

# Oregon State Board of Geologist Examiners

## MEETING MINUTES

June 13, 2008, 1:00 PM

### Member Present

Richard Heinzkill, Public Member  
Chris Humphrey, RG, CEG, Board Vice-Chair  
Dr. Vicki McConnell, RG, State Geologist  
Dr. Stephen Taylor, RG, Board Chair  
Rodney Weick, RG, CEG  
Mark Yinger, RG

### Staff Present

Susanna Knight, Administrator  
Kyle Martin, AAG [8:30 AM to 9:15 AM]

### Guests Present

Dorian Kuper, RG, CEG [10:45 AM to 3:00 PM]

The 1:00 PM Board meeting was preceded by an 8:30 AM Work Session with numerous items on the discussion agenda. At 8:30 AM, *Chair Taylor* read the following statement:

“The Board will now meet in executive session for the purpose of reviewing documents or records that are exempt by law from public inspection under ORS 192.660(2)(f). Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision will be made in executive session. At the end of the executive session, the Board may meet in public session to make a decision under ORS 183.482(6).”

The Board returned to the public session at 9:15 AM. *Chair Taylor* reported that no action is necessary from the Executive Session at this time. He then welcomed *Richard Heinzkill*, the newest member of the Board, whose appointment occurred shortly after the March Board meeting. *Heinzkill* stated that as a reader of the Eugene Register-Guard, he had a ringside seat with a compliance case a few years back and became aware of the Board at that time. A retired Librarian from the University of Oregon, he enjoys volunteer service and is excited to be appointed to the Board.

1. **STANDARDS OF PRACTICE:** This discussion was a follow-up to the March Work Session and each Board Member reported about assigned homework as follows:
  - *Weick* reported that neither California nor Arizona have standards of practice. Both Boards refer back to the CODE OF CONDUCT. Arizona is uniquely different as they have a Super Board encompassing many professions.
  - *McConnell* stated that the Medical Board is very well established as regulatory oversight has been present for a long time. Of note is the Handbook provide to every new physician which contains 1) Rights; 2) Oversight; 3) Statutes and Rules; 4) References. The website has one very comprehensive page identifying STANDARDS OF PHILOSOPHY. These standards identify the Board’s position and include attachments of all information accumulated about each standard to explain the standard. It is apparent

- that registrants will be expected to follow the handbook. All new information is issued through the web page, which also includes a FAQ (frequently asked questions) page.
- *Taylor* reported that the Nursing Board has a STATEMENT OF PURPOSE which is not prescriptive but very broad based with a dynamic philosophy. A decision “tree” (map) is posted on the web which is an awareness check list based on the philosophy of the profession.
  - *Yinger* reported that he reviewed information on the web for Washington, Idaho and Utah. He found no comprehensive definition of the practice or standards of practice. Both Idaho and Utah rely on the CODE OF CONDUCT.
  - *Humphrey* reported that OSBEELS’ information is not really applicable as they have so many more specialties. Oregon does have a “Guidance Document for Building Officials” which is really dedicated to identifying when an Architect or Professional Engineer is needed. Much of the web information references Building Codes.

In the ensuing discussion, *Humphrey* offered that a Decision Tree would be a good structure for every technical reviewer. *Taylor* suggested that any standard of geology practice must be broad based. The Board discussed the purpose of identifying STANDARDS OF CONDUCT: for compliance? for the qualified practitioner? *Taylor* offered that it would be the minimum bar for compliance. *Heinzkill* questioned how “broad” could pin a compliance case. *McConnell* encouraged the Board to look toward an educational standard, not a prescriptive standard. *Taylor* inquired as to what the next step should be. The group concurred that the central process of how a complaint is reviewed could be the framework for expectations of the standard of practice. *McConnell* suggested that the homework assignment for the next meeting be for each member to develop a one page guideline on how they approach the compliance review process. The goal is to find the commonality of the review process in an effort to discover a standard.

*The Board recessed for a 10-minute break at 10:00 AM. Weick was excused for a work-related telephone conference call.*

The Board concurred to host a presentation titled STANDARDS OF PRACTICE AND ETHICS for the GSA (Geological Society of American) meeting to be convened in Portland, Oregon, October 2009.

2. **COMPLIANCE PROCEDURE:** *Heinzkill* apologized for offering a change in the compliance procedure when it is only his first meeting but his analysis suggests that compliance issues will go better and timelier if the Board makes a change in the current procedure. Rather than engaging Board Members to serve as technical reviewers, the Compliance Chair and the Administrator will work together and invite technical reviewers when needed. When information is compiled, the AAG will be engaged to evaluate the strength of the Board’s law with regards to the complaint. A summary document will be presented to the Board for subsequent action when the investigation is complete. *Weick* will work with the Rules Advisory Committee to develop this revision as the Administrative Rules currently spell out the process now being applied.
3. **UNIFORM ASSESSMENTS OF CIVIL PENALTIES:** Because the document issued a few meetings back was not at anyone’s disposal, the Board agreed to move this discussion to the next Work Session along with a discussion on a compliance rule change. The Board

is asked to do its homework of reviewing the suggestions offered in Humphrey's earlier document and come prepared to discuss guidelines for penalties.

4. **CONTINUING EDUCATION:** *Humphrey* reported that additional review of the governing ORS failed to locate empowerment for the Board to require continuing education. Other Boards that require Continuing Education are empowered in the statute. Nothing in the law states that the Board can require continuing education at renewal time. *McConnell* offered that the Board has two years to go out to the community of registrants about a statute change and seek input. The Board concurred to consider a continuing education requirement.
5. **GIT REGISTRATION QUESTIONS:** *Knight* directed the Board to a handout with questions about the GIT registration. *McConnell* offered that a GIT registration suggests that the individual is on a career track and that a GIT cannot practice geology without supervision. The Board concurred that a GIT with an expired registration will be issued a new number upon applying for registration after passing the practice examination.

*Dorian Kuper, RG, CEG, President of National AEG, joined the Board at 10:40 AM. Chair Taylor invited her to join the lunch discussion about the Joint Task Force objective.*

6. **OUTREACH AT SEPTEMBER BAKER CITY BOARD MEETING:** *Taylor* offered that the September Board meeting is scheduled to convene in Baker City. The Board will use this meeting time as an outreach opportunity to both the mining community and BLM. The Board would like to ask the miners what venue they would want: field trip? Forum? The Board inquired if the miners could lead a Placer Mine Field Trip. A tentative schedule was set as follows: 9/11/2008, Travel; 9/12/2008, AM, Field Trip; PM, Work Session; 9/13/2008, AM, Board Meeting; PM, travel home.

*Weick rejoined the Board Work Session in progress at 11:00 AM.*

*McConnell* inquired if the Board could include BLM for a lunch discussion. She suggested that this event has two objectives: 1) help the Eastern Oregon mining community understand the regulation of geology and 2) to assist that BLM and the miners figure out issues. *Taylor* inquired as to how DOGAMI and the mining laws work. *McConnell* responded that DOGAMI has jurisdiction on federal land but it must be a site of greater than one acre. *Kuper* offered that some counties have regulations related to the amount of cubic land movement. *Weick* offered that DEQ becomes involved when any discharge of storm water occurs in the state. Dredge mining must have a DEQ permit. *McConnell* offered that the Board must communicate to the miners that it has a responsibility to the citizens of Oregon to keep operations safe. That is the Board's charge. It appeared to the Board that an unqualified person was offering input to the design of sites.

7. **RESPONSIBILITY TO THE BOARD AS A BOARD MEMBER:** The Board members were cautioned about a possible conflict of interest. If an individual Board Member offers input in response to a public request, the member should include a disclaimer such as "I am on the Board *but* this response does not represent the opinion of the Board. *Taylor* stated that all Board Members are accountable to such a disclaimer if they wish to identify themselves as a Board Member.

8. **BOARD'S ROLE IN PURSUING PRACTICE CONCERNS:** This discussion fell into three units: 1) Should the Board pursue concerns about which it becomes aware; 2) OSBEELS Article about the practice of a Geotechnical Engineer; and 3) Joint Task Force publication about geology/engineering overlap practice issues.

- *Weick* offered that he recently read a newspaper article that tweaked his brain. The article stated that a clear cut had not caused a landslide and he was interested in knowing if the Board could invite in someone to discuss this theory as a learning experience for the Board. *McConnell* reported that the work on this project was submitted to Oregon Department of Forestry (ODF) and suggested that perhaps an ODF CEG could share about forest practice to help the Board understand the approach. *Weick* offered that the approach is clear; the Board wishes to be educated as it needs to understand how this is done. *McConnell* informed the Board that DOGAMI prepared a tutorial on how the landslide happened. Staff will investigate such a presentation for the March 2009 meeting, as both the September and December meetings will be out of town events.
- The Board then discussed the draft newsletter article on geotechnical engineering regulation offered by OSBEELS. *Taylor* stated that it was very generous of OSBEELS to ask for input and the OSBGE response should be to incorporate the strongest language from the MOU into the article. *Weick* offered that OSBEELS should publish the MOU in its entirety so the engineering registrants will understand how the overlap is governed. *Taylor* referred this to the JCC members and staff to follow-up with any suggestions to OSBEELS.

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- During lunch, the Board was apprised of the status of the pending article from the Joint Task Force in which AEG is participating. Dorian Kuper offered the following information about the process: the process started out very confidential; no one has seen the document; no draft is out as it is not yet complete; effort to melt it down; until the panel of 10 representing three groups can come together on a draft, nothing will be released; a product of the Executive Boards of three (AEG, AIPG, ASCE) participating professional groups; AEG is considering a letter stating "It is four years later and time to see the result."; now by August 1; a long chain of events before this ever gets out; AEG will have its attorney review the document. Kuper added that AEG has much technical expertise involved in the process. The Board concurred that until such time as a document is released, there is nothing to respond to. The California Geology Board is in a "wait to see the final document" mode. The Washington Board is also discussing this issue.

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## CALL TO ORDER

*Dr. Stephen Taylor*, RG, Board Chair, called to order the quarterly meeting of the Oregon State Board of Geologist Examiners at 1:03 PM

**1. Agenda:** *Taylor* requested one additional item to agenda item 4. Administrator Report (e) Personnel updates. *McConnell* moved to approve the agenda as presented with the one addition.

*Seconded and unanimously passed. Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*

**2. Meeting Minutes:** *Taylor* requested revisions to the minutes as presented. *Yinger* asked to add that following statement after line 3 on page 4 of the March 6, 2008 Meeting Minutes under Compliance: “*Yinger* did not compare it to past maps.” *Taylor* moved to approve the March 6, 2008, Meeting Minutes with the *Yinger* addition. *Seconded and unanimously passed. Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*

### **3. Announcements**

- a. *Chair Taylor* welcomed newest Board Member *Richard Heinzkill, Public Member*, to his first quarterly meeting of the Board and thanked him for giving his time. His initial appointment date is 4/4/2008 to complete the unfinished open term through 2/28/2008. The effective dates are 3/1/2008 to 2/14/2011 for *Heinzkill*'s official first term. *Heinzkill* responded that he is looking forward to interesting topics.
- b. ASBOG examination date is October 3, 2008. Members were asked to check their calendars so that a proctor can be assigned for the date.
- c. The next CEG exam is scheduled for October 3, 2008, *Weick* volunteered to serve as proctor.
- d. The next Board meeting is tentatively scheduled for September 12, 2008 in Baker City but could convene on September 13, 2008, depending on the field trip. *Taylor* and *Knight* will work out the details and will focus on the miners' availability.

### **4. Administrator Reports**

#### **a. Appendix I, Board Administrator Report:**

- *Knight* informed the Board that her written report is not complete but she will forward it after the meeting [Note: Report was emailed to Board Members on 6/16/2008.]
- Staff has added a scanner to the Board equipment under a lease agreement.
- *Knight* attended SIBA meetings on March 18 and May 3 and Legislative Coordinators on April 14.
- *Knight* participated in the following training opportunities since the last meeting 1) EXCEL on June 9 & 10; 2) BCP (Business Continuity Plan) on April 7; 3) PERS on April 24; 4) PEBB on May 21; 5) IRS, May 29.

**b. Financial Statement: Budget versus Actual for 2007-09 Biennium:** *Knight* referred the Board to the document provided in the meeting materials. *McConnell* inquired about the deficit in income to date. *Knight* noted that the spreadsheet reflects revenue through 5/28/2008 with just over a month of revenue still to be submitted. A bar graph revealed that renewals are down very slightly since July 1. *Taylor* requested that the graph include this year vs. last year and then vs. the past three years for the next meeting.

**c. Revenue & Expense Report, 7/1/2007 through 5/28/2008:** *Knight* directed the Board to the net income amount to date of \$26,663.62 which ties back into the Financial Statement and to the Balance Sheet with the CD assets amount at \$62,815.70.

**d.** *Weick* moved to approve check log #2740 to 2789 and #9078 to 9080. *Seconded and passed unanimously. Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; and Yinger, yes.* *Taylor* reported that he continues to review the monthly bank statements and noted

inconsistency in the way payroll was debited. He has asked Knight to research this and report back to him.

e. **Personnel:** *Taylor* then read the following statement at 1:34 PM:

The Board will now meet in executive session per ORS 192.660(2)(i) to review and evaluate the job performance of the administrator as an open hearing has not been requested. Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision will be made in executive session. At the end of the executive session, the Board may meet in public session to make a decision under ORS 183.482(6).

At 2:07 PM, the Board returned to the public session.

*Taylor* moved to approve the salary compensation package per the Governor's mandate of September 2007 and subsequently clarified in the memo from Knight dated May 20, 2008. *Seconded and passed unanimously. Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; and Yinger, yes.*

*Taylor* moved to approve the modification to line items in the budget as presented by Chair Taylor on 6/13/2008 which includes an increase to the agreement for Administrative Services with OSLAB from \$6000 in year 1 to \$7300 in year 2 to cover the retroactive salary increases for year 1 and ongoing salary expenses for year 2. *Seconded and unanimously passed. Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*

*Taylor* moved to cover the retroactive salary increase for 7/1/2007 to 6/30/2008 to the Administrator of \$6696.00 as outlined in the 5/26/2008 memo. *Seconded and unanimously passed. Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*

*Taylor* apologized for the delay in figuring out this mandate from the Governor. The budget was complete and approved before the Governor's declaration of salary increase. The Board budget was not prepared with any of this knowledge.

*Taylor* recessed the Board for a 5-minute break at 2:15 PM. The Board reconvened at 2:20 PM.

**5. Compliance Updates:** *Heinzkill* reported that he will work with *Weick* to draft a new method for the Compliance Review process based on discussions held during the morning Work Session. *Taylor* stated that he had conversations with a Delaware delegate while at the recent ASBOG COE which confirmed that Board Members in Delaware are not engaged in the compliance process until the summary document of the case is presented in a Board meeting.

a. **CC#07-02-001:** *Taylor* moved to reconsider without prejudice the motion approved at the March 6, 2008, Board meeting and return the case to the committee for further evaluation including a re-evaluation of the reports presented in this case to determine if any were not covered under ORS 672.525(9). *Seconded.* Additional discussion followed. *Taylor* stated that if the person was evaluating existing records, this is a right of free speech. If information presented was outside the existing record, then this new information becomes the practice of geology. *Unanimously passed. Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.* *Taylor* opened the discussion to the public. *Kuper* inquired if technical reports were reviewed. *Weick* responded that if technical reports are in response to a request by government

to provide information to the public record, the reports are protected by free speech. In applying the practice of geology, testimony only cannot be used. Only original work and calculation done outside of a public request or call for information can be considered the practice of geology. *Taylor* offered that if it is an original analysis, then the Board is on more stable ground. *Weick* stated that the Rules Advisory Committee will draft rules to better clarify the 2003 Legislation which added ORS 672.525(9).

**b.** *Heinzkill* reported that two cases remain under review but are not yet prepared for presentation to the Board. He also updated the Board on the status of the appeal of the registrant revocation. The Board's case has now been submitted to the Appeals Court.

## 6. Committee Reports

**a. Administrative Rules:** *Weick* moved that the Board adopt the newest Model Rules of Procedure by revising the date in OAR 809-001-0005 from January 15, 2004 to January 1, 2008. *Seconded and unanimously passed.* *Heinzkill*, yes; *Humphrey*, yes; *Taylor*, yes; *Weick*, yes; *Yinger*, yes.

**b. CEG Exam:** *Knight* reported that the psychometricians have completed the questionnaire and it has been distributed to every registered Engineering Geologists in both Oregon and Washington. The response was quite weak and staff will continue to work with the psychometricians to determine a strategy for additional responses.

**c. Joint Compliance Committee (JCC):** *Knight* stated that it is time for the JCC to meet as it has not convened since last November. *Weick* offered that the minutes of the November meeting were so delayed that it was difficult to remember what had happened. *Knight* has comments on the JCC minutes from the Board participants and will be following up on the concerns. The status of CC#07-02-001 will also be reported.

**d. Legislative Committee:** *McConnell* reported that the Board's concept was submitted. Staff now awaits a call from Legislative Counsel that the draft is prepared. Upon the draft's completion, the Board has 10 days in which to respond. LC requires receipt of payment prior to releasing the draft document.

**e. Outreach Committee:** *Taylor* reported on his ongoing work with the State Science Standards Committee which convenes every seven years. He outlined the areas and how these areas are represented in grade level curriculum. Because of local authority in school decisions, the finalized standards need not be adopted by districts. The ultimate gatekeeper for science curriculum becomes the components of the standardized test. *Heinzkill* inquired as to what is next. *Taylor* informed the Board that the draft standards will be aligned with national standards and will go out in the Fall for public comment. The final new standards will be adopted in the Fall of 2009 with the first class using the new standards coming four years later! *Taylor* sees it as a very slow and frustrating process.

**f. Professional Practices:** *Humphrey* reported that a hold is being placed on further consideration of continuing education as the Board does not have statutory authority to require continuing education. *McConnell* offered that the Board must move slowly to communicate to registrants, possibly through GSA, AEG, and AEP, regarding an incorporation of this requirement into statute. *Weick* suggested that success will be based on laying out the program, how it will be validated, etc. *Humphrey* stated that it should be open and flexible with not much tracking. *McConnell* concluded that practitioner working on the coast need to know the issues. Geologists are in a science which is constantly advancing so to be the best, continuing

education is needed. Most professions already require continuing education. *Humphrey* suggested that comments be invited in the newsletter.

## 7. Correspondence:

- a. **AC 08 01 017:** The Edward Jones Summary of Assets (as of Dec 31, 2007) was distributed to the Board. The ending balance of the Board is \$64,440.35.
- b. **AC 08 01 023:** This correspondence was encouraging the Board to consider an online renewal and payment process. *Knight* reported that she is investigating this capability at this time. The Board suggested that staff look at Washington's renewal process online as mentioned in the correspondence.
- c. **AC 08 02 044:** Notification of the bankruptcy of NWAS was presented. *Taylor* moved to close CC# 02-05-003 without receipt of the fine as the company is now bankrupt. *Seconded and unanimously passed.* *Heinzkill*, yes; *Humphrey*, yes; *Taylor*, yes; *Weick*, yes; *Yinger*, yes.
- d. **AC 08 04 086:** Due to the digitization of geologic reports, the registrant is concerned about the loss of the connection between the stamp and the work. *Weick* stated that DEQ is looking into setting up a database so the PDF of a report includes the signature with the stamp. Thank him for apprising the Board recognizing that the electronic movement will continue to effect reporting.
- e. **AC 08 04 087:** Resignation of the Chair of the Committee charged with developing GUIDELINES FOR GEOLOGIC REPORTS. A thank you is in order for the work completed on this project by both the Chair and the committee.
- f. **AC 08 04 089:** *Discharge of Debtor:* Information regarding status of company involved in CC#02-05-003 with the Board.

## 8. Old Business

- a. **Outreach follow-up to Eastern Oregon Mining Community:** *Taylor* and *Knight* will handle the arrangements for this September 11, 12 & 13 event. A field trip to the placer mines will hopefully be led by the miners and provide a time for interaction. It is also important to the Board that outreach to the BLM staff be incorporated into this event.
- b. **Compliance Legislation:** *Knight* reported that the concept was signed off by the Board's Policy Advisor and is now in the draft process with Legislative Counsel. When the draft is released, the Board will have 10 days to review and offer revisions.
- c. **Report on COE in Cody, WY:** *Weick* reported that the ASBOG examination process with question evaluation prior to grading or double answering has immense value. He enjoyed writing questions and working with the same process on day 2. *Taylor* suggested that it would be a low probability to challenge the test. A fantastic field trip was include with the event, but it was very cold and there was lots of snow. *Taylor* informed the Board that he has been invited to serve on the Exam Committee which recently developed a new demographic on the answer sheet. The exam validated that graduate students perform better on the exam. ASBOG will have capacity to release the information to universities. *Weick* suggested that future locations should consider cost and accessibility! *Humphrey* reported that he nominated Kenneth Neal, former Washington Board Member, to the open position on the ASBOG Board.

## 9. New Business

- a. **Process for EG Task Analysis:** *Knight* reviewed the process to date as volunteers worked with the Board on Phase I and Phase II. *Weick* reported that he was comfortable with the final document that resulted from a one-day workshop in Vancouver with engineering geologists

from both states. He believed the final document represented what the engineering geologists in the field practice. The results of the survey will reveal what is actually occurring in the field. The Task Analysis is funded jointly by the Oregon and Washington Boards but the work is done outside of the Board under the direction of psychometricians. A document was distributed to the Board outlining the process to date. Additional information will be added so that the entire Task Analysis process is reflected in the document. When a future Task Analysis (ten years from now or later) is undertaken, a framework will be present for the Board and staff.

*Vicki McConnell departed at 4:10 PM.*

There was additional discussion about the Task Analysis. *Humphrey* stated that it is a cross section of what a CEG practices. The document is not designed to be “the practice”. A statement should be added that this is the minimum competency required of practitioners. *Weick* offered that this Task Analysis is a snap shot in time as to where engineering geologists are practicing and will determine questions and weighting for the next 10 years. Phase II is a refining and developing process. *Yinger* stated that test is designed to test the minimum bar which is the purpose of the Task Analysis. *Humphrey* stated that the Task Analysis does not set the standard of the practice but only measure minimum competency of those entry level practitioners. No explanation is currently posted with the Task Analysis to identify its purpose. *Yinger* asked what is the time contract, time limit, with the psychometricians?

**10. Public Comment:**

No public comment was provided.

*Chair Taylor adjourned the meeting at 4:23 PM.*

Respectfully submitted,

Susanna Knight  
Administrator

The draft minutes of the June 13, 2008, Board meeting were approved with two corrections at the September 12, 2008, quarterly meeting of the Board convened in Baker City, Oregon.

Respectfully Submitted,  
Susanna R. Knight  
Administrator