



# Oregon Geologist Examiner

October 2004

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## Geology Board Members:

Gary Peterson, RG, CEG, Chair  
Vicki McConnell, PhD, RG  
State Geologist  
David Michael, RG, CEG  
Allen Morris, Public Member  
William Orr, PhD, RG  
Eileen L. Webb, RG

**Susanna R. Knight**  
Administrator

**Jane F. Feinberg, RG, CEG**  
Design Editor

## Next Board Meeting:

**December 7, 2004**

**1:00 PM**

Oregon State University  
Wilkinson Hall Room 203  
Corvallis, Oregon

## Board Elects New Leadership

At the September 14, 2004, meeting of the Board, Gary Peterson was elected as the new chairperson and Eileen Webb as the new vice-chairperson. Peterson succeeds David Michael who served the two prior years as Board Chair.

Peterson's first three-year term with the Board began November 1, 2000, and his second term became effective November 1, 2003. Peterson is a principal with Squier/Kleinfelder of Beaverton, Oregon. He has been registered with the Board since 1982. [See appointment article, December 2000 Newsletter].

Peterson has been active in the CEG exam development with the State of Washington. He has served on the Joint Committee of Engineers and Geologists, which is devoted to solving compliance cases in overlap practice areas. Peterson has also served on the National Association of State Boards of Geologists' Council of Examiners, the group charged with development of the national geology examination.

## Board Closes Numerous Cases

The Board closed five compliance cases at their September 14, 2004, meeting. Three of those were related cases involving franchises titled NorthWest Aquifer Surveying (NWAS). Two other cases were closed with letters.

NWAS is a company located in Washington state. A Compliance Committee of the Board met with the owners of the company in September 2002, to discuss the Board's regulation of the practice of geology. Subsequently, the Board developed an AGREEMENT for signature between NWAS and the Board, which clarified the Board's requirements for practicing in Oregon. Included in the October 21, 2002, AGREEMENT was the requirement that reports containing the public practice of geology be signed and stamped by an Oregon-Registered Geologist. The AGREEMENT was never signed by NWAS. Although their web page declares that an English geologist reviews reports prepared by the company, such a review will only meet the requirement of Oregon statute if that geologist is registered in Oregon. Ongoing efforts to bring the company into compliance when practicing in Oregon failed and a FINAL ORDER BY DEFAULT was issued May 10, 2004, serving the company with a \$4,000 fine.

Over the past year, business cards of three NWAS franchisees open for business in Oregon were presented to the Board. One of those three franchises has since closed due to health reasons, so that case number was closed with no action. Because no complaint about the franchises' work product has been received, the Board chose to close the cases by issuing a letter noticing them about the regulation of the practice of geology. Accompanying the letter was a copy of the FINAL ORDER BY DEFAULT issued to the parent company. A LETTER OF CONCERN was issued to a CEG regarding both report quality issues and conflict of interest issues to close a case related to residential development in Portland. Another case was closed by issuing an informational letter to an environmental company outlining requirements when practicing geology in Oregon.

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## Knight's Notes

Volunteers continue to provide critical needs for the Board. Applause is in order for all those registrants who have been diligently writing guidelines for hydrogeology reports. The practice community will be well served by the completion of the guidelines.

Volunteers continue to assist in the developing and revising of Administrative Rules. This is currently being accomplished through email correspondence.

Volunteers are again needed for CEG examination question writing. Early in 2005, a volunteer committee of Oregon CEGs will be meeting with volunteers from Washington to expand the question bank for the CEG examination. If you are available and willing to serve, please contact staff. And remember those questions you have been writing and stashing away? Over the next six weeks, the Board will be asking you to submit those. Your input is critical for building up the CEG question bank shared by Washington and Oregon.

The Legislative Fiscal Office is currently evaluating small agencies and the methods they use to carry out their function. Small agency directors have been submitting requested material for review. During the months of October and November, the Joint Legislative Audit Committee will be reviewing the findings and perhaps making recommendations for change. The Board will be closely tracking this process.

The Fall season is a time of change. It is also a time when the Board leadership changes. Thank you to David Michael for two years of leadership. Welcome to Gary Peterson as he becomes chairperson for the Board.

Fall is also the time when the Board chooses to remind you of the CODE OF PROFESSIONAL CONDUCT (OAR Division 20). A copy is enclosed as a handy reference. Please take a few moments to read through this very important Administrative Rule.

Happy Autumn!

Susanna Knight, Administrator

## Should I Stamp That Borehole Log?

A recent inquiry regarding stamping of borehole logs led to a discussion at the September 14, 2004, Oregon State Board of Geologist Examiners (OSBGE) meeting. Although stamping borehole logs has not previously been common practice, the discussion during the meeting led the Board to present the following guidance:

*(continued on page 5)*

## Public Protection Gap Highlighted by Engineering Statute Interpretation

The Geologist registration statute adopted in 1978 allows Professional Engineers (PEs), and specifically civil and mining engineers, to provide geologic services within certain constraints [ORS 672.545 (3) (a)]. The legislative intent was not to limit the "appropriate and current custom or practice" of other licensed professionals. This has often been interpreted to include geologic work that might be incidental to the primary focus of PEs in the conduct of engineering work.

When a complaint regarding geologic practices by a PE is received by OSBGE, it is referred to a Joint Committee formed by the engineering and geology boards. This committee was established in December of 2001 through a signed MEMORANDUM OF UNDERSTANDING (MOU) between OSBGE and the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS). The MOU was seen as an opportunity for OSBGE and OSBEELS to work together to resolve those cases in areas where the practice of geology and engineering overlap. The focus of both boards is to safeguard the public health, welfare, and property. Fundamental tenants of the MOU include each board taking responsibility for enforcement actions against its own registrants, and the evaluation of an individual's qualifications to provide services would be based on their education, training, and experience relevant to the subject area.

In recent months, the Joint Committee has reviewed several cases involving hydrogeologic services performed by PEs. Concerns existed in a few cases regarding the qualifications of PEs and the quality of the hydrogeologic work provided. Two such cases have been recently and independently closed without enforcement action by OSBEELS, citing a "Lack of Authority." The dismissals were based on advice from counsel that OSBEELS has no statutory authority to discipline incompetent geologic practice. This situation illuminates a gap in the public protection intended by the legislature in adopting geologist registration. Further, it undermines the agreement contained in the MOU to provide compliance in areas of overlapping practice. We understand OSBEELS is evaluating this "gap" in protection, and OSBGE is concerned as well.

This situation presents a significant dilemma. Instead of managing overlapping practice issues through the Joint Committee, a "gap" has been defined by OSBEELS where public safety is not protected. The language of OSBEELS' statute does not appear to allow OSBEELS to discipline for incompetent geological practice. Through this gap, it appears PEs may provide geologic services without OSBEELS' authority to discipline. This is a concern to OSBGE. OSBGE is interested in your input on this apparent practice gap.

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## DIVISION 20

### CODE OF PROFESSIONAL CONDUCT

#### **809-020-0001** **Goals**

(1) A geologist shall be guided by the highest standards of ethics, honesty, integrity, fairness, personal honor, and professional conduct.

(2) To the fullest extent possible, a geologist shall protect the public health and welfare and property in carrying out professional duties.

Stat. Auth.: ORS 672  
Stats. Implemented:  
His.t: GE 4-1984, f. & ef. 12-18-84

#### **809-020-0006** **Responsibility to Profession**

(1) A geologist shall undertake professional service or render expert opinion only when qualified by training or experience in the technical areas involved.

(2) When serving as an expert or technical witness before a court, commission, or other tribunal, a geologist shall express only those opinions founded upon adequate professional knowledge of the matters at issue.

(3) A geologist shall sign and seal only professional work, including, but not limited to, maps and report for which the geologist has direct professional knowledge, and for which the geologist intends to be responsible for its accuracy and adequacy.

(4) A geologist shall not take credit for work conducted by others. When using the results of other geologists' work in the performance of the practice of geology, a geologist shall give due credit to the other geologists by citation or acknowledgement. Work of other geologists which is proprietary, or was not intended to be made generally available, shall not be used without the permission of the other geologist.

(5) A geologist shall not knowingly make false statements or misrepresentations, or permit the publication or use of the geologist's name or work in association with any fraudulent activities.

(6) A geologist shall make full disclosure to all parties concerned of any conflict of interest in projects or properties on which the geologist performs work.

(7) If a geologist has knowledge or reasonable cause to believe another person or geologist is in violation of the registration law, ORS Chapter 672, or the related administrative rules, the geologist shall present such information to the Oregon Board of Geologist Examiners, in writing.

(8) If a geologist's professional judgment is overruled or not adhered to under circumstances where the geologist has reasonable cause to believe there is a clear and present threat to the public health or welfare or property, the geologist shall immediately notify the client/employer. If the client/employer does not take appropriate action within a reasonable amount of time under the circumstances, the geologist shall notify in writing the agency of local government having jurisdiction, or in the case of state/federal property the state/federal agency having land management responsibility, and the Board of the nature of the public threat.

Stat. Auth.: ORS 672  
Stats. Implemented:  
Hist.: GE 4-1984, f. & ef. 12-18-84

#### **809-020-0011** **Responsibility to Employer**

(1) A geologist shall avoid conflict of interest with a client/employer and shall disclose the circumstances to the client/employer if a conflict is unavoidable.

(2) A geologist shall not, during the time of the geologist's retention or employment by a client/employer, use information developed for, or the resources of, said client/employer for private gain or in any other manner that may conflict with the client/employer's interest without the knowledge and consent of the client/employer, except as specified in OAR 809-020-0006(8) Responsibility to Profession. In the case of a former client/employer, a geologist shall honor agreements with that former client/employer with regard to proprietary information, except as specified by OAR 809-020-0006(8).

(3) A geologist shall either engage or advise a client/employer to engage other experts or specialists if

*(continued on page 4)*

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**DIVISION 20**  
**CODE OF PROFESSIONAL CONDUCT**

*(continued from page 3)*

the client/employer's interests are best served by such service.

(4) A geologist shall give due notice of withdrawal of service from a client/employer. Due notice shall be either 30 days or a time mutually agreed to by the geologist and the client/employer, whichever is less. However, a geologist may withdraw from service without due notice if:

(a) The geologist fails to receive compensation, or has reasonable cause to believe that compensation for services performed will not be received;

(b) The geologist knows, or has reasonable cause to believe, that continued employment will result in a violation of this Code, ORS Chapter 672, the related administrative rules, or will otherwise be illegal;

(c) The geologist knows, or has reasonable cause to believe, that the client/employer is involved in illegal or fraudulent practices, or practices dangerous to the public health, and welfare and property;

(d) The geologist knows, or has reasonable cause to believe, that continued employment will result in sickness or injury to the geologist or the geologist's dependents.

(5) A geologist shall not accept compensation concurrently from more than one client/employer on a project, unless the circumstances of payment are fully disclosed and agreed to by all financially interested parties.

Stat. Auth.: ORS 672  
Stats. Implemented:  
Hist: GE 4-1984, f. & ef. 12-18-84

**809-020-0025**  
**Responsibility to the Board**

(1) A geologist, when requested by the Board, shall respond to communications from the Board within 30 days of the date of receipt of mailing by registered or certified mail.

(2) A geologist, when requested by the Board, shall present information and assistance to the Board in pursuing violations of laws and rules relating to the

practice of geology in the State of Oregon. A geologist shall not dismiss from his employment, or take any other sanction against another geologist because of the other geologist's compliance with this, or any other subsection, of the Code of Professional Conduct, ORS Chapter 672, or the related administrative rules.

Stat. Auth.: ORS 672  
Stats. Implemented:  
Hist: GE 3(Temp), f. & ef. 12-14-77; GE 1-1978, f. & ef. 3-9-78;  
GE 4-1984, f. & ef. 12-18-84

**809-020-0030**  
**Misconduct**

Violation of the Code of Professional Conduct is misconduct. In addition, the following specific actions are considered to be, but not limited to, misconduct for which the geologist may be disciplined:

(1) Signing or stamping work which was not prepared under the direct supervision or control of the geologist;

(2) Offering or accepting gifts (other than those of nominal value, such as entertainment or hospitality), with the intent of influencing the judgment of a client, prospective client or government official, or the geologist in connection with a project, or employment, in which the geologist is to be retained or has a financial interest;

(3) Engaging in professional conduct involving fraud, deceit, or violation of federal or state statute or rule regulating the practice of geology;

(4) Practicing geology while the geologist's ability to practice was impaired by alcohol or other drugs;

(5) Engaging in false, misleading or deceptive advertising;

(6) Making a substantial misrepresentation relating to the public practice of geology.

Stat. Auth.: ORS 672  
Stats. Implemented:  
Hist: GE 4-1984, f. & ef. 12-18-84

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## Hydro Task Force Completes Draft Guidelines

The Task Force charged with developing the document titled GUIDELINES FOR HYDROGEOLOGY REPORTS is proud to announce that the first draft of the long-awaited document has been completed. The hard-working contributors include:

Courtney "Corky" F. Isselhardt (G0327)  
Kenneth E. Lite, Jr. (G0881)  
Marc A. Norton (G0892)  
Douglas J. Geller (G1400)  
Eileen L. Webb (G1496)  
Steven R. Bruce (G1573)  
Audrey L. Eldridge (G1500)

Each of these Registered Geologists has written one or multiple sections of the guidance and, for the first time, is now reviewing the document in its entirety. It is expected that this internal, comprehensive review will be completed by October 31, 2004. Board Member Webb will manage final editing of the document.

It is anticipated that the edited draft will be available for review by a second tier of volunteers of Registered Geologist before the December 2004 Board meeting. The second tier reviewers will be selected from a pool of registrants that submitted their names based on a prior newsletter solicitation.

Because of the usual holiday season rush, it is not anticipated that the draft review will be completed until January 31, 2005. If this process is kept on schedule, the Guidelines may be ready for distribution by the March 2005 Board meeting. When completed, the Guidelines will be made available online at [www.osbge.org](http://www.osbge.org).

## Borehole Logs

*(continued from page 2)*

Borehole logs may or may not contain geologic interpretations and conclusions, hence may or may not be considered the practice of geology. For example, many borehole logs contain only soil descriptions that may comply with soil description systems – not the practice of geology. Some borehole logs, however, present interpretive geologic work and conclusions. In Oregon, Registered Geologists should accomplish that work.

Consequently, OSBGE provides the following guidance. Borehole logs containing geologic interpretations and conclusions prepared by a Registered Geologist and incorporated into a completed stamped report need not be individually stamped. The registrant's stamp on the report suffices. However, if a Registered Geologist is producing a borehole log with geologic interpretation and conclusions

for another, the RG should stamp the logs to assure responsibility for the geologic work is properly acknowledged.

In recent years, the Board has opened numerous compliance cases because environmental reports that contain geology work are not stamped and signed by a Registered Geologist. The Board has closed many of these cases with the understanding that a report that includes the practice of geology must bear a stamp of the RG that reviewed and approved the work. If an unregistered individual, for example an environmental scientist, is responsible for the report, a Registered Geologist must review and stamp the geology work in that report.

How then is such work policed? Oregon Registered Geologists are obligated by their CODE OF PROFESSIONAL CONDUCT (see newsletter insert) to provide enforcement. Some Registered Geologists work in a state regulatory position where they review geology work. They have a first-hand opportunity to apply regulatory statute. Other Registered Geologists may happen on geological reports when investigating projects or researching previously completed reports. Again, all registrants are reminded that the CODE OF PROFESSIONAL CONDUCT sets the standard for their practice in the state of Oregon. OAR 809-020-0001 (2) states that "to the fullest extent possible, a geologist shall protect the public health and welfare and property in carrying out professional duties." The CODE OF CONDUCT is included in this newsletter for your review.

## Lapsed Registration

The following registrations lapsed during May, June, July, and August 2004. If your name is listed below and you *did* renew, please contact the office immediately. There may be a database entry error in which your registration was not properly updated. Your assistance in correcting the information is appreciated.

<b>Bryant, Mark E.</b>	E0833	8/31/2004
<b>Carney, Paul R.</b>	E1046	6/30/2004
<b>Coberley, Donald M.</b>	G1866	5/31/2004
<b>Cook, Jason George</b>	T1990	5/31/2004
<b>Graves, Gregory L.</b>	T1837	6/30/2004
<b>Hauser, Michael J.</b>	G1514	6/30/2004
<b>Hodos, Ellen F. Black</b>	G0999	8/31/2004
<b>Long Jr, Robert E.</b>	G1735	5/31/2004
<b>Mc Cormack, Timothy S.</b>	G1350	6/30/2004
<b>Mork, Andrew R.</b>	G1815	8/31/2004
<b>Shoemaker, Scott E.</b>	T2000	5/31/2004
<b>Sullivan, Patrick J</b>	G1140	6/30/2004.
<b>Titus III, Willard S.</b>	E1121	6/30/2004
<b>Todderud, Stacey A.</b>	G1223	6/30/2004
<b>Underhill, Mark R.</b>	G1745	6/30/2004
<b>Wilson, Steven C.</b>	G1761	8/31/2004
<b>Wyatt, Robert J.</b>	G1817	8/31/2004

To practice in Oregon, a registration must be in an active status.

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**Oregon State Board of  
Geologist Examiners**

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Salem, OR 97302



**Suggestions Invited!**

Recipients of this newsletter are encouraged to offer suggestions for articles or information they might wish to see in the newsletter. Write, email, or make a telephone call with your suggestions.

**Any and all suggestions  
are welcome!**

**2004 Calendar of Upcoming Events**

- Nov. 4: Postmark Deadline for ASBOG Application Packets
- Nov. 3 - 4: Council of Examiners Meeting  
Boise, Idaho
- Nov. 5: ASBOG National Meeting, Boise, Idaho
- Nov. 8: Presentation for Undergraduate Geoscience Students at Oregon State University  
Corvallis, Oregon
- Dec. 3: Oregon Geology Exam, Salem, Oregon
- Dec. 7: Board Meeting, OSU, Corvallis, Oregon