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John W. Howe, P.L.S., Member, Coeur d'Alene

BOARD STAFF

David L. Curtis, P.E., Executive Director
Email dave.curtis@ipels.idaho.gov
Jennifer Rowe, Admin. Secretary
Email jennifer.rowe@ipels.idaho.gov
Edith Williams, Office Specialist
Email edith.williams@ipels.idaho.gov

Board Home Page www.ipels.idaho.gov

April 2005

NEWS BULLETIN

Thirty-sixth Edition

INTRODUCTION

This News Bulletin is being distributed by the Idaho State Board of Registration 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. Future News Bulletins will be printed and distributed as the Board deems advisable.

EDITH WILLIAMS JOINS BOARD STAFF

Edith Williams has been hired as the Office Specialist for the Board. She started work in September and is a welcome addition to the staff. Edith's responsibilities include reception, data base maintenance, application processing and issuing license and certificate renewal notifications. We look forward to the contributions she will make to the Board operation.

BOARD MOVES OFFICE AND CHANGES OTHER CONTACT INFORMATION

The Board office has moved to 5535 W. Overland Road, Boise, Idaho 83705. The new office is smaller than the previous one and does not include a conference room, so when the Board meets in Boise they will be renting meeting space. Other changes, which are included on the header of this NEWS BULLETIN, are a new address for the Board Home Page on the Internet and new email addresses for the staff.

BOARD CO-SPONSORS WORKSHOPS WITH ARCHITECTS AND BUILDING OFFICIALS

The Board is co-sponsoring a workshop with the Board of Architectural Examiners and the Idaho Building Code Officials. The workshop, which will be conducted throughout the state, is entitled "The Responsibilities of Engineers, Architects and Building Officials in the 'Built-Environment'." Dates, times and location of the workshops will be announced in the near future and all license and certificate holders will be notified.

ADMINISTRATIVE RULE AMENDMENT GOES INTO EFFECT

Effective upon the adjournment of the 2005 session of the Idaho legislature, an amendment to the Rules of Professional Responsibility went into effect. The amendment added a subsection to Administrative Rule 10.01.02.005 and states "**Obligation to Communicate with Clients.** A Registrant shall be complete, objective and truthful in all communications with clients." The rule amendment came about as a result of a disciplinary matter that pointed out the need for a clear obligation on the part of Registrants to communicate with clients.

CURTIS RECEIVES “HOT POTATO AWARD”

Board Executive Director Dave Curtis, P.E. was a co-recipient of the “Hot Potato Award” from the Pacific Northwest Economic Region (PNWER) organization. Curtis and Neil Windsor, P.Eng., Executive Director of the Association of Professional Engineers, Geologists, and Geophysicists of Alberta were given the award for their efforts in reducing the difficulties associated with comity licensing of engineers between the Provincial licensing authorities of Canada and Idaho. The award commemorates an 1859 crisis in the San Juan Islands. An American farmer shot a British-owned pig that had broken out of its pen and eaten some of the farmer’s potatoes. The islands were claimed by both countries at the time. At one time, the U.S. Navy and the Royal Navy were at gunpoint over the incident. Cooler heads prevailed and the incident ended peacefully. Windsor and Curtis were nominated for the award by Idaho State Legislature Representative Max Black, a former President of PNWER.

ANNUAL REPORT TO THE GOVERNOR

In compliance with Idaho Code Section 54-1210(3), the Board submitted the following annual report to Governor Dirk Kempthorne:

During the 2004 fiscal year the Board met for five regular meetings, three special meetings and one telephone conference call meeting to conduct Board business, review applications, grant licenses and consider complaints.

As of the end of the fiscal year there were 5,821 Professional Engineers, 600 Professional Land Surveyors, 138 combined Professional Engineer/Professional Land Surveyors, 1,191 Engineers-in-Training, 48 Land Surveyors-in-Training, 1044 engineering and/or land surveying business entities and 397 persons who have elected to take Retired Status. All renewals, except business entities, are on a biennial renewal basis. Business entities renew annually.

Licenses were issued to 304 engineers by comity with other states and to 87 who successfully completed the examination process; 11 land surveyors by comity with other states and to 7 who successfully completed the examination process. There were 229 successful examinees in the Fundamentals of Engineering examination and certificates as Land Surveyors-in-Training were issued to 17 successful examinees in the Fundamentals of Land Surveying examination. In addition, Certificates of Authorization were issued to 145 business entities to perform professional engineering or professional land surveying or both in the State of Idaho.

The Idaho Legislature passed, and Governor Kempthorne signed, House Bill No. 485 which clarified various aspects of the chapter of Idaho Code addressing the licensing of engineers and surveyors. House Bill No. 484 was also passed and signed. It clarified certain aspects of the requirements of Records of Survey. The Board adopted changes to its Administrative Rules which clarified that technology programs are not considered the same as engineering programs; mandated a minimum amount of surveying education for examination candidates in the surveying profession; precluded a failing candidate from reviewing an examination for exam security reasons; and recognized the equivalency of education from certain programs outside the United States. One Administrative Rule addressing the relationship between a license holder and a client was rejected by the Legislature at the Board’s request in order that the Board could better explain to license holders the background and justification for the proposed rule.

The Board received a total of 21 complaints against engineers, land surveyors, business entities and unlicensed persons in fiscal year 2004 and 5 were carried over from previous years. Of these 26 complaints, 11 were dismissed or terminated without consent agreements or formal hearings and 10 were pending resolution at the end of the fiscal year. Four complaints were closed following issuance of Final Orders of the Board accepting Consent Agreements which resulted in the admonishment of four license holders and the deposit of \$1,500.00 in Administrative Penalties to the General Fund of the State of Idaho. The Board obtained a permanent injunction against one unlicensed person restraining him from practicing engineering in Idaho.

BOARD REVISES INFORMATION REGARDING HANDLING OF COMPLAINTS

At its meeting on April 13 & 14, 2005, the Board adopted the following White Paper on “Enforcement of Laws and Rules Governing Professional Engineers and Land Surveyors”:

Introduction

The State of Idaho promulgates statutes and authorizes promulgation of “Rules of Professional Responsibility” for the professions of Engineering and Land Surveying. The statutes and rules set standards for licensure and practice to safeguard the life, health, property and welfare of the public. Enforcement authority is vested in the Board of Registration of Professional Engineers and Professional Land Surveyors. Enforcement actions are triggered by formal complaints or requests for an inquiry concerning actions of unlicensed persons, registrants, or business entities holding certificates of authorization. After receipt of a formal complaint or request for an inquiry the Board may declare the complaint trivial or unfounded, proceed to impose disciplinary measures through a negotiated consent agreement, or proceed to an administrative hearing and possible imposition of disciplinary measures.

A summary of “Laws and Rules Pertaining to the Practice of the Professional of Engineering and Land Surveying” is available at www.ipels.idaho.gov. You may also contact the Board office at 5535 Overland Road, Boise, ID, 83705-2728 or call (208) 373-7210. The following procedural overview is for general information only. To the extent this general summary conflicts with existing law, the existing statutes and rules will govern. Questions about specific details of the process should be directed to the Executive Director at the Board office.

Filing a Formal Complaint

Any affected party may prefer charges against an unlicensed person, a registrant, or business entity holding a certificate of authorization for breaches of legal or professional conduct. The charges must be in the form of a sworn statement before a Notary Public. The affidavit should set forth the underlying facts, specify the statutes or rules violated, and request appropriate disciplinary action against the registrant or certificate holder. The complaint must be filed with the Executive Director of the Board.

Formal Complaint Processing

The Executive Director establishes a complaint file and prepares the complaint for review by the Board. Complaints are generally heard at regular board meetings. The party who must respond to the complaint is notified, and their response may be available for Board review. When the complaint is first reviewed, and depending on the information available, the Board may dismiss the complaint because it is outside its jurisdiction, trivial, or unfounded. Upon that finding the case is closed and notice of the complaint dismissal is sent to both parties.

If the Board finds that the complaint warrants further investigation they may order a preliminary investigation. After reviewing the results of the investigation, the Board may then dismiss the complaint, request additional information (by subpoena if necessary), direct the negotiation of a disciplinary consent agreement through the Executive Director and a selected attorney, or schedule an Administrative Hearing. The Board does not discuss or specify the terms of the consent agreement. Disciplinary actions may include any remedies specified by Idaho Code 54-1220 or the issuance of a cautionary letter.

The negotiated disciplinary consent agreement is presented to the Board, which may accept or reject the agreement. If the agreement is rejected another negotiation attempt may be requested, or the Board may order an administrative hearing.

The hearing must be held within 6 (six) months of receipt of the complaint unless the Board extends the time for justifiable cause.

After the hearing the Board may take disciplinary action pursuant to Idaho Code 54-1220.

Making a Request for Inquiry

Any person may send a written request for inquiry to the Board. Prior to sending a request it is advisable to communicate with the Executive Director to discuss alternative courses of action based on the Board's ability to respond to the request. A written request must explain the situation with enough clarity and

detail to enable a preliminary review by the Executive Director. The Executive Director will contact the registrant or certificate holder involved and request a response to the allegations. A review of the request for inquiry and any responses from the unlicensed person, registrant, or certificate holder will be placed on a Board meeting agenda. At that meeting the Board may find that the allegations are outside its jurisdiction, trivial or unfounded. Upon that finding the matter is closed and notice of the finding is sent to both parties.

The Board may order the Executive Director or a designated investigator to conduct a preliminary investigation. The results of that investigation are heard at a later meeting. If the Board finds that the matter warrants disciplinary action the Board may authorize the Executive Director to negotiate a disciplinary consent agreement with the registrant or certificate holder. Prior to the filing of a formal complaint the Board may issue rules, parameters, or general policy statements to guide negotiations. Disciplinary actions may include any remedies specified by Idaho Code 54-1220 or the issuance of a cautionary letter. If a consent agreement acceptable to the Board is reached the matter will be concluded upon execution of terms of the agreement.

If a consent agreement acceptable to the Board cannot be negotiated the Board will order the filing of a formal complaint with the Executive Director as the complainant. An administrative hearing will be scheduled. The hearing will be scheduled within 6 months of the filing of the formal complaint unless the time is extended by the Board for justifiable cause. After the hearing the Board may take disciplinary action pursuant to Idaho Code 54-1220.

Individuals making a Request For Inquiry may be requested to file a formal complaint, but are not required to. Their participation as a witness at an administrative hearing will almost certainly be required.

DISCIPLINARY ACTIONS

The following actions on complaints have been taken by the Board since publication of NEWS BULLETIN No. 35 in May of 2004. In addition to those listed below, the Board received numerous complaints against individuals or companies who were inappropriately advertising under headings or names that could be interpreted to indicate that they were professional engineers or professional land surveyors, when in fact, they were not. The companies or individuals agreed to discontinue or revise the advertising or title.

Docket No. 04.14 – IN THE MATTER OF Louis Vermeer, P.E. Vermeer signed a Stipulation and Consent Order in which he agreed that there was sufficient evidence to support a finding that he violated IDAPA Rules 10.01.02.004.04 and 10.01.02.006.03 and Idaho Code Section 54-1215(3)(b) in connection with a project for a private residence in Coeur d’Alene, Idaho. Specifically, he affixed his signature and seal to plans or documents a portion of which were not prepared under his responsible charge. Vermeer was admonished for his behavior.

Docket No. 04.15 – IN THE MATTER OF Warren Watts, P.E. Watts signed a Stipulation and Consent Order in which he agreed there was sufficient evidence to support a finding that he violated Idaho Code Section 54-1215(3)(c) and (d) and also IDAPA Rules 10.01.02.006.02 and 10.01.02.006.03 in regard to a building project in Lewiston, Idaho. He admitted that there was evidence from which the Board might conclude that he signed and sealed engineering work which was not performed under his responsible charge as he now understands it is interpreted by the Board and that there was evidence from which the Board might conclude that he aided and abetted persons not licensed as professional engineers to practice professional engineering as he now understands it is interpreted by the Board. Watts was admonished for his behavior and agreed not to engage in design work on any building which is intended for human habitation or occupancy and requires architectural design, except when such work is done in association with a licensed architect. Watts is, however, entitled to engage in foundation, structural, underground and site development work to accommodate such buildings designed by others and he is entitled to engage in design work on pole buildings, so long as his design work on such pole buildings does not include the practice of architecture. Watts paid an administrative fine of \$2,000 to the General Fund of the State of Idaho.

Docket No. 04.16 – IN THE MATTER OF Dan I. Provolt, P.L.S. Provolt signed a Stipulation and Consent Order in which he agreed that there was sufficient evidence to support a finding that he violated IDAPA Rules

10.01.02.004.04 and Idaho Code Section 54-1215(3)(b) in connection with a property survey he performed in Bonner County, Idaho. Specifically, he did not seal, sign, or date final drawings which were presented to a client. Provolt was admonished for his behavior and paid an administrative fine of \$500 to the General Fund of the State of Idaho.

Docket No. 04.18 – IN THE MATTER OF Michael Lund, P.E./L.S. Lund signed a Stipulation and Consent Order in which he agreed that there was sufficient evidence to support a finding that he violated IDAPA Rule 10.01.02.007.04 in connection with an engineering project in Bonneville County, Idaho. Specifically, he admitted that in a report he prepared he asked “Is it possible that the engineer is trying to intentionally keep the cost of the [project] low so that the project appears feasible?” Lund was admonished for his behavior.

Docket No. 04.19 – IN THE MATTER OF Billy Manwill, P.E./L.S. Manwill signed a Stipulation and Consent Order in which he agreed that there was sufficient evidence to support a finding that he violated IDAPA Rules 10.01.02.008.01, 10.01.02.008.02 and 10.01.02.008.07 in connection with a project in Bonneville County, Idaho. Specifically, he did not reveal a conflict of interest in writing to his employers. Additionally, he accepted compensation from more than one party for services pertaining to the same project without fully disclosing them in writing, in advance and getting an agreement from all interested parties. Finally, he accepted professional employment outside of his regular work without the written permission from his employers. Manwill was admonished for his behavior and paid an administrative fine of \$1,000 to the General Fund of the State of Idaho.

Docket No. 05.11 – IN THE MATTER OF J.K. Hustead, P.L.S. Hustead agreed that there was sufficient evidence to support a finding that he violated Idaho Code Section 54-1201 by practicing engineering without a license, and IDAPA Rule 10.01.02.006.01 by practicing outside his competency in the technical field involved in connection with property in Kootenai County, Idaho. Specifically, he submitted to Kootenai County calculations purporting to determine the base flood elevation on a portion of a creek for which a base flood elevation had not previously been determined. He was admonished for his behavior and paid an administrative fine of \$500 to the General Fund of the State of Idaho.

Docket No. 05.12 – IN THE MATTER OF R. Bruce Noble, P.E., P.L.S. Noble agreed that there was sufficient evidence to support a finding that he violated Idaho Code Section 54-1215(3) by aiding and abetting an unlicensed person in the practice of engineering; IDAPA Rule 10.01.02.006.01 by practicing outside his competency in the technical field involved; IDAPA Rule 10.01.02.006.02 by aiding and abetting an unregistered person in the practice of engineering; and IDAPA 10.01.02.006.03 for affixing his signature and seal on plans or documents not prepared under his responsible charge. Specifically, Respondent reviewed work performed by J.K. Hustead, P.L.S. and submitted a letter to Kootenai County attesting to the appropriateness of the work done by Hustead. Noble also agreed that there was sufficient evidence to support a finding that he violated Idaho Code Section 54-1215(3) by aiding and abetting an unlicensed person in the practice of engineering; IDAPA Rule 10.01.02.006.02 by aiding and abetting an unregistered person in the practice of engineering; and IDAPA 10.01.02.006.03 for affixing his signature and seal on plans or documents not prepared under his responsible charge on a separate project in Kootenai County. Noble was admonished for his behavior and paid an administrative fine of \$1,000 to the General Fund of the State of Idaho

IN MEMORY OF THOSE RECENTLY DECEASED

Mark L. Bryner, 3076 ME, Salt Lake City, UT
Gilbert L. Corey, 837 CE, Moscow, ID
Marc Dale, 5999 CE, Laguna Beach, CA
Sherman O. Decker, 1286 CE, Boise, ID
K. LaMar Duffin, 1816 CE/LS, Shoshone, ID
Gerald L. Earl, 4477 PLS, Caldwell, ID
Paul B. Fetrow, 4766 ME, Boise, ID
Robert L. Graham, 7150 EE, Spokane, WA
Eugene B. Hamlin, 1348 CE, Bellevue, WA

Terry S. Hawk, 5580 CE, Port Matilda, PA
Edward N. Heck, 1738 ME, Olympia, WA
A. Douglas Herrmann, 3293 ME, Idaho Falls, ID
David H. Hollingshead, 3198 CE, Meridian, ID
Ralph J. Johnson, 574 CE, Bethesda, MD
Verl G. King, 1704 AgE/LS, Meridian, ID
Edward W. McIlroy, 3193 GeoE, Casper, WY
Jean Milar, 784 CE/LS, Boise, ID
Johnny L. Probasco, 1586 CE/LS, Salt Lake City,

UT
 Claudio Scalisi, 7292 CE, Nampa, ID
 Ronald R. Shaw, 3035 CE, Boise, ID
 James E. Siedelmann, 6391 EE, Idaho Falls, ID

Robert Edward Smith, 667 CE/LS, Boise, ID
 William A. Smith, 2481 CE/LS, Livingston, TX
 Bruce W. Stoddard, 644 MinE/LS, Boise, ID

EXAMINATION RESULTS

The following is a summary of results from the April 2004 administration of the certification and licensing examinations:

	Number of Examinees	Number Passing
Fundamentals of Engineering Exam	155	138
Boise State University Students	43	38
Idaho State University Students	15	12
University of Idaho Students	86	82
Non-students	11	6
Fund. Of Land Surveying Exam	16	12
Professional Engineer Exam	67	52
Chemical Engineering	2	1
Civil Engineering	29	20
Electrical and Computer	7	6
Environmental Engineering	9	8
Mechanical Engineering	18	14
Structural I Engineering	2	2
Structural II Engineering	2	1
Professional Land Surveyor Exam	5	3

The following is a summary of results from the October 2004 administration of the certification and licensing examinations:

	Number of Examinees	Number Passing
Fundamentals of Engineering Exam	109	96
Boise State University Students	21	16
Idaho State University Students	11	11
University of Idaho Students	59	57
Non-students	18	12

Fund. Of Land Surveying Exam	5	2
Professional Engineer Exam	54	41
Chemical Engineering	2	2
Civil Engineering	28	21
Control Systems Engineering	2	2
Electrical and Computer	3	2
Environmental Engineering	2	1
Geological Engineering	2	2
Mechanical Engineering	9	8
Metallurgical Engineering	1	1
Nuclear Engineering	1	0
Structural I Engineering	4	2
Structural II Engineering	3	2
Professional Land Surveyor Exam	4	4

Calendar of Upcoming Events

May 19-21, 2005.....Board Meeting in conjunction with NCEES Western Zone Meeting in Anchorage, Alaska
 June 10 & 11, 2005.....Board Meeting, Boise, Idaho
 August 1, 2005.....Application Deadline for Fall Examinations
 August 5 & 6, 2005.....Board Meeting, Riggins, Idaho
 August 24-27, 2005.....Board Meeting in conjunction with NCEES Annual Meeting, Memphis, Tennessee
 September 16 & 17, 2005.....Board Meeting, Boise, Idaho
 October 28, 2005.....PE and PLS Examinations, Boise, Idaho
 October 29, 2005.....FLS (aka LSIT) Examination, Boise, Moscow, and Pocatello, Idaho
 October 29, 2005.....FE (aka EIT) Examinations, Boise, Pocatello, Moscow
 November 18 & 19, 2005.....Board Meeting, Boise, Idaho
 January 10, 2006.....Application Deadline for Fall Examinations
 April 21, 2006.....PE and PLS Examinations, Boise, Idaho
 April 22, 2006.....FLS (aka LSIT) Examination, Boise, Moscow, and Pocatello, Idaho
 April 22, 2006.....FE (aka EIT) Examinations, Boise, Pocatello, Moscow

See www.ipels.idaho.gov for a **CALENDAR OF UPCOMING EVENTS**

**IDAHO BOARD OF REGISTRATION OF
PROFESSIONAL ENGINEERS AND
PROFESSIONAL LAND SURVEYORS
5535 W. OVERLAND ROAD
BOISE, IDAHO 83705-2728**

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