

Association of Environmental & Engineering Geologists *Southern California Section*

"Connecting Professionals, Practice, and the Public"

November 18, 2009

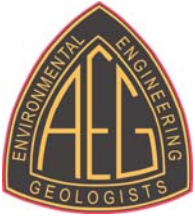
Board for Professional Engineers and Land Surveyors
2535 Capitol Oaks Drive, Suite 300
Sacramento, California, 95833-2944

**Subject: Transfer of Responsibilities for Implementation of the Geologists and Geophysicists
Act to the Board for Professional Engineers and Land Surveyors**

Dear Members of the Board:

The Association of Environmental and Engineering Geologists (AEG) has long supported the Board for Geologists and Geophysicists (BGG) and was recently disappointed with the abrupt action of legislature that eliminated the BGG during the budget negotiations in July of this year. AEG has been following the transfer of the BGG responsibilities to BPELS and representatives of AEG, including myself, have met with BPELS officers, members, and staff to work through various issues and concerns my organization has with regard to this transfer and ultimately the implementation of the Geologists and Geophysicists act. We have several requests to make of this board in the interest of continuity, which we believe are reasonable, consistent with previous discussions held, and necessary for this to board fulfill its new responsibilities. We ask that this board adopt a resolution directing staff to act on these following requests.

1. We request that regulation of geologists and geophysicists remain a separate function within BPELS for two basic reasons.
 - a. We believe the action taken by legislature was unconstitutional and will be reversed by the court. As long as this issue remains unsettled, it is important to have a distinct and relatively intact department that can be detached from BPELS and reconstituted as an independent board or merged with another agency as determined by future legislation.
 - b. Regardless of the outcome of litigation or future legislation, geologists and geophysicists must be afforded full standing and equal treatment with all other professions regulated by BPELS. BPELS must not compound the mistakes made by legislators by assimilating disparate and potentially conflicting programs, including and particularly enforcement. It should be noted that a judge has recently (July 2009 REA enforcement action) ruled that the member of the board most qualified to speak on earth science issues was not qualified in any way to speak to the scope or practice of either geology or geophysics.
2. We request that BPELS employ a full-time, licensed geologist to oversee the day to day operation of the geologic unit just as all other practice acts, including land surveyors are represented at the staff level. Part-time, contracted services are no replacement for a hands-on professional in responsible charge of the department. We note that ABX4 20 allows two personnel years to be re-allocated from the former BGG to BPELS. This legislation does not specify the level or classification of employee, and we have not found any civil service regulation that demands longevity in state employment be considered in preference over classification. Preference should be given to



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technical staff over administrative staff, particularly where the needed technical skills cannot be found elsewhere within the agency. Allowing long-term, licensed, and experienced staff to be terminated in favor of administrative staff would be a dereliction of BPELS obligation to administer the Geologists and Geophysicist Act (Act), and inconsistent with the intent of the legislation entrusting BPELS with this responsibility.

3. We request that all files of the former BGG be maintained separately from BPELS and intact, that the retention schedule be suspended for the duration of litigation, and that the retention schedule be updated by licensed technical staff, as appropriate.
4. We request that BPELS maintain the examination schedule previously approved by the Board at the May 2009 meeting in Los Angeles. Board staff was prepared to administer the geophysicists, engineering, and hydrogeology exams in March 2010, but asked the board to consider rescheduling the exam to October 2009 to sync with other exams being offered at that time. After consideration and taking testimony from the public, the board voted to hold the exams in March 2010 as scheduled. It has come to our attention that the March 2010 exams have been canceled by BPELS.
5. We request you take action to determine how best to utilize and/or modify the several committees legally established by the BGG, that were transferred to BPELS through the legislation eliminating the BGG. These committees include Examination, Enforcement, Policy, Legislative, and Professional Affairs Advisory. These committees currently exist and require direction from this body.
6. We request an accounting of the Geologist and Geophysicist Fund formerly managed by the BGG and dedicated to the exclusive use of administering the Act. Has this fund been transferred to BPELS or has BPELS been granted access to this fund? Have monies from this fund been diverted to any other purpose? Have monies from this fund been loaned to any other department, agency, or fund, including the general fund?

Thank you for your consideration of these important matters. Please do not hesitate to contact me at (805) 493-0663 if you have any questions regarding or would like to discuss further any of the above requests.

Sincerely,

AEG Southern California Section

Peter Thams, Chair

CC: Dave Brown, Executive Officer, Board for Professional Engineers and Land Surveyors