

Idaho Board of Licensure of Professional Engineers And Professional Land Surveyors

BOARD MEMBERS

Dusty Obermayer, P.L.S., Chair, Rathdrum

John Tomkinson, Vice Chair, Star

John Elle, P.E., P.L.S., Secretary, Pocatello

Glenn Bennett, P.L.S., Member, Boise

George L. Wagner, P.E., Member, Boise

George A. Murgel, P.E., Ph.D., Member, Kuna

Raymond J. Watkins, P.E., Member, Coeur d'Alene

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Board Home Page <http://www.ipels.idaho.gov>

Spring/Summer 2019

NEWS BULLETIN

63rd EDITION

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.

Board Member Highlights

Board Votes to Elect Dusty Obermayer, P.L.S. as Chair

The Board elected a new chairman to succeed Raymond Watkins. Dusty will serve until new elections are held in 2020.

Board Votes to Elect John Tomkinson, as Vice Chair

The Board voted to elect Mr. Tomkinson to the office of vice chair. Mr. Tomkinson succeeds Dusty Obermayer who is now chairman. John will serve until new elections are held in 2020.

Board Votes to Elect John Elle, P.E. , P.L.S. as Secretary

The Board voted to elect Mr. Elle to the office of Secretary. Mr. Elle succeeds George Wagner. John will serve until new elections are held in 2020.

Introduction

Board Decisions

**BOARD ISSUES AMENDED OPINION ON COMPLIANCE WITH CORNER RECORD LAW AND
"CERTIFICATE OF SURVEY"**

The Board has amended a 2000 opinion to read: In response to a request for clarification, the Board issued an opinion that inclusion of the Instrument Numbers, or filing information, if no instrument number is recorded, of corner records is adequate evidence of compliance with Idaho Code Chapter 16, Title 55, as required by Idaho Code §55-1906(2). The previous opinion included only “filing date” but now includes “filing information” as some counties do not yet apply instrument numbers to corner records.

Question 1 Is a record of survey required when replacing lot corner pins?

I frequently have requests from property owners to locate the corners of their property. When I fail to find the monument marking the corner, I will replace the missing monument. Assuming I am not the surveyor who platted the subdivision, this will result in a monument with a different cap than that noted on the recorded plat. Does this constitute a change in the public record that will require a record of survey map to properly document it?

Answer

The Board has concluded that a ROS is required for replacement of a lot corner where the size, type or markings on a monument or cap differ from the record. The intent of the "material discrepancy" language in **55-1904(1)** Idaho Code is to preserve evidence. This evidence includes the pedigree of monuments purporting to mark lot corners. There are numerous other circumstances where material discrepancies exist. When you find a different monument than the latest record or a monument not of record you have found a “material discrepancy”. The same is true where the markings on a cap or monument are different than in the record. The laws, rules and standard of care related to “material discrepancy” have gradually changed to include evidence other than measurements. The answers above reflect those changes and describe what is expected by the Board moving forward.

Note: Board amends 2005 opinion on what is a “material discrepancy” in land surveying

The statutes of recording of surveys requires that a survey be recorded if it “discloses a material discrepancy with previous surveys of record” or if it “produces evidence or information which varies from, or is not contained in, surveys of record relating to the public land survey, lost public land corners or obliterated land survey corners.” The 2005 opinion is no longer valid as it references only error of closure. The Board now is of the opinion that a material discrepancy should demonstrate a discrepancy that makes a difference in either the pedigree of the corner such as with a different cap, or a different position of a corner that may adversely affect landowner’s boundaries for property, lease areas, or easements.

Question 2 When is a record of survey required for lease areas?

A surveying question from the View Estates Community (fictional) owners. On October 16, 2017, the owners came to the board office and presented the documents related to their property. They are converting a mobile home park to a lease community with patio homes. A local surveyor was preparing descriptions for them to use in leases and permitting. The property all remains one parcel, with home buyers leasing the land as 99-year leases. If a lessee disposes of the home, it is done through View Estates and a new lease issued. “Owners” are actually lessees, and the real property taxes are paid by the actual base owner. The city is requiring the homes meet separation for fire code and “setbacks” from the lease boundaries. It is not clear how they do the latter as no monuments were ever set. The surveyor informed the owner that after the board opinion on monumenting leases and easements, he would be required to set monuments and record a record of survey. The owners are

hoping to avoid this requirement. The surveyor agrees that if corners are marked or descriptions prepared from field work then monuments and a record of survey must follow.

Answer

In this case, because the lease boundaries were field located, the law requires the corners be monumented, and the recording of a record of survey.

Question 3 Is design work on your own home considered a conflict of interest?

I am a licensed professional engineer in the state of Idaho specializing in civil/structural engineering and would like to do engineering for my own residence. Is it considered a conflict of interest for me to sign and seal civil/structural calculations for my own personal residence?

PE from SE Idaho

Answer

A person working on his own building does not violate the board's conflict of interest rules.

Question 4 Does Pro Bono work require a license?

I was wondering if the Idaho Board of PE/PLS has any regulations or guidelines with regards to providing pro bono engineering services for charities?

I presume that any pro bono engineering services must still be performed by Idaho licensed professionals, who are held to the code of ethics and standard of care defined in the Idaho rules and regulations for any licensed professional engineer. Any information that you can provide or recommended resources would be most appreciative.

PE from southern Idaho

Answer

Any work, whether paid or not, must be performed by a licensed professional if it involves professional engineering (or professional land surveying) and the same applies as to adherence to our ethics rules, and standard of care.

Statute and Rule Changes

Rule Changes Adopted by the Legislature in 2019

Three rule change proposals were adopted by the Board and are now in effect.

1. A new section was added to the Rules of Professional Responsibility related to material discrepancies, and the requirement that professional land surveyors and professional engineers notify the Board of any unresolved material discrepancies when notice is provided to another licensee. The other requirement for professional land surveyors is they must notify all affected adjoining land owners, and the Board, prior to setting a monument that represents a material discrepancy with an existing monument.
2. The Rules of Procedure were amended to include provisions passed into law last year which decoupled the PE and PLS examination from the 4-year experience requirement. Another change removed waiting periods and additional education required as a result of multiple examination failures. The final change implements an option for business entities holding a Certificate of Authorization (COA) to discontinue it when no longer providing services in Idaho. Reinstatement requires a new application, but late fees will not accumulate if notification in writing is provided requesting the COA be discontinued. A new

application fee is charged instead. These rules can be found at:

<https://adminrules.idaho.gov/rules/current/10/index.html>.

3. A new rule was adopted by the Secretary of State on behalf of the Board that allows counties in Idaho to record electronic documents of corner records, records of survey and plats. The Board staff will be working with counties to adopt these provisions over the next few years. The rule can be found at <https://adminrules.idaho.gov/rules/current/34/340602.pdf>

Rule Changes proposed for adoption by the Legislature in 2020

The governor signed an executive order called the Red Tape Reduction Act that requires agencies to comprehensively examine their existing rules and remove unneeded words and restrictions or otherwise make it easier to comply with the rules. The Board has done this and concluded two existing rule chapters will be amended.

1. A new provision is planned for the Rules of Continuing Professional Development that will include “mentoring” of students. This will encourage licensees to assist students in various mentoring activities such as Future Cities, and allow licensees to earn professional development hours in the process.
2. The second rule to be amended are the Rules of Procedure. Several obsolete provisions are proposed for removal and some restrictions are proposed to be relaxed.

The legislature passed HB248 in the 2019 session that requires each agency write rules to expedite licensure for active duty military, their spouses and veterans. To that end, the Board intends to promulgate rules this year that will accomplish the intent of the law. All the above rules are planned for negotiated rulemaking.

The legislature did not pass a continuance of the rules for all agencies in the state this year. The result is that most existing rules will be published as temporary and proposed rules in the Idaho Administrative Bulletin as of June of 2019. The Board did allow some rules to expire related to the statute of limitations and internal Board operations that do not need to be in the rule. Once rule language is available, it will be posted on the Board’s website. Comments related to any of the temporary or proposed rules should be sent to Keith Simila at keith.simila@ipels.idaho.gov. All adopted rules changes are pending the approval of the legislature in 2020, and go into effect upon adjournment of the session.

An adverse Idaho Supreme Court decision results in another rule change proposed by the Board. The court basically said that complaints must be heard by the Board within two years of discovery. The rule the Board uses meant to require that the complaint must be received within two years. As a result, the Board is proposing to allow this rule to expire, and consider a law change to address the statute of limitations.

Law Changes Adopted by the Legislature in 2019

Two law changes that were requested by the Board were passed by the legislature and signed into law effective July 1, 2019. Senate Bill 1037aE1, Surveyor Access, was enacted to provide professional land surveyors and their subordinates a right-of-entry to private lands for survey work. There are notification requirements that must be provided in order for exemptions to civil and criminal trespass to apply. Senate Bill 1026, Survey Narrative, was enacted and requires a narrative description on records of survey and plats.

Out-year Law Changes Considered by the Board

The Board is considering updates to existing laws in the coming years (2020 or later) and is interested in comments by interested stakeholders before deciding to proceed. The proposals are posted to the Board’s website. A summary is as follows:

1. Corner Filing and Recording – for land surveyors that clarifies which corners are not Public Land Survey corners and adds the center of section corners to those that require a CP&F form to be filed

- when subdividing a section. It also requires establishment and monumentation of the $C \frac{1}{4}$ of a section as part of the subdivision survey, and amended corners where off-line GLO closing corners were set.
2. Monuments - non-metallic monuments such as county surveyor stones must be remonumented with magnetically detectable monuments, and definitions.
 3. Definition of Professional Boundary Survey – this term is used in the current law but has never been defined. A new definition is proposed.
 4. Housekeeping – minor technical corrections to statutes
 - a. The number of board members who vote to reinstate a license is changed from three to a majority of Board members present,
 - b. Adding certificate holders to list of those under board jurisdiction in cases related practicing without a license,
 - c. Electronic delivery of renewal notices at the option of the licensee.
 - d. Clarification regarding retired licensees no longer can practice, etc.
 5. Laws to repeal – obsolete laws related to recovery of damages by landowners against surveyors. These old statutes are superseded by other sections of Idaho law and rule.
 6. Statute of limitations.

Education

Survey Education Subcommittee

Idaho State University is still pursuing a certificate in surveying. The certificate will fulfill the Board's rule for those with related science degrees by offering the required 30 semester credits of surveying courses required by rule. Idaho uses the national surveying education standard, which means this certificate may also help meet the surveying education requirements of other states as well. The certificate only includes surveying courses. Other courses such as math, science and general education may also be needed to meet the rule requirements. The certificate can only be used to supplement an existing related science 4-year degree.

Idaho State University Surveying Program Sector Grant

Last year, ISU received funding to pursuing offering all the surveying courses online and enroll 16 students that want to receive survey education that will work toward a certified surveyor technical certificate. The first year of the cohort will start in the fall of 2019. There will be a second cohort in the fall of 2020. Individuals interested in enrolling in this program should contact Robert Liimakka at liimrobe@isu.edu.

Examinations and Licensure

PE Examination Volume Increased

The number of PE exam test takers doubled last year as a result of the law changes that allows for early testing and the removal of the additional education and waiting period requirements for examination failures. The examination venue is changed from the Grove Hotel in Boise to the Boise Centre on the Grove.

NCEES Examinations

Examinations now offered year-round in Computer Based Test (CBT) format: Fundamentals of Engineering (FE), Fundamentals of Surveying (FS), Professional Surveying (PS), Chemical Engineering (ChE) and Environmental Engineering (ENV). Professional Engineering (PE) examinations now offered once per year in CBT format: Nuclear (NUC), Petroleum (PET), Control Systems Engineering (CSE) - October only, Industrial and Systems Engineering (IND) - April only. All other PE exams are still offered in pencil-and-paper format in October and April.

Idaho allows testing by registering at NCEES.org. Apply to the Board for a certificate or license after passing the examinations. The FE or FS examination must be passed prior to registering for the PE or PS examination unless waived by the Board.

NCEES Examination Changes

Fall 2019 NCEES Pencil and Paper Registration Deadlines

- **Fall 2019 Exam Dates**—The fall pencil-and-paper exams will be administered on **October 25 and 26, 2019**. The PE exams and the Vertical Forces component of the SE exam will be administered only on Friday, October 25. The Lateral Forces component of the SE exam will be administered only on Saturday, October 26.
- **Fall 2019 Registration**—Registration for the fall exams will open on **June 17, 2019**, and close for examinees at 3:00 p.m. eastern time on **September 3, 2019**.
- **Special Accommodations**—All requests for testing accommodations must be submitted through the E3 system by the registration deadline of **September 3, 2019**. These include accommodations for ADA and religious reasons and for active military service. More information about special accommodations is posted on the NCEES website.

Fall 2019 Exam Changes

- **PE Control Systems Engineering**—The PE Control Systems Engineering exam has new specifications starting in October 2019. The specifications are posted on the NCEES website.
- **PE Petroleum**—The PE Petroleum exam will transition to computer-based testing in October 2019. This will be a single-day testing event. The test date is **Tuesday, October 15, 2019**. Registration with NCEES for this exam began November 6, 2018. Examinees may reserve their seat at a Pearson VUE test center once they are registered with NCEES. The PE Nuclear exam will be offered on the same day.
- **PE Fire Protection**—The PE Fire Protection exam will be offered for the last time in pencil-and-paper format in October 2019 and transition to CBT in October 2020.
- **PE Mechanical**—The PE Mechanical exams (all three) will be offered for the last time in pencil-and-paper format in October 2019 and transition to CBT in April 2020. From then on, they will be offered year-round.

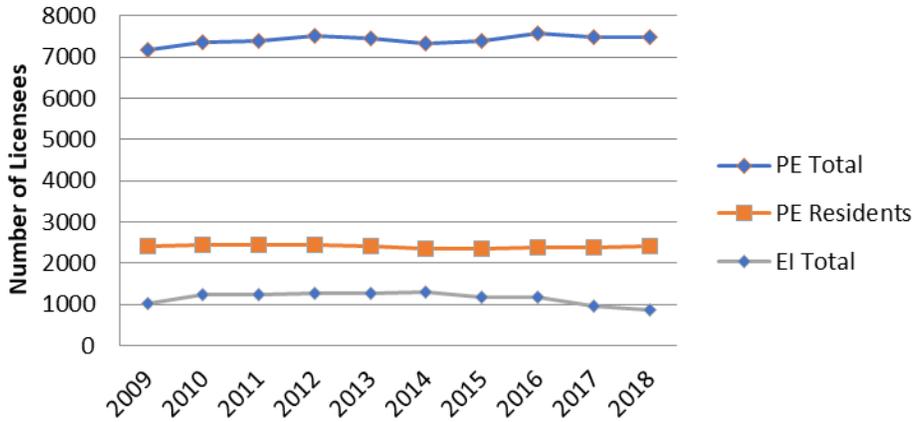
Spring 2020 Exam Changes

- **Fundamentals of Surveying**—The FS exam will have new specifications starting in July 2020 and will be posted on the NCEES website January 1, 2020.
Fundamentals of Engineering—The FE exam will have new specifications starting in July 2020 and will be posted on the NCEES website January 1, 2020.
- **PE Chemical**—The PE Chemical exam will have new specifications starting in January 2020. The specifications will be posted on the NCEES website July 1, 2019.
- **PE Mechanical**—The PE Mechanical exam will have its last paper administration in October 2019. Beginning November 4, 2019, examinees will be able to register and schedule CBT appointments, which will be available year-round starting on April 1, 2020.

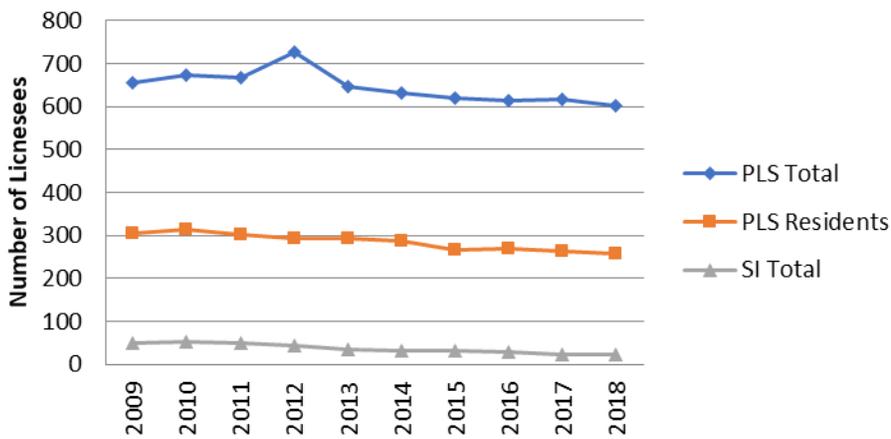
New Idaho Professional Engineers and Land Surveyors Licensed by Examination

HAGEN T	BECKSTEAD	LOGAN	UT	LS
KYLE A	GOCHNOUR	BOISE	ID	LS
GWEN E	INSKEEP	BLACKFOOT	ID	LS
JARAM CLYDE	JONES	BURLEY	ID	LS
CARDON T	PAYNE	POCATELLO	ID	LS
JEFFREY A.	ANDERSON	FIRTH	ID	ME
SEUNG IL	BAEK	RIGBY	ID	CE
TOM L.	BURNHAM	BOISE	ID	ME
KYLE E	CARPENTER	KIMBERLY	ID	EE
THOMAS W	CHIVERS	BOISE	ID	CE
CODY ALLEN	CLINE	KELLOGG	ID	CE
DAVID P	COMPTON	BOISE	ID	ME
DANIEL ALLEN	CORDON	MOSCOW	ID	FACULTY
PHILLIP CHRISTOPHER	EVANDER	POST FALLS	ID	EE
SCOTT THOMAS	FORREY	GARDEN CITY	ID	CE
CARLA	HEATHMAN	IDAHO FALLS	ID	EE
SETH	HELMS	TWIN FALLS	ID	CE
ALLAN KEITH	HEPWORTH	SODA SPRINGS	ID	MINE
BRETT AUSTIN	KOHRING	MERIDIAN	ID	CE
SCOTT	LITCHFIELD	BOISE	ID	CE
RYAN K.	LOVELAND	BREMERTON	WA	NE
JUSTIN D	LOWER	IDAHO FALLS	ID	ME
LUCAS JASON	MARSH	BOISE	ID	CE
CODY D	MECHAM	IDAHO FALLS	ID	EE
ISMAEL	MEDINA	BOISE	ID	CE
JAMES GILL	MOBERLY	MOSCOW	ID	FACULTY
BRIAN	NAKASHOJI	MERIDIAN	ID	CE
PETER O	NUSSBACHER	MERIDIAN	ID	CE
MASON J	PALMER	SAGLE	ID	CE
SERGIO C.	RANGEL	EAGLE	ID	CE
KEVIN SEAN	REMLEY	CHUBBUCK	ID	EnvE
DANIEL J	ROBERTSON	MOSCOW	ID	FACULTY
LUKE JOSEPH	ROWLEY	BOISE	ID	CE
STYLES	SALEK	CALDWELL	ID	CE
ALFRED D	SANCHEZ III	LEWISTON	ID	CE
ZANE E.	SAPP	BOISE	ID	EE
JACOB	SCHLADOR	BOISE	ID	CE
TYSON E.	SCHLECT	BOISE	ID	CE
MITCHELL WAYNE	SKELTON	BOISE	ID	EE
KELBY L	SOMMER	BOISE	ID	CE
SOUMYA K	SRIVASTAVA	PULLMAN	WA	FACULTY
ARTHUR M	THOMAS	KUNA	ID	CE
ANDRES	VALDEPENA DELGADO	Meridian	ID	EE
KRISTOPHER DAVID	WALKER	BOISE	ID	CE

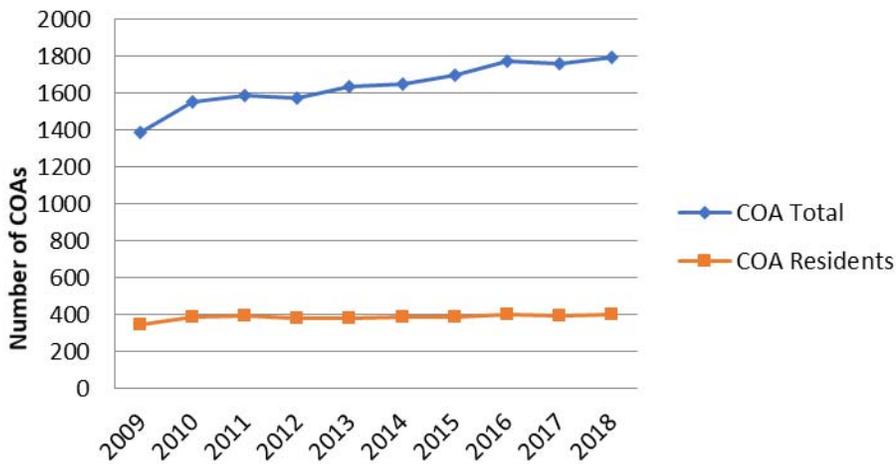
PE Licensure Trends



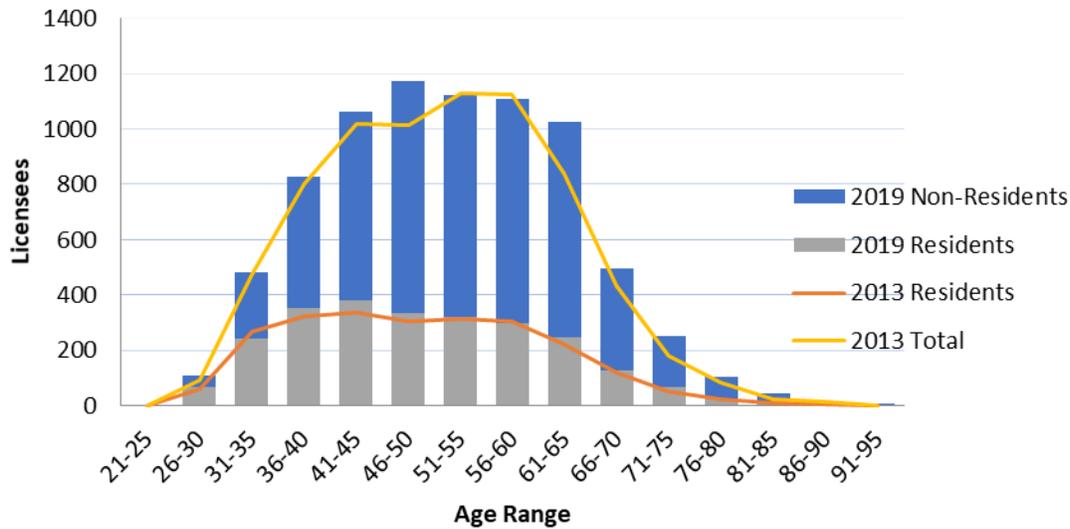
PLS Licensure Trends



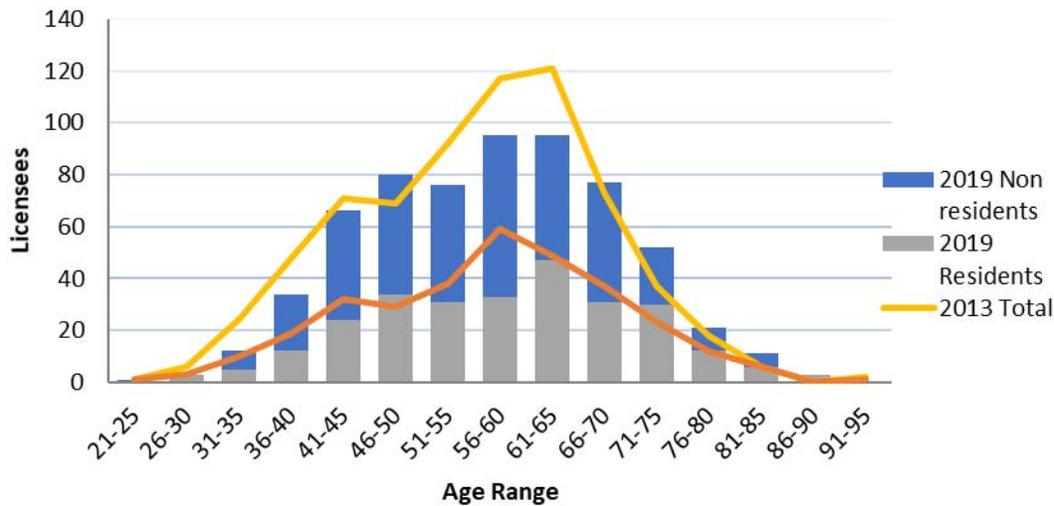
Certificate of Authority Trends



Idaho Professional Engineers 2019



Idaho Professional Land Surveyors 2019



Enforcement

Disciplinary Actions

The following are summaries of final actions taken by the Board since publication of the last news bulletin.

Docket No. FY 11.11 In the Matter of Chad Erickson, P.L.S. L-7157

The Board's final order revoking Mr. Erickson's license and related district court decision was appealed to the Supreme Court. The court ruled to vacate the Board and district court order as untimely. The Board's rule identifies a limitation of two years from the discovery of a matter to the filing of a complaint. The Board intended for that rule to apply to licensees or members of the public filing of complaints with the Board and not the executive director of the Board. The court disagreed and said the same two-year limit applies to all cases, including the executive director's complaints with the Board. The Board plans to remove this rule and request reconsideration by the court.

Docket No. FY 17.05 in the Matter of Jared Leavitt, P.L.S. L-13552

The matter involved an order to show cause on the part of Mr. Leavitt for non-compliance with his consent order and stipulation (CO/Stip) to properly amend a plat, set monuments, and other items. The Board found that Mr. Leavitt had not complied with his previously agreed consent order. The Board Admonished Mr. Leavitt, and ordered: his next five surveys be reviewed by another professional land surveyor at his expense; he take a course on ethics, and take and pass a special examination on professional land surveying administered by the Board. He was also ordered to properly monument a PLSS corner using a cap with markings as listed in the BLM manual of survey instructions (a plastic cap is insufficient for a PLSS ¼ corner), file a proper corner record and show the correct corner record instrument number on his amended plat. A second CO/Stip was approved based on insufficient work previously ordered. Mr. Leavitt failed to properly secure a cap to a monument (rebar), he failed to properly stamp the cap per the instructions in the BLM manual, and he failed to provide accurate copies of a plat to a county recorder. Mr. Leavitt failed to properly complete a corner record. Based on the listed violations, the Board reprimanded Mr. Leavitt along with a \$750 fine, and agreed to complete the previously agreed stipulations correctly along with a review of his next ten legal descriptions and surveys.

Retirement of License in Lieu of Compliance with CPD

- Robert H. Ahearn, P.E., Walnut Creek, CA
- Paul V. Koziuk, P.E., Sherwood, OR
- Kevin J. Lamb, P.E., Seattle, WA
- Phillip Trent Lott P.E., Boise, ID
- Johnny L. Rhodes, Jr., P.E., Muskogee, OK
- David G. Schott, P.E., Phoenix, AZ
- Thomas William Stanley P.E., Aurora, CO
- Vincent Edward Spisak, P.E., Cleveland, OH
- Frederick Joseph Telck, P.E., Albuquerque, NM

Cases Dismissed by the Board

Docket No. FY 17.11 P.L.S. from St. Maries.

The matter involved a complaint toward a P.L.S. related to a boundary dispute between neighbors. The dispute was settled by the court via mediation. A subsequent request for inquiry was made concerning the surveyor whose survey was not accepted as part of the settlement. The surveyor identified a line of occupation (fence) along with survey monuments from a prior survey completed many years ago. The respondent’s survey represented an opinion based on evidence and no standard of care violation was evident. The Board dismissed the matter as de minimis. A letter of caution was sent to the surveyor involved. The caution identified an improper legal theory cited as the basis for his acceptance of the line of occupation. The original fence was place by a surveyor who did not meet the standard of care many years ago (did not properly calculate or monument the section breakdown). The survey stated that the P.L.S. who did the first breakdown of the section was an “original survey” equal to that performed by the G.L.O. and it must be regarded. Any survey subsequent to the G.L.O. survey is not an “original survey” as defined in the BLM manual of surveying instructions. Subsequent surveys that do not conform to the requirements for a proper section breakdown as specified in the BLM manual are not proper and may not be accepted.

IN MEMORY OF THOSE RECENTLY DECEASED

Gregory Ernest	Holkesvig	L-8446/S-196 (LS/LSIT)	Auburn	WA
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E. Duane	Stetson	P-16669 (CE)	Jackson	WY
Gailen B.	Soule	P-1839 (EE)	Boise	ID
William Otis	Vaughn	P-17088 (ME)	Gainesville	GA
Donald H	Angell	P-3739 (EE)	Boise	ID
Lawrence W	Lindstrom	PL-3420 (PE/LS)	Hollywood	CA
Thomas Anthony	Martin	E-2313 (EIT)	Boise	ID
William	Condrey	L-910 (LS)	Cathlamet	WA
John G	Roscoe	P-876 (MinE)	Golden	CO
James Mation	Rees	E-209, P-1830 (CE), L-753	Boise	ID
Ralph Frank	Peak	P-2754 (ChE)	Meridian	ID
John "Jack"	Leonard	P-2198 (CE, SE)	Boise	ID
Terry	Bailey	P-1812 (CE)	Pocatello	ID
Gregory B	Logan	L-5498/S-50 (LS/SI)	Elkton	OR
Jerry C	Lenzi	P-10994 (CE)	Olympia	WA
John Calhoun	Eagar	P-17392 (ME, Fpe)	Atlanta	GA
Gregory Clark	Underhill	P-9312 (CE)	Bozeman	MT
Walter L	Neitz	L-797 (LS)	Nampa	ID
Harold A	Snell	E-3061/P-5759 (ChE)	Boise	ID
John Wayne	Millar	P-3020 (CE)/L-3020 (LS)	Rexburg	ID
Kevin D	Phelps	P-9544 (CE)	Reno	NV
John William	Meredith	P-2487 (EE)	Colorado Springs	CO
Roger H	Tutty	PL-1354 (CE/SE/LS)	Lewiston	ID
Larry R	Gunnoe	P-2250 (EE)	Eagle	ID
Ronald Isamu	Ogawa	P-3424 (CE)	Huntington Beach	CA
Monte J	Fiala	P-1416 (CE)	Boise	ID
Dean Edward	Yongue	L-4193 (LS)	Blanchard	ID

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CALENDAR OF UPCOMING EVENTS

July 29-30, 2019.....Board Retreat in Riggins, Idaho
August 15-17, 2019.....NCEES Annual Meeting in Washington, D.C.
September 3, 2019Deadline for Registering with NCEES for Fall PE Exams
September 19-20, 2019 Board Meeting in Boise, Idaho
October 25-26, 2019PE Examinations in Boise, Idaho
November 7-8, 2019 Board Meeting with Deans in Boise, Idaho
February 6-7, 2020..... Board Meeting in Boise, Idaho
April 5-6, 2020.....PE Examinations in Boise, Idaho
April 9-10, 2020..... Board Meeting in Boise, Idaho
April 23-25, 2020..... NCEES Western Zone Meeting in Houston, TX
June 11-12, 2020.....Board & ISPE Meeting in Boise, Idaho

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