

IPELS NEWS BULLETIN - April 2006

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April 2006

NEWS BULLETIN

Thirty-seventh Edition

INTRODUCTION

This News Bulletin is distributed twice per year 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.

GOVERNOR APPOINTS WILLIAM J. ANCELL, P.E. TO BOARD

Governor Dirk Kempthorne appointed William J. Ansell, P.E. of Boise to the Board for a five year term. Bill is the recently retired Public Works Director for the City of Boise and had been in that position for over 30 years. He graduated from Tri-State College in Angola, Indiana with a degree in civil engineering and is a Diplomate Environmental Engineer. We look forward to his service on the Board.

LESLIE M. WALKER, P.E. RETIRES FROM BOARD

After ten years on the Board, Leslie M. Walker, P.E. retired from the Board. During that time Les served as Secretary for two years and Chair for two years as well as being Hearing Officer on numerous disciplinary matters. He was the principal author of the Board position paper on responsible charge and was active in NCEES at both the zone and national level. We will miss Les's upbeat attitude and sense of humor as well as his dedication to the work and activities of the Board. Cheers, Les!

PORTER RECEIVES WESTERN ZONE DISTINGUISHED SERVICE AWARD

At its meeting in Anchorage, Alaska, the Western Zone of the National Council of Examiners for Engineering and Surveying recognized Clyde Porter, P.L.S. for his outstanding contribution to the Western Zone. Clyde served as Western Zone Assistant Vice President for two years as well as contributing to many of the forums and discussions at the zone and national level. He served for nine years on the NCEES Committee on Examinations for Professional Surveyors and was also recognized for his shortness. Congratulations Clyde!

CANADIAN ORGANIZATION BESTOWS HONORARY MEMBERSHIP ON CURTIS

Board Executive Director David Curtis, P.E. was recognized by having been selected as a Honorary Member of the Association of Professional Engineers, Geologists and Geoscientists of Alberta. Curtis was selected for the honor in recognition of his contributions to improve mobility of license holders between the United States and Canada.

ADMINISTRATIVE RULE AMENDMENT GOES INTO EFFECT

Effective upon the adjournment of the 2006 session of the Idaho legislature, an amendment to the Rules of Professional Responsibility will go into effect. The amendment allows the Board to discontinue proctoring of examinations for other jurisdictions with the exception of the State-Specific surveyor examinations. Security issues were the driving force for the change.

BOARD REVISES WHITE PAPER ON RESPONSIBLE CHARGE

At its meeting in June of 2005 the Board adopted some revisions to its previously adopted White Paper on Responsible Charge. Below is the entire document as adopted.

"RESPONSIBLE CHARGE" AS APPLIED TO PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

INTRODUCTION:

In response to the many inquiries and questions that arise with regard to the term "responsible charge", the Idaho Board of Registration of Professional Engineers and Professional Land Surveyors has elected to issue this "white paper" as it applies to our license holders. In accomplishing this, the subject has been restricted to the Idaho Laws and Rules pertaining to the Practice of the Professions of Engineering and Land Surveying as of July 1, 2005.

DEFINITIONS AND SUPPORTING STATUTES:

The definition of "responsible charge" for professional engineers and professional land surveyors is found in Title 54, Chapter 12, Section 54-1202 (h) and is as follows:

Responsible Charge. The term "responsible charge" means the control and direction of the investigation, studies, design, construction or operation of engineering work, or the control and direction of record research, field retracement, office calculations, boundary determination and mapping of land surveying work, requiring initiative, professional skill and independent judgment.

Other references in Title 54, Chapter 12 of the Idaho Code referring to the term "responsible charge" may be found in Idaho Code Sections 54-1202(c) & (f), 54-1204, 54-1215(3c) & (3d), and 54-1235(4). Idaho Code Section 54-1204 refers to qualifications of members of the board and will not be restated here. Idaho Code Section 54-1235(4) deals with practice by business entities and defines who shall be and may not be the designated individual in "responsible charge" of professional engineering or professional land surveying for the business entity and will not be restated here. Idaho Code Sections 54-1202(c) & (f) and 54-1215(3c) & (3d) are as follows:

54-1202. Definitions.

(c) Professional Engineering and Practice of Professional Engineering. The terms "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, 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 registered 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.

54-1202(f) Professional Land Surveying and Practice of Professional Land Surveying. The terms "land surveying" and "professional land surveying" mean responsible charge of surveying of land to determine the correct boundary

description, to convey, to establish or reestablish land boundaries, or to plat lands and subdivisions thereof. 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 professional land surveying service or work or any other service designated by the practitioner which is professional land surveying.

54-1215. Certificates-Seals.

(3c) The seal, signature and date shall be placed on all original documents. The application of the registrant's seal signature and date shall constitute certification that the work thereon was done by him or under his responsible charge. Each plan or drawing sheet shall be sealed and signed by the registrant or registrant's responsible for each sheet. In the case of a business entity, each plan or drawing sheet shall be sealed and signed by the registrant or registrant's involved. The principal in responsible charge shall sign and seal the title or first sheet. Copies of electronically produced documents, listed in paragraph (b) of this subsection, distributed for informational uses such as for bidding purposes or working copies, may be issued with the registrant's seal and a notice that the original document is on file with the registrant's signature and date. The words "Original Signed By:" and "Date Original Signed:" shall be placed adjacent to or across the seal on the electronic original. The storage location of the original document shall also be provided. Only the title page of reports, specifications and like documents need bear the seal, signature and date of the registrant.

(3d) The seal and signature shall be used by registrants only when the work being stamped was under the registrant's responsible charge.

PERTINENT AND INTERRELATED PORTIONS OF THE IDAHO CODE AND ADMINISTRATIVE RULES:

There are several pertinent and interrelated sections in Title 54, Chapter 12 and in the Rules of Professional Responsibility (IDAPA 10, Title 1, Chapter 2) which tie the signing and sealing of documents to the person(s) in responsible charge. Chief among those are Section 54-1215(3b) of Idaho Code and Rules 10.01.02006(01) & (03). Restatement of the statutes and rules are as follows:

54-1215. Certificates-Seals.

(3b) The seal, signature and date shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations, whenever presented to a client or any public or governmental agency. Any such document presented to a client or public or governmental agency that is not final and does not contain a seal, signature and date shall be clearly marked as "preliminary," "draft," "not for construction" or with similar words to distinguish the document from a final document.

10.01.02006. COMPETENCY FOR ASSIGNMENTS.

01. Assignments in field of competence. A registrant shall undertake to perform assignments only when qualified by education or experience in the specific technical field involved, however, a Registrant, as the prime professional, may accept an assignment requiring education or experience outside of his own field of competence, but his services are restricted to those phases of the project in which the Registrant is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees. For projects encompassing (1) one or more disciplines beyond the Registrant's competence, a Registrant may sign and seal all documents for the total project only when the Registrant has first determined that all elements of the project have been performed, signed and sealed by other associates, consultants or employees who are competent and qualified to perform such services in other disciplines, and are registered or licensed.

03. Use of Seal on Documents. A Registrant shall affix his signature and seal only to plans or documents prepared under his responsible charge.

CONCLUSIONS AND BOARD INTERPRETATIONS:

The combined requirements contained in the Laws and Rules cited above define the expectations of the Idaho Board with regard to "responsible charge". Practices such as aiding and abetting unlicensed persons and reviewing and

stamping of work of others not under a license holders direct supervision are in violation of Idaho statutes and rules. Reviewing or reviewing and correcting, documents after they have been prepared by others does not constitute the exercise of responsible charge because the reviewer has neither control over nor detailed knowledge of the content of such documents throughout the preparation process. "Responsible charge" means maintaining control over and having detailed professional knowledge of the content of documents during all phases of the preparation process.

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 2005 fiscal year, the Board met for five regular meetings, two special meetings and four telephone conference call meetings to conduct Board business, review applications, grant licenses and consider complaints.

As of the end of the fiscal year, there were 5,991 Professional Engineers, 600 Professional Land Surveyors, 124 combined Professional Engineer/Professional Land Surveyors, 1,148 Engineers-in-Training, 45 Land Surveyors-in-Training, 1,161 engineering and/or land surveying business entities and 420 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 316 engineers by comity with other states and to 68 who successfully completed the examination process; 12 land surveyors by comity with other states and to 8 who successfully completed the examination process. There were 297 successful examinees in the Fundamentals of Engineering examination and certificates as Land Surveyors-in-Training were issued to 4 successful examinees in the Fundamentals of Land Surveying examination. In addition, Certificates of Authorization were issued to 177 business entities to perform professional engineering or professional land surveying or both in the State of Idaho.

After over fifteen years at the same location, the Board office relocated to 5535 W. Overland Road in Boise. The office no longer has a conference room so the Board meets offsite when it meets in Boise, but the cost of doing so is more than compensated for by the savings in office lease expense.

The Board received a total of 23 complaints against engineers, land surveyors, business entities and unlicensed persons in fiscal year 2005 and 14 were carried over from previous years. Of these 37 complaints, 18 were dismissed or terminated without consent agreements or formal hearings and 13 were pending resolution at the end of the fiscal year. Six complaints were closed following issuance of Final Orders of the Board accepting Consent Agreements which resulted in the admonishment of six license holders and the deposit of \$5,000.00 in Administrative Penalties to the General Fund of the State of Idaho.

In fulfilling its Strategic Plan, the Board published a quality News Bulletin and distributed it to its license and certificate holders as well as a number of public officials. The Board Members and staff participated in or made presentations to 51 groups or organizations to explain the function of the Board or further the mission of the agency.

Agency personnel continue to cross-train to minimize the effect of absences or changes in personnel and a Satisfaction Survey once again indicates that over 98 percent of those to whom we provide applications are satisfied with our services.

BOARD DISCUSSES PROTOTYPE BUILDING STAMPING PRACTICES

Under current law a license holder can only place his or her professional seal on documents which have been prepared under his or her responsible charge. On occasion, an engineer may have the opportunity to work with an organization which has developed building plans for projects intended to be replicated in numerous locations and multiple jurisdictions. Fast food restaurants and some churches are good examples of these clients. Often the prototype plans for these buildings have been developed by a person not licensed in Idaho, and thus not qualified to seal and sign them. The owners of the buildings might then approach an Idaho licensed engineer and ask them to review the plans, make any necessary changes in them to meet local building code requirements, and then stamp them. That is prohibited under current law. The Board is considering amendments to Idaho Code and

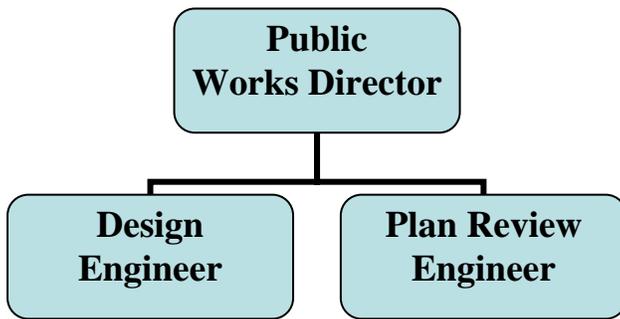
Administrative Rule which would provide an opportunity for an Idaho licensed professional engineer to be involved in such projects without having to begin the project anew, without violating the law, and obviously, without endangering the public. The Board would appreciate your input on this matter. Please write us at the Board office address.

BOARD EXPRESSES OPINION REGARDING QUALIFIED LICENSED PROFESSIONAL ENGINEER REVIEWING WATER AND SEWER PLANS

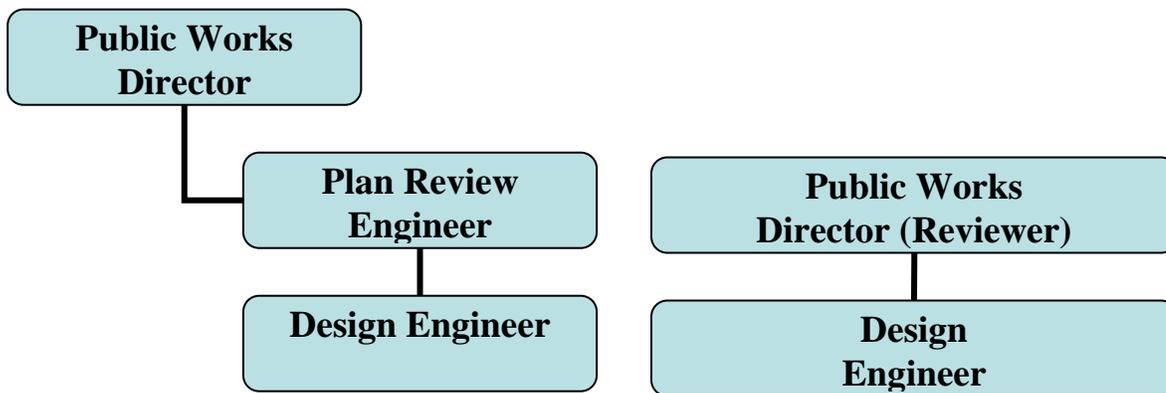
The Legislature in 2005 approved amendments to the Idaho Code which provide the opportunity for a qualified licensed professional engineer (QLPE) to review plans for certain water and sewer projects in lieu of review by the Department of Environmental Quality (DEQ). DEQ asked the Board to consider whether certain situations would raise the issue of Conflict of Interest in light of the new law. The Board concluded that it would be a Conflict of Interest, and thus a violation of the Rules of Professional Responsibility, for one employee of a consulting engineering firm to serve as the QLPE to review the work of another employee of the same consulting engineering firm. The Board further concluded that under some circumstances, professional engineers employed by a City could serve as the QLPE and review the work of another employee of the same City. Those circumstances not raising the issue of a Conflict of Interest are depicted in the organizational diagrams below.

Plan Review Flow Charts – Proposed to Identify Structures that are Not Conflicts of Interest.

Scenario 1. Separate Sections for Plan Reviews – Peer Review Approach



Scenario 2. Superior Reviewer – Subordinate Designer Approach.



All scenarios presume that all positions shown are City Employees and that the positions are filled with Idaho licensed professional engineers.

BOARD DISCUSSES PRESCRIPTIVE COURSE REQUIREMENTS FOR NON-SURVEYING APPLICANTS IN THE FUTURE

Beginning July 1, 2010 the Idaho Code section relating to the educational requirements for assignment to the examinations for certification as a Land Surveyor-in-Training and licensing as a Professional Land Surveyor will change. Beginning then, an applicant will either have to have a four-year degree in surveying approved by the

Board, or will have to have a four-year degree in a related science, and evidence satisfactory to the Board, that they possess knowledge and skill approximating that attained by completion of an approved four-year surveying curriculum. The language of this change is similar to that currently contained in the engineering licensing law. The Board is working on a list of prescriptive academic courses that will be required of a candidate who has a degree in a related science, but not a degree in surveying in order to satisfy the Board that they possess knowledge and skill approximating that attained upon completion of an approved surveying curriculum. A similar approach of listing of prescriptive courses is taken for licensing professional engineer candidates who do not have an approved degree in engineering but have a degree in a related science. The Board would appreciate your input on this matter. Please write us at the Board office address.

BOARD APPROVES PROGRAM AT BRIGHAM YOUNG UNIVERSITY - IDAHO

The Board has reviewed the new four-year Mechanical Engineering program at Brigham Young University – Idaho and now considers it an “approved engineering curriculum” under Idaho Code Section 54-1212. This approval makes it possible for senior students in the program to take the Fundamentals of Engineering examination for certification as an Engineer-in-Training. The program underwent a visitation by a team from the Engineering Accreditation Commission of ABET, Inc. in the fall of 2005 and looks forward to a favorable evaluation from that team.

DISCIPLINARY ACTIONS

The following actions on complaints have been taken by the Board since publication of NEWS BULLETIN No. 36 in April of 2005. 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. 04.13 – IN THE MATTER OF Steven J. Seitz, P.E. Seitz signed a Stipulation and Consent Order in which he agreed that there was sufficient evidence to support a finding that he violated IDAPA Rule 10.01.02.006.01 (Assignment in Fields of Competence) in connection with a residential project in Coeur d’Alene, Idaho. Specifically, he affixed his signature and seal to plans or documents which were outside his area of competence. Seitz was admonished for his behavior and paid an administrative penalty of \$2000.

Docket No. 05.15 – IN THE MATTER OF James R. Staples, P.L.S. Staples signed a Stipulation and Consent Order in which he agreed that there was sufficient evidence to support a finding that he violated IDAPA Rule 10.01.02.005.02 (Standard of Care) by failing to correct an error by filing an amended Record of Survey for over four years after the date of discovery of the error. Staples was admonished for his behavior and paid an administrative penalty of \$500.

Docket No. 05.18 – IN THE MATTER OF Darren Leavitt, P.L.S. Leavitt signed a Stipulation and Consent Order in which he agreed that there was sufficient evidence to support a finding that he violated IDAPA Rule 10.01.02.005.02 (Standard of Care) with regard to several plats filed in Ada County between 1998 and 2005. He agreed to have his work in connection with his next five plats reviewed, at his expense, by a professional land surveyor acceptable to the Board. He was admonished for his behavior and paid an administrative penalty of \$500.

IN MEMORY OF THOSE RECENTLY DECEASED

Leslie “Les” Ankenman, 1811 CE/LS, Kuna, ID
Donald L. Ebbutt, 839 LS, Missoula, MT
Randolph F. Fleming, 7268 CE, Temecula, CA
Robert Z. Gibson, 3574 ME, Sacramento, CA
Terry R. Howard, 1840 GeoE, Moscow, ID
H.G. Isbill, 5686 CE, Greenwood Village, CO
L.E. Lewandowski, 5175 CE, Mequon, WI
James W. McEwen, 637 EE, Payette, ID

John G. Morrison, 6313 CE, Santa Teresa, NM
Robert M. Nelson, ME, LS, 732, Boise, ID
Waldemar S. Nelson, 4981 CE, New Orleans, LA
Donald H. Schmith, 1431 CE, Madras, OR
Richard L. Simpson, 1976 CE/LS, Spokane, WA
Herman M. “Skip” Staffel, 5293 LS, Idaho Falls, ID
Susan E. Stutz-McDonald 7748 CE, Walnut Crk, CA

EXAMINATION RESULTS

The following is a summary of results from the April 2005 administration of the certification and licensing

examinations:

	Number of Examinees	Number Passing
Fundamentals of Engineering Exam	127	115
Boise State University Students	25	22
Idaho State University Students	13	10
University of Idaho Students	68	65
Non-students	21	18
Fund. Of Land Surveying Exam	11	3
Professional Engineer Exam	55	42
Architectural Engineering	1	1
Civil Engineering	35	27
Electrical and Computer	6	6
Environmental Engineering	2	2
Mechanical Engineering	3	1
Structural I Engineering	4	3
Structural II Engineering	4	2
Professional Land Surveyor Exam	4	3

The following is a summary of results from the October 2005 administration of the certification and licensing examinations:

	Number of Examinees	Number Passing
Fundamentals of Engineering Exam	124	113
Boise State University Students	23	22
Idaho State University Students	11	10
University of Idaho Students	75	66
Non-students	15	15
Fund. Of Land Surveying Exam	2	2
Professional Engineer Exam	43	29
Agricultural Engineering	1	1
Civil Engineering	22	14
Control Systems Engineering	1	1
Electrical and Computer	8	7
Environmental Engineering	3	3
Mechanical Engineering	6	2
Nuclear Engineering	1	0
Structural II Engineering	1	1
Professional Land Surveyor Exam	8	6

BOARD EXPRESSES OPINION ON “RECORD DRAWINGS”

In an opinion requested by the State Department of Environmental Quality, the Board has decided that responsible

charge of the preparation of “record plans and specifications” or the statement of no material deviation in lieu of those documents which is required under Idaho Code Section 39-118 involves the practice of engineering as defined in Idaho Code. Since this activity involves the practice of engineering, the record drawings or the statement of no material deviation in lieu of them must be sealed, signed and dated by the professional engineer in responsible charge of their preparation.

BOARD EXPRESSES OPINION ON EXTERIOR BOUNDARY MONUMENT ON PLAT

Dean Coon, P.L.S. asked the Board to express an opinion on a situation he encountered in which he found an existing ½ inch steel rod (rebar) monumenting an angle point on the exterior boundary of land being platted as a subdivision. The dilemma is that Idaho Code Section 50-1303 requires such corners to be monumented with a minimum of a 5/8 inch by 30 inch long steel rod, yet Idaho Code Section 54-1234 creates a liability for a person who “willfully remove[s] any . . . monument . . . set . . . by a professional land surveyor”. The Board concluded that it would not be a violation of Idaho Code Section 54-1234 for a professional land surveyor to remove **and replace** an existing monument with another, more substantial monument in order to comply with the requirements for monuments contained in Idaho Code Section 50-1303.

Calendar of Upcoming Events

April 21, 2006	PE and PS Examinations, Boise, Idaho
April 22, 2006	FS (aka LSIT) Examination, Boise, Moscow, and Pocatello, Idaho
April 22, 2006	FE (aka EIT) Examinations, Boise, Pocatello, Moscow
May 11 & 12, 2006	Board Meeting, Boise, Idaho
June 1, 2 & 3, 2006	Board Meeting in Conjunction with NCEES Western Zone Meeting in Santa Fe, NM
June 9 & 10, 2006	Board Meeting, Boise, Idaho
August 1, 2006	Application Deadline for Fall Examinations
August 25 & 26, 2006	Board Meeting, Riggins, Idaho
August 29 & 30, 2006	Board Meeting, Boise, Idaho
September 12-16, 2006	Board Meeting in conjunction with NCEES Annual Meeting, Anchorage, Alaska
October 27, 2006	PE and PS Examinations, Boise, Idaho
October 28, 2006	FS (aka LSIT) Examination, Boise, Moscow, and Pocatello, Idaho
October 28, 2006	FE (aka EIT) Examinations, Boise, Pocatello, Moscow
November 17 & 18, 2006	Board Meeting, Boise, Idaho
January 10, 2007	Application Deadline for Spring Examinations

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

**IDAHO BOARD OF REGISTRATION OF
PROFESSIONAL ENGINEERS AND
PROFESSIONAL LAND SURVEYORS
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