

# Idaho Board of Licensure of Professional Engineers And Professional Land Surveyors

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David K. Bennion, P.E., Secretary, Boise  
John W. Howe, P.L.S., Member, Coeur d'Alene  
George L. Wagner, P.E., Member, Boise

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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.

### WILLIAM J. ANCELL, P.E. ENDS TERM ON BOARD

William J. "Bill" Ancell, P.E. has ended a five year term with the Board and chose not to seek renomination. Mr. Ancell, who served many years as the City of Boise Public Works Director, served as Board Secretary, Vice Chair and Chair during his five years. We thank Bill for his years of dedicated service and wish him well in his retirement.

### GEORGE L. WAGNER, P.E. BEGINS TERM ON BOARD

Governor C.L. "Butch" Otter has appointed George L. Wagner, P.E. of Boise to a five year term on the Board. George received a bachelor and masters degree from the University of Idaho in Civil Engineering. After a short term in the public sector, he began his career as a consulting engineer, and is currently the Chairman of the Board of J-U-B ENGINEERS, Inc. We welcome him on the Board and look forward to working with him.

### STRUCTURAL II AND STRUCTURAL III QUALIFY AS ACCEPTABLE 16 HOURS OF EXAM

The Board Administrative Rules require that in order to be licensed as a professional engineer especially qualified in structural engineering a candidate must successfully pass 16 hours of structural examination. Traditionally this requirement has been met either by taking the 16 hour "Western States Structural Exam" (which is no longer offered) or by taking the NCEES eight hour Structural I and eight hour Structural II exams. Several states have recently adopted use of the NCEES Structural II examination and in addition have prepared their own eight hour "Structural III" examination. After reviewing the content of the jurisdictional Structural III examination, the Board voted to approve it in combination with the NCEES Structural II examination as meeting the requirement of the Rules. The NCEES examination for licensing as a professional engineer especially qualified in structural engineering will be a single exam administered in two eight hour sessions, and passage of both sessions will be required in order to pass the exam.

### ELECTRONIC BUSINESS PROGRESS

The Board has approved the migration of our renewal system from hard copy mailings to on-line and allowing credit card payments, but has had problems moving up the priority list for conversion in the state system. In an effort to speed up that process the Board has adopted a goal in its Strategic Plan to make the conversion. We hope to be able to begin on-line renewals and accept credit card payments in the next year or so.

### **BOARD OFFICE MOVING TO MERIDIAN**

Effective July 1, 2010 the Board office address will be 1510 Watertower Street, Suite 110, Meridian, Idaho 83642. The office is conveniently located just west of Locust Grove between I-84 and Franklin Road. Our telephone number ((208) 373-7210) and fax number ((208) 373-7213) as well as the email addresses listed above remain the same. Please stop by to visit us in our new quarters.

### **PROPOSED RULE CHANGES FOR 2011**

The Board will hold a Negotiated Rule-Making meeting at 9:00 a.m. on June 15, 2010 in room 302 of the Len B. Jordan Building, 650 W. State Street, Boise, Idaho. The Board is considering changes to the Rules of Professional Responsibility which would (1) exempt licensees from the requirement to notify another licensee of the discover of an error if the discoverer is retained by an attorney, in which case the Idaho Court Rules would apply, and (2) require that licensees be prompt in statements and written responses to the Board. In addition, the Board is considering changes to the Rules of Procedure which would (1) allow initial licensing as a professional engineer through use of the Structural Engineer examination without having to first be licensed as a professional engineer in another discipline, and (2) allow the details of investigations to be released to law enforcement agencies and licensing entities in other jurisdictions. If you have comments or questions you may attend the meeting or submit them in writing not later than June 23, 2010.

### **PROPOSED LEGISLATION FOR 2011**

The Board is considering legislation for the 2011 session of the Idaho Legislature which would amend a number of sections of Idaho Code relating primarily to the practice of land surveying, but which have some implications for those who practice professional engineering. The purposes of the contemplated amendments and the rationale behind them are as follows:

- We want to have consistent definitions of terms in five chapters of Idaho Code that relate to surveying. **Rationale:** consistency is necessary whether we are dealing with plats, records of survey, corner records, or any other aspect of Idaho Code.
- We want to require professional land surveyors to monument corners when they perform a land survey and to record the survey if certain conditions are met. **Rationale:** surveyors who perform land surveys should be required to provide evidence of their work product.
- We want to require perpetuation of original evidence of the location of a public land survey corner with monumentation meeting current statutory requirements. **Rationale:** original evidence monumentation standards did not require magnetic detectability.
- We want to allow the setting of witness corners or reference points in lieu of reestablishing the original monument at its original location after it has been disturbed by construction. **Rationale:** there are situations in which it is not possible or safe to occupy or monument the position of a corner set originally.
- We want to continue to protect property controlling corners and accessories to corners, and to add the requirement to protect points set in control surveys and benchmarks. **Rationale:** like property controlling corners and accessories to corners, points set in control surveys and benchmarks are valuable public property which need to be protected in the event construction activities might disturb or destroy them.
- We want to clarify the requirements of a Highway Right-of-Way plat. **Rationale:** numerous ambiguities exist regarding the requirements of monumentation and appropriateness of using a highway right-of-way plat.
- We want to correct an error in the requirement that surveys be conducted to a predetermined minimum accuracy. **Rationale:** The current standard has been understood by practitioners, but contained a technicality that is subject to ambiguity.

## DISCIPLINARY ACTIONS

The following final formal actions have been taken by the Board since publication of NEWS BULLETIN No. 44 in December of 2009

**Docket No. 09.06 - IN THE MATTER OF JOEL PETTY, P.E.** A homeowners association hired Mr. Petty to develop their water system to meet their increasing demands. Approval for the Preliminary Engineering Report from the Department of Environmental Quality was not obtained before the construction began on the project pursuant to Idaho Code 39-118. Mr. Petty maintains that his actions were lawful. He has admitted that if the facts and allegations were proven at a hearing, they could be found to be sufficient grounds for discipline. Mr. Petty stipulated to an admonishment, an administrative penalty of \$2,000.00 payable to the General Fund of the State of Idaho.

**Docket No. 10.03 – IN THE MATTER OF JEFF WILLIAMS, P.L.S.** Mr. Williams prepared a plat for a subdivision in Custer County, Idaho. Mr. Williams affixed his stamp (computer generated) to the plat, but did not sign and date the stamp prior to presenting it to his client. Neither did he mark the document as preliminary or draft. Subsequently, the client caused the plat to be recorded by the county recorder, without Mr. Williams' signature and date affixed to his stamp. After learning that the plat had been recorded without his signature and date affixed, Mr. Williams contacted the applicable county officials, and the deputy recorder, after consultation with the county attorney and county recorder, determined that it would be acceptable to allow Mr. Williams to sign the original recorded document, and re-record it, which is what occurred. Mr. Williams agreed that there was sufficient evidence to support a finding that he failed to perform in accordance with Idaho Code Section 54-1215(3)(b), in that he presented to his client a plat that had his seal, but no signature and date, as required by Idaho Code Section 54-1215(3)(a); and that his conduct violated IDAPA 0.01.02.005.02, standard of care for the profession. Mr. Williams was admonished by the Board and paid an administrative penalty of \$300 to the General Fund of the State of Idaho.

**Docket No. 10.08 – IN THE MATTER OF SCOTT SPAULDING, P.E.** This matter involves work performed by Mr. Spaulding in regards to a residence located in Ketchum, Idaho (hereinafter the "Project"). Mr. Spaulding prepared structural drawings of the already constructed building, and failed to comply with the 2006 International Building Code structural design submittal requirements, in that he failed to adequately document his calculations used in the design and he failed to adequately consider the complete load paths in the design submitted to the Ketchum City building official, in violation of IDAPA 10.01.02. Respondent, as the engineer in responsible charge of the work, failed to perform in accordance with the standard of care for the profession and is under duty to the party for whom the service is performed to exercise such care, skill and diligence as others in the profession ordinarily exercise under like circumstance, in violation of 005.02, Rules of Professional Responsibility, "Standard of Care." Through a stipulation, Mr. Spaulding was reprimanded by the Board, paid an administrative penalty of \$4,000 to the General Fund of the State of Idaho, agreed to complete additional education within one year, and agreed to a six month withheld suspension of his license.

**Docket No. 10.10 – IN THE MATTER OF CARL V. EDWARDS, P.E./L.S.** Mr. Edwards signed a stipulation in which he admitted that he failed to maintain records of Continuing Professional Development in accordance with the Rules of Continuing Professional Development, IDAPA 10.01.04 and 10.01.02.005.05 and that he failed to make a complete, objective and truthful statement in accordance with the Rules of Professional Responsibility, IDAPA 10.01.02.007.01, in that he signed a renewal form to the Board stating that he agreed to comply with the Rules for Continuing Professional Development, but had not for the audit period June 1, 2006 through May 31, 2008. Mr. Edwards was admonished by the Board, paid an administrative penalty of \$500 to the General Fund of the State of Idaho, and completed a 15 hour course in surveying ethics in addition to the 15 hours of other continuing professional development he had already accomplished.

**Docket No. 10.11 – IN THE MATTER OF ELAINE PEARSONS, P.L.S.** Ms. Pearsons signed a stipulation in which she admitted that he failed to maintain records of Continuing Professional Development in accordance with the Rules of Continuing Professional Development, IDAPA 10.01.04 and 10.01.02.005.05 and that she failed to make a complete, objective and truthful statement in accordance with the Rules of Professional Responsibility, IDAPA 10.01.02.007.01, in that she signed a renewal form to the Board stating that she agreed to comply with the Rules for Continuing Professional Development, but had not for the audit period August 1, 2006 through July 31, 2008. Ms. Pearsons was admonished by the Board, paid an administrative penalty of \$500 to the General Fund of the State of Idaho, completed a 15 hour course in surveying ethics, and completed an additional fifteen hours of approved continuing professional development. Ms. Pearsons did not timely complete the course in surveying ethics and, in accordance with the stipulation, her license was suspended until such time as the Board reviewed the matter and reinstated her license.

**Docket No. 10.12 – IN THE MATTER OF JAMES P. WINBORG, P.L.S.** Following a hearing, the Board found unanimously that Mr. Winborg failed to maintain records of Continuing Professional Development as required by IDAPA 10.01.04.008.03, and that he failed to make a complete, objective and truthful statement in accordance with IDAPA 10.01.02.007.01 in that he signed a renewal form to the Board stating that he would comply with the Rules including the Rules for Continuing Professional Development. The Board voted unanimously to revoke the license of Mr. Winborg to practice as a professional land surveyor in the State of Idaho.

**Docket No. 10.13 – IN THE MATTER OF MARC A. WAGNER, P.L.S.** Following a hearing, the Board found unanimously that Mr. Wagner failed to maintain records of Continuing Professional Development as required by IDAPA 10.01.04.008.03, and that he failed to make a complete, objective and truthful statement in accordance with IDAPA 10.01.02.007.01 in that he signed a renewal form to the Board stating that he would comply with the Rules including the Rules for Continuing Professional Development. The Board voted unanimously to revoke the license of Mr. Wagner to practice as a professional land surveyor in the State of Idaho.

**Docket No. 10.14 – IN THE MATTER OF BERNELL L. OLSEN, P.L.S.** Following a hearing, the Board found unanimously that Mr. Olsen failed to maintain records of Continuing Professional Development as required by IDAPA 10.01.04.008.03, and that he failed to make a complete, objective and truthful statement in accordance with IDAPA 10.01.02.007.01 in that he signed a renewal form to the Board stating that he would comply with the Rules including the Rules for Continuing Professional Development. The Board voted unanimously to revoke the license of Mr. Olsen to practice as a professional land surveyor in the State of Idaho.

### **SURRENDER OF LICENSES**

**Docket No. 09.28 – IN THE MATTER OF DEAN BROWN, P.E.** During the building permit review process of a structural design submitted by Mr. Brown for a project in Boise, Idaho, a dispute arose between Mr. Brown and the contracted structural review engineer for the City of Boise, regarding proper design methods as they relate to life safety issues, and whether certain procedures were proper. Subsequently, the City of Boise Planning & Development Service sent a request for an informal inquiry regarding the matter to the Board "to evaluate if competency, negligence, or other violations of Idaho State statutes are at issue." The request for an informal inquiry was based on the opinion that the structural design submitted by Respondent "contains material discrepancies, errors, or omissions, which may impact the health, property, and welfare of the public." Mr. Brown reviewed this matter and was aware that the City of Boise's request for an informal inquiry related to allegations of a potential violation of IDAPA 10.01.02 Rules of Professional Responsibility, 005.02 "Standard of Care," which requires that a licensee shall perform in accordance with the standard of care for the profession and is under duty to the party for whom the service is performed to exercise such care, skill and diligence as others in the profession ordinarily exercise under like circumstances or, Rule 006.01 "Assignments in Field of Competence," which allows a licensee to only

undertake to perform assignments when qualified by education or experience in the specific technical field involved. Mr. Brown, in an effort to resolve this matter without the cost and expense of a full Board hearing, and without admitting any wrongdoing, signed a Stipulation in which he: voluntarily surrendered his license to practice as a professional engineer in the state of Idaho; agreed not to renew or seek reinstatement of said license to practice as a professional engineer in the state of Idaho until such time as he has completed six (6) college semester credit hours of education as specified by the Board and he submits certification of completion of the courses.

**Docket No. 10.03 – IN THE MATTER OF PETE van der MEULEN, P.E.** This matter involves work performed by Mr. van der Meulen regarding a plat prepared by Jeff L. Williams, P.L.S. for a subdivision in Custer County, Idaho. When presented with the plat containing Mr. Williams' seal, but no date or signature, Mr. Van der Meulen, P.E., sealed the plat with his signature, but no date, and with the printed statement, "EXAMINING SURVEYOR'S CERTIFICATE I hereby certify that I have examined this plat and find it to be correct and acceptable as required in Section 50-1305 of the Idaho Code. Date Custer County Surveyor PLS." Mr. van der Meulen reviewed this matter and agreed that there was sufficient evidence to support a finding that he failed to perform in accordance with the standard of care for the profession in violation of IDAPA 10.01.02.005.02; IDAPA 10.01.02.004.04, misconduct; and IDAPA 10.01.02.006.01, acting outside of his field of competence. That Respondent signed a stipulation in which he agreed to voluntarily surrender his license without the right to reapply or reactivate his license.

#### **IN MEMORY OF THOSE RECENTLY DECEASED**

Charles C. Bergman, ME 2258, Twin Falls, ID  
Charles J. Estey, ME 7333, Spokane, WA  
Orion Luvern Grunerud, CE 1245, Boise, ID  
John L. Kornher, CE 4241, Boise, ID  
Bert Erling Malmquist, EE 1248, Boise, ID  
John W. McCann, CE 8651, Tulsa, OK  
Carl Richard McMillen, LS 939, Spirit Lake, ID  
William H. Menghini, EE 5305, Sandpoint, ID  
Elizabeth B. Miller, CE 5037, Ahsahka, ID  
Lawrence Vernon Osgood, ME 2842, Caldwell, ID  
John C. Pearson, ME 1741, Chubbuck, ID  
T. Dennis Price, ME 1309, Grand Junction, CO  
George Robie Russell, CE/LS 396, Moscow, ID  
Walter Hall Smith, CE 763, Boise, ID  
Dwight Emerson Urelius, CE, SE 9709, Austin, TX