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MEETING OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

Board for Professional Engineers, Land Surveyors, and Geologists
2535 Capitol Oaks Drive, Suite 300
Sacramento, CA 95833
(916) 263-2222

Thursday, July 28, 2011, beginning at 9:00 a.m.

Board Members: Jerry Silva, President; Paul Wilburn, Vice President; Carl Josephson; Mike Modugno; Philip Quartararo; Hong Beom Rhee; Ray Satorre; Patrick Tami; Michael Trujillo; and Erik Zinn.

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21.	Adjourn	159

1. **Roll Call to Establish a Quorum**

2. **Public Comment**

NOTE: The Board cannot take action on items not on the agenda. The Board will allow for Public Comment on both days, as well as during the discussion of each item on the agenda.

2. **Public Comment**

NOTE: The Board cannot take action on items not on the agenda. The Board will allow for Public Comment on both days, as well as during the discussion of each item on the agenda.

3. **Closed Session**

Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]

- A. Rodolfo Dimalanta v. Board for Professional Engineers and Land Surveyors, Court of Appeal, First Appellate District, Case No. A131485 [Superior Court of Alameda County Case No. RG10513640]

4. **Open Session to Announce the Results of Closed Session**

5. **Temporary Authorization Applications**

July 2011 Board Meeting

Request for Temporary Authorization

MUZAFFAR SAJJAD

Mr. Sajjad has requested a temporary authorization to practice civil engineering in accordance with §6760 of the Professional Engineers Act. He has submitted a fee of \$68.75 as required in §6799(b).

Mr. Sajjad is a licensed civil engineer in Virginia and Maryland, his business is located in Maryland. He is currently a Senior Engineering Specialist at Bechtel in Frederick, MD.

The project for which Mr. Sajjad is requesting a Temporary Authorization is at the Russell City Energy Center in Hayward, CA. A full description of the project is included as attached.

Mr. Sajjad will be preparing the main steam and hot reheat pipe support plans. The pipe support drawings are generally components such as rods, variable and constant springs, snubbers, struts, sway braces and are at times attached to small rigid structure frames, posts and box frames with welds and base plates with anchor bolts.

Mr. Sajjad has stated that he intends to practice in CA beginning in July 2011 and hopes to secure his permanent civil license in California by taking and passing the required examinations to complete the project in 2013.

Mr. Sajjad will attend the July Board meeting. The Board should be prepared to request that the applicant demonstrate knowledge of the application of seismic forces in the design of structures, or in any other phases of civil engineering involved with this project. In addition, the applicant should specify what aspects of the project would be completed under the temporary authorization.

6. **Executive Officer's Report**

- A. Legislation
 - 1. Discussion of Legislation for 2011: AB 275, AB 1023, AB 1210, AB 1424, SB 541, SB 543, SB 692, and SB 944
- B. Strategic Plan Goals for 2011-2012
- C. Personnel

Board for Professional Engineers and Land Surveyors

2011 Legislative Session

- AB 275** Solorio. Rainwater Capture Act of 2011. This bill would enact the Rainwater Capture Act of 2011, which would among other things, authorize landscape contractors, holding a specified classification, to design and install all exterior components of a rainwater capture system.
STATUS: Last amended 7/13/11. To be heard on SEN Floor.
BOARD POSITION: Support
- AB 1023** Wagner. Maintenance of the codes. This bill would make technical changes to various provisions of law based on the recommendations made by the Legislative Counsel to the Legislature. This bill repeals duplicate Sections 6731.1, 6731.2, 8726.1, and 8761.1 of the Business and Professions Code.
STATUS: Last amended 7/12/11. To be heard on SEN Floor.
BOARD POSITION: Watch
- AB 1210** Garrick. Civil Engineering. This bill adds Section 6730.4 to the Engineer's Act, relating to water quality. Clarifies that all civil engineering activities performed in the preparation of storm water pollution plans be performed by a licensed civil engineer.
STATUS: Amended 6/20/11. Testimony taken in SEN B,P&ED Com. 7/6/11. Further hearing to be set.
BOARD POSITION: Support
- AB 1424** Perea. Franchise Tax Board: delinquent tax debt. This bill would permit a state agency that issues professional licenses, to suspend, revoke, or refuse to issue a license if the licensee's name is included on the list of the 500 largest tax delinquencies of the State Board of Equalization and the Franchise Tax Board.
STATUS: Last amended 7/12/11. To be heard in SEN Appropriations 8/15/11.
RECOMMENDED POSITION: Oppose
BOARD POSITION:
- SB 541** Price. Regulatory Boards: expert consultants. This bill would authorize the boards of DCA to continue to utilize expert consultants, as done in the past, without going through formal contracting process.
STATUS: Amended 6/21/11. To be heard in ASM Appropriations 8/17/11.
BOARD POSITION: Support
- SB 543** Price. Business and professions: regulatory boards. This bill extends the sunset dates for various DCA regulatory boards and bureaus that are being evaluated by the Joint Sunset Review Committee. It also makes various changes to the Engineer's Act, Land Surveyor's Act, and Geologist and Geophysicist Act.
STATUS: Amended 7/12/11. To be heard in ASM Appropriations 8/17/11.
BOARD POSITION: Support

Board for Professional Engineers and Land Surveyors

- SB 692** Walters. Professional Engineers. This bill would change the disciplines currently licensed as “title act” engineers to “practice act” engineers.
STATUS: Introduced 2/18/11. Held in SEN Appropriations 5/26/11.
BOARD POSITION: Watch
- SB 944** Senate Business Professions & Economic Development Committee. This is one of the Committee’s Omnibus bills. It includes some minor changes to the Engineer’s Act, the Land Surveyor’s Act, and the Geologist and Geophysicist Act.
STATUS: Amended 7/12/11. To be heard in ASM Appropriations 8/17/11.
BOARD POSITION: Support

Board for Professional Engineers and Land Surveyors
Bill Analysis
2011 Legislative Session

BILL: AB 275

AUTHOR: Solorio

TOPIC: Rainwater Capture Act

DATE OF INTRODUCTION: 2/7/11

MOST RECENT VERSION: 7/13/11

ANALYSIS DATE: 7/20/11

BILL'S LEGISLATIVE HISTORY: Passed Assembly and Senate Committees – to Senate floor

RECOMMENDED POSITION: Support

BOARD POSITION: Support

SUMMARY:

This bill would enact the Rainwater Capture Act of 2011, which would authorize residential, commercial, and governmental landowners to install, maintain, and operate rain barrel systems, as defined, and rainwater capture systems, as defined, for specified purposes, provided that the systems comply with specified requirements. This bill would authorize a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a rainwater capture system, as defined, if the system is used for landscape irrigation. The bill would authorize a landscape contractor holding a specified classification to design and install all exterior components of a rainwater capture system that are not a part of, or attached to, a structure.

COMMENT:

The bill was amended to include language that states that "(e) Nothing in this section authorizes a landscape contractor to engage in or perform activities that require a license pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700))"

Board staff civil engineer, Susan Christ, has reviewed and approved this language.

Board for Professional Engineers and Land Surveyors
Bill Analysis
2011 Legislative Session

BILL: AB 1023

AUTHOR: Wagner

TOPIC: Maintenance of the codes

DATE OF INTRODUCTION: 2/18/11

MOST RECENT VERSION: 7/12/11

ANALYSIS DATE: 7/20/11

BILL'S LEGISLATIVE HISTORY: Passed Assembly and Senate Committees – to Senate Floor

RECOMMENDED POSITION: Watch

BOARD POSITION: Watch.

SUMMARY:

This bill makes nonsubstantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature. This bill would repeal duplicate sections of 6731.1, 6731.2, 8726.1, and 8761.1 of the Business and Professions Code.

COMMENT:

Every year, the Office of Legislative Counsel identifies grammatical errors and other errors of a technical nature that have inadvertently been enacted into statutory law. The annual "maintenance of the Codes" bill implements the corrections. The sections that Legislative Counsel determined to be eliminated from our B&P Code are duplicate sections of our law. The proposed changes will not make any substantive change in the law.

Board for Professional Engineers and Land Surveyors
Bill Analysis
2011 Legislative Session

BILL: AB 1210

AUTHOR: Garrick

TOPIC: Civil engineering

DATE OF INTRODUCTION: 2/18/11

MOST RECENT VERSION: 6/20/11

ANALYSIS DATE: 7/20/11

BILL'S LEGISLATIVE HISTORY: Testimony taken in Senate Business, Professions and Economic Development Committee 7/6/11. Further hearing may be set.

RECOMMENDED POSITION: Support

BOARD POSITION: Support

SUMMARY:

This bill would clarify that all civil engineering activities performed in preparation, submission, execution, and enforcement of storm water pollution prevention plans pursuant to a specified general permit for storm water discharges to be prepared and performed under the responsible charge of a licensed civil engineer. It also provides that a licensed civil engineer shall not be required to meet any additional experience, training, or certification requirements in order to perform activities in the preparation of storm water pollution prevention plans.

COMMENT:

This bill clarifies the definition of civil engineering found in Section 6731 by clearly stating that all civil engineering work performed with respect to storm water pollution prevention plans (SWPPP) must be done by a civil engineer. It seems that Section 6731 already covers this, in addition to the language that was included in the SWRCB Order stating that all engineering work must be performed by a civil engineer, however, apparently the language can be misinterpreted. This bill does clarify the situation with respect to SWPPP.

This bill is being sponsored by American Council of Engineering Companies (ACEC - CA).

**Board for Professional Engineers and Land Surveyors
Bill Analysis
2011 Legislative Session**

BILL: AB 1424

AUTHOR: Perea

TOPIC: Franchise tax board: delinquent tax debt

DATE OF INTRODUCTION: 3/22/11

MOST RECENT VERSION: 7/12/11

ANALYSIS DATE: 7/20/11

BILL'S LEGISLATIVE HISTORY: In Senate Appropriations Committee. Hearing date: 8/15/11

RECOMMENDED POSITION: Oppose

BOARD POSITION:

SUMMARY:

Existing law requires licensing boards to provide the following information to the Franchise Tax Board (FTB): (1) Name. (2) Address of record. (3) Social security number. (4) Type of license. (5) Effective date of license or a renewal. (6) Expiration date of license. (7) Whether license is active or inactive. (8) Whether license is new or a renewal. This bill would require that the information also be provided to the State Board of Equalization (SBE).

Existing law requires the FTB to make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000. This bill would instead require the SBE and FTB to each make available a list of the 500 largest tax delinquencies over \$100,000 at least twice each calendar year. It would also require FTB to include additional information on the list including the type, status, and license number of any occupational or professional license held by the person or persons liable for payment of the tax. It would require a person whose name has been removed from the list to comply with the arranged resolution for payment and failure to do so would authorize SBE and FTB to add the person's name to the list without providing prior written notice to the person.

This bill would require a licensing board to immediately provide a preliminary notice to the applicant or licensee of intent to suspend or withhold a license if the person's name is included on either list of 500 largest tax delinquencies. It requires licensing boards to make a determination regarding the license between 30 and 90 days after the mailing of the preliminary notice. It also requires boards to issue a temporary license to the person that is valid for 90 days, which may not be extended. This bill would require SBE and FTB, if the licensing board has not made a decision regarding suspension or revocation of the license, to send a notice of suspension to the licensee. It would further provide that if the licensee fails to pay the taxes by a certain date the license shall be automatically suspended and would require SBE or the FTB to mail a notice of suspension to the licensing board and to the licensee. The suspension would be canceled upon compliance with the tax obligation.

Additionally, this bill would require licensing boards to revise all applications to add a notification to the applicant/licensee stating that the law allows SBE and FTB to share taxpayer information with a licensing board and requires the licensee to pay his or her state tax obligation and that a license may be suspended if the state tax obligation is not paid.

This bill would also prohibit licensing boards from entering into a contract for goods or services with any person whose name appears on either of the 500 largest tax delinquency lists.

COMMENT:

The authority to suspend a license should remain solely with the licensing board.

**Board for Professional Engineers and Land Surveyors
Bill Analysis
2011 Legislative Session**

BILL: SB 541

AUTHOR: Price

TOPIC: Regulatory boards: expert consultants

DATE OF INTRODUCTION: 2/17/11

MOST RECENT VERSION: 6/21/11

ANALYSIS DATE: 7/20/11

BILL'S LEGISLATIVE HISTORY: To be heard in Assembly Appropriations 8/17/11.

RECOMMENDED POSITION: Support

BOARD POSITION: Support

SUMMARY: This bill would allow DCA boards to enter into agreements to utilize the services of expert consultants without having to go through the formal state contracting process. Specifically, this bill would require boards to establish policies and procedures for the selection and use of expert consultants and would allow boards to enter into agreements with these consultants for enforcement or exam-related services. These agreements would be exempt from the arduous requirements of the State Contract Act.

COMMENT: This is an urgency bill, and would take effect immediately. It is sponsored by the Medical Board and the Contractors State License Board.

Board for Professional Engineers and Land Surveyors
Bill Analysis
2011 Legislative Session

BILL: SB 543

AUTHOR: Price

TOPIC: Business and Professions: regulatory boards

DATE OF INTRODUCTION: 2/17/11

MOST RECENT VERSION: 7/12/11

ANALYSIS DATE: 7/20/11

BILL'S LEGISLATIVE HISTORY: Scheduled to be heard in Assembly Appropriations 8/17/11.

RECOMMENDED POSITION: Support

BOARD POSITION: Support

SUMMARY: This bill is the "sunset bill" for the Senate Committee on Business, Professions and Economic Development. Among other things, this bill extends the operation date for this Board until January 1, 2016.

This bill would:

Extend the sunset date for this Board to January 1, 2016.

Add this Board to the list of boards authorized to collect fingerprints from applicants for the purpose of a criminal history record check.

Delete the requirement for a state-specific structural exam.

Merge the funds of the engineers and land surveyors with that of the geologists and geophysicists by creating a new "Professional Engineer's, Land Surveyor's, Geologist's, and Geophysicist's Fund."

Delete the provision that states that the fee charged for a Geology exam is limited to \$450.

COMMENT: Although this bill requires the Board to fingerprint applicants, it does not provide any funds or staffing to meet this new mandate.

Board for Professional Engineers and Land Surveyors
Bill Analysis
2011 Legislative Session

BILL: SB 692

AUTHOR: Walters

TOPIC: Professional Engineers

DATE OF INTRODUCTION: 2/18/11

MOST RECENT VERSION:

ANALYSIS DATE: 7/20/11

BILLS LEGISLATIVE HISTORY: Passed Senate Business, Professions & Economic Development Committee. Held in Senate Appropriations.

BOARD POSITION: Watch

SUMMARY: This bill would prohibit the practice of agricultural, chemical, control system, fire protection, industrial, metallurgical, nuclear, petroleum, and traffic engineering by any person who has not passed a specified examination and who is not appropriately licensed by the Board for Professional Engineers and Land Surveyors in the particular discipline. In other words, this bill converts "title act" disciplines to "practice act" disciplines.

HISTORY: The issue of title acts and what should be done about them has been a concern of the Board for over 25 years. After various studies, task forces, and legislation, the Board continues to arrive at the same conclusion that it would be best to leave "title acts" as they are or to leave some of them as they are and to eliminate others. In 2000, the Joint Legislative Sunset Review Committee (JLSRC), the Department of Consumer Affairs (DCA), and the Board decided that the best way to address the "title act" issue was to contract with an independent consultant to perform a review of all of the title act branches of engineering. The report that was prepared by the independent consultant (ISR) was completed in November of 2002. The report concluded, among other things, that the state should eliminate title protection and offer practice protection to all regulated disciplines. A Task Force was then appointed by the Board consisting of two members of the Board, Committee consultants of the Legislature, a representative from DCA, and other various members of the public and two professional engineers (not members of the Board). The Task Force began meeting in August of 2003 and held five meetings throughout the state to discuss the ISR recommendations and receive public comment regarding those recommendations or others being considered by the Task Force. The Task Force completed its work in January of 2004 and made its recommendations to the Board. The Board, with minor changes, approved the Task Force recommendations in May of 2004. The JLSRC met in June 2004, adopted all the Board's recommendations and the next year, on June 20, 2005, placed them into a bill, SB 246. SB 246 included language that established chemical, control systems, fire protection, nuclear, petroleum, and traffic engineering as "practice acts" and discontinued examinations for the title disciplines of agricultural, industrial, and metallurgical engineering. Among other things, SB 246 provided that the professional practice of engineering in the branches recognized by the Board may overlap, but with specified provisions. SB 246 was met with vigorous opposition and was having difficulty making it through the Legislature. In July 2005, it was scheduled to be heard in the Assembly Committee on Business and Professions (B&P), but due to the opposition it was "held" in Committee.

In 2005/2006, the Assembly B&P Committee held a number of meetings regarding the issue of converting the "title act" disciplines to "practice acts." The meetings were comprised of numerous

**Board for Professional Engineers and Land Surveyors
Bill Analysis
2011 Legislative Session**

groups and individuals who expressed an interest – both pro and con – to the language in SB 246 to make such conversions. The goal of the meetings was to arrive at language that was acceptable to most, if not all, of the parties. Agreeable language could not be reached, so after much discussion between the Board and the JLSRC, the decision was made that the language to convert “title act” disciplines to “practice acts” should be dropped from the bill. The Board voted at its March 17, 2006, meeting to support the removal of the language to convert “title act” disciplines to “practice act” disciplines.

In 2009, SB 275, which was virtually identical to SB 692 was introduced. It was sponsored by the Farm Bureau and Chemical Industry Council. American Council of Engineering Companies (ACEC CA) and Professional Engineers in California Government (PECG) were opposed to the bill. The Board had a “watch” position. SB 275 failed passage out of its first Committee hearing.

COMMENT: Many people who are currently licensed in “title act” disciplines were grandfathered (licensed without examination) into those disciplines, although it is becoming fewer and fewer each year. This brings up another issue: most of the “title act” disciplines are shrinking (see below) and may eventually go away on their own through attrition. The Board needs to consider that many unlicensed people are currently legally doing work that would suddenly become protected if “title acts” are converted to “practice acts”; these people would no longer be able to do their jobs. Therefore, SB 692 could be seen as a “job killer” and, in this economy, may reflect poorly on this bill.

Branch of Engineering	Number of Licensees FY 1999/2000	Number of Licensees As of 6/30/2010	Number of Licensees As of 3/6/11
Agricultural	309	193	175
Chemical	2140	1954	1977
Control System	2410	1416	1264
Fire Protection	883	760	750
Industrial	854	467	426
Metallurgical	417	277	260
Nuclear	1038	613	556
Petroleum	482	389	373
Traffic	1398	1512	1522

**Board for Professional Engineers and Land Surveyors
Bill Analysis
2011 Legislative Session**

BILL: SB 944

AUTHOR: Senate B,P&E D Committee

TOPIC: Business and professions

DATE OF INTRODUCTION: 3/31/11

MOST RECENT VERSION: 7/12/11

ANALYSIS DATE: 7/20/11

BILL'S LEGISLATIVE HISTORY: To be heard in Assembly Appropriations 8/17/11.

RECOMMENDED POSITION: Support

BOARD POSITION: Support

SUMMARY:

This bill, one of the Business, Professions, & Economic Development Committee's non-health omnibus bills, will make noncontroversial changes affecting various boards and bureaus within the Department of Consumer Affairs.

COMMENT:

This bill contains a number of provisions that pertain to this Board. It was recently amended and now carries provisions that will:

- 1) Add statutory language that would require the Board to establish relations with other states' and countries' licensing bodies for engineering and land surveying.
- 2) Amend various sections to correct the name of the Board.
- 3) Amend Section 6712(c) to add the geologist or geophysicist member of the Board to the professional members that are to be appointed by the Governor.
- 4) Amend Sections 6711 and 8805 to correct typographical errors.
- 5) Make clarifying changes to provisions governing BPELSG's disciplinary procedures.
- 6) Recast the requirement that BPELSG annually prepare a list of licensed geologists and geophysicists containing certain information, and provide that list to county clerks, to instead require the Board to compile and maintain the list.
- 7) Specify that an applicant for certification as a geologist-in-training (GIT) shall not have committed acts or crimes constituting grounds for denial of certification and, successfully pass the Fundamentals of Geology examination.
- 8) Recast the technical advisory committee provisions under the former Board of Geologist and Geophysicist to be similar to those in the Engineering and Land Surveyors Acts.
- 9) Clarify that the seal used by an individual with a specialty in geology or in geophysics must indicate the appropriate specialty in which the individual is certified.

7. **Enforcement**



FY2010/2011 SUMMARY OF ENGINEERING AND LAND SURVEYING ENFORCEMENT CASES
Through June 2011

	IN-HOUSE						DIV. OF INVEST.				ATTORNEY GENERAL			
	Cases Opened	Cases Closed	Cases Pend.	Mean/Median Age of Cases Pending (in days)	Pending Cases Over 365 Days	Cases Subm.	Cases Ret'd	Cases Pend.	Cases Subm.	Cases Closed	Cases Pend.	SOIs Pend.	ACCs Pend.	
JULY	34	37	295	317/166	92	3	9	23	9	0	126	1*	126*	
AUG	26	61	260	355/232	94	1	1	23	9	0	135	1*	135*	
SEPT	21	25	256	359/227	94	7	4	26	0	11	124	1*	124*	
OCT	24	16	264	356/251	90	2	2	26	2	3	123	1*	123*	
NOV	17	19	265	364/254	94	4	3	27	4	1	126	1*	126*	
DEC	58	29	294	333/229	92	1	3	25	2	18	110	1*	110*	
JAN	47	45	296	328/221	94	2	3	24	2	2	110	1*	110*	
FEB	17	19	295	335/231	105	4	3	25	8	2	116	1*	116*	
MARCH	54	19	330	300/210	104	2	1	26	5	6	115	1*	115*	
APRIL	60	28	362	252/129	95	3	5	24	3	9	109	0	109	
MAY	37	65	334	253/153	91	2	2	24	5	2	112	0	112	
JUNE	23	37	320	269/182	86	1	3	22	3	7	108	0	108	
TOTALS	418	400				32	39		52	61				

*Some of the cases pending at the Attorney General's Office involve both a Statement of Issues (denial of licensure) and an Accusation (disciplinary action against a license or certificate). Therefore, the number of SOIs Pending and the number of ACCs Pending total more than the number of Cases Pending at the Attorney General's Office.

Explanation of Terms:

"In-House" totals represent the number of complaints opened, closed, and pending in a given month. In addition, the mean and median age of pending cases and the number of pending cases over 365 days are provided.

"Div. Of Invest." totals represent the number of complaints which are referred to, returned from, and still pending with the Division of Investigation in a given month. These cases are a subset of the "In-House" cases.

"Attorney General" totals represent the number of cases submitted to, closed, and pending with the Office of the Attorney General, as well as a breakdown of how many cases are Statements of Issues (SOIs), which are not generated by enforcement/complaint activity, and how many cases are Accusations (ACCs), which are generated by enforcement/complaint activity. (SOIs are generated by denials of applications for registration or licensure.)

SUMMARY OF ENGINEERING AND LAND SURVEYING ENFORCEMENT CASES BY FISCAL YEAR

Through June 2011

	IN-HOUSE						DIV. OF INVEST.						ATTORNEY GENERAL					
	Cases Opened	Cases Closed	Cases Pend.	Mean & Median Age of Pend. Cases	Cases Pend. Over 365 Days	Cases Subm.	Cases Ret'd	Cases Pend.	Cases Subm.	Cases Closed	Cases Pend.*	SOLs Pend.	ACCs Pend.*	Cases Subm.	Cases Closed	Cases Pend.*	SOLs Pend.	ACCs Pend.*
03/04	393	246	556	469/343	271	32	26	34	31	18	42	2	40	31	18	42	2	40
04/05	276	262	570	586/506	368	31	23	42	20	24	38	3	35	31	24	38	3	35
05/06	452	374	648	504/366	326	74	24	92	30	29	39	2	37	74	24	39	2	37
06/07	559	569	637	513/405	353	50	42	100	15	28	26	3	23	50	42	26	3	23
07/08	457	612	482	446/294	213	54	62	92	17	9	34	3	31	54	62	92	17	31
08/09	458	558	382	405/260	151	34	64	62	59	12	67*	4**	66**	34	64	62	59	66**
09/10	456	541	298	321/192	100	28	51	29	88	38	117	1**	117**	28	51	29	88	117**
10/11	418	400	320	269/182	86	32	39	22	52	61	108	0	108	32	39	22	52	108

The Division of Investigation cases are a subset of the In-House Complaint Investigation Cases.

* In preparing the July 2008 statistics, it was discovered that the Accusations Pending (ACCs Pend.) number was incorrect. It is not possible to go back through the years to determine when the error in the statistics occurred; therefore, we have not changed the previous years' numbers.

** Some of the cases pending at the Attorney General's Office involve both a Statement of Issues (denial of licensure) and an Accusation (disciplinary action against a license or certificate). Therefore, the number of SOLs Pending and the number of ACCs Pending total more than the number of Cases Pending at the Attorney General's Office.

*** In preparing the June 2011 statistics, it was discovered that the Division of Investigation Cases Pending (DIV. OF INVEST. Cases Pend.) number was incorrect. It is not possible to go back through the years to determine when the error in the statistics occurred; therefore, we have not changed the previous years' numbers.

Explanation of Terms:

"In-House" totals represent the number of complaints opened, closed, and pending in a given month. In addition, the mean and median age of pending cases and the number of pending cases over 365 days are provided.

"Div. Of Invest." totals represent the number of complaints which are referred to, returned from, and still pending with the Division of Investigation in a given month. These cases are a subset of the "In-House" cases.

"Attorney General" totals represent the number of cases submitted to, closed, and pending with the Office of the Attorney General, as well as a breakdown of how many cases are Statements of Issues (SOLs), which are not generated by enforcement/complaint activity, and how many cases are Accusations (ACCs), which are generated by enforcement/complaint activity. (SOLs are generated by denials of applications for registration or licensure.)

ENGINEERING AND LAND SURVEYING COMPLAINT CATEGORY STATISTICS
Through June 2011

Because the Professional Engineers Act and Professional Land Surveyors' Act have general/all-inclusive statutes which address violations (for example, Section 6775 includes fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, aiding/abetting, and violating the Code of Professional Conduct in the practice of professional engineering, and Section 8780 includes fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, aiding/abetting, and violating the Code of Professional Conduct in the practice of professional land surveying), the Enforcement Unit does not classify complaints by the specific type of violation; in general, we investigate the complaint as if all of these violations have been alleged. However, the Department of Consumer Affairs (DCA) has standard category types for complaint statistics which we use when a complaint case is initially opened. These categories are contractual, fraud, health and safety, non-jurisdictional, competence/negligence, other category, personal conduct, product quality, unprofessional conduct, and unlicensed or unregistered activity. Therefore, when a complaint is received and opened as a formal complaint the information provided by the complainant is reviewed and one or two of the DCA categories are chosen for statistical purposes.

CATEGORY	FY03/04	FY04/05	FY05/06	FY06/07	FY07/08	FY08/09	FY09/10	FY10/11
Competence/Negligence	119	84	110	114	105	159	124	170
Contractual*	79	72	96	87	84	78	60	76
Fraud	34	33	68	56	49	53	41	40
Unlicensed Activity	124	84	105	98	103	108	82	85
Other Category	29	6	7	6	28	22	18	16
Record of Survey**	32	35	52	29	23	74	55	88
Delinquents**	10	1	1	2	0	2	2	1
Examination Subversion**	63	31	106	271	149	94	167	83
Code of Professional Conduct	7	5	16	9	16	10	8	7
Reporting of Legal Actions Program**	N/A	N/A	N/A	N/A	1	18	38	74

* Contractual includes failure to use a written contract or failure to include all required elements in the written contract as well as breach of contract.
** These are not DCA categories; they are Board categories.

(Please note: These numbers may total more than the number of complaints we opened in a given year because a complaint may fall within more than one category.)

AREA OF PRACTICE OF ENGINEERING & LAND SURVEYING COMPLAINT INVESTIGATION CASES OPENED
Through June 2011

This chart provides statistical information regarding the area of practice/discipline of the complaints opened each month. The data is based on the allegations provided with the initial complaint and the branch of licensure of the subject.

Month	Exam Subversion		Unlicensed Activity		Land Surveying		Civil Engineering	Electrical Engineering	Mechanical Engineering	Other Engineering	
	w/	PE	LS	PE	LS	PLS					RCE
FY03/04	57	6	0	89 {9}	21 {1}	54	40	124	5	9	4 - Ch, QU, 2 TR
FY04/05	27	4	0	62 {1}	19	41	29	97	6	6	2 - Ch
FY05/06	101	5	0	78 {1}	26	83	37	130	7	9	3 - FP, Ch, QU
FY06/07	261	10	0	73 {2}	29	60	27	113	3	2	4 - MF, 3 TR
FY07/08	138	11	0	84	31	81	31	99	3	2	1 - Ch
FY08/09	87	7	0	83 {2}	31	109	36	121	0	5	0
FY09/10	167	0	0	56 {1}	27	77	25	104	3	8	1 - PS/CO
July	0	0	0	9	2	5	2	16	0	2	0
Aug	1	0	0	5	0	8	4	9	1	0	0
Sept	1	0	0	2	2	8	5	6	0	0	0
Oct	0	0	0	4	0	5	1	14	0	0	0
Nov	0	0	0	4	3	1	3	6	0	1	0
Dec	33	1	0	4 {1}	4	6	0	8	1	0	1 - QU
Jan	0	0	0	6	2	9	3	24	4	0	0
Feb	0	0	0	6	1	5	2	5	0	0	1 - CR
March	0	0	0	6	2	28	8	9	1	1	0
April	27	2	0	2	3	19	4	3	0	0	0
May	18	0	0	5	2	2	1	11	0	0	0
June	0	0	0	3	4	0	0	16	0	0	0
Totals	80	3	0	56 {1}	25	96	33	127	7	4	2

The data is broken down as follows:

Exam Subversion (involving a non-licensed individual, a PE, or a PLS)

Unlicensed Activity (involving engineering or land surveying, also includes delinquents in curly brackets as a subset)

Land Surveying (involving a PLS or a Pre-82 RCE)

Civil Engineering (which includes structural and soils engineering)

Electrical Engineering

Mechanical Engineering

Other Engineering (Title Act disciplines)

SOURCE OF ENGINEERING AND LAND SURVEYING COMPLAINT INVESTIGATION CASES OPENED
Through June 2011

This chart provides statistical information regarding the source of the complaints opened each month.

Month	Public	Government/Law Enforcement	Profession	Internal/Other
FY03/04 Totals	144	48	74	139
FY04/05 Totals	128	23	52	79
FY05/06 Totals	193	54	50	155
FY06/07 Totals	158	24	62	324
FY07/08 Totals	152	42	64	194
FY08/09 Totals	157	41	90	169
FY09/10 Totals	179	22	81	186
July	14	2	5	13
August	10	0	5	11
September	10	0	5	6
October	8	3	1	12
November	7	3	5	2
December	29	3	4	22
January	8	1	10	28
February	8	1	6	2
March	8	31	8	7
April	6	21	1	32
May	24	0	4	9
June	4	0	6	13
Totals	137	65	70	157

The following provides a general definition/description of each of the categories:

- Public – Consumers, non-licensees, non-governmental/non-licensee organization (such as consumer groups)
- Government/Law Enforcement – Cities, counties, other State of California agencies, other states, federal government, police departments, district attorneys; also includes individuals filing on behalf of an agency (such as the County Surveyor)
- Profession – Licensees, professional societies (also includes individuals filing on behalf of a professional society)
- Internal/Other – No complainant (such as exam subversion cases), inquiries from individuals/agencies/organizations which lead to the opening of a complaint, anonymous

AGING OF ENGINEERING AND LAND SURVEYING COMPLAINT INVESTIGATION CASES
Through June 2011

AGE (DAYS)	7/10	8/10	9/10	10/10	11/10	12/10	1/11	2/11	3/11	4/11	5/11	6/11
1-30 Days (Under 1 Month)	27	22	19	24	17	44	45	46	54	59	35	23
31-60 Days (1-2 Months)	46	21	21	16	23	17	23	17	44	53	29	19
61-90 Days (2-3 Months)	19	21	19	18	16	23	15	16	12	44	49	29
91-120 Days (3-4 Months)	23	14	16	18	15	13	21	13	17	11	11	44
121-180 Days (4-6 Months)	32	27	26	25	30	29	25	33	28	28	53	44
181-270 Days (6-9 Months)	34	37	41	46	35	34	37	35	38	36	29	38
271-365 Days (9-12 Months)	22	24	20	27	35	42	36	30	33	36	37	37
366-730 Days (1-2 Years)	56	58	58	57	62	55	59	72	79	74	74	71
731-1095 Days (2-3 Years)	25	25	24	20	18	25	26	24	17	15	13	11
1096-1460 Days (3-4 Years)	5	5	7	8	9	7	4	3	2	2	2	2
1461-1826 Days (4-5 Years)	4	3	2	2	2	3	2	3	3	2	2	2
1827-2192 Days (5-6 Years)	2	3	3	3	1	1	1	1	1	0	0	0
2193-2558 Days (6-7 Years)	0	0	0	0	2	2	2	2	2	2	0	0
TOTAL	295	260	256	264	265	294	296	295	330	362	334	320

ENGINEERING & LAND SURVEYING COMPLAINT INVESTIGATION CASE RESOLUTION STATISTICS
Through June 2011

This table shows the general closing categories used by the Enforcement Unit when closing a complaint investigation case; these categories are based on categories from the Department of Consumer Affairs.

Fiscal Year	No Violation & Insufficient Evidence	Compliance Obtained	Mediated	RAIN	Warning Letter	Citation to be Issued	Referred to		Other
							DA	AG	
03/04	53	71	4	23	9	18	12	52	4
04/05	62	83	7	11	12	32	2	32	11
05/06	92	86	28	19	25	52	5	61	9
06/07	171	199	7	10	34	70	12	48	18
07/08	135	183	9	8	76	113	11*	63*	12
08/09	130	112	11	17	91	112	3	77	5
09/10	150	104	2	5	59	98	5	103	14
10/11	122	71	6	11	51	58	10*	60*	13

* In FY07/08, two cases were submitted to both the District Attorney and the Attorney General. In FY10/11, one case was submitted to both the District Attorney and the Attorney General.

^u“No Violation & Insufficient Evidence” also includes “No Jurisdiction” (the alleged violations do not fall within the Board’s Jurisdiction). “RAIN” stands for “Resolved After Initial Notification.” “Other” includes such categories as Subject Deceased, Unable to Locate Subject, Non-Cooperation of Complainant, No Response from Exam Subversion Subjects (Applications Voided).

In addition to investigating formal complaints, the Enforcement Unit staff assists consumers and licensees in resolving problems before they actually become complaints. Most of these matters involve a breakdown of communication between the licensee and the client. The Enforcement Analysts assist both parties in re-opening the lines of communication; the analysts act only as mediators, not arbitrators. In these situations, it is generally the parties involved who resolve the problem rather than the analysts. Most of these matters are generally handled through telephone contact rather than with correspondence.

ENGINEERING AND LAND SURVEYING CITATION ORDER STATISTICS
Through June 2011

Month	Number Issued	Violation Type of Citations Issued*											Informal Conferences and/or Appeal Hearings Requested	Informal Conferences and/or Appeal Hearings Held	Number Modified, Affirmed, or Dismissed	Number Final	Order of Final Citations	
		Unlicensed					Licensed			Failure to File	Other	Abate Only					Abate & Fine (w/amt of fine)	
		Title	Rep as able to practice	Offer	Practice	Other	Neg	Misrep	Other									
FY04/05	16		0	3	6	3	6	0	0	0	4	4	23	21	23	N/A	\$10,850	
FY05/06	9		1	5	3	0	0	2	0	3	6	4	5	19	N/A	\$11,500		
FY06/07	9		1	5	6	4	1	3	0	2	2	2	4	9	N/A	\$11,250		
FY07/08	71		3	30	27	7	22	13	3	36	29	21	16	48	N/A	\$89,600		
FY08/09	60		0	21	20	7	7	15	6	29	35	6	27	37	N/A	\$43,350		
FY09/10	38		0	19	15	11	11	10	0	24	13	15	16	17	N/A	\$38,750		
July	2		0	1	1	1	0	0	0	0	1	0	3	2	N/A	\$5,250		
August	5		1	3	2	2	1	2	0	0	0	0	0	1	N/A	\$500		
September	14		2	3	4	1	1	5	0	11	0	0	1	4	N/A	\$14,250		
October	0		0	0	0	0	0	0	0	0	7	0	0	6	N/A	\$17,000		
November	0		0	0	0	0	0	0	0	0	0	0	0	0	N/A	N/A		
December	0		0	0	0	0	0	0	0	0	0	0	0	0	N/A	N/A		
January	6		0	2	2	0	0	3	1	3	1	0	0	0	N/A	N/A		
February	9		0	0	0	0	2	2	0	7	2	5	1	0	N/A	N/A		
March	10		0	0	0	0	4	2	1	13	10	0	4	1	N/A	\$1,000		
April	9		0	0	0	0	7	4	0	8	3	0	2	7	N/A	\$4,250		
May	10		0	5	0	8	3	1	0	3	10	17	16	0	N/A	N/A		
June	6		0	0	0	0	1	5	0	6	2	11	13	11	N/A	\$12,000		
Totals	71		2	3	14	9	12	19	24	2	51	33	36	32	N/A	\$54,250		

*Violation Type of Citations Issued – a single citation may include multiple violations

Unlicensed - Title = Use of any restricted title

Unlicensed - Rep as able to practice = Representing self as able to practice one of the 4 practice acts (CE/SE/GE; EE; ME; & LS) by using any of the titles associated with those practice acts or in any other way representing that one is authorized to practice in those areas

Unlicensed - Offer = Offering to perform any of the 4 practice acts (includes offers in advertisements)

Unlicensed - Practice = Actually practicing any of the 4 practice acts

Unlicensed - Other = Any other violations involving unlicensed activity

Licensed - Failure to File = Failure to file records of survey/corner records in the time and/or manner required by law

Licensed - Neg = Negligence in the professional practice

Licensed - Misrep = Misrepresentation in the professional practice

Licensed - Other = Any other violations in the professional practice

A citation order is final 30 days after it is issued unless a request for an informal conference and/or an appeal hearing is received. Following an informal conference, the citation order may be modified, affirmed, or dismissed. An informal conference may be commenced and continued to provide for the receipt and review of additional information. The cited person may also withdraw his/her request for an informal conference and/or appeal hearing; the citation then becomes final 30 days after the date of issuance.

OUTCOME OF ENGINEERING & LAND SURVEYING CASES SUBMITTED TO THE DISTRICT/CITY ATTORNEY
Through June 2011

The table below indicates the outcome of complaint cases submitted to the District/City Attorney for criminal prosecution, as requested by the Enforcement Committee.

Once a complaint investigation case is submitted to the appropriate District or City Attorney for criminal prosecution, we close our complaint case and notify the complainant. We also request certified court records from the appropriate court in order to monitor the outcome of the criminal action (cases for which we have not yet received the certified records are shown as "Pending"). An article describing the result of the criminal action is printed in the Board's Bulletin.

Fiscal Year	Conviction	Dismissed/Withdrawn*	Statute of Limitations Expired	Bench Warrant Issued	Pending
03/04	5	4	1	0	2
04/05	1	0	0	0	1
05/06	1	6	0	0	0
06/07	4	1	0	0	7
07/08	5	3	0	0	1
08/09	0	0	0	0	3
09/10	0	1	0	0	4
10/11	0	0	0	0	10

* A case is listed as "Dismissed/Withdrawn" if the matter is dismissed through the courts ("in the interest of justice") or if the District/City Attorney withdraws the case and does not file criminal charges. Of the 12 cases listed in this category, 7 were withdrawn by the DA due to insufficient evidence to prove beyond a reasonable doubt that a crime had occurred; 2 were dismissed "in the interest of justice" pursuant to Penal Code section 1385; and 3 were dismissed because the suspect was no longer within the jurisdiction of the DA's Office (the subject was out of the state or could not be located).

ENGINEERING AND LAND SURVEYING
 ACCUSATION AND PROBATION VIOLATION CASES SUBMITTED TO THE AG'S OFFICE
 Through June 2011

	03/04	04/05	05/06	06/07	07/08	08/09	09/10	10/11
LA	7	8	3	6	7	18	40	19
SA	9	4	11	2	3	16	6	7
SD	5	1	8	3	2	9	22	17
SF	8	5	4	2	4	16	20	9
Totals	29	18	26	13	16	59	88	52

Multiple complaint cases against the same individual are combined into one Accusation case. In addition, cases submitted to the AG's Office for probation violation proceedings are also included.

40 Counties handled by each AG Office:

- LA Inyo, Kern, Los Angeles, San Bernardino, San Luis Obispo, Santa Barbara, Ventura
- SA Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Kings, Lassen, Madera, Mariposa, Merced, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, Yuba
- SD Imperial, Orange, Riverside, San Diego
- SF Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma

AGING OF ENGINEERING AND LAND SURVEYING
 ACCUSATION & PROBATION VIOLATION CASES ASSIGNED TO THE ATTORNEY GENERAL
 Through June 2011

	0-91 DAYS	92-182 DAYS	183-274 DAYS	275-365 DAYS	1-2 YEARS	2-3 YEARS	OVER 3 YEARS
PRE-ACCUSATION CASES	7	4	1	0	4	1	0
POST-ACCUSATION CASES	25	4	18	9	12	0	0

“Pre-Accusation” are cases for which an Accusation has not yet been filed and is calculated from the date the case is submitted to the AG’s Office to the current date.

“Post-Accusation” are cases for which an Accusation has been filed and is calculated from the date the Accusation is filed to the current date.

STATUS OF ENGINEERING AND LAND SURVEYING ACCUSATION AND PROBATION VIOLATION CASES

Case #	AG Office	Submitted to AG	ACC Filed	Hearing Dates	Status as of 7/10/11
808-A	LA	6/12/07; 1/2/09	3/26/08; 11/25/09	10/17-18/11	Re-assigned to new DAG
839-A	LA	9/15/08; 1/7/10; 3/26/10; 10/8/10; 7/5/11	5/28/09; 1/4/11	8/9-11/11	Additional cases submitted to DAG; re-assigned to new DAG; hearing continued; First Amended Accusation served on respondent; additional case submitted
845-A	SA	9/15/08; 5/19/10	4/29/09; 10/19/10	1/17-23/12	Includes Probation Violation and new allegations; additional case submitted; Amended pleadings served on respondent; hearing continued; settlement conference scheduled for 9/23/11
853-A	LA	1/9/09; 3/25/10	12/7/09; 5/17/11		Additional case submitted; Supplemental Accusation served on respondent
860-A	SF	4/6/09			Includes Probation Violation; DAG drafting Accusation and consulting with San Francisco District Attorney's Office
859-A	SF	5/29/09	1/19/10; 10/18/10; 11/17/10	12/6-9/10; 3/21-23/11; 9/19-21/11	Hearing continued for additional days in March and September 2011
864-A	SA	5/29/09	4/13/10	1/10-11/12	Hearing continued; settlement terms provided to DAG
872-A	SA	6/29/09	3/17/10	7/25-27/11	Hearing continued
875-A	SD	7/14/09	12/9/09	9/22/10; 11/22/10	Hearing held; Proposed Decision received; to Board 7/28/11
877-A	LA	7/14/09	10/6/10	9/27-29/11	Re-assigned to new DAG; hearing continued
881-A	LA	9/22/09; 3/26/10	5/17/11		Additional case submitted; respondent filed Notice of Defense
883-A	LA	9/22/09	8/19/10	7/19-20/11	Re-assigned to new DAG; settlement terms provided to DAG
887-A	LA	9/22/09	5/3/10		Hearing continued
888-A	LA	9/22/09	4/8/11		Re-assigned to new DAG; Accusation served on respondent
889-A	LA	9/22/09	4/8/11		Re-assigned to new DAG; respondent filed Notice of Defense
890-A	LA	9/22/09	4/13/10		Stipulation received; to Board 7/21/11
893-A	LA	11/16/09			Re-assigned to second new DAG; DAG drafting Accusation
894-A	LA	11/16/09	4/8/11		Re-assigned to new DAG; Accusation served on respondent
896-A	LA	11/16/09	5/19/11		Re-assigned to new DAG; hearing dates requested
899-A	LA	11/16/09	11/24/10	8/11/11	Re-assigned to new DAG
901-A	SE	11/16/09	6/3/10	9/29-30/11	Re-assigned to new DAG; settlement terms provided to DAG; settlement conference scheduled for 9/2/11
902-A	SD	11/16/09; 7/14/10	6/6/10; 4/8/11	1/18/12	Respondent filed Notice of Defense; additional cases submitted

Case #	AG Office	Submitted to AG	ACC Filed	Hearing Dates	Status as of 7/10/11
905-A	SD	12/29/09	7/14/10	9/20-21/11	Settlement terms provided to DAG
907-A	LA	12/29/09	8/10/10		Stipulation pending
912-A	SF	1/27/10	6/25/10		Stipulation received; to Board 7/28/11
915-A	LA	1/27/10			Re-assigned to new DAG; Accusation received for review & signature
916-A	LA	1/27/10	9/3/10; 7/6/11		Settlement terms provided to DAG; Amended Accusation returned to DAG for service on respondent
918-A	LA	1/27/10; 6/30/11	8/19/10	11/4/11	Settlement terms provided to DAG; additional case submitted
920-A	LA	2/18/10	4/22/10	8/2-3/11	
921-A	LA	2/18/10	10/6/10	8/30-9/1/11	Re-assigned to new DAG
923-A	SA	2/18/10			DAG reviewing additional information & drafting Accusation
925-A	SD	2/18/10; 7/14/10; 3/28/11	4/22/10; 10/6/10; 5/17/11		Re-assigned to new DAG; Amended Accusation served on respondent; additional case submitted; 2 nd Amended Accusation served on respondent
926-A	SD	2/18/10	7/8/10	8/30/11	Settlement terms provided to DAG
927-A	LA	2/18/10	4/22/10	6/6/11	Hearing held; ALJ preparing Proposed Decision
928-A	SD	2/18/10	8/23/10		Hearing continued; settlement terms provided to DAG; settlement conference scheduled for 8/19/11
931-A	SD	2/18/10	10/19/10	11/1-3/11	Includes Probation Violation with 800-A; settlement terms provided to DAG
800-A	SD	2/18/10	10/19/10	11/1-3/11	Probation Violation; with 931-A; settlement terms provided to DAG
935-A	LA	3/24/10	6/25/10	8/22-23/11	Related to Accusation No. 936-A; settlement terms provided to DAG
938-A	SF	3/24/10	7/9/10	8/25/11	Includes Citation Violation; hearing continued; settlement terms provided to DAG
942-A	LA	3/24/10	10/18/10	11/1-3/11	Settlement terms provided to DAG; hearing continued
943-A	SD	3/24/10	9/3/10	8/3/11	Settlement terms provided to DAG
944-A	LA	4/7/10	4/8/11		Respondent filed Notice of Defense
945-A	LA	4/22/10			Re-assigned to new DAG; DAG reviewing file
947-A	LA	4/22/10	2/16/11		Stipulation received; to Board 7/28/11
949-A	LA	4/22/10	1/24/10		Settlement terms provided to DAG
946-A	SF	5/19/10	10/6/10		Stipulation received; to Board 7/28/11
951-A	SA	5/19/10	8/6/10; 10/13/10		Stipulation received; to Board 7/28/11
952-A	SF	5/19/10	10/13/10	9/7-9/11	Settlement terms provided to DAG
574-A	LA	6/10/10	10/18/10		Probation Violation; with 958-A; Default Decision set aside; case returned to DAG to schedule hearing
953-A	SD	7/21/10	10/11/10	7/12-14/11	
955-A	SA	7/21/10	1/24/10	9/27-29/11	
956-A	SA	7/21/10	5/27/11		Hearing dates requested
957-A	SD	7/21/10; 5/25/11	10/6/10		DAG requested settlement terms; additional case submitted
958-A	LA	7/21/10	10/18/10		Includes Probation Violation and new allegations; with 574-A; Default Decision set aside; case returned to DAG to schedule hearing

Case #	AG Office	Submitted to AG	ACC Filed	Hearing Dates	Status as of 7/10/11
959-A	SD	8/18/10; 3/2/11	4/8/11		Respondent filed Notice of Defense
960-A	SF	8/18/10	11/24/10; 1/19/11		Stipulation received; to Board 7/28/11
962-A	SF	8/18/10	11/24/10		Default Decision set aside; case returned to DAG; stipulation received; to Board 7/28/11
963-A	LA	8/18/10	4/8/11		Related to Accusation No. 964-A; respondent filed Notice of Defense
964-A	LA	8/18/10	4/8/11		Related to Accusation No. 963-A; respondent filed Notice of Defense
965-A	LA	8/18/10	2/14/11	12/12-16/11	Settlement conference scheduled for 10/17/11; DAG requested settlement terms
967-A	LA	8/31/10	5/23/11		Citation Violation; respondent filed Notice of Defense
968-A	SA	10/4/10	5/19/11		Hearing dates requested
970-A	SF	11/2/10	5/19/11		Accusation served on respondent
785-A	LA	12/14/10			Probation Violation; DAG assignment received
973-A	SD	1/18/11	4/8/11		DAG preparing Default Decision
974-A	SD	1/18/11	4/8/11	2/27-3/2/11	Re-assigned to new DAG
741-A	LA	2/7/11	4/8/11		Probation Violation; respondent filed Notice of Defense
975-A	SF	2/7/11			DAG drafting Accusation
976-A	LA	2/7/11	5/27/11		Re-assigned to new DAG; hearing dates requested
977-A	LA	2/14/11			DAG assignment received; paralegal drafting Accusation
978-A	SF	2/14/11			DAG reviewing file with expert
979-A	SD	2/15/11	4/8/11		Citation violation; DAG preparing Default Decision
980-A	SA	2/22/11	5/16/11		Related to Accusation No. 981-A; hearing dates requested
981-A	SA	2/22/11	5/16/11		Related to Accusation No. 980-A; hearing dates requested
752-A	LA	3/18/11	5/19/11		Probation Violation; hearing dates requested
982-A	SD	3/21/11	7/6/11		Citation Violation & New Allegations; Accusation returned to DAG for service on respondent
983-A	LA	3/23/11	5/19/11		Citation Violation; DAG requested settlement terms
984-A	SD	4/4/11	5/19/11		Respondent filed Notice of Defense
811-A	SD	4/5/11			Probation Violation; DAG drafting Petition to Revoke Probation
794-A	SD	4/6/11	7/1/11		Probation Violation; Petition to Revoke Probation returned to DAG for service on respondent
985-A	SD	5/6/11			DAG reviewing file
986-A	LA	5/23/11			DAG assignment received
987-A	LA	5/23/11			DAG drafting Accusation
988-A	SA	6/14/11			DAG assignment received
989-A	LA	6/14/11			

OUTCOME OF ENGINEERING & LAND SURVEYING CASES SUBMITTED TO THE ATTORNEY GENERAL'S OFFICE

Through June 2011

Based on the Effective Date of the Decision
(Including Proposed Decisions, Stipulations, Defaults, and Decisions After Reconsideration)

Fiscal Year	Total	Revoked or Voluntary Surrender	Rev/Stay (with probation)	Susp/Stay (with probation)	Other (i.e., Suspension Only, Probation Only)	Dismissed**	Withdrawn*	
							Acc Filed	No Acc Filed
03/04	17	4	11	0	1	0	0	1
04/05	27	3	15	3	5	0	1	0
05/06	24	7	10	1	3	1	0	2
06/07	28	10	8	0	3	0	3	4
07/08	7	2	1	0	3	1	0	0
08/09	12	4	5	0	1	0	0	2
09/10	38	11	11	0	8	0	1	7
10/11	61	20	24	1	6	0	5	5

* For statistical tracking purposes, we use the term "Withdrawn" to apply to both cases which are returned by the AG's Office with the recommendation that an Accusation not be filed as well as cases in which an Accusation is filed and then formally withdrawn (through a Notice of Withdrawal signed by the Executive Officer as the Complainant in the Accusation) prior to the issuance of a Final Decision by the Board. Generally, the DAG will recommend that an Accusation not be filed if he believes, after reviewing all of the evidence provided, the case is too old or there is insufficient evidence or if the subject/respondent complies with the law (such as filing the Record of Survey or completing the terms of the contract). Additionally, Accusations are withdrawn (after filing) if additional evidence indicates that the respondent is in compliance with the law.

** An Accusation is dismissed (with or without prejudice) through a Final Decision by the Board (generally, by adopting a Proposed Decision which orders dismissal or by granting a Petition for Reconsideration and ordering dismissal).

(It is rare that a case will be opened as a complaint, submitted to the AG's Office, and have a final decision issued in the same fiscal year. In addition, multiple complaint cases against the same individual are combined into one case when submitted to the AG's Office.)

OUTCOME OF ENGINEERING & LAND SURVEYING CASES SUBMITTED TO THE ATTORNEY GENERAL'S OFFICE
BY TYPE OF DECISION

Through June 2011 (Based on the Effective Date of the Board's Decision)

Fiscal Year	Default Decision	Proposed Decision	Stipulation	Decision After Rejection or Reduced Proposed Decision	Decision After Reconsideration (following Proposed Decision or Decision After Rejection)
03/04	Revoked-3	Rev/Stay-2 Prob extended-1	Rev/Stay-9 Vol Surr-1	0	0
04/05	Revoked-1	Revoked-1 Rev/Stay-2 Susp/Stay-1 Prob extended-1	Rev/Stay-13 Vol Surr & New CE-2 Vol Surr-1 Susp/Stay-2 Public Reapproval w/cond-1 Probation continued-1	0	0
05/06	Revoked-2	Revoked-3 Rev/Stay-2 Dismissed-1	Vol Surr-2 Rev/Stay-8 Susp/Stay-1 Public Reapproval w/cond-1 Probation continued-2	0	0
06/07	Revoked-1	Revoked-3 Rev/Stay-1	Public Reapproval w/cond-1 Rev/Stay-7 Vol Surr-6 Probation continued-2	0	0
07/08	Revoked-2	Dismissed-1 Prob extended-1 Public Reapproval w/costs-1	W/draw ACC & Issue Cite-1 Rev/Stay-1	0	0
08/09	0	Revoked-2 Rev/Stay-1 Susp/Prob extended-1	Rev/Stay-4 Vol Surr-2	0	0
09/10	Revoked-3	Revoked-4 Rev/Stay-1	Rev/Stay-10 Vol Surr-4 Public Reapproval w/cond-7 W/draw AC & Issue Cite-1	0	0
10/11	Revoked-9	Revoked-3 Susp/Stay-1	Rev/Stay-24 Vol Surr-8 Vol Surr & New CE-1 Public Reapproval w/cond-5	0	0

ADOPTION vs. REJECTION OF ENGINEERING AND LAND SURVEYING
PROPOSED DECISIONS PREPARED BY ADMINISTRATIVE LAW JUDGES

Also Includes Reduction of Penalty Ordered Proposed Decision
Through June 2011 (Based on the Effective Date of the Decision)

YEAR	Number Of Proposed Decisions	Number Adopted	Percent Adopted	Number Rejected	Percent Rejected	CHANGE IN DECISION & ORDER (PD = Proposed Decision; DAR = Decision After Rejection)
03/04	3	3	100%	0	0%	1 PD was adopted, but the penalty order was reduced
04/05	5	5	100%	0	0%	N/A
05/06	6	6	100%	0	0%	1 PD was adopted, but the penalty order was reduced
06/07	4	4	100%	0	0%	1 PD was adopted, but the penalty order was reduced
07/08	3	3	100%	0	0%	
08/09	4	4	100%	0	0%	
09/10	6	6	100%	0	0%	1 PD was adopted, but the penalty order was reduced
10/11	4	4	100%	0	0%	1 PD was adopted as a Precedential Decision

**RESTITUTION AND RECOVERY OF BOARD COSTS ORDERED IN ENGINEERING AND LAND SURVEYING BOARD DECISIONS
Through June 2011 (based on the effective date of the Board's decision)**

Fiscal Year	Number of Decisions requiring:		Total Dollar Amount ordered as Restitution with breakdown by type of decision	Total Dollar Amount ordered as Recovery of Board Costs with breakdown by type of decision
	Restitution	Recovery of Board Costs		
03/04	5	9	\$58,979.76+	\$57,928.84 (PD = Proposed Decision; Recon = Decision After Reconsideration; Stip = Stipulation; PV = Probation Violation) \$3,090.50 - 1 Reinstatement - See FY04/05 \$23,148.75* - 2 PDs - \$2,540.75 Not paid (PV); \$20,608 re-ordered in FY05/06 \$31,689.59 - 9 Stips: Paid in full
04/05	3	14	\$40,410.00	\$117,609.53 \$55,892.50 - 4 PDs - \$4,300 Paid; \$7,814 Not yet paid; \$43,778.50 pay if reinstated \$61,717.03 - 17 Stips - \$43,809 Paid; \$17,908.03 Not paid (PV)
05/06	6	15	\$70,972.50	\$88,239.25 \$34,468.50* - 3 PDs - \$11,117.50 re-ordered in FY08/09; \$2,743 Pay if reinstated; \$20,608 Not paid (PV) \$53,770.75 - 12 Stips - \$44,004.25 Paid; \$3,967 Not paid (probationer deceased); \$5,799.50 Not paid (PV)
06/07	1	7	\$16,000.00	\$37,306.50 \$2,500.00 - 1 PD - Pay if reinstated \$34,806.50 - 7 Stips - \$25,905 Paid; \$1,660.50 Not paid (PV); \$7,241 Not yet paid
07/08	0	1	0	\$2,639.25 \$12,617.25 - 2 PDs - \$7,901.25 Not yet paid; \$4,716 Pay if reinstated
08/09	0	4	0	\$27,525.75 \$14,908.50* - 3 Stips - \$2,291 Paid; \$12,617.50 Not yet paid
09/10	0	18	0	\$85,731.34 \$30,135.69 - 4 PDs - Not yet paid \$55,595.55 - 14 Stips - Not yet paid
10/11	1	32	\$400.00	\$123,859.59 \$93,858.78 - 28 Stips - Not yet paid \$30,000.81 - 4 PDs - \$9,513.13 Not yet paid; \$20,487.68 Pay if reinstated

* 1 Stipulation in FY04/05 re-ordered payments ordered in a Reinstatement decision in FY03/04. 1 Proposed Decision in FY05/06 re-ordered Board costs and reduced and re-ordered restitution from FY03/04. 1 Stipulation in FY08/09 re-ordered payments ordered in a Proposed Decision in FY04/05. "Not yet paid" indicates that the respondent still has time to pay the amount owed before violating probation by failing to pay.

COMPARISON BETWEEN CERTAIN ENGINEERING AND LAND SURVEYING
MONTHLY STATISTICS AND ENFORCEMENT PERFORMANCE MEASURES

Category	Standard	Actual*
Mean Age of Complaint Cases	120 days	269 days
Median Age of Complaint Cases	120 days	182 days
Percentage of Cases Over 365 Days Old	≤10%	27%
Percentage of Cases Over 180 Days Old	≤35%	50%
Complaint Cases Opened per Month per Analyst**	6 cases	4.18 cases ***
Complaint Cases Closed per Month per Analyst**	6 cases	6.72 cases ***
Complaint Cases Pending per Month per Analyst**	30 cases	58.18 cases

* "Actual" represents the data for June 2011.

** The "standard" is based on 4 full-time analyst positions. From July through January, we had 6 analysts working cases full-time and 1 analyst working cases part-time; therefore, the "actual" was based on 6.5 positions. Beginning in February, we have 4 analysts working cases full-time and 3 analysts working cases part-time; therefore, the "actual" is based on 5.5 positions.

*** Average for July through January for these two categories was 4.99 cases opened and 5.10 cases closed. Average for February through June for these two categories was 6.945 cases opened and 6.109 cases closed.

ENFORCEMENT PERFORMANCE MEASURES

Adopted July 1996

Revised October 1997

Mean <i>and</i> Median Age of Complaint Cases	120 days
Aging of Complaint Cases	
Percentage of Complaint Cases Over 365 Days Old	10%
Percentage of Complaint Cases Over 180 Days Old	35%
Complaint Case Workload per Analyst	
Complaint Cases Opened <i>and</i> Closed per Month	6 cases
Complaint Cases Pending per Month	30 cases
Technical Expert Hours per Complaint Case	15 hours
Division of Investigation Hours per Complaint Case	10 hours
Aging of Division of Investigation Case Investigations	90 days
Attorney General Hours per Accusation Case	25 hours
Aging of Accusation Cases	
From Submittal to the AG's Office to Filing of an Accusation	90 days
From Filing of an Accusation to Request to Set Hearing	75 days
From Filing of an Accusation to Final Resolution	1 year

**GEOLOGISTS & GEOPHYSICISTS PROGRAM
ENFORCEMENT STATISTICS**

FOR THE LAST SIX MONTHS OF FISCAL YEAR 2009-2010

	IN HOUSE COMPLAINT INVESTIGATION CASES			DIVISION OF INVESTIGATION (DOI)			CITATIONS		ATTORNEY GENERAL		
	Opened	Closed	Pending	Referred To	Returned From	Pending	Final	Submitted	Closed	Pending	
January	1	1	89	0	0	0	0	0	0	2	
February	1	0	90	0	0	0	0	0	2	0	
March	4	0	94	0	0	0	0	0	0	0	
April	1	0	95	0	0	0	1	0	0	0	
May	3	1	97	0	0	0	0	0	0	0	
June	0	0	0	0	0	0	0	0	0	0	
Totals	10	2	97	0	0	0	1	0	2	0	

Explanation of Terms:

“In House Complaint Investigation Cases” totals represent the number of complaints opened, closed, and pending in a given month.

“Division Of Investigation (DOI)” totals represent the number of complaints which are referred to, returned from, and still pending with DOI in a given month. These totals are a subset of the “In House Complaint Investigation Cases” totals.

“Citations” totals represent the number of final citations (after all appeal periods have ended) in a given month (informal enforcement action against unlicensed individuals and licensees).

“Attorney General” totals represent the number of cases submitted to, closed, and pending with the Office of the Attorney General in a given month (formal disciplinary action against a licensee).

8. **Exams/Licensing**

- A. October 2011 Examinations
- B. Examination Postponements

Examination Postponements

Background:

Currently the Board allows exam postponements. The Postponement Request Form discusses the examination fee and the ability to forward this fee to the next available examination.

Board Rule 446. Postponements

The executive officer may grant a postponement, not to exceed two such postponements for each application to any applicant who for reasonable cause is prevented from appearing for examination at the time fixed, provided the applicant's request for postponement and the reason therefore is filed with the principal office of the board at any time prior to the expiration of the ten (10) day period immediately following the date of such examination.

Issue:

With the implementation of NCEES administration of exams in October 2011, and the introduction of computer based testing, the Board is unable to forward the examination fee to the next available examination. In the future, the applicant will be paying the examination fee directly to the exam vendor, and the Board will be unable to forward this fee to the vendor.

NCEES Policy: Funds may not be transferred to a later exam administration date.

EXECUTIVE REPORT

**ENGINEERS AND LAND SURVEYORS
FY 2010-11**

SUMMARY OF EXAMS AND LICENSING STATISTICS

Through June 30, 2011

	YTD as of June 30, 2011	YTD as of June 30, 2010	Increase / Decrease	
			#	%
Applications	16,959	19,960	(3,001)	-15%
Comity Applications	653	391	262	67%
License Renewals	43,256	47,719	(4,463)	-9%
Active Licenses (PE & PLS)	96,382	94,315	2,067	2%
Active Certifications (FE & FS)	40,152	35,018	5,134	15%
Retired Licenses	3,465	3,156	309	10%
		FY 2009-10 Exams		
October	13,328	14,948	(1,620)	-11%
April	11,899	13,720	(1,821)	-13%

EXECUTIVE REPORT

ENGINEERS AND LAND SURVEYORS

FY 2010-11

Exam Applications Received

DISCIPLINE	Exam Applications ⁽¹⁾				Comity ⁽²⁾			
	Month		Year to Date		Year to Date		Increase/Decrease	
	June '11	June '10	June '11	June '10	June '11	June '10	June '11	June '10
Practice Acts								
Civil	416	142	6,064	7,849	267	68	199	
Electrical	72	24	723	650	149	158	(9)	
Mechanical	70	24	653	674	146	102	44	
Land Surveyor	6	3	454	514	6	2	4	
Title Authority Acts								
Structural	54	37	473	485	26	11	15	
Geotechnical	18	4	101	94	0	0	0	
Title Acts								
Agricultural	0	0	3	2	5	0	5	
Control Systems	3	7	25	27	5	3	2	
Fire Protection	7	8	32	43	11	8	3	
Chemical	11	8	110	113	9	17	(8)	
Industrial	0	1	(1)	4	0	0	0	
Metalurgical	0	0	6	12	0	0	0	
Nuclear	0	1	1	4	0	0	0	
Petroleum	1	0	4	5	0	1	(1)	
Title Acts (California Specific)								
Traffic	9	9	99	107	2	0	2	
Quality	0	0	0	0	0	0	0	
Safety	0	0	0	0	0	0	0	
Corrosion	0	0	0	0	0	0	0	
SUBTOTAL (PE/PLS)	667	268	8,752	10,583	626	370	256	
In-Training								
Fundamentals of Engineering	385	121	7,832	8,921	25	21	4	
Fundamentals of Surveying	13	1	375	456	2	0	2	
SUBTOTAL (FE/FS)	398	122	8,207	9,377	27	21		
TOTALS	1,065	390	16,959	19,960	653	391	262	
% + / - Change			173%				67%	

(1) Excludes comity applications.

(2) Fundamentals of Engineering and Land Surveying comity applications were not reported prior to Sept. 2009. FY 2009-10 comity data therefore is excluded for months of July-A

EXECUTIVE REPORT

ENGINEERS AND LAND SURVEYORS
FY 2010-11

Licenses & Certifications through June 30, 2011

DISCIPLINE	Active Licenses & Certifications (1)		Retired Licenses	
	Year to Date As Of:		Year to Date As Of:	
	June '11	June '10	June '11	June '10
			Increase/Decrease	Increase/Decrease
<i>Practice Acts</i>				
Civil	53,366	51,557	1,809	1,023
Electrical	8,371	9,185	186	304
Mechanical	14,988	14,618	370	465
Land Surveyor	4,217	4,249	(32)	107
<i>Title Authority Acts</i>				
Structural	3,794	3,745	49	72
Geotechnical	1,404	1,383	21	27
<i>Title Acts</i>				
Agricultural	169	182	(13)	26
Control Systems	1,263	1,361	(98)	189
Fire Protection	751	758	(7)	47
Manufacturing	526	592	(66)	147
Chemical	2,018	1,974	44	60
Industrial	412	468	(56)	106
Metallurgical	280	260	0	35
Nuclear	552	567	(15)	94
Petroleum	374	376	(2)	18
<i>Title Acts (California Specific)</i>				
Traffic	1,512	1,500	12	74
Quality	650	734	(84)	203
Safety	498	545	(47)	116
Corrosion	257	261	(4)	35
SUBTOTAL (PE & PLS)	96,382	94,315	2,067	3,156
Total % Growth			2%	10%
<i>In-Training</i>				
Fundamentals of Engineering	37,892	32,784	4,908	n/a
Fundamentals of Surveying	2,460	2,234	226	n/a
SUBTOTAL (FE & FS)	40,152	35,018	5,134	
Total % Growth			15%	n/a
TOTALS	136,534	129,333	7,201	3,156
Total % Growth			6%	10%

Notes:

- (1) Excludes those cancelled, deceased, delinquent, delinquent, revoked, suspended, denied, retired and surrendered.
- (2) Data obtained from Dept. of Consumer Affairs, CAS Primary Status Summary Report dated 7-1-11.

**GEOLOGISTS AND GEOPHYSICISTS
FY 2010-11**

SUMMARY OF EXAMS AND LICENSING STATISTICS

	YTD June 30, 2011	YTD June 31, 2010	Increase / Decrease #	Increase / Decrease %
Applications	483	469	14	3%
License Renewals/Certifications	3,605	3,694	(89)	-2%
Active Licenses	5,273	5,256	17	0.3%
Active Certifications	2,480	2,471	9	0.4%
March 2011 Exams Scheduled	288	327	(39)	-12%
October 2010 Exams Scheduled	497	358	139	39%

Notes:

(1) Geophysicist, Certified Hydrogeologist, and Certified Engineering Geologist Exams not administered in FY 2009-10.

(2) Application statistics provided by P. Smith, GG Program lead analyst.

EXECUTIVE REPORT

Fiscal Year 2010-11
Exam Applicants Through June 30, 2011

DISCIPLINE	Exam Applications							Increase/ Decrease
	Month		Increase/ Decrease	Year to Date		Increase/ Decrease		
	June '11	June '10		June '11	June '10			
<i>Professional Licenses:</i>								
Professional Geologist ⁽¹⁾	115	113	2	413	360		53	
Professional Geophysicist	1	0	1	7	8		(1)	
<i>Subtotal</i>	116	113	3	420	368		52	
<i>Certifications:</i>								
Engineering Geologist	26	13	13	43	58		(15)	
Hydrogeologist	8	10	(2)	20	43		(23)	
<i>Subtotal</i>	34	23	11	63	101		(38)	
TOTALS	150	136	14	483	469		14	

(1) Includes the ASBOG national Geology Practice Exam, Fundamentals Exam (In-Training) and the California State-Specific Geology exam.

EXECUTIVE REPORT

GEOLOGISTS AND GEOPHYSICISTS

FY 2010-11

Active Licenses as of March 31, 2011

DISCIPLINE	ACTIVE LICENSES ⁽¹⁾		
	Year to Date		Increase/ Decrease
	June '11	June '10	
Licenses:			
Geologist	5,079	5,059	20
Geophysicist	<u>194</u>	<u>197</u>	<u>(3)</u>
Subtotals	5,273	5,256	17
Certifications:			
Engineering Geologist	1,591	1,603	(12)
Hydrogeologist	<u>889</u>	<u>868</u>	<u>21</u>
Subtotals	2,480	2,471	9
TOTAL	7,753	7,727	26
Total % Growth			0.34%

Notes:

(1) Excludes licenses cancelled, licensees deceased, licenses revoked, suspend

9. **Outreach**

A. Recognition of 50 years of Licensure

Active Licensees 50+ Years

There are a total of 1499 active licensees who have been licensed for more than 50 years:

Discipline	Count
Civil	882
Chemical	37
Electrical	145
Land Surveyor	43
Mechanical	288
Petroleum	22
Structural	82

Oldest Licensee in Each Discipline

License Type	Issue Date	Name
C	7/17/1944	Loren Barnett
CH	4/10/1948	Richard Wooley
E	6/12/1947	Kenneth McKean
L	7/26/1949	Frank Scarborough
M	1/1/1948	George E. Nichols
P	11/30/1948	Wm. Ross Cabeen
S	2/5/1948	Richard Bradshaw

Licensees per Discipline by Duration

Duration of License (years)	Civil	Chemical	Electrical	Land Surveyor	Mechanical	Petroleum	Structural	Grand Total
67	2							2
66	1							1
65	2							2
64	5		1					6
63	8	5	29		24	1	1	68
62	10	4	12	1	49	1		77
61	13	2	3	1	4			23
60	17	2	2	1	4			26
59	26	1	1	1	8		3	40
58	41	2	2	4	7		4	60
57	50	1	4	2	10		3	70
56	100	3	15	6	19	3	12	158
55	61	1	7	2	11	1	8	91
54	90		11	4	25		7	137
53	62	5	8	3	24	2	6	110
52	167	5	21	1	41	5	19	259
51	87	2	11	13	21	5	7	146
50	63	1	9	1	19	3	12	108
49.9	2							2
49.6	68	2	9		24	1		104
49.5	3	1		3	2			9
Grand Total	878	37	145	43	292	22	82	1499

Cost

Parchment Paper		\$64.79
Seals		\$76.32
Postage	67	\$1,355.40
Total		\$1,496.51



Certificate of Recognition

To

Sample

In appreciation for 50 years of service
to the electrical engineering profession and the State of California.
We extend our gratitude for your role in the Board's mission.

Date

President, Board for Professional Engineers,
Land Surveyors, and Geologists

[gold Board seal]

Executive Officer, Board for Professional
Engineers, Land Surveyors, and Geologists



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10. **Consideration of Rulemaking Proposals, as follows:**

- A. Proposed Amendments to Board Rule 407, Engineers and Land Surveyors Fees

**Proposed Amendments to Board Rules 407 and 428
Engineers and Land Surveyors Fees**

The proposed amendments to Title 16, California Code of Regulations sections 407 and 428 (also referred to as Board Rules 407 and 428) were noticed for public comment on May 6, 2011. The 45-day period for the submittal of written comments ended on June 24, 2011. A public hearing, at which both written and oral comments could have been presented, was held on June 22, 2011.

The Board did not receive any comments regarding this proposal. As no additional changes are needed to the language as proposed, staff recommends the Board adopt the proposed changes to Title 16, California Code of Regulations sections 407 and 428 and direct staff to finalize the rulemaking file for submittal to the Department of Consumer Affairs and the Office of Administrative Law for review and approval.

RECOMMENDED MOTION:

Adopt the proposed changes to Title 16, California Code of Regulations sections 407 and 428 and direct staff to finalize the rulemaking file for submittal to the Department of Consumer Affairs and the Office of Administrative Law for review and approval.

Board Rules and Regulations Relating to the Practices of Professional Engineering and Land Surveying

California Code of Regulations Title 16, Division 5

Article 1. General Provisions

407. Fees.

(a) All fees required by provisions of the code as implemented by the Board shall be transmitted by money order, bank draft, cash or check, payable to the Department of Consumer Affairs, at Sacramento.

(b) The following is the prescribed application fee for:

(1) Authority to use the title "structural engineer"	\$275	<u>\$110</u>
(2) Authority to use the title "geotechnical engineer"	\$275	<u>\$110</u>
(3) Licensure as a professional engineer	\$275	<u>\$110</u>
(4) Licensure as a professional land surveyor	\$275	<u>\$110</u>
(5) Certification as an engineer-in-training or as a land surveyor-in-training	\$100	<u>\$40</u>

(c) The following is the prescribed examination fee for state-specific examinations:

(1) <u>California Special Civil Seismic Principles</u>	<u>\$110</u>
(2) <u>California Special Civil Engineering Surveying</u>	<u>\$110</u>
(3) <u>Geotechnical Engineering</u>	<u>\$110</u>
(4) <u>California State-Specific Land Surveying</u>	<u>\$110</u>
(5) <u>Traffic Engineering</u>	<u>\$110</u>

~~(d)~~ (d) The two-year biennial renewal fee for a license that expires on or after July 1, 2003-2012, shall be ~~\$150~~ \$110. ~~The fee for renewal of a license that expires on or after October 1, 2005, shall be \$125.~~

~~(e)~~ (e) The fee for an examination appeal filed pursuant to Rule 444 shall be \$134.00.

~~(f)~~ (f) The fee for each retired license shall be ~~\$87.50~~ \$55.00; no renewal fee or other fee shall be charged for the retired license. (As used in this subdivision, "license" includes certificate of registration or license as a professional engineer, licensure as a professional land surveyor, and certificates of authority to use the titles "structural engineer," "geotechnical engineer," "soil engineer," "soils engineer," or "consulting engineer.")

~~(g)~~ (g) Fees required under provisions of this rule transmitted through the United States mail shall be deemed filed on the date shown by the post office cancellation mark stamped on the envelope containing it, or on the date mailed if satisfactory proof is made that mailing occurred on an earlier date.

~~(h)~~ (h) Renewal applications filed with the Board more than thirty (30) days after 12 midnight on the expiration date pursuant to the Professional Land Surveyors' Act and more than sixty (60) days after 12 midnight on the expiration date pursuant to the Professional Engineers Act and not accompanied by the prescribed delinquent penalty fee equal to 50 percent of the renewal fee, shall be returned by the executive officer with a statement of the reason therefor.

~~(i)~~ (i) Any application fees or penalties imposed and collected illegally, by mistake, inadvertence or error shall be refunded in full.

~~(2) An applicant for licensure as a professional engineer, for licensure as a professional land surveyor, for permission to use the title "structural engineer" or "geotechnical engineer," for certification as an engineer in training or for certification as a land surveyor in training found not eligible for admission to the examination requested is entitled to a refund of one half of the application fee. Upon request, one half of the application fee shall be refunded to the estate of an applicant who dies prior to taking an examination.~~

NOTE: Authority cited: Sections 6716, 6799, 8710, and 8805, Business and Professions Code.
Reference: Sections 158, 6706.3, 6710, 6732, 6795, 6799, 8801 and 8805, Business and Professions Code.

428. Abandoned Applications.

In the absence of special circumstances any of following actions by an applicant for certification or licensure shall be considered to constitute abandonment of the application and shall result in cancellation of the application with no refund of the filing application fee:

- (a) Failure to provide additional information or references within 90 days following the mailing of a request by the Board's staff; or
- (b) Failure to complete that examination to which the application has been assigned within two (2) years from the date of filing of the application; or
- (c) Failure to appear for examination at the designated time and place unless a postponement has been obtained in accordance with Rule 446; or
- (d) Failure to appear for examination at the designated time and place after having obtained two postponements.

NOTE: Authority cited: Sections 6716 and 8710, Business and Professions Code.
Reference: Sections 6706.3, 6710, 6732, 6750, 6751, 8740 and 8745, Business and Professions Code.

11. **Address of Record Available to the Public via website and Possible Amendments to Business and Professions Code section 27**

ADDRESS OF RECORD AVAILABLE TO THE PUBLIC VIA WEBSITE AND POSSIBLE AMENDMENTS TO BUSINESS AND PROFESSIONS CODE SECTION 27

At the March 2011 Board meeting, the Board discussed the issue of whether the Board should provide licensees' addresses of record to the public. The Board then directed staff to research this issue further and provide additional information to the Board at a future meeting.

Currently, pursuant to Business and Professions Code section 27, the Board is required to include its licensees' addresses of record on its internet listing of licensees. The License Lookup database is considered to be an internet listing of licensees; therefore, the address of record is available to the public when they look up an individual licensee.

In order for the Board to not include its licensees' address of record as information provided to the public through License Lookup, Section 27 would need to be amended. The Board would need to pursue legislation to amend this section of law. This section is included for reference. The particular section relating to the Board, with the recommended amendment is shown below, with additions in underlined text and deletions in ~~striketrough text~~.

(5) The Board for Professional Engineers and Land Surveyors shall disclose information, excluding the address of record, on its ~~registrants~~ and licensees.

It is too late in this current legislative session for the Board to seek this amendment. Therefore, if the Board wishes to pursue legislation, it would be done during the next legislative session.

PROPOSED MOTION:

Direct staff to pursue legislation to amend Business and Professions Code section 27 to exclude the address of record from the information the Board discloses on the internet about its licensees.

Business and Professions Code section 27

(a) Each entity specified in subdivision (b) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. In providing information on the Internet, each entity shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

- (1) The Acupuncture Board shall disclose information on its licensees.
 - (2) The Board of Behavioral Sciences shall disclose information on its licensees, including marriage and family therapists, licensed clinical social workers, and licensed educational psychologists.
 - (3) The Dental Board of California shall disclose information on its licensees.
 - (4) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.
 - (5) The Board for Professional Engineers and Land Surveyors shall disclose information on its registrants and licensees.
 - (6) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.
 - (7) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.
 - (8) The Bureau of Electronic and Appliance Repair shall disclose information on its licensees, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.
 - (9) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.
 - (10) The Professional Fiduciaries Bureau shall disclose information on its licensees.
 - (11) The Contractors' State License Board shall disclose information on its licensees in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.
 - (12) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.
 - (13) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.
- (c) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (e) of Section 17538.

12. **Proposal to Require Written Contracts for Geologists and Geophysicists**

PROPOSAL TO REQUIRE WRITTEN CONTRACTS FOR GEOLOGISTS AND GEOPHYSICISTS

At the March 2011 meeting, the Board discussed ways in which it could require its licensees to include information in their written contracts as to how their clients could contact the Board to verify that the licensee is appropriately licensed in good standing.

Gary Duke, the Board's Legal Counsel, advised that the Board could adopt regulations to require such information be included in the written contracts used by professional engineers and professional land surveyors, based on the language in the Professional Engineers Act and the Professional Land Surveyors' Act (specifically, Business and Professions Code sections 6749 and 8759) that requires that professional engineers and land surveyors use written contracts with their clients when providing professional services.

However, Mr. Duke advised that the Board does not currently have the authority to adopt similar regulations for geologists and geophysicists because there is currently no statutory provision requiring geologists and geophysicists to use written contracts.

Based on this, the Board directed staff to provide additional information to the Board at a future meeting regarding enacting a requirement that geologists and geophysicists use written contracts with their clients when providing professional services.

In order for the Board to require geologists and geophysicists to use written contracts with their clients when providing professional services, new sections would need to be added to the Geologist and Geophysicist Act (Business and Professions Code section 7800, et seq.). The Board would need to pursue legislation to add the new sections. Although it is too late in the current legislative session to accomplish this, the Board could direct staff to pursue legislation during the next legislative session. Staff recommends that the Board mirror the language used in Business and Professions Code sections 6749 (engineers) and 8759 (land surveyors); the proposed language is included.

PROPOSED MOTION:

Direct staff to pursue legislation to add sections to the Geologist and Geophysicist Act (Business and Professions Code section 7800, et seq.) to require geologists and geophysicists to use written contracts when providing their professional services.

Proposed Language
Written Contracts – Geologists

(a) A professional geologist shall use a written contract when contracting to provide professional geological services to a client pursuant to this chapter. The written contract shall be executed by the professional geologist and the client, or his or her representative, prior to the professional geologist commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following:

- (1) A description of the services to be provided to the client by the professional geologist.
- (2) A description of any basis of compensation applicable to the contract, and the method of payment agreed upon by the parties.
- (3) The name, address, and license or certificate number of the professional geologist, and the name and address of the client.
- (4) A description of the procedure that the professional geologist and the client will use to accommodate additional services.
- (5) A description of the procedure to be used by any party to terminate the contract.

(b) This section shall not apply to any of the following:

- (1) Professional geological services rendered by a professional geologist for which the client will not pay compensation.
- (2) A professional geologist who has a current or prior contractual relationship with the client to provide geological services, and that client has paid the professional geologist all of the fees that are due under the contract.
- (3) If the client knowingly states in writing after full disclosure of this section that a contract which complies with the requirements of this section is not required.
- (4) Professional geological services rendered by a professional geologist to any of the following:
 - (A) A professional geologist or a professional geophysicist licensed under this chapter.
 - (B) A professional engineer licensed under Chapter 7 (commencing with Section 6700).
 - (C) A land surveyor licensed under Chapter 15 (commencing with Section 8700).
 - (D) An architect licensed under Chapter 3 (commencing with Section 5500).
 - (E) A contractor licensed under Chapter 9 (commencing with Section 7000).
 - (F) A public agency.

(c) "Written contract" as used in this section includes a contract that is in electronic form.

Proposed Language
Written Contracts – Geophysicists

- (a) A professional geophysicist shall use a written contract when contracting to provide professional geophysical services to a client pursuant to this chapter. The written contract shall be executed by the professional geophysicist and the client, or his or her representative, prior to the professional geophysicist commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following:
- (1) A description of the services to be provided to the client by the professional geophysicist.
 - (2) A description of any basis of compensation applicable to the contract, and the method of payment agreed upon by the parties.
 - (3) The name, address, and license or certificate number of the professional geophysicist, and the name and address of the client.
 - (4) A description of the procedure that the professional geophysicist and the client will use to accommodate additional services.
 - (5) A description of the procedure to be used by any party to terminate the contract.
- (b) This section shall not apply to any of the following:
- (1) Professional geophysical services rendered by a professional geophysicist for which the client will not pay compensation.
 - (2) A professional geophysicist who has a current or prior contractual relationship with the client to provide geophysical services, and that client has paid the professional geophysicist all of the fees that are due under the contract.
 - (3) If the client knowingly states in writing after full disclosure of this section that a contract which complies with the requirements of this section is not required.
 - (4) Professional geophysical services rendered by a professional geophysicist to any of the following:
 - (A) A professional geophysicist or a professional geologist licensed under this chapter.
 - (B) A professional engineer licensed under Chapter 7 (commencing with Section 6700).
 - (C) A land surveyor licensed under Chapter 15 (commencing with Section 8700).
 - (D) An architect licensed under Chapter 3 (commencing with Section 5500).
 - (E) A contractor licensed under Chapter 9 (commencing with Section 7000).
 - (F) A public agency.
- (c) "Written contract" as used in this section includes a contract that is in electronic form.

13. **Approval of Delinquent Reinstatements**

APPROVAL OF DELINQUENT REINSTATEMENTS

Motion: Approve the following 3 and 5-year delinquent reinstatement applications.

CIVIL

ALAN BLAKE COOPER

Reinstate applicant's civil license once he/she takes and passes the seismic principles, engineering surveying and the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees

JOHN MARKUS

Reinstate applicant's civil license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

MECHANICAL

BABAK KHATIBLOO

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees

DAVID LIS

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees

14. **Information Technology Updates**

A. On-Line Renewals/Credit Card Renewals

15. **Administration**

- A. Fund Condition
- B. FY 2010/11 FY 2011/12 Budgets
- C. FY 2011/12 Budget Change Proposals
- D. FY 2012/13 Budget Change Proposals

a. Fund Condition - (Possible Action)

a. Fund Condition (Possible Action):

The fund conditions for the Engineers/Land Surveyor's and Geology/Geophysicists' are identified in **Attachments A and B**. The final FY 2011-12 revenue figures may change slightly from figures included in the fund conditions once all year-end revenue posted.

The **Engineers and Land Surveyors' (PELS) Fund revenue** as of June 30, 2011 was \$9,064,716. A comparison to last FYs revenue shows:

- Total revenue drop of \$1,179,160.
- Application revenue is down by 6%.
- License renewal revenue is down by 15%.
- A projected fund reserve balance of .7 month in the current FY.

The license renewal drop is consistent with the normal seesaw pattern in which the PELS revenue drops every other FY, this FY being the lower FY.

The **Geologist and Geophysicists' (GG) Fund revenue** received as of June 30, 2011 was \$1,016,492. A comparison to last FYs revenue shows:

- Total revenue increase of \$51,153.
- Application and initial license revenue is down by 4%.
- License renewal revenue is up by 18%.
- A projected Fund reserve balance of 7.2 months in the current FY.

The GG license renewal revenue also follows a normal seesaw pattern in which the revenue drops every other FY, this FY being the higher FY.

ATTACHMENT A

**Professional Engineers and Land Surveyors
FUND CONDITION
As of July 18, 2011**

	Prior Actual		Current		
FUND CONDITION:	2009-10	2010-11	2011-12	2012-13	2013-14
Total Reserves, July 1	\$ 4,266	\$ 5,638	\$ 5,658	\$ 423	\$ 126
Revenue:					
License Renewal Fees	\$ 6,308	\$ 5,363	\$ 6,434	\$ 5,470	\$ 6,563
Exam Application Fees	\$ 3,775	\$ 3,535	\$ 3,775	\$ 3,775	\$ 3,775
Delinquent Fees	\$ 64	\$ 72	\$ 57	\$ 4	\$ 1
<i>Revenue Reduction - Proposed Board Rule 407 Fee Regulations</i>				\$ (2,129)	\$ (2,129)
Surplus Money Investment Income	\$ 44	\$ 30	\$ 50	\$ 50	\$ 57
Other Miscellaneous	\$ 32	\$ 24	\$ 38	\$ 35	\$ 35
Total Revenue	\$ 10,223	\$ 9,024	\$ 10,354	\$ 7,205	\$ 8,302
Unreimbursed Loans to GF	\$ -	\$ -	\$ (5,000)	\$ -	\$ -
Total Resources:	\$ 14,489	\$ 14,662	\$ 11,012	\$ 7,628	\$ 8,428
Expenditure Budget:					
Projected Expense Budget Savings	\$ 8,845	\$ 9,095	\$ 9,414	\$ 9,602	\$ 9,794
State Controller's Office	\$ 6	\$ (91)	\$ 10		
Financial Information System for CA			\$ 41		
<i>Revenue Reduction - Proposed Board Rule 407 Fee Regulations</i>				\$ (2,100)	\$ (2,100)
FY 2011-12 SFL Nat'l Exam Administration	\$ -	\$ -	\$ 1,124	\$ -	\$ -
Total Expenditures	\$ 8,851	\$ 9,004	\$ 10,589	\$ 7,502	\$ 7,694
Reserve, June 30	\$ 5,638	\$ 5,658	\$ 423	\$ 126	\$ 734
MONTHS IN RESERVE	7.5	6.4	0.7	0.2	1.1

Notes:

- A. Assumes FY 2011-12 exam application revenue projections will lower based upon March 31, 2011 revenue projections.
- B. Assumes interest rate at 1% of fund balance.
- C. Assumes appropriation growth of 2% per year.
- D. Assumes FY 2010-11 projected expenditures will be realized and June 30, 2011 revenue received.
- E. Revenue reductions for proposed Board Rule 407 are preliminary estimates.

ATTACHMENT B

**Geology and Geophysicists Fund
FUND CONDITION
As of July 18, 2011**

FUND CONDITION:	Prior Actual		Current		2012-13	2013-14
	2009-10	2010-11	2010-11	2011-12		
Total Reserves, July 1	\$ 828	\$ 724	\$ 993	\$ 772	\$ 567	
Revenue:						
License Renewal Fees	\$ 758	\$ 815	\$ 784	\$ 828	\$ 792	
Application & Exam Fees	\$ 186	\$ 179	\$ 183	\$ 183	\$ 183	
<i>Revenue Increase - Board Rule 3005 Proposed Regulations</i>			\$ 39	\$ 39	\$ 39	
Delinquent Fees	\$ 14	\$ 14	\$ 14	\$ 14	\$ 14	
Surplus Money Investment Income	\$ 5	\$ 5	\$ 10	\$ 8	\$ 6	
Other Miscellaneous	\$ 3	\$ 3	\$ 6	\$ 6	\$ 8	
Total Revenue:	\$ 966	\$ 1,016	\$ 1,036	\$ 1,078	\$ 1,042	
Unreimbursed Loans to GF	\$ -	\$ -	\$ -	\$ -	\$ -	
Total Resources:	\$ 1,794	\$ 1,740	\$ 2,029	\$ 1,850	\$ 1,608	
Expenditure Budget:	\$ 1,070	\$ 1,330	\$ 1,357	\$ 1,384	\$ 1,411	
Projected Expense Budget Savings	\$ -	\$ (583)	\$ (100)	\$ (100)	\$ (100)	
Total Expenditures:	\$ 1,070	\$ 747	\$ 1,257	\$ 1,284	\$ 1,311	
Reserve, June 30	\$ 724	\$ 993	\$ 772	\$ 567	\$ 297	
MONTHS IN RESERVE	11.6	9.5	7.2	5.2	2.7	

Notes:

- A. Assumes workload and revenue projections are realized for FY 2010-11.
- B. Assumes interest rate at 1% of fund balance.
- C. Assumes appropriation growth of 2% per year.
- D. Assumes FY 2010-11 projected expenditures will be realized.
- E. Assumes FY 2011-12 and ongoing FY budget expense savings of \$100,000.

b. FY 2010-11 Budget (Possible Action):

The FY 2010-11 budgets and projected expenditures are listed below. As of June 30, 2011, Engineers/Land Surveyors have expended \$9,004,450 after reimbursements and the Geologists/Geophysicists expended \$747,060 with no reimbursements received. The final expenditures for FY 2010-11 will be available in a few weeks and reported at the next Board meeting at which time expenses may reduce when unused contract balances are disencumbered.

Expense Description	Budget Allotment	Expense Projection	Balance
ENGINEERS/LAND SURVEYORS:			
Personal Services	\$ 3,026	\$ 3,141	\$ (113)
General Operating Expenses ⁽¹⁾	2,064	1,922	142
Equipment	33	7	26
Exams Program	3,047	2,760	287
Enforcement Program	<u>984</u>	<u>1,223</u>	<u>(239)</u>
<i>Subtotal Expenditures</i>	9,154	9,053	\$ 100
<i>Less: Reimbursements</i>	<u>(59)</u>	<u>(49)</u>	<u>(9)</u>
NET TOTAL	\$ 9,095	\$ 9,004	\$ 91
GEOLOGISTS/ GEOPHYSICISTS:			
Personal Services	\$ 299	\$ 229	\$ 70
General Operating Expenses ⁽¹⁾	292	325	(33)
Equipment	15	2	13
Exams Program	475	162	313
Enforcement Program	<u>249</u>	<u>29</u>	<u>220</u>
<i>Subtotal Expenditures</i>	1,330	747	583
<i>Less: Reimbursements</i>	<u>-</u>	<u>-</u>	<u>-</u>
NET TOTAL	\$ 1,330	\$ 747	\$ 583

(1) Includes DCA and Statewide Prorata.

FY 2011-12 Budget (Possible Action):

The updated budget detail will be provided at the Board Meeting.

c. FY 2011-12 Budget Change Proposal (BCPs) (Possible Action):

The Board's Engineers & Land Surveyors National Exam Administration Spring Finance Letter BCP was approved in the 2011 Governor's Budget for a one-time budget augmentation in the current FY 2011-12 to fund the additional costs for NCEES to administer the PELS national examinations.

d. FY 2012-13 Budget Change Proposals - (Possible Action):

The FY 2012-13 Budget Change Proposals (BCPs) identified below were submitted to DCA July 1, 2011. Since DCA expects the Administration's policy will be to continue to contain the growth in authorized positions, they've requested boards/bureaus to limit position requests to redirections using existing resources.

- 1) Geologist Registrar Position (Redirection)
- 2) Enforcement Program Attorney General & Evidence Witness Fees
- 3) Enforcement Analyst Position (Redirection)

As recommended by the DCA Budget Office, Board staff will use exam budget savings created in FY 2012-13 with the transfer of the national exams administration to fund the increase in costs identified for BCP #2 above. For this reason, BCP #2 will not be moved forward for approval.

16. **Technical Advisory Committees (TACs)**

- A. Board Assignments to TACs
- B. Appointment of TAC Members
- C. Reports from the TACs
 - 1. Report from the Geology TAC

**Appointments to the Geologists and Geophysicists
Technical Advisory Committee**

Recommended Motion:

Appoint William Owen, PGp, PG, CEG, to a first term expiring June 30, 2013.

Background:

The GEO-TAC appointment for Mr. William Owen has been nominated by Board Member Erik Zinn, PG, CEG. The candidate has applied and the application accepted for recommendation for appointment as a GEO-TAC member. The appointment of this candidate will help ensure the continuance and enhancement of the geological and geophysical expertise needed to meet the Board's dedication to protection of the public.

The resume for the candidate is included for review by the Board.

Recommended Motion:

Appoint Mark Riches, PGp, to a first term expiring June 30, 2013.

Background:

The GEO-TAC appointment for Mr. Mark Riches has been nominated by Board Member Erik Zinn, PG, CEG. The candidate has applied and the application accepted for recommendation for appointment as a GEO-TAC member. The appointment of this candidate will help ensure the continuance and enhancement of the geological and geophysical expertise needed to meet the Board's dedication to protection of the public.

The resume for the candidate is included for review by the Board.

William P. Owen

Experience

1998–Present Department of Transportation Sacramento, CA

Chief, Geophysics and Geology Branch

Administers the Department's statewide engineering geophysics program. Improved cost-effectiveness of geotechnical characterization through inclusion of advanced geophysical and NDT techniques, including borehole imaging and flexural-mode velocity measurements, refraction microtremor, seismic refraction and refraction tomography, ground penetrating radar, conductivity, magnetometry and resistivity techniques. Provide internal consultation, technical support and training for engineering geophysical applications.

Aug–Dec 1997 Department of Transportation Sacramento, CA

Senior Engineering Geologist (Specialist)

Statewide coordinator for the Department's underground storage tank (UST) program. Administered \$8 million contract for removal and replacement of UST's at highway maintenance stations throughout the state. Provided technical support for environmental cleanups from leaking UST's and oversight of designated projects.

Oct 1994–Aug 1997 Department of Transportation Sacramento, CA

Associate Engineering Geologist

Performed geophysical logging of land and offshore boreholes, for lithologic correlation, *in situ* soil and rock properties and development of site-specific response spectra for the Toll Bridge Seismic Retrofit Program. Designed, directed and interpreted seismic refraction and ground penetrating radar surveys for geotechnical hazard assessment, rippability studies, landslide mitigation and roadcut and foundation design.

Education

1989 University of California, Riverside M.S., Geological Sciences
1985 University of California, Riverside B.S., Geophysics

Registrations

Professional Geophysicist No. 1031
Certified Engineering Geologist No. 1735
Professional Geologist No. 5260

Miscellaneous

Environmental and Engineering Geophysics University, US Department of Energy, Lecturer, 2008

Symposium on the Application of Geophysics to Environmental and Engineering Problems, Technical Committee, 2005

Transportation Research Board, Geophysics Committee Chair, 2003

Geophysics 2002 Conference Co-chair

Author, co-author and editor of 19 technical papers and guidelines on engineering and environmental geophysical applications and site characterization.

UC Davis Extension Lecturer

Summary of Significant Projects

The following is a representative summary of my significant work experience, in reverse chronological order. Every project in my career is not included; these summaries are instead provided to demonstrate the breadth of my experience and abilities.

- Geophysics and Geology Branch Chief 1998 to Present
I am responsible for the supervision of 5 employees and administration of the engineering geophysics program for the California Department of Transportation. The branch provides surface and borehole geophysical services throughout California utilizing state-of-the-art equipment and methodology. Services include seismic, resistivity, induction, ground penetrating radar, and acoustic televiewer, gamma density and shear-wave logging. I supervise and train employees in equipment use and the processing and interpretation of geophysical data. I also plan and schedule projects, develop branch budgets, conduct long-term planning, procure equipment, track project status, review and write reports, and promote the use of geophysical techniques within Caltrans to reduce investigation costs and minimize construction claims.
- California BRGG and BPELSG Subject Matter Expert 2002-2006, 2008-2011
I served as a Subject Matter Expert for the Professional Geophysicist, Professional Geologist and Certified Engineering Geologist exams, assisting in development and review of the annual examinations.
- Environmental and Engineering Geophysics University 2008
I served as an invited instructor for this short course co-sponsored by the Environmental and Engineering Geophysical Society and the US Department of Energy.
- Transportation Research Board, Geophysics Sub-Committee Chair 2003
- Geophysics 2002 Conference Co-Chair 2000-2002
- Rocklin Soundwall Repair December 1999
I ran high-frequency ground penetrating radar for a soundwall along Interstate 80 in response to a construction emergency. Radar measurements were used to assess construction defects manifested by visible cracking in the newly-completed structure. Advanced signal-processing techniques were used to delineate the locations of rebar as well as the presence of empty blocks in the structure. Results showed rebar placement was not to specification and was independently confirmed by magnetic and x-ray analysis.
- Cloverdale Slide Drainage August 1999
I conducted a refraction tomography survey of a landslide in Mendocino County, to delineate the presence of buried blocks that could impact construction of a drainage interceptor. The results showed the presence of buried indurated Franciscan blocks below the anticipated depth of excavation.
- Keyes Lateral Canal November 1998
I performed a ground penetrating radar survey to confirm the location of a buried canal lateral beneath Highway 99 near Modesto. The project involved combining radar ground observations with global positioning data for precise measurement location. Results conclusively showed the location and depth of the lateral beneath the highway and confirmed it consisted of three separate pipes.
- Gorda Slide Repair January 1997
I performed and interpreted a seismic refraction investigation to assess bedrock conditions impacting emergency remediation of a landslide across State Highway 1 at Gorda. Data from this investigation defined the lateral extent of a deeply-weathered, bedrock foundation that contributed to severe debris flows beneath and across the highway.
- Toll Bridge Seismic Retrofit Program October 1994 to May 1997
I performed and interpreted geophysical logs for exploratory borings, drilled as part of foundation studies for the seismic retrofit of California's toll bridges. These data, consisting of electrical, gamma, caliper and shear-wave logs, were used for lithologic identification and to provide information on soil and rock properties for development of site-specific response spectra and foundation design.

Selected Publications and Presentations

- Owen, W.P., 2006, Examples of subsurface velocity imaging via combined downhole and surface source and receiver arrays, *2006 Highway Geophysics—NDE Conference Proceedings*, St. Louis, Missouri, p. 253-268
- _____, 2004, Improving subsurface velocity imaging via combined source and receiver arrays, *29th Southwest Geotechnical Engineers Conference, Sacramento, California, May 17-20, 2004*, pp.
- _____, 2000, Selling geophysics: some observations on creating and marketing a geophysics program in state government, *First international conference on the application of geophysical methodologies and NDT to transportation facilities and infrastructure*, USDOT, Federal Highway Administration, 10 p.
- _____, and Roblee, C.J., 2000, Borehole velocity logging for Caltrans' earthquake engineering program: comparison of field measurements, *First international conference on the application of geophysical methodologies and NDT to transportation facilities and infrastructure*, USDOT, Federal Highway Administration, 13 p.
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- Owen, W.P. and Lee, T.C., 1986, A preliminary report of Na/K/Ca geothermometric mapping in the San Jacinto and Elsinore fault zones, Southern California: *Geothermal Resources Council Transactions*, v. 10, p. 145-148.
- Vacura, P., Harvey J., Owen, W.P., Lea, J. and Guada, I., 2009, Use of ground penetrating radar for network-level measurement of pavement structural as-built information, *8th National Conference on Transportation Asset Management, Portland, Oregon, October 19-21, 2009*, pp.
- Yong, A., Hough, S., Abrams, M., Wills, C., Owen, W.P., Merriam, M., Schwartz, S., Khan, M., Varghis, N., Israel, J., Coss Y. and Leon D., 2007, 2007 Progress report on geotechnical site characterization efforts, *Proceedings of the Southern California Earthquake Center Annual Meeting, Sept. 9-12 2007*, Palm Springs, California, pp.
- Lewis, J.S., Owen, W.P., and Narwold, C.F., 2002, GPR as a tool for detecting problems in highway-related construction, *Proceedings of the 2nd annual conference on the application of geophysical and NDT methodologies to transportation facilities and infrastructure*, FHWA-WRC-02-001, 11 p.
- Mallah, M. and Owen, W.P., 2002, Preliminary results of cavity mapping using EM induction to aid highway design, *Proceedings of the 2nd annual conference on the application of geophysical and NDT methodologies to transportation facilities and infrastructure*, FHWA-WRC-02-001, 9 p.
- Narwold, C.F. and Owen, W.P., 2002, Seismic refraction analysis of landslides, *Proceedings of the 2nd annual conference on the application of geophysical and NDT methodologies to transportation facilities and infrastructure*, FHWA-WRC-02-001, 8 p.
-
- Geophysics and transportation projects: goals, trends and partnerships, guest speaker, Symposium on Application of Geophysics to Environmental and Engineering Problems (SAGEEP), April 2008
- Geophysics in engineering, transportation, hazards and UXO investigations, guest lecturer, Environmental and Engineering Geophysics University, April 2008
- Adventures in transportation geophysics: where the rubber meets the road, guest speaker, University of Kansas, May 2002.
- P- and S-wave velocity logging for the Caltrans toll bridge retrofit program, guest speaker, Bay Area Geophysical Society, November, 1996.
- Geophysical Instrumentation, guest lecturer, University of California at Davis Extension, June, 1992.
- Geophysics and Hazardous Waste Site Characterization: A Regulatory Perspective, guest speaker, Bay Area Geophysical Society, July, 1991.



Mark J. Riches, P.GP. – Vice President

Education/Qualifications:

B.S./1992/Geology
California Registered Geophysicist, P.GP. 1025
Expert Witness Ground Penetrating Radar
29 CFR 1910.120 1993, and is current with refreshers

Short courses including GPR, time domain, seismic reflection, UXO and LNAPL characterization

Relevant Experience:

Mr. Riches is a Senior Geophysicist and Vice President at **GEOVision** Geophysical Services, and currently manages the infrastructure services in Southern California including utility locating and mapping, void detection, rebar locating and construction support. Mr. Riches has spent more than 17 years working in the field of geophysical data acquisition/processing/ interpretation and report writing. He has extensive practical and technical experience conducting high-resolution geophysical surveys in support of a variety of environmental and engineering investigations in conjunction with RCRA, SARA, CERCLA, UGST and CWA-type assessments. He is thoroughly experienced in planning and managing a wide variety of geophysical investigations, including ground penetrating radar, seismic refraction and reflection, magnetic, electrical resistivity, electromagnetic, and borehole logging investigations.

Mr. Riches's strengths include:

- Extensive experience managing large geophysical investigations
- Expertise in geophysical survey design
- Extensive project management experience
- Expertise in geophysical data interpretation and assessment
- Extensive knowledge of the application of geophysical methods to environmental, infrastructure and engineering problems
- Experience managing geophysical investigations at DOD and DOE facilities in California, Wyoming, Hawaii, Guam, Arizona, New Mexico, and Nevada.

Sample Relevant Projects/Experience

Utility investigation

Mr. Riches is project manager of an investigation to delineate the surface trace of detectable utilities at Exxon Mobil facilities throughout Southern California. Approximately 2000 proposed boring locations and 10000 linear feet of trench have been investigated and excavated without incident over the last 10 years.

UST investigation

Mr. Riches was project manager of an investigation to delineate the surface trace of 23 underground storage tanks (USTs) at a former military base in Palm Springs, California for the Army Corp of Engineers. Ground penetrating radar data (GPR) and continuous vertical magnetic gradient data were collected using a GSSI SIR2 with a 400MHz antenna unit and a Geometrics G-858 cesium vapor magnetometer. Fifteen USTs (both concrete and steel), ranging in size from 280 gallons to 15,000 gallons, were delineated.

UST investigation

Mr. Riches was project manager of an investigation to delineate the surface trace of dozens of underground storage tanks (USTs) at MCAS El Toro, California for the IT Corporation. Ground penetrating radar data (GPR) and continuous vertical magnetic gradient data were collected using a GSSI SIR2 with a 400MHz antenna unit and a Geometrics G-858 cesium vapor magnetometer. Numerous USTs (both concrete and steel), ranging in size from 550 gallons to 50,000 gallons, were delineated.

Rebar Corrosion Analysis in Concrete

Mr. Riches is currently working on the of the Los Angeles County river system project. The purpose is to determine if the steel reinforcing bar is corroded at the base of the channel walls. Special equipment had to be designed and constructed so that GPR data could be quickly collected over the river channel sidewalls. High-resolution ground penetrating radar data will be collected using a GSSI SIR10B in conjunction with two 1500MHz antennas.

Void Detection and Rebar Analysis in Concrete

Mr. Riches was project manager for several phases of the Los Angeles Transit Authority's Metro Rail Red Line Tunnel project. The purpose was to determine if the steel reinforcing bar was absent; determine depth to rebar; confirm rebar spacing; if air voids existed between the HDPE and poured concrete; determine concrete thickness and also identify former voids that had been leak grouted. Special equipment had to be designed and constructed so that GPR data could be quickly collected over the tunnel crown and sidewalls. Over 100,000 feet of high-resolution ground penetrating radar data were collected using a GSSI SIR10A+ in conjunction with a 900MHz antenna.

Utility Location

Mr. Riches was project manager of an investigation to delineate the surface trace an approximate depths, size and type of buried utilities at East Bay Mud's 12-acre wastewater treatment facility in Oakland. The end product was a 3-D AutoCAD map linked by GIS software to various databases, such as as-buils, photographs and geophysical data. Vacuum extraction techniques were employed at over 100 locations by the client to test the accuracy of the utility location. The test criteria specified that utility location techniques have a 1-inch lateral resolution and +/- 25% for the depth criteria; all pothole locations passed these criteria.

Void Detection and Rebar Analysis in Concrete

Mr. Riches was project manager of an investigation for the Army Corp of Engineers on portions of the Rio Honda River. The purpose was to determine if air voids existed between the fill embankments and poured concrete slabs. Over 12 miles of high-resolution ground penetrating radar data were collected using a GSSI SIR10A+ in conjunction with a 900MHz antenna and 1 survey wheel. The data were subsequently processed and color printed using the Winrad software package.

Rebar Analysis in Concrete

Mr. Riches was project manager of an investigation for the County of San Louis Obispo on portions of the San Miguel Bridge. The purpose was to accurately map the locations of rebar on all bridge column faces so they could be drilled into for a seismic retrofit. Over 2 miles of high-resolution ground penetrating radar data were collected using a GSSI SIR10A+ in conjunction with a 900MHz antenna and survey wheel mounted on to a four wheel drive scissor lift in the dry river bed. The data were subsequently processed and color printed using the Winrad software package.

Rock Pocket Detection in Concrete

Mr. Riches was project manager of an investigation for the County of San Bernardino on portions of a concrete wash tunnel being constructed. The purpose was to determine if rock pockets existed within the poured

concrete walls for a wash under construction. Over 2 miles of high-resolution ground penetrating radar data were collected on a 1-foot grid using a GSSI SIR10A+ in conjunction with a 900MHz antenna. The data were subsequently processed and color printed using the Winrad software package.

Rock Pocket Detection in Concrete

Mr. Riches was project manager of an investigation for the Los Angeles Transit Authority's Metro Rail Mid Valley Vent Shaft project. The purpose was to determine if rock pockets existed within the poured concrete walls of the Red Line Mid Valley Vent Shaft. High-resolution ground penetrating radar data were collected on a 1-foot grid using a GSSI SIR10A+ in conjunction with a 900MHz antenna. The data were subsequently processed and color printed using the Winrad software package.

Karst Feature Identification

Mr. Riches was project manager of an oil pipeline project in Texas in conjunction with an Environmental Impact Report. The purpose of the investigation was to identify potential contaminant migration pathways along a 3-mile section of an oil transmission pipeline (*i.e.* caves, faults and dissolution cavities) passing through the Edwards Aquifer recharge zone. Over 65,000 feet of monostatic and bistatic GPR data were collected to identify dissolution cavities and caves in the upper 30 feet, using a GSSI SIR10A+ in conjunction with bistatic 400MHz antennas with all of the GPR data printed in color. Three miles of 24-fold high-resolution reflection seismic data with 10-foot geophone spacing were collected to characterize faults in the upper 300 feet. Numerous faults, depth to the water table, and previously unknown limestone caves were mapped.

Expansive Clay Investigation

Mr. Riches was project manager of an investigation to delineate the lateral extent of a montmorillonite, clay for a proposed housing development in North Las Vegas, Nevada. Time domain electromagnetic data were collected using a Geonics EM-47 at over 600 locations on a grid with 10-foot centers. These data were then contoured to produce a map delineating the depth to top of the clay as well as the fat and lean clay interfaces.

Fault Investigation

Mr. Riches was project manager of an investigation to delineate the surface trace of splays from the Simi Hills Fault as part of an Alquist Priolo Seismic Hazards investigation. Refraction seismic and dipole/dipole resistivity data were collected along four profiles using a Seistronix DS-6 60 channel 24-bit seismograph and an AGI Sting/Swift smart electrode resistivity system. After processing the data a previously unknown splay of the Simi Hills fault was identified. The location of the splay was confirmed by subsequent trenching. The vertical conductive bodies identified in the resistivity data were correlated to the fault gauge identified during trenching. The refraction seismic techniques were used to determine fault displacement.

Utility Location

Mr. Riches was project manager of an investigation to delineate the surface trace and approximate depths of buried utilities at East Bay Mud's 12-acre wastewater treatment facility in Oakland. The end product was a 3-D AutoCAD map of the entire facility. Vacuum extraction techniques were employed at over 100 locations by the client to test the accuracy of the utility location. The test criteria specified that utility location techniques have a 1-inch lateral resolution and +/- 25% for the depth criteria; all pothole locations passed these criteria.

Landfill Delineation

Mr. Riches was project manager of an investigation to delineate the surface trace of debris burial cells within a 50-acre landfill at the Los Alamitos Air Force Reserve Centre. The survey grid was established using a Trimble differential global positioning system. Terrain conductivity and magnetic data were collected using a Geonics EM-31 and Geometrics G858 magnetometers, respectively. These data were color contoured to produce maps delineating the individual trench locations as well as accumulations of ferrous debris within these cells.

SUMMARY OF 20 APRIL 2011 GEOLOGIST AND GEOPHYSICISTS TECHNICAL ADVISORY COMMITTEE MEETING

PUBLIC COMMENT

The ongoing issue of geophysicist licensing was brought up by Mr. Charles Real, a licensed Professional Geophysicist, and potential ways to mitigate the profession's flagging population numbers was discussed with the TAC. Mr. Real was encouraged to attend and testify in the upcoming May 2011 hearing on this issue.

ENFORCEMENT

Our Enforcement Analyst, Corrine Gray, provided an enforcement process flow chart. The TAC recommended that the flow chart be annotated in the future with specific current case status statistics so as to enable the TAC and the Board to evaluate how cases are progressing.

EXPERT CONSULTANT RECRUITMENT FOR EXAMINATION DEVELOPMENT

A one-page flyer created by the staff was approved and distributed to TAC members to disseminate to professional society meetings. The flyer and other potential methods for boosting recruitment were briefly discussed by staff and the TAC.

AMENDMENTS TO CALIFORNIA CODE OF REGULATIONS, TITLE 16, SECTIONS 3000-3067 (EXCEPT 3005)

The TAC discussed the need for separate regulation specifically stipulating that a professional practice within the area of competency based upon their education and experience. No recommendation was made, nor any future actions prescribed.

The following sections of CCR, Title 16 were analyzed and discussed by the TAC:

Section 3065 B:

(1) Licensed geologists or licensed geophysicists (together with those whom the licensee may engage as consultants) shall perform or offer to perform only those professional services for which they are qualified by education, training, experience, and licensure as required by law, in the specific technical and scientific areas involved.

- A. (2) When practicing geology or geophysics, a licensee shall act with competence and reasonable care, and shall apply the technical knowledge and skill which is ordinarily practiced by licensees in good standing, practicing in this state under similar circumstances and conditions

This is a standard definition that was taken from the Board for Professional Engineers and Land Surveyors and should not be changed.

3031(d) Examination Required. Every applicant for registration as a geologist who obtains a passing score determined by a recognized criterion-referenced method of establishing the pass point in the California examination shall be deemed to have passed the California examination. Such a passing score may vary moderately with changes in test composition. This subsection shall become effective on December 1, 1998, and shall be repealed on December 31, 1999.

Mr. Barry (TAC chairperson) suggested that **Section 3031(d)** be deleted from regulation. Staff confirmed that it is in the process as part of a clean-up he is doing with the Geology and Geophysics Regulations.

The TAC also recommended deleting **Sections 3037.2, 3036.2(a) and (b)** which read as follows:

3036.2 Inspection of Geologist Examination.

(a) An applicant for registration as a geologist who obtains a failing score of 10 percentage points or less below the passing score established by the criterion-referenced pass point method on the written examination may inspect the applicant's examination papers at such times and locations as may be designated by the executive officer. Inspection of such examination papers shall be permitted within 60 days after receipt of notice by the applicant of the applicant's failure to pass the examination.

Applicants who score more than 10 percentage points below the established criterion-referenced pass point shall not be allowed to inspect their examinations.

(b) At the time of inspection, no one other than the examinee or the applicant's attorney and a representative of the board shall have access to such examination papers.

3037.2. Geologist Examination Appeal until January 1, 2000.

(a) At the time of inspection of an applicant's examination papers as provided in section 3036.1, an applicant for registration as a geologist who obtained a failing score of 10 percentage points or less below the passing score established by the criterion-referenced pass point method on the examination may appeal to the board for a review of the applicant's examination papers. Applicants who score more than 10 percentage points below the established criterion-referenced pass point shall not be eligible to appeal their examination results. This section shall be repealed on December 31, 1999.

Section 3031. Examination Required.

- (1) Candidates shall receive credit for obtaining a passing score on the Fundamentals of Geology examination, the Practice of Geology examination and the California specific examination and shall be required to submit an application to retake and pass only those examinations previously failed.

The TAC discussed the concept that going forward it should state that candidates should only get credit for the California Specific Examination if you have taken and passed both the Fundamentals of Geology and the Practice of Geology. In the view of the TAC, national examinations should be passed before the state examination is passed. Mr. Ric Moore suggested considering these changes and how it could affect the application process also. The TAC suggested that the Geology and Geophysics regulations be brought in line with the current regulations used by the Engineers and Land Surveyors. Mr. Moore agreed and suggested that a couple of TAC members get together with Engineers and Land Surveyor committees and work as a sub-committee to issue a plenary set of recommendations which would then be presented to Board staff to ascertain how to standardize the regulations.

3041. Specialty in Engineering Geology

(D) Principles of grading codes and other pertinent regulations. (Appendix Chapter 33, 1997 Uniform Building Code).

Parenthesis should be deleted per TAC. First line changed to:

(D) Principles of current grading codes and other pertinent regulations.

ONGOING DISCUSSION OF GEOPHYSICIST EXAMINATIONS

The TAC discussed possible avenues to develop cost effective methods for developing, maintaining and administering valid and legally defensible examinations for the small pool of potential geophysicist examination applicants. The only viable suggestion that survived a lively discussion between the TAC and Board staff was to research how the State of Texas (the only other state in the U.S. that licenses geophysicists) pursues exams. Other suggestions by the TAC were ostensibly not worth pursuing due to conflicts with the ongoing conversion to computer based testing, as well as issues surrounding the grading and competency level of the revised tests. Mr. Moore suggested that staff from the Office of Professional Examination Services give a presentation on the process of examination development to the TAC. The TAC looks forward to this presentation at their next meeting.

CONTINUED DISCUSSION OF DEFINITIONS OF GEOLOGY AND GEOPHYSICS – BUSINESS AND PROFESSIONAL CODE SECTIONS 7802 AND 7802.1

The TAC members handed out the results of their prior research on how other states have handled definitions of the practice of Geology and Geophysics. Discussion was pursued regarding making changes to the definitions currently in the California regulations. A point of contention was regarding the overly-long nature of the some of the sample definitions. Mr. Gary Duke (Legal Counsel) advised the TAC that longer definitions create more of an opportunity for argument, instead of providing the sought after clarification. The TAC resolved to rectify the wording in the existing California definition with better definitions from other states that stand out and to discuss draft definitions for regulatory change. Any recommendations that come out of future will be e-mailed to Patty Smith for inclusion in agenda packets.

OTHER BUSINESS NOT REQUIRING COMMITTEE ACTION

The TAC and Board staff discussed the possibility of integrating geology and geophysics information into the current "Guide to Engineering and Land Surveying for City and County Officials". Staff verified that there has been positive feedback from the existing Guide.

DISCUSSION OF EXAMINATION CONVERSION TO COMPUTER-BASED TESTING (CBT)

Board staff indicated that CBT may become a reality for the fall exams, provided that programming is put into place in time.

Once an examinee is approved for CBT, they receive a notice to contact a testing site and make an appointment. If an examinee fails the examination, they have to wait a minimum of 180 days to re-take the examination; which allows ample time for conducting pass point workshops; and completing examination development workshops

to develop new examination questions. The TAC stated their concerns with security for the CBT. Staff confirmed that the vendor security for CBT is firm and well taken care of.

TOPICS FOR DISCUSSION AT FUTURE G&G TAC MEETINGS

- ◇ASBOG FG for the exit examination of Bachelor's Degree Programs
- ◇OPES-presentation on Examination Development & Setting Pass Scores
- ◇Continue discussion of regulations - recommendations of changes needed
- ◇Discuss Geophysics definition to possibly include seismology
- ◇Discussion-drafts of definitions of Geology
- ◇Geophysicists presentation on Practices of Geophysics
- ◇Contact Texas regarding how to test for Geophysics

17. **Liaison Reports**

- A. ASBOG
- B. ABET
- C. NCEES
- D. Technical and Professional Societies

TO: All ASBOG® Member Board Administrators/Examination Administrators

Preparations for the November 2011 Annual Meeting are being finalized and registration information will be released shortly. The Schedule of Activities includes an Administrators' Workshop that is being planned for Thursday, November 3rd, from 1:30 p.m. to 5 p.m. I realize that many of the Boards are still suffering budget constraints that may prohibit out of state travel, etc. So.... to ensure sound planning for this Workshop (particularly in terms of room block size and meeting room logistics), I ask that each of you confirm if you "believe" you will be able to attend. I realize also that things may change, but at least if you know definitely "Yes" or "No" already, it will help manage the cost of this endeavor. Please respond by Friday, July 15th. The registration fee for the Annual Meeting, which includes this Workshop, remains \$450.00. Thank you.

Whether you will be able to attend or not, please start thinking about items for the Workshop Agenda. I will facilitate the Workshop with the assistance of our Immediate Past President. If you can't be there, I'll get back to you with any information you have requested after the Workshop. Promise!

As a point of information, the Field Trip is scheduled for Friday, November 4th.

Your prompt response will be greatly appreciated.

Sam
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18. **President's Report/Board Member Activities**

19. **Other Items Not Requiring Board Action**

- A. Date of Next Board Meeting: September 15 or 22, 2011, Sacramento, California

20. **Approval of Consent Items**

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

- A. Approval of the Minutes of the May 12-13, 2011, Board Meeting

**MEETING OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND
SURVEYORS, AND GEOLOGISTS**

**2535 Capitol Oaks Drive, Suite 300
Sacramento, CA 95833
(916) 263-2222**

Thursday, May 12, 2011, and Friday, May 13, 2011

Board Members Present: Mike Modugno, President; Jerry Silva, Vice President; James Foley; Carl Josephson; Philip Quartararo; Hong Boem Rhee; Ray Satorre; Patrick Tami; Michael Trujillo; Paul Wilburn; and Erik Zinn.

Board Members Absent: None

Board Staff Present: Joanne Arnold (Acting Executive Officer); Linda Brown (Administrative Manager); Celina Calderone (Board Liaison); Susan Christ (Staff Civil Engineer); Nancy Eissler (Enforcement Manager); Larry Kereszt (Enforcement Analyst); Tiffany Criswell (Enforcement Analyst); Joyce Hirano (Staff Civil Engineer); Ric Moore (Staff Land Surveyor); Debbie Thompson (Budget Analyst); and Gary Duke (Legal Counsel).

Thursday, May 12, 2011

1. **Roll Call to Establish a Quorum**
The meeting was called to order by President Mike Modugno at 9:15 a.m. Roll call was taken, and there was a quorum.
2. **Public Comment**
No public comment
3. **Public Hearing on the Continued Regulation of the Practice of Geophysics and Licensure of Professional Geophysicists**
4. **Continued Regulation of the Practice of Geophysics and Licensure of Professional Geophysicists**
The Board held this hearing as part of its sunset review at the direction of the Senate Standing Committee on Business, Professions and Economic Development. The Senate Committee specifically directed the Board to conduct a public hearing to receive input from the profession and other interested parties on eliminating the requirement for licensing of geophysicists in California. The Senate Committee further directed the Board to submit a report in June 2011 regarding the information presented at the hearing. In order to ensure that the

comments from the public are complete and accurate when submitted to the Senate Committee, The Board requested that all comments be submitted in writing. The Board will then include the written comments, as well as a summary of the oral comments presented in its report to the Senate Committee.

Tom Barry – Representing San Francisco AEG and Northern California Geological society. Mr. Barry indicated that he is a member of the Board's Geology TAC member. He commented on the background paper presented to the Senate Committee. His concern was that the background information does not accurately represent the function of geophysicists. Mr. Barry stated that the geophysicists had a 2005 Occupational Analysis that presented the work settings and the job focus of geophysicists which includes construction, environmental assessment, hazard evaluation, and land development. He added that a more appropriate recommendation would be to have a hearing on a more cost effective examination for geophysicists. He understands that the Board spent \$50,000 developing a new exam, and there could have been a more cost effective method.

Bill Black – Representing Northern California Geophysical Consultants. Mr. Black advised that he has been a registered Geophysicist since 1975; he served on the Board for Geologists and Geophysicists from 2002-2009. He expressed the importance geophysics plays in public safety. Geophysicists are involved in safety analysis studies, in particular Folsom Dam and the foundation of the Dam; they also are involved in evaluating levee stability, large structures such as power plants, high-rise buildings, schools, and hospitals. Geophysics is used to conduct studies to determine how structures will react under dynamic load during an earthquake. Mr. Black discussed the cost of the examination, the small population of examinees, and the difficulty in getting people to participate in the examination development. Since he served on the Board and was also on the exam committee, he is aware of what it takes to develop an exam and the costs involved. He suggested that the Board modify the existing exam, so it can be used repeatedly. He continued to say that there are only about 200 licensees and if you get 8 to come up with a legally defensible examination that is 4% of the licensee population. He added that the amount of geophysicists have diminished over the years and enrollment is down because funding for education is constantly being cut. Geophysics involves a lot of very expensive instrumentation. It costs schools a lot of money to purchase the equipment in order to teach geophysics courses and for that reason he believes many schools are eliminating the programs and it is why we are seeing the effects of the diminishing number of graduates.

Ken Blum – A California Registered Geophysicist and Geologist, established NorCal Geophysical Consultants 28 years ago. Mr. Blum stated that he works with State Government and Federal agencies, municipalities, water districts, and a very wide range of people in which services are provided. He indicated that there are several relatively local projects that include a structure repair that goes

from Rollins Lake to Auburn called the Bear River Canal. It supplies 150,000 residents with water, and officials are presently figuring out ways of trying to ration water until this repair can be made. NorCal Geophysical Consultants was hired by PG&E to act as a consultant to evaluate what geophysical methods could be used to investigate that 22 mile canal and to locate other potential slide areas and areas where there are voids under the concrete lining. With their recommendation, they will provide a rapid evaluation and indicate where to focus their efforts. Geotechnical engineers are hired to do drilling whereas geophysicists are providing the initial reconnaissance. He added that they work with the Department of Water Resources evaluating the stability of the levees, seepage zones, and the location of cutoff walls. Another example of geophysical work was during the Loma Prieta earthquake, specifically, the Oakland airport. They experienced liquefaction which created voids that developed under the concrete runways and taxi ways of the airport. The Port of Oakland enlisted their help to go out with ground penetrating equipment to locate these voids. He added that the Division of Dam Safety has a program where dams must be evaluated every 10 years. Geophysicists provide data that relates to the strength of the embankments and how they will react with ground shaking and acceleration due to earthquakes. These are services that the State is requiring, and registered geophysicists are called upon for their services.

Sandy Figuers - Mr. Figuers stated that he is a Registered Geophysicist, Geologist, Certified Engineering Geologists, Certified Hydrogeologist, and a Professional Engineer specializing in soils and landslides. He stated that the primary benefit is explaining and translating to professional engineers what geophysicists need. A good geophysicist begins to learn what the engineers really need. The Geophysicist Act has been very successful at keeping out ill prepared practitioners. As an example, instrumentation and interpretation software has greatly improved. He indicated he could give anyone an instruction manual and, within a half hour, they would be able to go into the field and produce a survey and take the survey and download it to the manufacturers software and come up with a diagram with great results with no basis. Many engineers use GPR testing for voids for bridges. If the Board does away with the geophysicist license, this group will greatly expand. NorCal Geophysical will still be contacted by CalTrans to do the large projects, as they are aware of the importance of a real geophysicist who will provide them with the proper data. The low level people who purchase \$20,000-\$50,000 worth of equipment can go out and practice; however, the Board will begin to receive complaints, and it may be shifted slightly as there is still a caveat in the Geology Act that geologists can practice geophysics as long as it is in their area of expertise. He continued to indicate that the low population of geophysicists is due to the cost of entry as it is quite expensive. The cost would start at \$500,000+ for basic equipment and another \$500,000 over the next couple of years and every 5-8 years to upgrade software which can cost \$10,000 just for the license. He suspects that if it is removed, it may take a couple of years but the Board may start seeing problems that licensure has prevented from occurring. Therefore, he encourages support.

James Rezowalli - Licensed Geophysicist, and former Board and TAC member. He indicated that the universities in Hayward, San Jose, Stanford, and Berkeley offer courses. The type of surveys he does are original/traditional geophysical surveys. An example of this work would be in the Blythe area where new solar electric plants are being built. Since a solar electric plant requires water, a geophysical survey on three proposed solar plants sites needed to be completed to determine the quality of water, the depth of the water, and from where the water was coming. The fact that Solar Millennium has their permit to build the first plant is due to the geophysicist's work. Infrastructure mapping is done to determine what is buried in the ground prior to construction. This has a very immediate effect to health and safety. Another example is the new Hetch Hetchy pipeline extending from one end of Fremont, under the Bay, to Redwood City. They were hired by the PUC to review construction diagrams and complete a field survey. One reason why he is employed is because the utility companies that he works with know that geophysicists will alert them if they are working too close to gas or petroleum lines. He added that he is not hired to find just the gas lines; he is employed as the eyes of the engineer out in the field to find things that may have escaped them through traditional record searches and land surveys. During construction of a pipeline, a trench was dug and a pipe followed behind it as to not have an open trench, but a backhoe hit a fuel line that spilled aviation fuel into the trench killing three men. His typical employers are large construction management firms, land developers, surveyors, and geologists. He does not work for the government or the petroleum industry; he does all civil works projects. When there are only have 2-3 candidates taking the examination, he does not believe it is highly critical that the examination be totally new each time and that the Board can safely draw from the existing bank. He added that he is a licensed blaster and takes the blasting test repeatedly every five years, and the test never changes. CalOSHA is comfortable administering the same exam every time. Occasionally, new exam questions are introduced involving new techniques or explosives, other than that; it is basically the same exam. Geophysics has not changed much in the last thirty years except for the data processing. Computer processing is only as good as the data input.

Mark Riches - Representing Geovision Geophysical Services. Mr. Riches indicate he has been in geophysics since 1992; he took the exam in 1999 and at the time there were only 3 applicants. He stated that it is a wrong impression if the Board thinks that geophysics is declining in California. The first 700 were grandfathered in from the oil industry and never practiced in the industry. He participated in 4 of the workshops. The basic problem he came up with is the exam development is scheduled in the summer which is their field work season. That is when geophysicists work the most and assisting with the exam would result in loss of income for them. He suggested that if the exam development occurred during January or February, the Board may have better cooperation. About 30% of their work is for State and Federal agencies. In particular, they do a great deal of work on the nuclear plants throughout the country. Information is provided so engineers can design a nuclear plant to withstand an earthquake

and prevent what happened in Japan which incidentally, was very successful as it was the tsunami that caused the damage and not the earthquake. The rest of their business revolves around schools, hospitals, bridges, dams, and levees. Much of their work involves locating underground utilities so that backhoe operators do not dig into them. He recalled an instance where a 500 pound bomb was located in Roseville. As it turned out, the first survey that was done that was supposed to locate them was done incorrectly by an unlicensed person. As a result, they missed the bomb, and there could have been a significant impact.

Alexander Jack – Mr. Jack stated that he is a Registered Geologist and Geophysicist and has been involved in the Board's examination development and field test. He suggests that the Board convert to a multiple choice examination. He added that if you graduate with a degree in geophysics you are hired before you graduate. The oil and mining companies are paying high dollar for these graduates. Companies in Panama and Dubai want licensed California Geophysicists. They are seeing engineering firms doing geology and geophysicist work and providing the information to a third party firm. The people processing this data were not in the field and are not aware of field conditions, which results in bad information coming in and bad information going out.

Bill Owen – Mr. Owen stated he is a Registered Geologist and Geophysicist. He is employed by the Department of Transportation both as a provider and consumer of geophysical services. He pointed out to the Board that the Department of Transportation requires as part of their contractual qualifications when evaluating those who do work for the Department that geophysical work be done by someone who has a license as a Professional Geophysicist. He stated that within the past five months he has reviewed three different instances, two of which were within the Department for Local Agency Assistance and one of them was consultation with the Board itself over unqualified personnel doing geophysical work. The two that were with the Department involved local agencies using geophysical information above and beyond the capacity for which the person was tasked in an attempt to design bridge structures in Southern California. The last one, he was contacted by the Board to review a proposal by another state agency for levee work to be performed where a conductivity survey was being specified by the consultant under contract to the State, specifically looking for a utility location company to go out and do specific geophysical surveys of levees and to provide a report on levee conditions. He added their concern as a Department, if the requirements for a Registered Geophysicist are removed, the Board may see more of these types of incidents occurring. From a Department standpoint, they utilize the geophysics registration as a minimal standard of competency. Mr. Owen believes the current downturn is due in part by the economy. He is seeing less work in the geotechnical and environmental fields that require geophysical registration and increased demand for oil and mineral resources. He indicated that the vast majority of those graduating with degrees in geophysics are not going into the geotechnical engineering consulting, but rather are going directly to research and exploration industries.

Steve Sterling – Mr. Sterling stated he is a Registered Geophysicist, Geologist, Certified Engineering Geologist, and Certified Hydrogeologist employed by the Department Toxic Substance Control. He stated that within the Department of Toxics, they require a licensed geophysicist for any type of geophysical reports submitted to the Department for review and site characterization for protection of the public. There is great potential for unlicensed people to practice this science inappropriately and incorrectly. This would continue in much greater fashion if licensing was abolished. In 2000, Mr. Sterling indicated that he was involved as an expert witness for the former Board for Geologists and Geophysicists which resulted in revocation of a license and two others being cited for unlicensed practice. In this case, a magnetometer was made in a garage and it was communicated to the City of Adelanto, near Palm Springs, that there were huge resources of ground water storage and that it would take 200 years to use 10% of water. The defendant was found guilty. The public was put into development projects where there is an inadequate water resource. Therefore requests continued support of licensure for geophysicists.

Craig Copelan - Representing PEEG. They support the continuation of licensure of geophysicists. The Department of Toxic Substance Control, the Department of Water Resources, and the State Water Resources Control Board all utilize geophysicists, and they are considered a valuable service to the public.

Hans Honeybrook – Representing Southwest Geophysics. He is a registered Geologist, Certified Engineering Geologist, Registered Geophysicist, and a Registered Geologist in Arizona as well. He indicated that their office is located in San Diego where significant work is being done in Arizona. They are sought after as Arizona does not carry registration for geophysicists and, therefore, are hiring California licensees as they recognize the level of competency that comes along with the registration. In many cases they fix other people's problems from those who attempted to practice geophysics. They work for lending institutions, environmental companies, and contractors.

Jerry Gash – Mr. Gash stated he is a Licensed Geologist, Geophysicist, and Engineering Geologist. He started his business in 1969 after leaving the Department of Water Resource and State Mining. He agrees with what has been said today. He added that there are geologists that are unlicensed and untrained in geophysics and engineers who are doing geophysics.

John Parrish – Mr. Parrish stated he is the California State Geologist, Chief of Geological Survey and prior was the Executive Officer for the Board for Geologists and Geophysicists. We license because the Board requires a minimum level of competency. California is the most seismically active state in the nation after Alaska. It's imperative that we have licensed geophysicists who can provide information to the structural engineering and the civil engineering communities to make the infrastructure and economy earthquake resilient.

Mr. Foley questioned what other states do that do not license geophysicists. Mr. Blum stated that many other states do not have the complex geological, environmental, and water conditions that California has. He added that the other states do not have the building codes that California has; they do not have the agencies that have the demands for registration. Mr. Riches estimated that the geophysics industry in California annually is in excess of \$20 million. Outside of Florida, New York, and Texas, the remaining states do not add up to \$1 million combined. Mr. Rezowalli said that California is heavily regulated, so consumers expect that. Mr. Figuers added that other states tolerate higher levels of incompetency.

Ms. Arnold indicated that the Board will forward comments to the Senate Business, Professions, and Economic Development Committee for review and consideration.

Mr. Foley pointed out that the licensure is at a cross roads and that those in attendance are the leaders in this regard; he suggested they ensure more participation to maintain this particular status to validate the examination.

Mr. Tami advised them to report unlicensed activity. If the number of enforcement cases goes up, we will have those numbers to point out unlicensed practice.

Mr. Foley believes the Board should provide information to the Senate Committee and suggests that geophysicists need to present the information as well.

Mr. Trujillo indicated that since cost of entry is so expensive, he suggested sharing and leasing equipment and software to reduce the cost.

Mr. Wilburn asked who would pick up the work if the geophysicist profession is deregulated. Mr. Parrish answered by indicating that you have to practice within your sphere of competency and many unqualified people would join the profession. Mr. Foley added that many engineering firms will have geotechnical engineers do the work.

Mr. Riches said that Texas offers reciprocity to California, but it does not work the other way around.

Mr. Foley asked if there is enough overlap where geophysics is tested on the Professional Geologist or Certified Engineering Geologist examination. Mr. Rezowalli said they are very different professions. Many colleges do not cross professions. However, Mr. Figuers disagrees as he received a degree in Geology and Geophysics.

Mr. Parrish suggested that one objective might be to expand who can be licensed, such as engineering seismologists, who play a large part in California. They could be brought into the geophysics profession.

Bob Holmgren representing OPES, indicated that the item bank is already created in which the Board has done a lot of work with development. The next exam would be less expensive. Mr. Moore pointed out that an Occupational Analysis needs to be done in the upcoming fiscal year in order to ensure that the examination is testing the appropriate areas of practice; this will add to the costs of examination development.

Mr. Foley suggested that the Board continues to review and make a decision at the next Sunset Review, perhaps a different method of licensure, and acquire more feedback from the geophysicist community about where they want to go with their profession.

Mr. Owen spoke with regards to the occupational analysis and how the exam was significantly revised several years ago.

Mr. Tami and President Modugno suggested appointing a subcommittee to review all of the comments and make a recommendation regarding how the Board should proceed. Mr. Silva and Mr. Zinn volunteered, and President Modugno appointed them to serve as the subcommittee.

Mr. Blum stated that he did not realize before today how apathetic the geophysicist profession was. He indicated he is determined to be more proactive.

President Modugno thanked everyone for their input.

5. **DCA Director Updates**

Cindy Kanemoto on behalf of Director Brian Stiger with the Department of Consumer Affairs updated the Board with items of interest. DCA continues to work with boards to submit exemptions to include justifications based upon the hiring freeze Executive Order. These exemptions are being reviewed by the Department, State and Consumer Services Agency, Department of Finance, and the Governor's Office. As previously stated, the Board must show how important a position is to the mission of the Board and the consequences of not filling positions. The exemption requests must have a very strong justification and a critical need must be shown. She is hopeful that the Board continues to have exemptions approved.

On April 26, 2011, the Governor issued an Executive Order placing restrictions on travel. No travel is permitted unless it is mission critical. The Executive Order is very specific that all discretionary travel must not be allowed. The Department will work with the boards to implement this order and ensure that the boards and bureaus are able to continue with their mission critical travel and comply with the Executive Order regarding all other travel. The Department is still waiting for the Department of Finance to release a budget letter which will provide more guidance to the boards and the Department on the implementation of this order.

The Department is getting ready to post its third set of performance measures on the Department's website. The Department encourages the members to review these measures as this is information available to the public. The Department also encourages the Board to not only have the performance measures in the agenda packet but also to provide time frames for the disciplinary process for the members to review.

The BreEZe project achieved a major milestone with receipt of final proposals in March. The proposals were evaluated for their technical and administrative merit as well as how well they met the DCA's business needs. The costs were higher than anticipated. DCA is looking at its options prior to vendor award and are in negotiations with the vendor. Final contract approvals from the Department of General Services and the Legislature will be secured between May and August and the contract is anticipated to begin August 2011.

Ms. Kanemoto added that the Department has received several requests from boards asking to increase salary for an Executive Officer. These requests must be approved by DPA and the Governor's Office. The Department wanted to ensure that all boards' EOs' salaries were reviewed to determine if the position was at the appropriate salary; there has not been a change to the overall salaries in the last 10 years. The Department has entered into a contract to review all EO salaries. This contracted company will conduct the entire study. Until this study is complete, the Department will not move forward with increasing Executive Officers' salaries. The Department is developing an EO evaluation form. They have a working group made up of Board members and an Executive Officer. They are anticipating the form will be completed by the end of May.

Ms. Kanemoto added that the Department encourages webcasting of Board meetings to assist in transparency and assisting those who cannot attend meetings.

President Modugno inquired about out-of-state travel and indicated that the Board has been severely handicapped by the inability to send representation to NCEES functions. When the Board is not physically present, we are not able to represent California's interests. He expressed that it is very crucial as we do not have a say in voting. Ms. Kanemoto said association and conference meetings are typically being denied. Ms. Arnold added that it is more than a conference as it is where decisions are being made about examinations without California's input. Ms. Kanemoto said that this climate may change by August. If travel is enforcement related, it is exempted and considered mission critical. Sacramento Board meetings are acceptable and regular travel in Sacramento is approved. A reduction in travel must result from the April 26th Executive Order and forward.

Ms. Arnold responded to Mr. Copelan's query regarding legislation to rename the Board in include Geologists and Geophysicists and clarified that the legislation added two Board members and not additional staff. A Budget Change Proposal

(BCP) was submitted for a Professional Geologist, but it was denied.

9. **Adoption of 2011-2013 Strategic Plan**

Vice-President Silva said Evin Van Outryve captured our vision for the Strategic Plan. President Modugno indicated that too often we have these documents and do not implement the goals. He thinks we should have a committee and select one objective and provide status reports.

Motion: Mr. Silva and Mr. Tami to adopt.

Vote: 10-0, motion carried

10. **Temporary Authorization Applications**

There were none.

11. **Executive Officer's Report**

A. Legislation

1. Discussion of Legislation for 2011: AB 172, AB 275, AB 958, AB 1023, AB 1210, SB 541, SB 543, SB 692, and SB 944

AB 275 Solorio. Rainwater Capture Act of 2011. This bill would enact the Rainwater Capture Act of 2011, which would, among other things, authorize landscape contractors, holding a specified classification, to design and install all exterior components of a rainwater capture system.

MOTION: Mr. Tami/Mr. Quartararo moved to support if amended.

VOTE: 10-0, motion carried.

AB 958 Barryhill. Regulatory boards: limitations periods. Existing law requires some boards within the Department of Consumer Affairs (DCA) to file disciplinary action accusations against licensees for various violations within a specified time. This bill would delete those specified limitations periods for each board and would instead impose a specified limitations period on all boards within DCA.

No action was taken on this item.

AB 1023 Wagner. Maintenance of the codes. This bill would make nonsubstantive changes to various provisions of law based on the recommendations made by the Legislative Counsel to the Legislature. This bill repeals Sections 6731.1, 6731.2, 8726.1, and 8761.1 of the Business and Professions Code.

No action was taken on this item.

AB 1210 Garrick. Civil Engineering. This bill adds Section 6730.4 to the Professional Engineers Act, relating to water quality.

MOTION: Mr. Tami/Mr. Josephson moved to support.

VOTE: 10-0, motion carried.

Mr. Foley arrived at 9:47 a.m.

SB 541 Price. Regulatory Boards: expert consultants. This bill would authorize the boards of DCA to continue to utilize expert consultants, as done in the past, without going through formal contracting process.

MOTION: Mr. Tami/Mr. Foley moved to support.

VOTE: 11-0, motion carried.

SB 543 Price. Business and professions: regulatory boards. This bill extends the sunset dates for various DCA regulatory boards and bureaus that are being evaluated by the Joint Sunset Review Committee. It also makes various changes to the Professional Engineers, Land Surveyors', and Geologist and Geophysicist Acts.

No action was taken on this item.

SB 692 Walters. Professional Engineers. This bill would change the disciplines currently licensed as "title act" engineers to "practice act" engineers.

No action was taken on this item.

SB 944 Senate Business Professions & Economic Development Committee. This is one of the Committee's Omnibus bills. It will be amended to include some minor changes to the Professional Engineers Act and the Professional Land Surveyors' Act.

MOTION: Mr. Foley /Mr. Tami moved to support.

VOTE: 11-0, motion carried.

2. Legislative Proposals for 2011

A. Proposed Amendments to the Geologist and Geophysicist Act (Business and Professions Code section 7800, et seq.) Relating to Qualifications for Certification as a

Geologist-in-Training

Ms. Eissler reported on this item. In reviewing the Geologist and Geophysicist Act, it was realized that while it mentions what examination the person needs to pass in order to obtain certification as a Geologist-in-Training, it did not include the qualifications that are needed to obtain the certification. It is recommended that a section be added to the Geologist and Geophysicist Act to specify what the qualifications would be. When this was originally done several years ago by the former Board for Geologists and Geophysicists, the candidate would have to have a degree in a geological science from a college or university the curriculum of which has been approved by the Board. It is recommended that language to this effect be added. It is also recommended that language be added to the Geologist and Geophysicist Act that is similar to the language in the Professional Engineers Act and the Professional Land Surveyors' Act that would allow the Board to make arrangements with a public or private organization to conduct the examinations. ASBOG which is the national association similar to that of NCEES that developed some of the geology examinations has indicated that they would administer examinations on behalf of the Board just as NCEES would do. Language needs to be included in the Geologist and Geophysicist Act to address that need.

MOTION: Mr. Foley /Mr. Zinn moved to direct staff to pursue such legislation.

VOTE: 11-0, motion carried.

B. Sunset Review 2010

Ms. Arnold stated that the Board submitted a report at the request of the Senate Committee on Business, Professions and Economic Development following the hearing. A report of the geophysicist hearing and the recommendations that resulted from that hearing will be submitted as well.

C. Personnel

No changes to report.

D. Governor's Executive Order B-06-11 Relating to Travel

Ms. Arnold stated that she and President Modugno suggest holding teleconference Board meetings solely to review the enforcement decisions in Closed Session in between regularly-scheduled Board meetings to help cut down on the need for travel and for two-day meetings because of the increased number of enforcement decisions. Mr. Foley recommended that the Board continue face-to-face meetings. Ms. Arnold stated that teleconferences are better than a mail ballot for enforcement matters,

which the Department is encouraging.

8. **Nomination and Election of President and Vice President for Fiscal Year 2011-2012**

Mr. Foley nominated Jerry Silva for President and Paul Wilburn for Vice President

MOTION: Mr. Foley/Mr. Quartararo moved to elect Mr. Silva as President and Mr. Wilburn as Vice President.

VOTE: 11-0, motion carried.

12. **Enforcement**

Ms. Eissler indicated that the statistics contained in the agenda packet are for the Engineering and Land Surveying cases and in handouts that were provided; she had prepared charts for the Geologists and Geophysicists Program for their enforcement statistics. She noted that the Program received 10 new complaints from January through June 2010; closed two cases; and had 97 complaints pending investigation at the end of FY09-10. So far for this fiscal year (July 2010 through April 2011), 22 new cases have been opened and 29 cases have been closed; there are 90 that are pending. Mr. Zinn expressed concern for the 90 that are pending. Ms. Eissler indicated that when the Board took over Geology's cases there were concerns as to how those cases were handled previously, and, therefore, the investigations had to start over. The Program is now getting to the point where the cases have been fully investigated and, therefore, are starting to see more being closed. Within the next couple of months citations will be issued and becoming final. When citations are issued, the people have the right to appeal; therefore, some have not become final. In other cases, the matters will be submitted to the Attorney General's Office for formal disciplinary action against licensees. She believes that the Program is getting on track with all the cases. Larry Kereszt, from the PELS Enforcement Unit, is working with Corrine Gray, Enforcement Analyst from the Program. Ms. Eissler noted that only position was received through the transition for the Program's enforcement section. Both Mr. Kereszt and Ms. Gray are working at getting the cases moving and on track. Mr. Zinn said that the TAC used to assist with enforcement cases, to which Ms. Eissler responded that it may create some problems if it is something where the Board was going to take action against the person where we need an independent expert rather than the opinion of someone that has been appointed to a committee by the Board. She went on to say that the Board does not have a staff geologist position but does have people that can be utilized as experts to do preliminary reviews. The Board will have to contract with experts for enforcement now, but the Senate Bill will streamline that process and make it much faster than the existing contracting process. The Board wants to make sure the subjects are given proper due process rights throughout the investigation and not jump to judgments.

Mr. Tami suggested an “aging of the cases” report for future agendas, such as the reports that are submitted to the Department.

Ms. Eissler explained that the time period for complaint investigations includes time at the Division of Investigation (DOI) since the Enforcement Unit does work both prior to submission to DOI and after the investigative report is received from DOI. The Enforcement Unit has always traditionally separated that aging from how long a case is at the Attorney General's Office or how long it takes to go through the citation process. The statistics that the Department is now requesting and reporting combines the entire timeframe encompassing the Board's investigation and either the citation portion or the formal disciplinary portion through the Attorney General's Office.

Ms. Eissler added that in March and April many cases were opened due to examination subversion issues and others were from complaints relating to alleged failures to file record maps that were received from various County Surveyors' Offices; therefore, the number of cases opened in those months was higher than usual. Ms. Eissler noted that one Enforcement Analyst handles all of the examination subversion cases.

13. Examinations/Licensing

C. October 2011 Examination

Ms. Arnold indicated that the NCEES contract went to the Department of General Services on May 10 and the Spring Finance Letter went through the Assembly and the Senate at last week's budget hearing.

President Modugno suggested if we do not have a contract June 1 with NCEES that the October national examinations are cancelled. Mr. Moore added that if a contract is not in place, NCEES would not send the Board examinations to administer; however, state specific examinations would remain in place and be administered.

President Modugno suggested that a motion be made that if the Board does not have a contract by June 1, 2011, the October National examinations will be cancelled. Mr. Wilburn stated that he believes that this is a bad call and the Board should wait to communicate with NCEES. Mr. Duke indicated he will be contacting the Department of General Services' attorney immediately to emphasize the importance to the Board and the industry. Ms. Kanemoto recommended abiding by what Mr. Duke said before making any decisions on the cancellation of the October examinations. She pointed out that one of her roles in the Department is as the Chief of Licensing for Job Creation and this issue is of importance to her to ensure that we get applicants through this process of licensure as efficiently and effectively as possible so that we can get them contributing to the economy. She will speak with Director Stiger as soon as possible regarding this matter. Mr. Tami stated that he does not

want to take advantage of the relationship the Board has with NCEES by asking them to extend the final date in which the contract is to be signed; he suggested not taking action on this right now. President Modugno withdrew his suggested motion, and no action was taken.

A. Report on April 2011 PELS Examination Administration

Mr. Moore stated that there were less than 12,000 applicants approved for the examination, and 9,800 actually attended. This made for a 17% no-show rate. The Fundamentals of Engineering examination had a 20% no-show rate, and the Land Surveyors had an 11% no-show rate. 115 candidates signed up to take the new 16-hour National Structural examination. He added that there are two basic modules for this examination, one for buildings and the other for bridges; out of 115 candidates, 112 signed up for the buildings module. For this examination, there was a 24% no show rate, which was the highest no-show rate for all the examinations. There were minimal candidates who had to be turned away due to tardiness and 30 removals from all sites combined. Mr. Moore reported that Director Stiger and Chief Deputy Director Kim Kirchmeyer both assisted by coordinating with other staff within DCA and had about 10 people to assist with proctoring. There were two representatives from NCEES who visited the exam sites; Jerry Carter was in Pomona and San Diego, and Tracy Snyder was in Sacramento and San Mateo. Ms. Snyder indicated that she was very impressed by the sites she attended, considering the volume of candidates. Mr. Moore indicated that some examination results could be released in early June; the National Structural and the State Land Surveying results may be released in July as there is a more intensive grading process.

Mr. Moore advised that registration with NCEES for the October 2011 exams opens June 15 and closes September 9. The Board's final filing dates for brand new professional engineer and land surveyor applicants is July 8 and for all refile applicants and for all new EIT or LSIT applicants is August 12. The examination sites remain the same as in April.

B. Report on March 2011 Geology Examination Administration

Ms. Brown indicated they had an overall 50% + for the pass rate but was not aware how they compare nationwide.

14. Consideration of Rulemaking Proposals

A. Proposed Amendments to Title 16, California Code of Regulations Sections 419, 443, and 444 – Examination Appeals

Mr. Moore indicated that the Board's regulations provide for review and appeals of examinations that are design essay examinations but not for multiple choice examinations. This includes a portion of the State Structural, the State Land Surveying examination, and a portion of the National Structural. As we move towards Computer Based Testing (CBT),

the only examination that will include a design essay portion is the new National Structural exam. The morning portions are multiple choice, and the afternoon portions of both days are essay. According to the Board's regulations, we allow applicants within 8 points of a passing score on an NCEES exam to appeal. Candidates can review their examination, comment, and write an appeal, and the information is passed onto NCEES. With the National examinations, the Board is not cognizant of the passing score and, therefore, not aware who is eligible to appeal. When results are released, NCEES is provided information from the Board's laws and, in turn, provides the Board with a list of the candidates eligible to appeal. The applicants are then notified of their right to appeal. NCEES sends the examination problems where they were deficient to the Board office and allows the candidates to review and appeal. The Board then returns the information to NCEES to consider the appeal. With the new examination, the design essay portion is not scored separately from the multiple choice portion; it is a combined score. There appears to be a possibility that NCEES will not be able to determine who is eligible to appeal under the requirements specified in the Board's regulations.

Mr. Josephson added that the way NCEES has scored the essay examination in the past is similar to the way that California has scored the state exams in the past. There is a straight percentage for the essay portion. The new Structural exam is not being scored that way. Mr. Josephson explained that there is a very complex method of scoring the individual problems; it is a hybrid grading system that is meant to take as much subjectivity out of the examination grading as possible. He added there are 2-3 states that allow examinees to look at the essay examination results. Mr. Moore said it appears that the examinations are outgrowing the regulation. He is requesting the Board approve the proposed amendment to Board Rule (c) (1) to eliminate the section which allows for appeals of a National examination.

MOTION: Mr. Foley/Mr. Tami moved to amend Board Rule 443 as recommended.

VOTE: 11-0, Motion carried.

B. Adoption of Proposed Amendments to Title 16, California Code of Regulations section 3005 – [Geology & Geophysics Fees]

This relates to the pending rulemaking proposal regarding the geology examination fees. Ms. Eissler indicated that we received no written comments during the 45-day comment period. The Board conducted the public hearing the morning of the Board Meeting and received one comment from PECG that they are in support making the fees appropriate to what the Board is charged. Since there have been no comments that are substantive or in opposition to the proposal, she recommends that the

Board adopt the proposed changes as they were noticed and direct staff to finalize the rulemaking file for submittal to the Department of Consumer Affairs and the Office of Administrative Law. She also requested that the Board delegate the authority to the Executive Officer to finalize the rulemaking file.

MOTION: Mr. Foley/Mr. Quartararo moved to adopt the proposed amendments and to delegate the authority to the Executive Officer to finalize the rulemaking file.

VOTE: 11-0, Motion carried.

15. Approval of Delinquent Reinstatements

MOTION: Mr. Tami/Mr. Foley moved to approve the Delinquent Reinstatements in the agenda as follows:

CIVIL

RICE, JOHN

Reinstate applicant's civil license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

GEOTECHNICAL

RICE, JOHN

Reinstate applicant's geotechnical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

MECHANICAL

AHMED, ABDULLAH Y.

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

VOTE: 11-0, Motion carried.

16. Information Technology Updates

A. On-Line Renewals/Credit Card Renewals

Mr. Donelson indicated that the Department has decided to change the clearing house company for the credit cards and, therefore, had to amend the contract which will result in a 3-6 month delay. The reason behind the change is that the Department will receive better customer service and the company is based in Sacramento. Mr. Tami reiterated that every month that goes by in not having this service in place, it is tens of thousands of dollars in costs to the Board in staff time by not accepting credit cards.

17. Adoption of a Precedential Decision Regarding the Provisions of the Professional Land Surveyors' Act (Business and Professions Section 8700,

et seq.) and Division 5 of Title 16 of the California Code of Regulations Relating to the Filing of Records of Survey and Corner Records

Mr. Duke stated that a Proposed Decision was discussed by the Board at the March Board meeting. At that time, he suggested to the Board that they may want to make the decision a precedential decision. What this means is that under similar facts and circumstances, future Administrative Law Judges will be incumbent to use the Precedential Decision of the Board as authority. He indicated that the Board has had many similar cases with similar facts that have come to the Board in the past, and he recommended the Precedential Decision since there are many similar cases that can be handled in this manner in the future.

MOTION: Mr. Foley/Mr. Tami moved to adopt the Decision in the Matter of Accusation No. 833-A as a Precedential Decision.

VOTE: 11-0, Motion carried.

18. Administration

A. Fund Condition

The Professional Engineer's and Land Surveyor's fund revenue had a 12% decline partly due to the normal cyclical pattern in the 2-year renewal cycle in which revenue drops every other FY. The Professional Engineers and Land Surveyors application revenue had a 9% drop due to the drop in the number of applications received for licensing examinations. Recently proposed regulation changes for the NCEES to take over the Professional Engineers and Land Surveyors national exam administration (Board Rule 407) will reduce revenue by approximately the same amount as expenditures.

The Geology and Geophysics Fund had a 3.5% decline which includes a 32% decrease in licensing exam application revenue and a 5% increase in license renewal revenue. The geologists and geophysicists license renewals also follow a normal cyclical pattern in the 2-year renewal cycle in which revenue drops every other fiscal year with this fiscal year having the higher revenue.

It is projected that by 2012-2013, the Professional Engineer's and Land Surveyor's Fund will have less than a one-month reserve due to the recently required \$5 million General Fund loan.

The Geology and Geophysics Fund is projected to maintain above a 3-month reserve through FY 2013-2014.

B. FY 2010/11 Budget

As of January 31, 2011, Professional Engineer's and Land Surveyor's Fund spent \$9,026,000 of the \$9,042,000 current year budget leaving a projected balance of \$106,000.

The Geology and Geophysics Fund spent \$839,000 of the \$1,330,000 current year budget leaving a projected balance of \$491,000.

C. FY 2011/12 Budget Change Proposals

Ms. Thompson stated the Spring Finance Letter for the Professional Engineers and Land Surveyors national exam administration was approved by both the Senate and Assembly budget committees and the next step is approval in the 2011 budget.

D. FY 2012/13 Budget Change Proposals

Two concept papers were submitted to the Department of Consumer Affairs. One to establish a Geologist Registrar position, and the other to increase funding for the Professional Engineers and Land Surveyors' Enforcement Program.

19. Technical Advisory Committees (TACs)

A. Board Assignments to TACs

No assignments made.

B. Appointment of TAC Members

Mr. Zinn indicated that there will be two appointments to the Geology TAC in July.

Mr. Tami recommended the reappointment of three Land Surveyor TAC members.

MOTION: Mr. Tami/Mr. Josephson moved to reappoint the following members to the LSTAC:

Mr. Michael B. Emmons, P.L.S. (1 year Re-appointment)

Mr. Michael S. Butcher, P.L.S. (1 year Re-appointment)

Mr. Paul J. Enneking, P.L.S. (2 year Re-appointment)

VOTE: 11-0, Motion carried.

C. Reports from the TACs

1. Report from the Geology TAC

Mr. Zinn inquired as to the frequency of the TAC meetings. Ms. Arnold stated that in the statutes, it does not indicate how often a TAC must meet. She added that it is dependent on the budget and travel restrictions.

2. Report from the Land Surveying TAC

a. Recommendation to Amend Business and Professions Code Section 8762 (b)(4)

Mr. Moore indicated that the LSTAC believes that clarification of the words "establish" and "establishment" as

they are used in the Professional Land Surveyors' Act is needed because there are multiple points of view within the surveying profession as to the meaning of the words. Some surveyors think that establishment happens when a deed is created and recorded. Others do not believe that establishment happens until the deed is actually surveyed on the ground the first time. There are other variations as well. This subject is prevalent when dealing with complaints. The TAC believes Business and Professions Code section 8762 (b)(4) should be clarified to clearly state the Board's interpretation in order to alleviate the number of enforcement cases.

The TAC recommends borrowing from the definition of land surveying in Business and Professions Code section 8726(c) and recommends that the Board direct staff to pursue legislation to amend Business and Profession Code section 8762(b)(4) as follows:

(4) Locates, relocates, establishes, reestablishes, or retraces the establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which are not ascertainable from an inspection of the subdivision map, official map, or record of survey.

MOTION: Mr. Tami/Mr. Foley moved to direct staff to pursue legislation to amend Business and Professions Code section 8762.

VOTE: 11-0, Motion carried.

20. Liaison Reports

A. ASBOG

No report was given.

B. ABET

Ms. Eissler indicated that ABET visits are typically done in the fall.

C. NCEES

Mr. Tami stated that the Board has the ability to travel for free to Providence, Rhode Island, for the NCEES Annual Meeting. The Board is allowed one funded delegate and one first time attendee to attend the Annual Meeting. Ms. Thompson indicated that the request for approval to attend was denied.

1. Appointment of Emeritus Members

MOTION: Mr. Tami/Mr. Silva moved to appoint Mr. Foley and Gregg Brandow as emeritus members to NCEES.

VOTE: 11-0, Motion carried.

D. Technical and Professional Societies

Mr. Tami spoke to the senior class of engineering at Cal Poly San Luis Obispo, and Mr. Zinn will speak at the Chief Building Official meeting in Monterey.

21. President's Report/Board Member Activities

President Modugno expressed his appreciation to the Department of Consumer Affairs for the monthly conference calls. He added that they are a very effective way of communication.

President Modugno presented Mr. Foley with a Senate Resolution and a Board Proclamation for his services to the Board as it is his last Board meeting.

22. Other Items Not Requiring Board Action

A. Date of Next Board Meeting: July 21, 2011, Sacramento, California

23. Approval of Consent

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

A. Approval of the Minutes of the March 24 & 25, 2011, Board Meeting

MOTION: Mr. Satorre/Mr. Zinn moved to approve the minutes.

VOTE: 11-0, Motion carried.

6. Closed Session

Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]

A. Rodolfo Dimalanta v. Board for Professional Engineers and Land Surveyors, Court of Appeal, First Appellate District, Case No. A131485 [Superior Court of Alameda County Case No. RG10513640]

The Board recessed at 3:55 p.m.

Friday, May 13, 2011, beginning at 9:03 a.m.

Board Members Present: Mike Modugno, President; Jerry Silva, Vice President; James Foley; Carl Josephson; Philip Quaratararo; Hong Boem Rhee; Ray Satorre; Patrick Tami; Michael Trujillo; Paul Wilburn; and Erik Zinn.

Board Members Absent: None

Board Staff Present: Joanne Arnold (Acting Executive Officer); Linda Brown (Administrative Manager); Nancy Eissler (Enforcement Manager); Larry Kereszt (Enforcement Analyst); Tiffany Criswell (Enforcement Analyst); Joyce Hirano (Staff Civil Engineer); Ric Moore (Staff Land Surveyor); Debbie Thompson (Budget Analyst); and Gary Duke (Legal Counsel).

1. Roll Call to Establish a Quorum

The meeting was called to order by President Mike Modugno at 9:03 a.m. Roll call was taken, and a quorum was established.

2. Public Comment

Ms. Kanemoto representing the Executive Office of the Department of Consumer Affairs updated the Board on some issues that were brought up the day before. Teleconferencing was suggested to conduct TAC meetings. The Department can assist in locations for teleconferencing for members to go to engage in a teleconference call. The TAC members would be reimbursed for travel from home to that location. The Department would like the TAC to adhere to the teleconference method. The Contracts Unit has been instructed to expedite the NCEES contract. The Department of General Services has 10 days to review. President Modugno thanked Ms. Kanemoto for her attendance yesterday and returning today to provide answers to questions.

Mr. Satorre arrived at 9:06 a.m., and Mr. Trujillo arrived at 9:08 a.m.

President Modugno would like to submit letters supporting Board Members for reappointment.

6. Closed Session

Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]

B. Executive Officer Interviews

7. **Open Session to Announce the Results of Closed Session**

Ms. Eissler reported that the Board in Closed Session on Thursday took action on stipulations and petitions for reconsideration, discussed litigation as noticed and discussed examination procedures and results. Mr. Duke reported that the Board in Closed Session on Friday interviewed four candidates for the Executive Officer position.

4. **Continued Regulation of the Practice of Geophysics and Licensure of Professional Geophysicists**

MOTION: Mr. Tami/Mr. Foley moved as follows:

If the Geophysicists Subcommittee decides to recommend to keep things the way they are and to monitor things for a while, then the Board gives the Subcommittee the authority to provide that information to Ms. Arnold to provide to the Senate Business, Professions and Economic Development Committee; if the Subcommittee has any other recommendation, then it will present that recommendation to the Board at the July meeting

VOTE: 11-0, Motion carried.

24. **Adjourn**

Meeting adjourned at 2:45 p.m.

PUBLIC PRESENT

Cindy Kanemoto, Department of Consumer Affairs

Tom Barry, San Francisco AEG and Northern California Geological Society

Bob DeWitt, ACEC

Richard Markson, ASCE

Bill Black, Northern California Geophysical Consultants

Ken Blum, NorCal Geophysical Consultants

Mark Riches, Geovision Geophysical Services

Bill Owen, Department of Transportation

Steve Sterling, Department of Toxic Substance Control

Craig Copelan, PECG

Hans Honeybrook, Southwest Geophysics

Bob Holmgren, OPES

21. **Adjourn**
