETED. *Knight* will work with staff to revise the spreadsheet and an updated copy will be forthcoming.

Weick moved to delay approval of the 2005-07 financial report until the current report has been reviewed. *Seconded and passed.* *Humphrey, yes; Morris, yes; Taylor, yes; and Weick, yes.*

5. COMMITTEE REPORTS

A. Rules Advisory: On behalf of *Webb*, *Knight* stated that the committee offers the following definition for “punitive”: inflicting or aiming to inflict punishment or retaliation. The Board was confused as to where the term punitive is located in rule and recommended the discussion be tabled until the next meeting.

B. Compliance: *Morris* referred the reporting of cases to various technical reviewers of the Board.

1. **CC#06-02-004B:** *Humphrey* stated that a watershed assessment should be much like a Phase I Environmental Site Assessment Report, a generalized document and not necessarily the practice of geology. But the respondent included interpretation in his soils addendum report. Although the respondent clearly has extensive experience in soil science, he cannot provide geologic and geomorphic investigations unless he is registered with the Board. *Humphrey* moved to issue a LETTER OF CONCERN to the respondent in violation of the practice of geology and invite him to have informal discussion about the practice of geology with the Board. *Seconded and passed.* *Humphrey, yes; Morris, yes; Taylor, yes; and Weick, yes.*

2. **CC#06-02-004A:** *Humphrey* stated that as he reviewed the addendum soils report (CC#06-02-0004B), he also reviewed the main report (CC#06-02-004A) and found extensive geology practice along with mitigation. OSBGE was cc'd a letter from OSBEELS which notified the respondent that the complaint was closed by OSBEELS (allegations unfounded) which had taken the lead on the complaint through the JCC (Joint Compliance Committee). The Board was very disappointed in the process used by the Law Enforcement Committee (LEC) of OSBEELS, as they failed to follow through with the Professional Practices Committee. The Board directed staff to communicate this disappointment in a letter to the JCC and cc that letter to the LEC. *Humphrey* will review the response on file from the respondent and work with staff on any additional follow-up.

3. **CC #06-02-005:** *Morris* summarized the case and provided an update on the current status. The Board directed staff to complete and issue the Notice as approved at the December 2006 Board meeting even if there is only one Plan of Operation to reference.

4. **CC#06-10-008:** *Weick* summarized the issues of this complaint. The Administrative Rules define “deceit” and “negligence”, of which the registrant has been charged. A complete summary of *Weick*'s review will be provided for the next meeting.

5. **CC#06-12-009A and CC#06-12-009B:** *Taylor* moved to close these two cases. The complainant failed to provide requested additional information necessary to evaluate the complaint. Seconded and passed. *Humphrey, yes; Morris, yes; Taylor, yes; and Weick, yes.*

6. **CC#06-12-010:** *Humphrey* stated that this case involves the possible fraudulent use of a registrant stamp. More letters of investigation are to be issued. An individual not registered as a geologist apparently took responsibility for the work, signing for the RG/CEG. The company may have allowed the fraudulent use of the registrant's stamp, but the Board does not regulate companies.

C. CEG Examination: *Humphrey* reported that an Oregon/Washington Engineering Geology Examination Committee reviewed the missed questions on the March 2007 exam but the adjustments approved by the committee did not change the end pass and fail results.

D. Joint Compliance: *Weick* reported that the JCC has not met this quarter. A date has not yet been set for the next meeting.

E. Legislative: *McConnell* stated that a discussion was held during the work session about SB 165 and a preliminary plan is now in place.

F. Outreach: *Taylor* stated for the record that the Board met with OWEB during the morning work session and had a successful discussion about watersheds. An article about watersheds will be drafted for a future newsletter. The Outreach Committee has two new volunteer members: Todd Jarvis and Dennis Nelson.

G. Professional Practice: *Humphrey* reported that additional updates were made to the Professional Practices document during the working lunch. He will compile these into an updated document and bring that back to the next Board meeting for adoption. John Marra is a new member of his committee.

The Board then discussed the article titled "Geotech Reports Completed by CEGs", due to be published in the upcoming newsletter. *Weick* stated that he and *Humphrey* had an extensive discussion about the CEG practice in Oregon and he supports the article. The article will appear in the July newsletter.

H. CEG Report Guidelines: No report presented.

I. Geology Report Guidelines: In her absence, *Webb* wished to inform the Board that David Michael is the newest contributor to this committee. Jennifer Berry and Catherine Rosso are no longer on the committee. The report is now in its second go-around.

6. CORRESPONDENCE

A. AC 07 02 069: The Board received a response from ASBOG's Executive Committee regarding the concerns about the national meeting format raised in a letter from Oregon to ASBOG. ASBOG is working to correct issues that were raised in the letter.

- B. AC 07 04 111:** The Washington Geology Board sent a letter to ASBOG in support of the concerns raised by Oregon with regard to procedures of the national Board.
- C. AC 07 04 122:** A registrant's email of support for the Board's movement toward an electronic distribution of the newsletter.
- D. AC 07 04 123:** A registrant's email supporting the email distribution of the Board newsletter and congratulating the Board on the newsletter standard set by Oregon.
- E. AC 07 04 124:** A registrant's email in support of the content and frequency of the Board's newsletter.
- F. AC 07 04 125:** A registrant's email in support of stopping the paper production of the Board newsletter and stating the registrant reads every newsletter.
- G. AC 07 04 126:** A registrant's email supporting the electronic distribution of the Board newsletter and suggesting that the savings be used for enforcement efforts which will better serve the public.
- H. AC 07 04 132:** A registrant email in support of an easier way to submit complaints and supporting action by the Board to take definitive action against proven violators.

7. OLD BUSINESS

- A. Misconduct versus Civil Penalty:** With the failure of SB 165, which may have substantially increased the civil penalty authority of the Board, *Humphrey* stated that this discussion need not be held at this time. *Taylor* stated that this should be removed from Old Business and become New Business when the civil penalty becomes higher than the current \$1000.00.
- B. Revised Marion County Key Question List:** Knight stated that extensive revisions to the draft list of last meeting were made so another look by the entire Board is requested. The Board directed staff to remove one of two duplicate questions and then forward the document to Marion County.
- C. Report on COE in Minnesota:** *Humphrey* informed the Board that participating in the Council of Examiners (COE) is very interesting. Diverse geologists with diverse interests work together with the examination process. On March 30 & 31, 2007, he and *Taylor* participated with ASBOG's Council of Examiners in St. Paul, Minnesota, as they reviewed and evaluated the fundamental and practice examinations. Participants prepared statistical results; read comments from candidates; and confirmed the answer key. *Taylor* suggested that staff contact the psychometricians for ASBOG and determine what types of additional questions are needed. Then in the Board's next newsletter, solicit questions from registrants to be US Mailed back to the Oregon Board office. COE members will deliver the questions at the next gathering.
- D. Digital or Electronic Signatures:** Correspondence #AC 07 05 179 from OSBEELS provided a link to ORS Chapter 84, Electronic Transactions. In 2001, the Oregon Legislature adopted the Uniform Electronic Transactions Act. ORS 84.019(4) states that if the law requires a signature, an electronic signature satisfies the law. The Rules Committee is directed to determine how this law can be implemented in Chapter 809.

8. NEW BUSINESS

A. Meeting Policy, Public sign-in and Identification: This discussion item was tabled to the September meeting.

B. Oregon K-12 Geology Standards: *Taylor* distributed a document titled: Science, Teaching and Learning to Standards: An Oregon Teacher Resource for 2005-07. These are the science benchmarks for the State of Oregon. *Taylor* stated that high school students are aware of chemistry, physics and biology, but not geology. He asked Board members to review the document and be prepared to talk about this at the September Work Session.

C. LIDAR Update: The Legislature approved \$1.5 M Lottery Fund dollars for the project which DOGAMI will use as seed money to acquire additional dollars. To date, there has been approximately 2100 square miles of data collected.

D. Seismic Needs Report: *McConnell* alerted the Board that the seismic needs report was recently released by DOGAMI and it received good coverage. She hoped all the Board Members were aware of this report and indicated that both Senator Courtney's office and the Governor support funding to get the committee staffed and up and running in the next two years. The funding will provide for implementation of seismic life safety standards. The Joint Committee on Emergency Preparedness and Ocean Policy received this report and this committee will continue as a committee after the session.

9. CHECK LOG: *Morris* moved to approve check log #2562 to #2600 and #9062 to #9064. Seconded and passed. *Humphrey*, yes; *Morris*, yes; *Taylor*, yes; and *Weick*, yes

10. PUBLIC COMMENTS: With no public present for comment, the meeting was adjourned at 5:10 PM.

Respectfully submitted,

Susanna R. Knight
Administrator

<p>The Minutes as presented were approved at the October 19, 2007, meeting of OSBGE. Respectfully submitted, Susanna R. Knight Administrator</p>
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