



**ASSOCIATION OF ENVIRONMENTAL & ENGINEERING GEOLOGISTS**  
***Southern California Section***  
*"Connecting Professionals, Practice, and the Public."*

## ***NEWSLETTER –December 2009***

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Chair - Peter Thams, [thams.peter@gmail.com](mailto:thams.peter@gmail.com), 805-493-0663  
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Secretary – Gregory Sena, [gsena@dpw.lacounty.gov](mailto:gsena@dpw.lacounty.gov), 626-458-4923

Visit the Southern California Section Website: [www.aegsc.org](http://www.aegsc.org)

Newsletter Editor – Shant Minas, [shant@aessoil.com](mailto:shant@aessoil.com), 818-552-6000

Meeting Date: **\*\*\*No Meeting in December\*\*\***

**Congratulations to our new officers for 2010! Over 30 ballots were received, and the new officers named above were unanimously voted in to their respective positions.**

**\*\*\*HAPPY HOLIDAYS!\*\*\***

<b>Chair Column</b>
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Peter Thams

Hello Again. Our November dinner meeting at Cisco's in Westlake Village was a nice event, lots of food with beer and margaritas included, at least for a while. The venue is still being renovated and the owner hasn't gotten around to reorganizing the meeting room, which has been and may still be used as a disco. The disco lighting which cycled through dim white to blue, to red, to black added a festive element to the social hour. Fortunately, they were able to stop on dim white before dinner and it all worked out okay. They promise to get this corrected in the future as they set the room up for business gatherings. Steve Varnell's presentation on proposed outfalls in Palos Verdes was very interesting and he had the crowd slobbering with budget envy as he poured over volumes of data from years of field work.

### **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.


**BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

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GEOLOGISTS AND GEOPHYSICISTS PROGRAM


**FAQ Regarding Implementation of ABx4 20, effective October 23, 2009.**
General Statement:

The laws affecting the ability to provide effective consumer protection through the testing, regulation and discipline of Geologists and Geophysicists did not go away. The new law simply states:

7801. (a) "Board," as used in this chapter, means the Board for Professional Engineers and Land Surveyors established under Section 6710. Any reference in any law or regulation to the Board for Geologists and Geophysicists or the State Board of Registration for Geologists and Geophysicists shall be deemed to refer to the Board for Professional Engineers and Land Surveyors.

(b) The board shall succeed to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction previously vested in the Board for Geologists and Geophysicists.

Consumer protection for the former functions of BGG and the combined functions under BPELS retain the identical level of support after October 23 as they did prior to that date.

The former BGG BP Code 7810.1, which now falls under BPELS states:

- "Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions pursuant to this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

The existing BPELS law, BP Code 6710.1 states:

- "Protection of the public shall be the highest priority for the Board for Professional Engineers and Land Surveyors in exercising its licensing, regulatory, and disciplinary functions. Whenever protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

Organizational structure:

Elimination of board members from former BGG, reduction of all permanent staff to two. Impacted staff has been identified by the state control agency, assigned to Geologists payroll and the remaining staffer advised of their employment options under the notification process.

Administrative:

Physical move, assignment of new telephone numbers, installation of pcs, and update to website completed November 10, 2009. Renewal notices being updated with new mailing address; departmental mail routed to BPELS effective October 26, 2009.

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Budget:

The former BGG has an approved budget of \$1.4m for this current fiscal year ending June 30, 2010. This fund will be reduced appropriately after January 2010, to reflect the corresponding reduction in staff and related prorata departmental services. The fund will be continued to be established, revenue collected, and expenditures reported, as a separate and unique identifier fiscal code from Board for Professional Engineers and Land Surveyors (BPELS) as it is now. No money is being reverted to the general fund. Revenues collected from Geology fees will be used to fund Geology programs. Any under funded Geology program will require an increase in Geology exam and/or application/license fees as provided through the regulatory process.

Staffing:

One temporary program manager, one former BGG enforcement analyst; one former 3-year BGG analyst to be assigned to exams/licensing. Supplemental staffing as needed provided by existing BPELS staff in areas such as administrative tasks for exam development, cashiering and licensing. Technical support for geology related issues such as candidate application review of experience and confirmation of alleged violations of geology related laws as needed by the license specific discipline.

Additional permanent staffing considerations to be requested through the state budget change proposal (BCP) process. The BCP process is used to make changes to the planned budget year, effective on passage by the legislature/signature of the governor on /after July 1, 2010.

Exams:

Development process for all exams continuing through solicitation of subject matter experts and conducting appropriate exam workshops. Spring 2010 specialty exams postponed until fall 2010 per former BGG Exam committee recommendations. Website updated and impacted candidates who had applied are in the process of being notified of their options with the postponement.

Licensing:

Exam candidates eligible for licensure will follow the same process as prior to October 23, 2009, no change anticipated except the mailing address. Candidates seeking temporary licensure can apply to the Geology program for review by geology licensed technical expert and submittal to BPELS for consideration at a board meeting.

Enforcement:

Complaints within the jurisdiction of Geology program will follow the same general standard as those case processing guidelines used by many licensing boards, including BPELS. Complaints requiring a technical review will be addressed through a pool of technical experts licensed in the specific discipline identified in the complaint. In the case of "crossover" complaints, i.e., Geologists performing Engineering duties or vice versa, those will continue to be handled as they are now, within

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GEOLOGISTS AND GEOPHYSICISTS PROGRAM



the corresponding program and with technical expert reviews, with an added advantage of having a "dual" review by enforcement staff/technical experts of both licensing disciplines.

**Statutes/regulations:**

A review is in progress that will identify those regulations that require an administrative update, such as change of office location, etc and those that require a more detail undertaking. This provides a unique opportunity for the community to now address some needed change (if any) in other regulations of the former BGG.

**Policy Setting:**

BEPLS statutes are specific to the number of public members and the type of engineering/land surveying positions on the board. The statutes do not contain a provision for a Geologist member. BEPLS, as well as the former BGG, has a majority number of public member vs. licensing member representation. Public members have been in leadership roles, served on committees and, in fact, act to make significant policy and licensing decisions based on the information developed and recommendations provided for policy decisions.

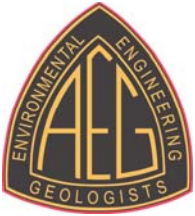
BEPLS plans to continue the use of technical experts and subject matter experts to ensure that the basic tenements of effective public policy decision making and consumer protection are provided. BEPLS has yet to explore the mission, tasks and assignment of Geology specific technical advisory groups and will do so at a future meeting after information is provided via these townhall meetings and through discussions with interested parties.

**Participation at the national level – ASBOG:**

Although the former BGG did not send a representative or a proxy authorization to the 2008 ASBOG annual meeting, the current BEPLS Executive Officer (EO) attended the 2009 meeting. At this meeting, the EO voted against the proposed exam fee increase for 2011, but the majority vote prevailed. The EO also discovered that California interests in the construction of the national exam are well represented by two (community) known CA licensed geologists. ASBOG confidentiality rules prohibit disclosure of the participating exam committee members.

**Participation at the local level:**

BEPLS encourages the EO and staff to participate at association meetings and outreach events as scheduled. The outreach can be developed within the confines of the board's proposed marketing effort to ensure that staffing and resources are directed in a planned manner. Board technical licensee experts maybe able to be solicited for participation in the outreach events as available.



# Association of Environmental & Engineering Geologists *Southern California Section*

*"Connecting Professionals, Practice, and the Public"*

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November 18, 2009

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

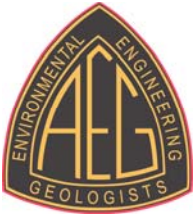
**Subject:           Transfer of Responsibilities for Implementation of the Geologists and Geophysicists  
Act                   to the Board for Professional Engineers and Land Surveyors**

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





# Association of Environmental & Engineering Geologists

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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

**Chapter Meetings**

**Inland Empire:**

For the latest information and updates, please visit <http://www.aegsc.org/chapters/inlandempire/>

**Central Coast:**

For the latest information and updates, please visit <http://www.aegsc.org/chapters/centralcoast/>

**San Diego:**

For the latest information and updates, please visit <http://www.aegsc.org/chapters/extremesocal/>

**National Business Donation**

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\* The deadline for submitting an advertisement for next month's newsletter is December 26.

**YEAR 2009 CONTRIBUTORS NEEDED**

Contributions from corporations and individual members are greatly appreciated. Contributors will be listed in our newsletter throughout the year and can post their logo or business card in the newsletter if so desired. Please mail contributions made out to **AEG** to our section treasurer, Dave Perry.

**2010 MEMBERSHIP RENEWAL**

For those of you who have not yet renewed **(the deadline was November 1)**, are unsure about your membership status, or did not receive your membership dues statement, please contact AEG Headquarters at [www.aegweb.org](http://www.aegweb.org). You can renew your membership online. Please update your membership if you wish to continue to receive future issues of the newsletter.

**\*\*\*NOTICE: Proposed New AEG Publication\*\*\***

**WHO'S WHO in SO CALIFORNIA ENGINEERING GEOLOGY**  
**The Evolution of Engineering Geology in Southern California**

Have you ever wondered "Whatever happened to\_\_\_?" or "I've heard of \_\_\_, who is he?"

The undersigned have decided to try to prepare an internet publication with the above title, which will include biographies of engineering geologists in southern California. We would like you to share your biography (autobiography) with other EGs. If you have worked on an interesting project, others would like to know about it.

If we limit each autobiography to 3 pages of text, plus photos, this publication would be more than 1,000 pages long. Therefore, we plan to utilize a proposed new AEG Foundation internet website, where there is no limit to total pages, and we can use color photos. Also, this new website will be available for no-charge access, worldwide, thus spreading the word on the history and evolution of engineering geology, and southern California's immense contribution.

We suggest (not require) three criteria for inclusion: 1. That you are a CA licensed CEG; 2. That you are now or once were a member of AEG; 3. That you have enough years of professional experience to relate one or more significant projects you have worked on. We believe there are more than 250 such EGs in southern California. This will be an evolving internet site where new autobiographies can be added.

We will also include Memorial biographies of past notable geologists in southern California. So far, we have identified 30, including John Buwalda, Ian Campbell, Tom Dibblee, Rollin Eckis, Perry Ehlig, Richard Jahns, John Mann, F.L. Ransome, Charles Richter, Dottie & Marty Stout, Gene Waggoner. Biographies of 14 of these notable geologists were published for the recent AEG Annual Meeting, in "History of the Association's First 50 Years," available from AEG HQ, contact Julie Keaton or Becky Roland.

Here is a CHECKLIST FOR YOUR AUTOBIOGRAPHY:

Complete NAME, address, phone, email; BIRTH DATE and place; UNIVERSITY(s) attended, major(s), degree(s), year(s); MILITARY service; FIRMS/AGENCIES you worked for; up to 3 significant PROJECTS you worked on; possibly relate a serious or humorous INCIDENT; a MENTOR you may wish to acknowledge; professional SOCIETIES, HONORS, AWARDS; HOBBIES; up to 5 PUBLICATIONS; PHOTOS of yourself and of projects (scanned images preferred).

So, if you wish to be included in this new internet publication, prepare your autobiography and email it with photos to: allen@hatheway.net and in the Subject box, type: So. Cal. Geologist. Or mail it to Allen Hatheway, 10256 Stoltz Dr., Rolla, MO 65401. Please, no more than 3 pages of text, single-spaced, Times New Roman, 12 pt.

Please pass this notice on to those you may know who no longer get this Newsletter.

In the spirit of camaraderie, we thank you,

Richard Proctor  
 Allen Hatheway  
 David Rogers  
 Larry Cann  
 Bob Lynn

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