

## ***November 2009 BPELS Meets in Southern California***

### **Transition to BPELS**

The Board for Professional Engineers and Land Surveyors (BPELS) met for the first time since being assigned responsibility for the Geologists and Geophysicists Act. The meeting was held over the days of November 18<sup>th</sup> and 19<sup>th</sup> at the Mission Inn in Riverside. In conjunction with the board meeting, a town hall-type meeting was held to facilitate an information transfer between BPELS and the regulated geologic community. BPELS staff and members presented information on how they were proceeding with the transfer of operations from the Board for Geologists and Geophysicists (BGG) and accepted questions and testimony from the public. The public included three former BGG members, Cecilia Yu and Jim Ashby from the recently disbanded board and Craig Copelan former BGG President who represents Professionals Engineers in California Government (PECG), along with a number of geologists and geophysicists.

Mr. Ashby pleaded with the panel to maintain long-term, licensed technical staff from the former BGG, and standing committees created by BGG made up of carefully considered, properly vetted subject matter experts and other volunteers. Mr. Copelan, speaking on behalf of PECG, urged BPELS to pursue legislation that would allow the addition of geoscientist to BPELS and a name change for BPELS to recognize that geoscientists are regulated by that board. Mr. Copelan supported adding a geologist to BPELS staff, but didn't specify existing staff. It should be noted that all practice acts regulated by BPELS are represented by a licensee at the staff level, including the Land Surveyors. Ms. Yu made some well received comments regarding the importance of licensed geologists.

BPELS provided a fact sheet summary highlighting the major points of the transition. A copy of the fact sheet is presented in this newsletter. A few observations regarding the fact sheet and the transition are provided below.

At the initial meeting with BPELS Executive Officer (EO) Dave Brown and others at BPELS office in September, representatives from AEG were told that BPELS intended to create a specialized group dedicated to regulating geologic licensees. The group would be housed within BPELS (ample space existed) and would remain relatively detachable (files and staff kept together, IT systems to remain separate as existed before the transfer) in case the board is reformed or moved in the future. We were also told that existing committees created by the former BGG would be retained and utilized.

**Organization:** What appears to be happening, based on information provided by Dave Brown at the town-hall meeting, is that what's left of the former BGG (two administrative personnel with relatively little experience at BGG and the files) is being fully integrated into the BPELS structure, including the IT system. This complex integration was said to be the reason a Temporary Program Manager (an unlicensed annuitant) was chosen to implement the transfer rather than maintaining and relying on the existing professional and technical (geologic) staff available from the former BGG.

Granting that civil service regulations likely exist that required BPELS to consider overall time in state service in selection of the personnel to keep from BGG, it seems unlikely that regulations required administrative staff be maintained over licensed professionals with significantly longer service to the former BGG specifically. AB 4X 20 did not specify what level of staff be maintained. If it was your intent to maintain a relatively independent, fully functioning group that could be detached if necessary, wouldn't you want to keep the most senior technical staff available to preserve the institutional memory? As it currently stands, day to day decisions regarding the implementation of the Geologists and Geophysicist Act are being made by an unlicensed annuitant and two relatively inexperienced administrative staff. Provisions have been made for a dual-licensed individual to be consulted on an as-needed basis. Who decides when technical expertise is needed?

**Files:** There also seems to be some confusion regarding the maintenance of the former BGG files. It came to our attention that certain files (mainly enforcement chronological files) had been boxed up and marked for destruction. I contacted Dave Brown to ask about the status of these files and BPELS intentions with regard to all files formerly maintained by BGG. Mr. Brown told me that BPELS was simply following the file retention schedule established by the former BGG and that BGG's former EO recommended schedule be followed to save the staff the bother of moving files unnecessarily. I wonder which former EO Mr. Brown spoke with on this matter – doesn't sound like advice Rick Rempel, BGG's recently terminated EO, would have given.

When I requested a copy of the retention schedule being followed I was referred to Gary Duke, former legal counsel for BGG and current Department of Consumer Affairs (DCA) attorney. Mr. Duke explained to me that by state law files must be maintained in accordance with the latest retention schedule approved by DCA. Any category of files identified by the approved schedule had to be treated in the proscribed manner. Any new category of files created after the date of the approved schedule must be retained until a new retention schedule is approved. Mr. Duke went on to say that the last approved retention schedule was dated 1991, and that although retention schedules must be updated every five years according to the law, BGG had not done so. A BGG retention schedule dated August 2000 does exist, but apparently was not approved by DCA and cannot be used to make a determination regarding categories of files created after 1991. Information obtained from others indicates the file category "Enforcement Chronological" did not exist in 1991 and, therefore, the files should not be destroyed at this time. I have not yet received the copy of the retention schedule I requested from both Mr. Brown and Mr. Duke to confirm this.

**Exams:** The fact sheet provided by BPELS states that the Spring 2010 specialty exams were postponed until October 2010 as recommended by the former BGG Exam Committee. While it is true that the committee made this recommendation at the last BGG meeting in Los Angeles, the recommendation was not accepted by the BGG. After consideration and receiving commentary from the public indicating the postponement may create a financial hardship on those planning to take the exams in March, the BGG elected to move forward with the exams as planned. The fact sheet also states that although BGG did not send a representative to the ASBOG Convention in 2008, BPELS EO Dave Brown attended the 2009 convention. It needs to be pointed out the attending the ASBOG convention was a priority for BGG and that former EO Rick Rempel and Board Member Shirley Husar attended the 2007 convention, but that travel allowances applied for were not approved by the legislature in the budget process for the 2008 Convention.

Further, the fact sheet mentions that BPELS is in the development process for all exams through solicitation of subject matter experts (SME) and conducting appropriate workshops. Mr. Brown stated during the town hall meeting that BPELS was concerned with making certain that the exams are psychometrically sound and legally defensible. Although this is appropriate, it, again, needs to be pointed out that BGG was already following these procedures and has already developed psychometrically sound and legally defensible exams. Exams in recent years have been vetted by the Office of Examination Resources. Not knowing this and reading the fact sheet one might conclude that that prior exams administered by the BGG did not meet these criteria. As Jim Ashby pointed out in his testimony, BGG went through a rigorous vetting process to identify SME to sit on the Exam Committee and that these volunteers remain ready to serve in that capacity. In the interest of continuity, why would BPELS want to start from scratch?

**Conclusion:** The upshot of all this is that a very active and engaged board was systematically dismantled, and its remnants dissolved into a much larger bureaucracy, whether by well intentioned means or not. The many good works the former BGG was able to accomplish, over the past few years in particular, are being undone. Is this what legislature intended in merging the boards? AEG has made specific requests of BPELS to preserve the functional core of the former BGG that can be easily accommodated without new legislation. These requests were made orally and presented in writing at the meeting in Riverside. A copy of the letter from AEG to BPELS is included below. We will continue to urge BPELS staff to respond to our requests in the spirit of good will.