

Idaho Board of Licensure of Professional Engineers And Professional Land Surveyors

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BOARD STAFF

David L. Curtis, P.E., Executive Director
dave.curtis@ipels.idaho.gov

James L. Szatkowski, P.E., Deputy Director
jim.szatkowski@ipels.idaho.gov

Jennifer Rowe, Administrative Assistant
jennifer.rowe@ipels.idaho.gov

Edith Williams, Technical Records Specialist
edith.williams@ipels.idaho.gov

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NEWS BULLETIN

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INTRODUCTION

This NEWS BULLETIN is distributed a minimum of twice per year by the Idaho State Board of Licensure of Professional Engineers and Professional Land Surveyors to inform the public and the State's Professional Engineers and Professional Land Surveyors of those events which significantly affect the professions.

JAMES H. MILLIGAN, Ph.D., P.E. RETIRES FROM BOARD AND IS HONORED BY NCEES

After serving 13 years, James H. Milligan, Ph.D., P.E. retired from the Board. Milligan was appointed to serve the last three years of an unexpired term and was subsequently appointed to two consecutive five-year terms. He served as Board Secretary, Vice Chair and Chair three times each and was a valuable source of information about academics and examinations for the other Board members and the staff. Milligan served on numerous committees and task forces for the National Council of Examiners for Engineering and Surveying (NCEES), most recently a four-year stint as Vice Chair and Chair of the Committee on Examinations for Professional Engineers. In recognition of his service to NCEES he was honored as a recipient of the Distinguished Service Award with Special Commendation during the NCEES annual meeting in St. Louis in August of this year.

GEORGE MURGEL, Ph.D., P.E. APPOINTED TO THE BOARD

Governor C.L. "Butch" Otter appointed George Murgel, Ph.D., P.E. to the Board replacing James H. Milligan, Ph.D., P.E. Murgel will serve a five year term ending in 2017 and is eligible for reappointment to another five year term. Dr. Murgel is an Associate Professor of Civil Engineering at Boise State University, where he's worked since 1996. First licensed as a professional engineer in Montana in 1982, and since 2005 in Idaho, Murgel knows the private practice as well as the academic side of engineering and surveying. His experience ranges from water and wastewater system design and construction and water quality studies for projects ranging from individual onsite septic systems and small subdivision systems to multi-million dollar treatment system expansions. He also actively engages in state work including a current concrete sealer product evaluation for the Idaho Department of Transportation. As a professor at North Carolina at Charlotte and now at Boise State University, he has an understanding of student interests and challenges in obtaining degrees, work experience, and professional certification. He also knows Idaho academic institution needs and obstacles, and works closely with academic colleagues across the state on funded research and projects. Finally, George has worked with the National Council of Examiners for Engineering and Surveying (NCEES) for nearly a decade. He served as chair of the Fundamentals of Engineering (FE) exam environmental module for nearly four years, through last spring and is currently serving as Vice Chair of the FE Committee. George earned BS and MS degrees in Civil Engineering and Environmental and Water Resources Engineering, respectively, from Montana State University in 1976 and 1978. He completed his Environmental Engineering Ph.D. at Cornell University in 1995. George primarily teaches courses in environmental engineering and process chemistry, water and

wastewater treatment system design, hydraulics, hydrology, and introductory surveying along with periodically other service courses in statics and strength of materials.

DAVID L. CURTIS, P.E. TO RETIRE AS EXECUTIVE DIRECTOR

After serving for over 25 years as Executive Director of the Board, David Curtis, P.E. has announced his retirement effective June 1, 2013. Curtis has been active in NCEES at both the Zone and National levels and is the longest serving Executive Director in the history of the Board. The Board will be posting a non-classified job announcement through the website of the State Division of Human Resources sometime in December and intends to have a replacement hired no later than May 1, 2013. The Executive Director serves at the pleasure of the Board and is required by the Board Administrative Rules to be either a professional engineer or a professional land surveyor and possess the same experience credentials as a Board member. Here is a link to the Division of Human Resources site <http://labor.idaho.gov/dhr/ats/statejobs/CurrentOpenings.aspx?view=New> where the position will be listed beginning approximately December 3, 2012.

BOARD TO REQUIRE SUBMITTAL OF CPD LOG WITH RENEWALS BEGINNING IN JANUARY

Beginning in January of 2013 the Board will require all professional engineer and professional land surveyor licensees to submit the log of their continuing professional development activities during the past biennium when they renew their licenses. Those renewing for the first time will be exempt, as provided in the rules. The Auditing experience has shown that many licensees do not prepare a log and the required documentation of continuing professional development until they are notified of the audit. By requiring submittal of a log with the renewal all licensees will have the opportunity to keep their records current. If an individual is selected for an audit they will still be required to submit documentation of the activities. The Board is currently auditing five percent of the renewals monthly as well as anyone renewing three or more months after expiration and anyone against whom a complaint is filed.

PLS's MUST UPGRADE SOME CORNER MONUMENTS TO BLM STANDARDS

One of the provisions of House Bill No. 69 passed by the 2011 session of the Idaho Legislature requires that in every case where a corner record of a survey corner is required to be filed or recorded under Idaho Code Title 55 Chapter 16, the Corner Perpetuation and Filing Law, "Any monument set shall conform to the provisions of section 54-1227, Idaho Code, and shall be surmounted with a cap of such material and size that can be permanently and legibly marked as prescribed by the manual of surveying instructions issued by the United States department of the interior, bureau of land management, including the license number of the professional land surveyor responsible for placing the monument." The same basic requirement applies when a PLS encounters a nonmetallic corner set in a survey conducted by an agency of the United States government. The requirements for marking the caps are contained on pages 109 to 121 of the *Manual of Surveying Instructions 2009 Edition* of the U.S. Department of the Interior, Bureau of Land Management.

ANSWERS TO FREQUENTLY ASKED QUESTIONS AVAILABLE ON THE BOARD WEBSITE

The Board and staff are frequently asked questions, the answers to which are readily available on the Board website under the heading "I Have Questions About." The Board hopes that licensees will familiarize themselves with the **General FAQ page** http://www.ipels.idaho.gov/forms_pubs/IPELS_FAQ_092208.htm , the **Structural Engineering FAQ page** http://www.ipels.idaho.gov/forms_pubs/IPELS_FAQ_092208.htm , and the **PLS Q&A** http://www.ipels.idaho.gov/forms_pubs/IPELS_FAQ_092208.htm and otherwise utilize them as resources before calling the Board office or a Board member.

BOARD PROPOSES LEGISLATION FOR 2013 SESSION OF THE IDAHO LEGISLATURE

The Board will be proposing legislation in the upcoming session of the Idaho Legislature. The "Legislative Ideas" have been approved by the Office of the Governor and are expected to be printed and receive a hearing in the form of a bill, likely originating in the Business Committee of the House of Representatives. The following is a summary of the proposed changes in legislative format (words to be added are underlined and words to be removed are ~~struck through~~):

Legislative Idea No. 1 Rationale: The term “lost” corner is used in Idaho Code Section 54-1228, when, in the context in which it is used, the corner is actually “obliterated.” The contemplated amendment would correct this ambiguity as well as provide a definition of the term “obliterated corner.”

Legislative Idea No. 1 in legislative format:

54-1202(9) “obliterated corner” is an existent corner where, at the corner’s original position, there are no remaining traces of the monument or its accessories but whose position has been perpetuated, or the point for which may be recovered, by substantial evidence from the acts or reliable testimony of the interested landowners, competent surveyors, other qualified local authorities, or witnesses, or by some acceptable record evidence.

54-1228. Administering and certification of oaths -- Authority of professional land surveyors. Every professional land surveyor is authorized to administer and certify oaths, when it becomes necessary to take testimony to identify or establish old or ~~lost~~ obliterated corners, or to perpetuate a corner that is in a perishable condition, or whenever the importance of the land survey makes it desirable. A record of such oaths shall be kept as part of the field notes of the land survey.

Legislative Idea No. 2 Rationale: The Federal Emergency Management Agency (FEMA) has a form for certification of elevations for flood insurance purposes. That form states “This certification is to be signed and sealed by a land surveyor, engineer or architect authorized by law to certify elevation information.” There is currently no Idaho Statute that authorizes land surveyors, engineers or architects to certify elevation information. The contemplated amendments to Idaho Code Title 54 Chapter 12 would add elevation certification authority to the definitions of the practice of engineering and land surveying.

Legislative Idea No. 2 in legislative format:

54-1202. Definitions. As used in this chapter, unless the context or subject matter requires otherwise: . . .

(10) "Professional engineering" and "practice of professional engineering" mean any service or creative work offered to or performed for the public for any project physically located in this state, such as consultation, investigation, evaluation, planning, designing, teaching upper division engineering design subjects, and responsible charge of observation of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects or to certify elevation information, wherein the public welfare or the safeguarding of life, health, or property is concerned or involved, when such service requires the application of engineering principles and data. A person shall be construed to practice or offer to practice professional engineering within the meaning and intent of this chapter who practices or offers to practice any of the branches of the profession of engineering for the public for any project physically located in this state or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer or through the use of some other title implies that he is a professional engineer or that he is licensed under this chapter, or holds himself out as able to perform or who does perform for the public for any project physically located in this state, any engineering service or work or any other service designated by the practitioner which is the practice of professional engineering.

(11) "Professional land surveying" and "practice of professional land surveying" mean responsible charge of land surveying to determine the correct boundary description, to establish or reestablish land boundaries, ~~or~~ to plat lands and subdivisions thereof or to certify elevation information. Any person shall be construed to practice or offer to practice professional land surveying who engages in professional land surveying, or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional land surveyor, or who represents himself as able to

perform or who does perform any professional land surveying service or work or any other service designated by the practitioner which is professional land surveying.

Legislative Idea No. 3 Rationale: Current law requires the Board to proceed to an administrative hearing on a complaint within six (6) months unless the charges are dismissed by the Board as “unfounded or trivial.” When a complainant files charges, they would not do so unless they believed that the charges were substantive; yet for very minor infractions the Board may not have resources to pursue action. In order not to label matters brought to its attention by complainants as “trivial,” the Board contemplates changing the work “trivial” to “de minimus.”

Legislative Idea No. 3 in legislative format:

54-1220. Disciplinary action -- Procedures. (1) Any affected party may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of any provision of this chapter, or violation of any of the rules promulgated by the board against any individual licensee or certificate holder or against any business entity holding a certificate of authorization or against a person applying for a license or against a business entity applying for a certificate of authorization. Repeated acts of negligence may be considered as a gross act for disciplinary action. Such charges shall be in writing, and shall be sworn to by the person or persons making them and shall be filed with the executive director of the board. The executive director of the board shall be considered an affected party and may be the person making and filing the charges.

(2) All charges, unless dismissed by the board as unfounded or ~~trivial~~ de minimus, or unless settled informally, shall be heard by the board within six (6) months after the date they were received at the board office unless such time is extended by the board for justifiable cause.

(3) Hearing proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(4) If, after such hearing, the board votes in favor of sustaining the charges, the board may, in its discretion, impose an administrative penalty, not to exceed five thousand dollars (\$5,000) for deposit in the general fund of the state of Idaho. In addition, the board, in its discretion, may admonish, reprimand, suspend, revoke, refuse to renew, refuse to grant, or any combination thereof, the individual's license or certificate or a business entity's certificate of authorization. The board may also, in its discretion, require the individual to practice under the supervision of another licensee, or require the individual to successfully complete continuing education courses as may be prescribed by the board.

(5) The board shall have jurisdiction over licensees whose licenses are not current provided the action relates to services performed when the license was current and valid.

Legislative Idea No. 4 Rationale: Current law allows the Board, by majority vote of the membership, to reissue or reinstate a license or certificate or certificate of authorization. This could occur long after the revocation and without benefit of a review of the circumstances which resulted in the revocation. The Board contemplates an amendment which would allow them to reissue or reinstate a license, but only after an administrative hearing at which time they would become aware of the circumstances that led to the revocation. The Board would continue to be able to replace wall certificates.

Legislative Idea No. 4 in Legislative format:

54-1221. Reissuance of licenses and wall certificates. The board, upon petition of an individual or a business entity, may, following a hearing, reissue or reinstate a license or certificate or certificate of authorization, provided three (3) or more members of the board vote in favor of such reissuance or reinstatement. A new ~~license or wall~~ wall certificate ~~or certificate of authorization~~, to replace any ~~license or wall~~ wall certificate revoked, lost, destroyed or mutilated, may be issued upon payment of such reasonable charge therefor as shall be fixed by the board to cover the estimated cost of such reissuance, but not exceeding ten dollars (\$10.00) in any case.

NCEES ENGINEERING EDUCATION STANDARD ADOPTED AND SURVEYING EDUCATION STANDARDS PROPOSED

Approximately 20 years ago the Idaho Board adopted a set of prescriptive courses which it considered to be a minimum required “core engineering curriculum” for applicants who had graduated from a non-engineering program or a non-accredited engineering program. The standard included courses in engineering science, engineering design, mathematics, and basic science. This list of prescriptive courses became even more valuable when, in 2000, the Accreditation Board for Engineering and Technology (ABET) adopted an “outcomes based” criterion which no longer required a minimum number of credits in specified areas. Recently that National Council of Examiners for Engineering and Surveying (NCEES) adopted an Engineering Education Standard which they use to evaluate non-ABET accredited programs. The Idaho Board chose to adopt the same standard as used by NCEES in order that its evaluation will be the same as other licensing bodies in the country. NCEES has also adopted a Surveying Education Standard and the Board has voted to begin the Administrative Rule promulgation process to similarly adopt that standard.

CONTINUING PROFESSIONAL DEVELOPMENT FOR ADDITIONAL PROFESSIONAL ENGINEER LICENSING EXAMINATIONS

Idaho licenses professional engineers “generically,” which means that all persons so licensed are professional engineers and are allowed to practice in any discipline in which they are competent, and they are the initial judge of that competency. The Idaho Board issues a wall certificate indicating that they are “especially qualified” in the discipline of the professional engineer licensing examination that they took, but that does not preclude the professional engineer from practicing in another discipline, so long as they are competent to do so. Some individuals find that for marketing or other purposes they desire to demonstrate that they are “especially qualified” in a discipline other than that for which they were originally licensed. The Board has determined that, for the purposes of Continuing Professional Development, a professional engineer who takes and passes subsequent professional engineer licensing examinations may claim up to the maximum of documented self-study hours plus the actual number of exam hours.

DISCIPLINARY ACTIONS

The following final formal actions have been taken by the Board since publication of NEWS BULLETIN No. 49 in April of 2012.

Docket No. FY 10.09 – IN THE MATTER OF MICHAEL LUND, P.E./L.S. Mr. Lund was retained by Engineer David Benton, P.E. on a private project within the Iona Bonneville Sewer District (“IBSD”), and then he was retained by IBSD as a consultant to inspect the work done by Benton. While still retained by IBSD, Lund sent a personal letter on or about September 25, 2008 and survey to IBSD patron criticizing IBSD with resources provided by others. Lund was terminated on October 8, 2008 by the IBSD Board. This is a violation of IDAPA 10.01.02.007.03 “Statements Regarding Public Policy.” Mr. Lund agreed that there was sufficient evidence that the Board could find that he committed the violations alleged and admitted that the facts could be found by the Board to be sufficient grounds for the remedies specified and that proof at hearing of one or more of the allegations would empower the Board to take disciplinary action against his license. The Board reprimanded Mr. Lund, ordered him to pay an administrative penalty of \$200 payable to the General Fund of the State of Idaho, and complete, at his own expense, a class on engineering ethics within 240 days after the Certificate of Service of the Final Order.

Docket No. FY 12.10 - IN THE MATTER OF C.H. “PETE” KETCHAM, P.L.S. This matter involved work performed by Mr. Ketcham in connection with a survey he conducted in Idaho County near Harpster (on the South Fork of the Clearwater River northeast of Grangeville). During the course of his work, Mr. Ketcham discovered what he believed to be a material discrepancy or error in the work of surveyor Greg Skinner, P.L.S., which may impact the property or welfare of the public. The discrepancy or error related to Mr. Skinner’s

placement of the CN 1/16th corner of Section 33, T. 31 N., R. 4 E, B.M., with respect to Mr. Skinner’s survey of a neighboring parcel. While Mr. Ketcham believed that the discrepancy or error should have been reasonably apparent to Mr. Skinner without notice from Mr. Ketcham as a result of the location of the neighboring parcel boundaries as determined by Mr. Skinner and information that Mr. Ketcham subsequently sent to Mr. Skinner, Mr. Ketcham had the means to specifically inform Mr. Skinner of the discrepancy or error within a reasonable time after discovery by Mr. Ketcham, and Mr. Ketcham did not do so. Mr. Ketcham agreed that there was sufficient evidence of the allegations such that the Board could find that he violated IDAPA 10.01.02.005.04. Mr. Ketcham admitted that the facts could be found by the Board to be sufficient grounds for the remedies specified and that proof at hearing of one or more of the allegations set forth would empower the Board to take disciplinary action against his license. The Board admonished Mr. Ketcham and ordered the he pay an administrative penalty in the amount of \$500 to the General Fund of the State of Idaho.

Docket No. FY 12.13 – IN THE MATTER OF FREDRICK A. DAVIES, P.E. This matter involved a matter in which, in response to the City of Blackfoot’s Request for Proposal, Mr. Davies submitted a specific quote for hourly rates and bid amounts for the project, which was specifically quoted by Mr. Davies, as forty dollars (\$40) less than the twenty-five thousand dollar (\$25,000) figure cited in the bidding statute and the City’s expectation. Mr. Davies’ bid for services was successful in obtaining the contract. This was in violation of IDAPA 10.01.02.009.05 prohibiting submission of information constituting a bid for services requested. Given the fact that the Request for Proposal requested services for civil engineering, and Mr. Davies’ field of experience is as an electrical engineer, it appeared that the Request for Proposal selection criteria stated by the City of Blackfoot that “candidates will be evaluated on the basis of experience and capability to perform the work, price and familiarity with the area and City projects,” that price was considered more than the work experience. Mr. Davies agreed that there was sufficient evidence that the Board could find that he committed the violations alleged and he admitted that the facts could be found by the Board to be sufficient grounds for the remedies specified and that proof at hearing of one or more of the allegations would empower the Board to take disciplinary action against his license. The Board reprimanded Mr. Davies and ordered him to pay an administrative penalty in the amount of \$1,000 to the General Fund of the State of Idaho.

Docket No. FY 12.14 – IN THE MATTER OF CRAIG L. REESE, P.E. This matter involved Mr. Reese’s failure to obtain the Continuing Professional Development (CPD) in the form of Professional Development Hours (PDHs) to satisfy the Administrative Rules adopted by the Board. Mr. Reese voluntarily acknowledged his failure to retain records as required by the Rule. Mr. Reese admitted that the facts and violations could be found to be sufficient grounds for the remedies specified and that proof at hearing of any one or more of the allegations would empower the Board to take disciplinary action against his license. The Board admonished Mr. Reese, ordered him to pay an administrative penalty of \$200 to the General Fund of the State of Idaho, and to complete, at his own expense, the required amount of PDHs for renewal of his license, and submit a log and attendance records to Board Staff as proof of completion of the PDHs within six months of the date of the ORDER. Mr. Reese agreed that the PDH hours used to satisfy the previous audit period would not count toward the current period.

Docket No. FY 12.15 – IN THE MATTER OF J. THOMAS SMITH, P.E. This matter involved Mr. Smith’s failure to obtain the Continuing Professional Development (CPD) in the form of Professional Development Hours (PDHs) to satisfy the Administrative Rules adopted by the Board. Mr. Smith has not renewed his license. Mr. Smith admitted that the facts and violations could be found to be sufficient grounds for the remedies specified, and that proof at hearing of any one or more of the allegations set forth would empower the Board to take disciplinary action against his license. The Board admonished Mr. Smith and ordered him to complete, at his own expense, the required amount of PDHs prior to renewal. Mr. Smith agreed that the PDHs used to satisfy the previous audit period would not county toward the current period.

IN MEMORY OF THOSE RECENTLY DECEASED

Vernon L. Anderson, AgE 1703, Sunnyside, WA
M.M. "Skip" Breshears, AgE/SE 6115, Aurora, OR
David Charles DeChant, CE 11973, Scottsdale, AZ
Paul William Hayman, EE 13168, Durham, NC
James Robert Lindquist, EE 8801, Philadelphia, PA
Matthew Michael May, ME 9418, Boise, ID
Lyle Hauser McCarty, ME 1312, Saratoga, CA
Kenneth V. Noren, EE 7922, Moscow, ID
Michael Jeffrey Saunders, ME 10865, Franklin, TN
George R. Underhill, CE 11643, Boca Raton, FL
Richard Waelchli, CE 5650, Oklahoma City, OK
F. Lynn Wilson, MinE 1124, Boise, ID