Idaho Board of Licensure of Professional Engineers And Professional Land Surveyors

Fall 2014 NEWS BULLETIN 54th EDITION

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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.

Board Member Highlights

Message from the Chair

The Board recently resolved disciplinary cases that dealt with statements made in public about material discrepancies in another engineering company's work. The board also heard from an engineering company that expressed concerns about the conduct of another engineering company that undermined public confidence in the work of their firm.

In these cases, engineering companies were hired to peer review or in one case volunteered to peer review the work or proposed solutions presented to municipalities. The outcome of the peer review is a presentation to the city that solutions proposed by the original engineering firm have flaws and that our recommendations could do the job better, faster, cheaper, etc.
Sometimes this is seen as a business development method that implies to the city that if you just hired us, you would find us to offer you more for your money.

Engineers and Engineering firms need to be aware that there are specific rules of Professional Responsibility that will be enforced for actions of this nature.

Communicating what is seen as a material discrepancy in a public forum or otherwise without first notifying the other engineer or firm that you found a discrepancy is a violation.

Other violations that may occur in these situations include indiscriminate criticism in public, harming the professional reputation, prospects, practice or employment of another licensee, conflicts of interest, and improperly seeking employment for professional services for an assignment which another Licensee or Certificate Holder is employed.

The intent of the rule is for engineers and surveyors to communicate with each other and seek what is best for the public. The public is not well served by undermining confidence in engineering work done by others without due process. **These issues must be handled discretely and consistent with our Rules of Professional Responsibility. See IDAPA 10.01.02 Rules of Professional Responsibility sections 005, 007, 008 and 009.**

Glenn Bennett was appointed in June to succeed John Howe as the professional land surveyor member of the board. Glenn is a third generation Idahoan, born in Twin Falls and raised in New Meadows. He is a graduate of Idaho State University and is an Idaho Professional Land Surveyor, licensed since 1985. He is also licensed in Nevada and California and has worked in the private sector in the Treasure Valley continuously since 1977.

Since its inception in January of 1993, he is the President of Civil Survey Consultants, Incorporated, a small consulting engineering and land surveying firm located in Meridian, Idaho. He is married to Linda, his lovely bride of 31 years, and lives in rural Boise County along with Rufus, their goofy black lab.

Governor Appoints Glenn Bennett, P.L.S. for a 5-year term.

Introduction

Online Applications and Renewals Now Available

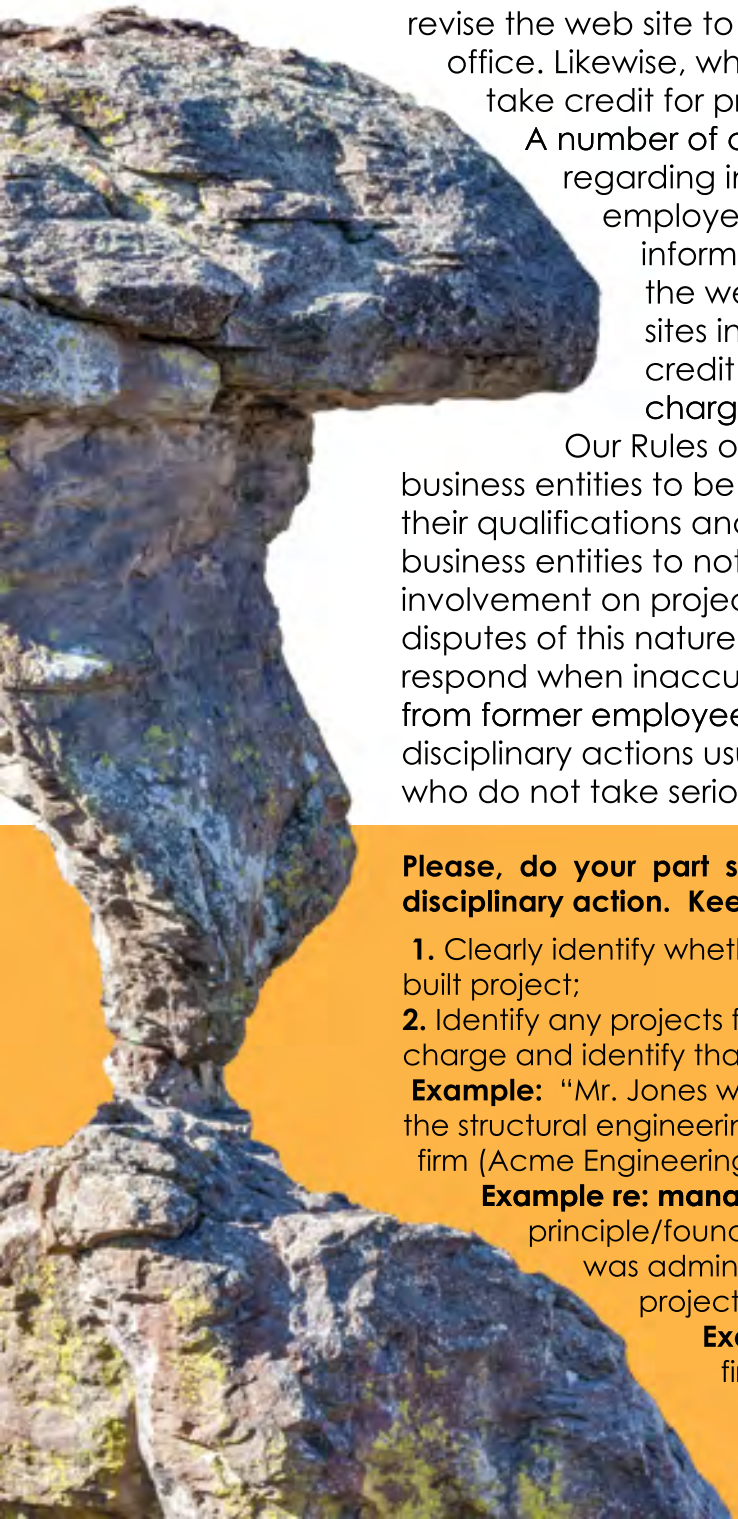
The Board and staff are pleased to announce that licensees and interns can renew online. Certificate of Authority renewals will be online in late 2015. The forms and format have changed, but the content is essentially the same. Payment of fees online is now an option, although Access Idaho charges a small processing fee with each transaction. Licensee and certificate holders will still get notified when renewals are due. We expect the transition to online services to be an improvement, but we want to know if you encounter problems. For those who still want to mail in a payment in lieu of paying online, you can print out your forms and mail them in with your check. You can also update your address, phone number or email address online.

How do you prefer to receive notifications from the Board? Some may prefer an email with a link. Some may want a postcard with a web address. Some still may wish to get their renewals by mail. Likewise, we want to know how you prefer to receive news bulletins. Our desire is to get information to you in the manner you want to receive it.

Board Decisions

How Accurate Must My Web Site (or other advertisement of qualifications) Be?

Web sites are a common means to advertise expertise and market services to prospective clients. But, it is not uncommon for engineers and surveyors to move around from one company to another. Employment change could create misleading information on former employer and new employer web sites if the site is not promptly updated.



When licensees move to a new company, they expect that their prior employer will revise the web site to reflect the fact they are no longer employed at that office. Likewise, when licensees move to a new company, they want to take credit for project work done for former employers.

A number of complaints were recently received by the Board regarding inaccurate representation on web sites from departed employees and prior employers. The complaints state that they informed their former employers or former employees, but the web sites were not changed as requested. The web sites indicate licensees and/or business entities are taking credit for work that was not done under their responsible charge.

Our Rules of Professional Responsibility require licensees and business entities to be truthful and accurate when it comes to representing their qualifications and capabilities. It is incumbent on licensees and business entities to not mislead or misrepresent their expertise or level of involvement on projects. The Board should not have to get involved in disputes of this nature. As professionals, we have an obligation to listen and respond when inaccurate representation is pointed out to us, especially from former employees or former employers. The cases that end up as disciplinary actions usually stem from unresponsive or unwilling individuals who do not take seriously the obligation to accurately display their work.

Please, do your part so the Board does not have to do their part and invoke disciplinary action. Keep your website accurate by:

1. Clearly identify whether the project was a proposal only, or a fully designed and built project;

2. Identify any projects from a previous firm for which an engineer had responsible charge and identify that it was conducted at that previous firm.

Example: "Mr. Jones was the engineer in responsible charge for this project [or for the structural engineering/civil engineering portion of this project] while at another firm (Acme Engineering)."

Example re: management: "Mr. Jones, while a principle/founder/owner/president of another firm (Acme Engineering) was administratively and legally responsible for the management of all projects."

Example partial participation: "Mr. Jones, while at another firm (Acme Engineering), provided partial support for this project in the area of civil/structural engineering, but was not the engineer in responsible charge."

Board Decisions

Surrender or retirement of license in lieu of discipline requires a reinstatement action by the Board

Some licensees choose to surrender or retire their license in lieu of discipline, usually associated with violations of continuing professional development (CPD) requirements. On occasion, licensees change their minds and seek to reinstate their license. The Board has decided that a condition of reissuing a license in either situation is considered a reinstatement action which requires a hearing by the Board as described in section **54-1221**, Idaho Code. Licensees who allow their license to expire or convert their license to retired status, not associated with a disciplinary action, and later seek to renew their license can do so by paying the appropriate late fee and providing proof of compliance with the CPD requirements.

Land Survey Questions

Is a Record of Survey and new monument required for a boundary line adjustment?

Question 1 A land surveyor from North Idaho called with a question on boundary line adjustments. A previous Record of Survey (ROS) was filed on a survey done identifying the boundary between two parcels in the county. The property owners have a fence line that is not on but near the surveyed boundary. They have agreed to adjust the boundary to align with the fence line. They hired a surveyor to survey the adjustment. The surveyor located the prior monuments and tied in the fence line. He wrote new property descriptions but set no new monuments (apparently referenced previous monuments in the property description). Is a ROS required? The surveyor doesn't think so since he set no monuments. So the question is, did the surveyor "field locate" unmonumented property corners, or was a new boundary line and corner established?

Board Decisions

The applicable statutes are as follows:

55-1904. Records of Survey – When Filing Required. After making a land survey in conformity with established principles of land surveying, a surveyor shall file a record of survey with the county recorder in the county or counties wherein the lands surveyed are situated. A record of survey shall be filed within ninety (90) days after completing any survey which:
(1) Discloses a material discrepancy with previous surveys of record;
(2) Establishes boundary lines and/or corners not previously existing or of record;
(3) Results in the setting of monuments at corners of record which were not previously monumented;
(4) 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; or
(5) Results in the setting of monuments that conform to the requirements of section **54-1227**, Idaho Code, at the corners of an easement or lease area.

54-1227 says "… it shall be the duty of each licensed professional land surveyor, whenever making any such land survey that is not preliminary in nature, to set permanent and reliable magnetically detectable monuments at all unmonumented corners field located,…".
55-1902(5) defines land survey as:
(5) "Land survey" means measuring the field location of [property] corners that:
(a) Determine the boundary or boundaries common to two (2) or more ownerships;
(b) Retrace or establish land boundaries;
(c) Retrace or establish boundary lines of public roads, streets, alleys or trails; or
(d) Plat lands and subdivisions thereof.

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Board Decisions

The applicable statutes are as follows: (continued)

The Board responded that according to **55-1904**, he **should** record a Record of Survey. He indicates that he did a survey (tied the existing monuments and fence) and wrote new property descriptions with the fence line as the new boundary (created a boundary line not previously existing or of record). Surveyors should not lose sight of what the Record of Survey is. It's a **RECORD** of their survey to be entered into the Public Record and should show what they found, set, and any other information that explains their survey for others following their footsteps. Why wouldn't a surveyor file a ROS if he's gone to the trouble to do the survey and write the descriptions? Why wouldn't he set monuments at the corners of the new boundary line, (if the corner positions are accessible), so as to avoid confusion in the future on whether or not the monument on the ground is the intended corner?

Under Definitions in **55-1902** a "Corner" is a property corner, property controlling corner, a public land survey corner, or any combination these. A "Monument" is a physical structure or object that occupies the exact position of a corner. A "Reference point" is a special monumented point that does not occupy the same geographical position as the corner itself, and where the spatial relationship to the corner is known and recorded, and that serves to locate the corner. Subsection (5) defines "Land Survey" as measuring the field location of corners that determine the boundary or boundaries to two or more ownerships.

Through his actions (tying the existing corner monuments and fence and preparing descriptions describing a new boundary between the parcels based on that survey), he has performed a "land survey" and established a boundary and corners not previously of record. Whether he "monuments" the "corners" or uses the previous monuments as "reference points" is not the important issue. He has changed the record boundary. Failing to file a ROS that documents his work runs the risk of causing confusion on the true location of the corner and does not comply with the standard of care required of land surveyors.

Board Decisions

When monuments are set on a line betwen corners, is a ROS required?

Question 2 A land surveyor from Central Idaho called about conservation easements purchased from private land owners where the Natural Resource Conservation Service (NRCS) requires monuments to be set on the line between property corners (every 600') as part of the survey and boundary description of the easement. What are the requirements? Is a Record of Survey (ROS) required to be filed or recorded that shows the exact location of the monuments set on line? Some land surveyors are not showing the exact location of these monuments, either leaving them off the ROS or showing their approximate location, or not filing a ROS at all.

The Board responded that the land surveyor must tie to the boundary corners in order to put the line markers on the boundary. If he uses a total station or GPS to tie the corners and get the markers on the line, he should be able to measure the distance between markers and the boundary corners with relative ease. If monuments are set during a survey, they should be shown on the ROS map, along with their location and identifying features (size, PLS #, etc.). Years to come, these line markers may well end up becoming reference monuments to the corner locations if the corner markers are destroyed or obliterated. Since monuments are set, a ROS is required.

Is a ROS required for irrigation easements?

Question 3 A land surveyor from Southern Idaho called with a question related to an easement. A farmer hired a surveyor who wants an easement boundary description (metes and bounds perhaps) where his pivot irrigation crosses a property boundary. The farmer doesn't want monuments set in his field. The question is, are surveyors required to set monuments and ROS for this description? Can the surveyor write the description without setting the easement meander boundary with monuments?

The applicable statutes are as follows: (continued)

Question 3 (continued) The Board replied, the definition of "land survey" in **55-1902** and the ROS requirements of **55-1904** (shown in Question 1) apply to this question.

Reading these two sections together, if the corners of the easement were not "field located", i.e. something set in the field or something shown to the owner or interested parties, then a "land survey" has not been performed. Even if one argues a land survey has been performed to locate the irrigation pipe and come up with the metes and bounds calls for the description, then if the surveyor does not set monuments at the corners of the easement, he/she is not required to file a Record of Survey map. It would be a good idea to make a sketch of the easement and its relation to the property and include this sketch as an exhibit in the easement document. It would also be nice if, once the easement is recorded, the surveyor set a monument at the POB of the easement and filed an ROS showing the POB, recording number and the easement location so future owners would be able to locate the easement. These are not required by law, but would be good practice in the "real world".

There are certain actions in cases like this that will trigger a requirement for filing a ROS. If the surveyor "field locates" any corner of the easement, then a land survey has been performed and a ROS is required. Field locates means putting a lath on the corner, marking a fence post, marking or flagging the ground, etc.

Is a Record of Survey required for surveys done that don't set monuments on old townsites platted in 1883 and 1910?

Question 4 I do the mapping for a County Assessor's Office. We have had a couple of people in looking for copies of surveys, which don't exist, even though they hired a surveyor to survey their property corners. In both cases the work was done by the same survey company from lots shown on old platted subdivisions. When asked why they hadn't filed a record of survey, they said "because the corners were already of record on the plat…therefore they weren't required to." However, these old plats (from 1883 [amended in 1990] and 1910) do not mention anything about the lot corners as ever having being "set". If there is no evidence on the plat that the corners were ever established on the ground, are monuments required to be set and is a survey required to be recorded?

Board responded that the statute that applies is **55-1904**. Records of Survey – When Filing Required (shown in Question 1).

Most of the old plats of that era did not monument the lot and block corners. In some cases, the corners that were set at the time were merely identified with a note, in a legend, or labeled on the drawing. Also, many times the surveyor would include what was set in the Certificate of Owners.

Given the age of the prior survey (1883-1910), the chances are slim that a land survey recently completed also matches what was discovered on the ground (or shown on the plat) with no material discrepancies. The original lot corners were likely not monumented at the time of the plat recording. Road intersections may have been monumented. The surveyor should file a ROS unless the surveyor recovers the original undisturbed monuments and there is no "material discrepancy" between the found monuments and the dimensions shown on the plat.

A note about material discrepancies. It is not uncommon for land surveyors who resurvey parcels to find them in prior surveyor's work. When subsequent surveys do not match the previously recorded surveys or monuments, this is defined as a material discrepancy. Land surveyors have an obligation to communicate with previous surveyors the discovery of material discrepancies to be in compliance with the rules of professional responsibility. The desired outcome of that communication is agreement of the facts and resolution of the discrepancy without the board needing to get involved. If agreement and resolution cannot be reached, the board should be notified and, if necessary, a complaint filed.

Board Decisions

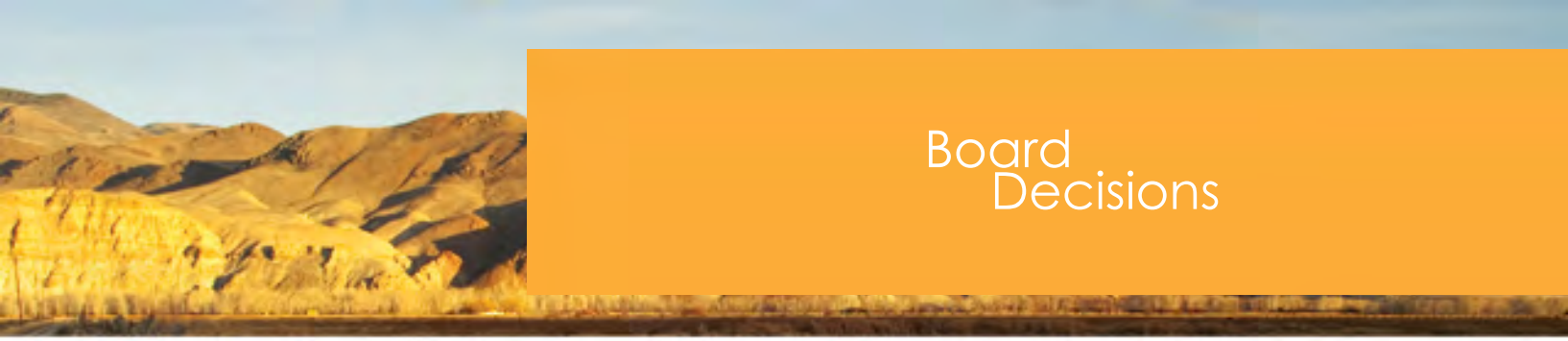
Under what circumstances may a professional revoke, rescind or retract his certification or "sealing" of documents?

The applicable statute is section **54-1215**(3)(b &c) which says: "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 government agency. The seal, signature of licensee and date shall constitute certification that the work thereon was done by him or under his responsible charge."

The question comes from licensees who have not been paid for the work and therefore believe they have an option to rescind their seal until payment is received.

The board addressed the issue that there is only one circumstance in case law that a licensee's sealed work can be revoked, and that is when unapproved alterations to the licensees sealed work are done without his knowledge or approval that directly affect the life, health and property of the public. It is the board's decision that once the work has been deemed final and prepared by a professional or under his responsible charge, as demonstrated by the seal being affixed to the work, should the professional believe that the work has been altered in such a way, after his certification/seal was affixed, the document is no longer a final specification, land survey, report, plat, drawing, plan design information and calculation, or the document is no longer able to be relied upon to make policy decisions important to the life, health, property, or fiscal interest of the public, the professional shall notify the client and any public officials necessary to safeguard the public's health, safety and welfare. Such notification shall be in writing describing that the work has been modified without the professional's permission and that it may pose a risk to the public's health, safety and welfare. If time is of the essence, then a voice contact by phone or in-person shall be made to the client and with public officials with the written notification following in a timely manner.

"There is only one cirumstance that sealed work can be revoked..."

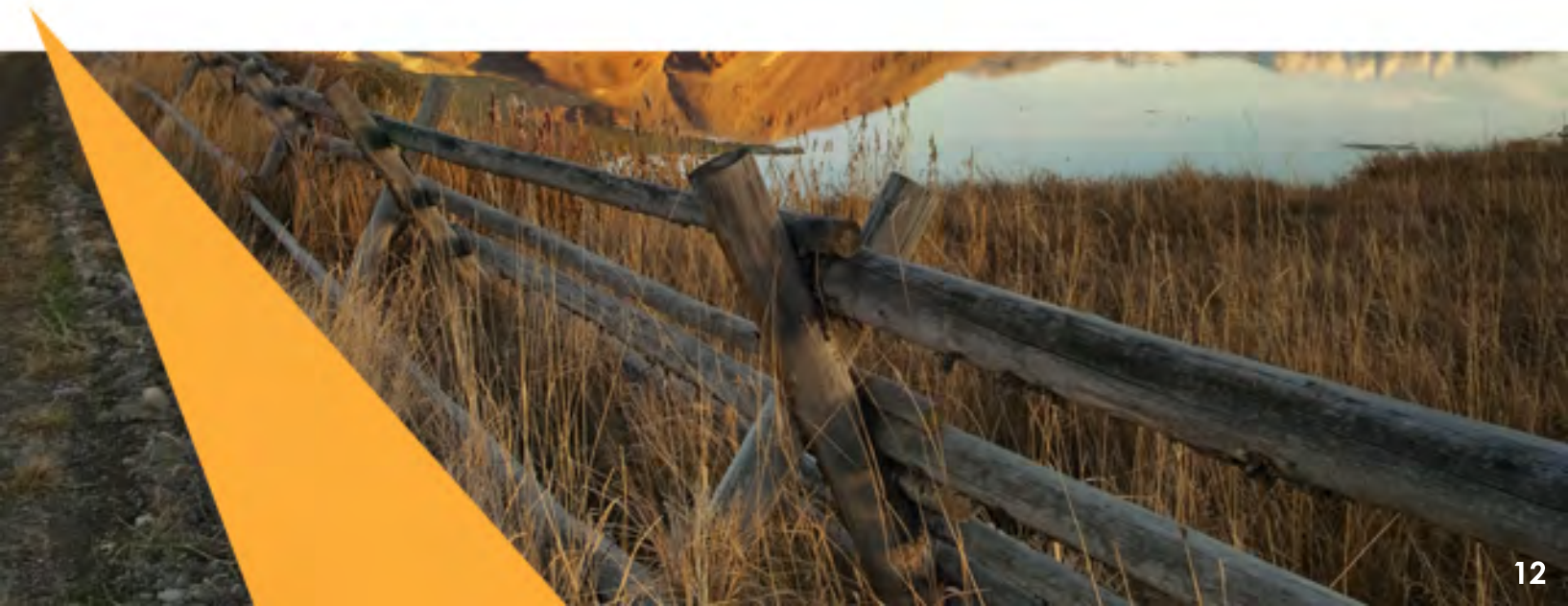


Board Decisions

Under what circumstances may a professional revoke, rescind or retract his certification or "sealing" of documents? (continued)

Another question is similar, in that a licensee was not fully paid for a project that was accepted by building officials and partially constructed prior to bankruptcy and termination of the project. A subsequent purchaser of the property wanted to complete the building out of the project and needed to make minor code changes (add curb cuts to sidewalks) to update the project design to comply with current building requirements of the county. The licensee who sealed the original work claimed proprietary design of his work and indicated his seal is rescinded unless he is paid for the work done years earlier and that his work could not be used to complete the build out of the project or altered in any way unless he was hired to update his work.

The board decision is that a seal cannot be rescinded for lack of payment. Idaho Code section **54-1223(6)** describes the process subsequent licensees must use when assuming responsible charge for a project where the original licensee "leaves employment, is transferred, is promoted, becomes incapacitated, or is otherwise unavailable." As described in this section, licensees may make alterations to a prior licensee's work as long as the licensee's seal clearly and accurately reflect his work product and not that of the prior licensee's work. Since building officials accepted for construction the prior licensee's work and the construction work was partially completed, the updated work by a successor licensee is not a violation of the "proprietary design work." The seal and signature of work implies the work meets the standard of care and is a competency issue. The lack of payment is contract issue. The two issues must be addressed separately. The board will address competency issues. Other legal venues such as the courts will address contract issues. Proprietary design means work products cannot be taken from one site and used on another site which is an intellectual property issue that is also addressed by the courts, not the board (unless there is a violation of the Rules of Professional Responsibility). This case involved the original design on the same site.



Board Decisions

Does data collection need to be done by a person who is directly supervised by the engineer in responsible charge?

The board received an inquiry from an engineer at the Idaho Department of Environmental Quality (IDEQ) regarding the requirements of responsible charge in the collection of lagoon seepage data. The Board's attorney responded as follows:

Dear Mr. IDEQ Engineer:

This letter responds to your inquiry via Email correspondence between the Idaho Board of Licensure of Professional Engineers and Land Surveyors (IPELS) staff and Idaho Department of Environmental Quality (IDEQ) staff that asks the question whether a professional engineer (P.E.) may utilize municipal staff to collect data necessary for seepage testing. Apparently IDEQ has allowed data to be collected by this means, but a professional engineer contracted to perform the required seepage testing for a municipality believes that a municipal worker, not employed by P.E., cannot collect the data because the worker is not under P.E.'s authority, i.e. responsible charge or supervision. The IPELS Board considered your question and has authorized me to respond accordingly.

Reviewing the IDEQ Guidance, it appears that the parameters of the lagoon seepage testing, the method and procedure for testing and the analysis based upon the data gathered are areas requiring specialized knowledge of engineering. Submittal of the lagoon report also requires seal and signature of a P.E. However, the Guidance indicates that the collection of raw data, based upon parameters previously established by an engineer, do not need to require specialized knowledge, but does need to be done according to the plan and procedures as directed by a P.E. The mechanical raw data collection may be done by others who are under the supervision or direction of the P.E. as data collection in this manner is generally not considered engineering work.

The suggestion that a P.E. can never have "responsible charge" of an individual who is not under their employ or direct supervision is not correct. ***Idaho Code*** *defines* ***responsible charge*** *to mean* ***"the control and direction of engineering work, or the judgment and professional knowledge of the content of relevant documents during their preparation."*** *It is not uncommon for engineers to rely on the data collection efforts of others, as long as the data collection is done* ***under accepted protocols and quality standards.***

I hope this assists you in answering your questions. Thank you.

Yours very truly,

MICHAEL J. KANE

Statute and Rule Changes

Law changes proposed by the Board in 2014 for introduction to the legislature in 2015

New license and certificate renewal requirements

Idaho Code **54-1216** basically says once a licensee pays the renewal fee, the license is renewed. There are other sections of Idaho Code and the Board's rules that offer a "refuse to renew" category in disciplinary proceedings. This implies there are conflicting requirements related to renewal of a license. To remedy this, the Board is considering a change that would add the "completion of administrative requirements of Idaho Code and rules" as a condition of license renewal. The change also increases the late fees from 20% to 50% per month and increases the maximum late fee from $300 to $500. The goal is to provide more financial incentive for licensees to renew on time. Currently about 10% of license renewals are late. A new provision for first time violators of Continuing Professional Development rules is added that provides licensees the option of a $400 fine in lieu of discipline.

Survey monuments are protected from defacement

There was a change in section **54-1234**, Idaho Code related to Penalty and Liability for Defacing Monuments in 2011 that inadvertently removed protections for monuments set by Idaho licensed professional land surveyors who do not work for the state or federal government. The law change corrects this error by reinstating the prior law provisions to include monuments set by an Idaho P.L.S., regardless of their employer. Surveyors should note section 18-7016, Idaho Code cites monument defacement as a misdemeanor in addition to the $1,500 fine cited in section **54-1234**, Idaho Code. Criminal enforcement must be conducted by local law enforcement agencies.

Minimum requirements on plats and records of survey

The Records of Survey section of **55-1906** Idaho Code is proposed for modification that will add a "graphic scale" to maps recorded. Similar changes are proposed for Essentials of Plats, section **50-1304**, Idaho Code, where "bearing and length of lines, graphic scale of plat and north arrow" are added. The purpose of the change is to bring both mapping and platting requirements into alignment with each other. The existing law does not require basic elements such as a north arrow and graphic scale to be placed on plats. The new law will require it. It is essential for users of these survey products to be able to orient themselves and understand the information on these maps and plats and for the requirements to be consistent.

Statute and Rule Changes

New plat media requirements

Section **50-1310**, Idaho Code was modified by the legislature in 2013 changing requirements for plat media used for recording purposes, but similar wording was not made in sections **50-1304** and **55-1905** where the media requirements should be identical to those identified in **50-1310**. The Board was not involved in this prior legislation. They did agree to revise the language of the law and to make changes that would align all three sections of Idaho Code where plat or map media requirements are specified. In addition, the Idaho Association of Counties Recorders and Clerks passed a motion to support these changes at their annual meeting in August.
The new language is as follows:

50-1304. Essentials of plats. (1) All plats offered for record in any county shall be upon stable base drafting film with a minimum base thickness of 0.003 inches. The image thereon shall be by a photographic process or a process by which a copy is produced using an ink jet or digital scanning and reproduction machine with black opaque drafting film ink or fused toner that will ensure archival permanence. The copy and image thereon shall be waterproof, tear-resistant, flexible, and capable of withstanding repeated handling, as well as providing archival permanence. If ink or toner is used, the surface shall be coated with a suitable substance, if required, to assure permanent legibility.

Additionally, changes to Idaho Code are concurrently made in sections **50-1310** (plats) and **55-1905** (record of survey maps) that removes the obsolete media language and references section **50-1305** above as the current requirement for plat and map media.

Corner record history is proposed for listing on the CP&F form, not on the ROS map

The Board worked with the Idaho Society of Professional Land Surveyors to revise the requirement to list all corner record instrument numbers on a record of survey map. It is changed to require only the most current instrument number. A concurrent rule change adds a new requirement to the Corner Perpetuation and Filing (CP&F) form that requires the listing of corner record history. The proposed new law reads as follows:

55-1906. Records of survey -- Contents. The records of survey shall show:
…(2) Evidence of compliance with chapter 16, title 55, Idaho Code, including instrument numbers of the most current corner records related to the survey being submitted and instrument numbers of corner records of corners which are set in conjunction with the survey being submitted; basis of bearings, bearing and length of lines, graphic scale of map, and north arrow…

Statute and Rule Changes

Engineering and surveying undergraduate students and graduate students are automatically assigned to the FE and FS examinations

In some cases, graduate students may not first obtain a bachelor's degree in engineering if the university offers a program where a master's or doctoral degree can be obtained without a bachelor degree. The changes to section **54-1212**, Idaho Code allows graduate students of engineering programs to take the Fundamentals of Engineering (FE) examination while enrolled in a masters or doctoral engineering program. Also, the changes will allow engineering and surveying undergraduate students or graduates to take the FE or FS examination without first applying to the board. The change to computer based testing (CBT) this year was implemented successfully. The new law enables students to take the CBT fundamentals examination by enrolling directly with NCEES. After they pass the examination, they then will apply to the board for their Intern certificate (formerly known as engineer in training or land surveyor in training certificate).

Board considers adding new members

The board presently consists of five members appointed by the governor. By law, one must be a land surveyor and the other four must be engineers. Currently, the board has one member who is licensed as both a land surveyor and an engineer. Examining the demographics of licensees, the board has determined that future dual licensed board candidates are decreasing in numbers significantly. The board sees value in having two licensed land surveyors as complex survey matters are normally deferred to them. Additionally, retaining diversity both geographically and between engineering disciplines is desirable. For these reasons, the board is proposing an increase in membership to codify two land surveyors and five engineers for board membership, along with a change in a quorum from 3 to 4 members.

Statute and Rule Changes

Update to the legal definition of land surveying

The Board, together with the Idaho Society of Professional Land Surveyors (ISPLS), is seeking to modify the legal definition of Land Surveying. To accomplish this, changes to the law (**54-1202,** Idaho Code) must be made. The Board and ISPLS recognize a significant effort to communicate the rationale for the change to legislators and key stakeholders is needed. To that end, a communication plan was adopted that outlines the messages and means to effectively connect with those who must agree to and assist with the law change. The Board offered to conduct workshops at each of the active sections of ISPLS to explain the contents of the communication plan and to train members to use it as part of their legislative briefing effort. Workshops were conducted in Boise, Buhl, Pocatello, Sandpoint, Coeur d' Alene and Lewiston. The communication plan, briefing papers and related materials can be obtained from ISPLS. The law change was submitted to the governor and will be introduced as a proposed bill during the 2015 legislature.

Caption: Stephanie Worrell (center), communication consultant for the Board, discusses the use of the communication plan with the Clearwater section of ISPLS in Lewiston. Attendees (left to right) are Chad & Linda Erickson, Steve Staab, Stephanie Worrell, Allison Younger, Elizabeth Younger, John Elsbury and Verl Long

Statute and Rule Changes

The revisions to sections 54-1202 and 54-1227, Idaho Code reads as follows:

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

(1) "Authoritative" means certified by a professional land surveyor in accordance with established principles of professional land surveying when used to describe products, processes, applications, or data resulting from the practice of professional land surveying.

(2) "Benchmark" means a material object, natural or artificial, whose elevation is referenced to an adopted datum.

(3) "Board" means the Idaho board of licensure of professional engineers and professional land surveyors, hereinafter provided by this chapter.

(4) "Business entity" means a corporation, professional corporation, limited liability company, professional limited liability company, general partnership, limited partnership, limited liability partnership, professional limited liability partnership or any other form of business except a sole proprietorship.

(5) "Consulting engineer" means a professional engineer whose principal occupation is the independent practice of professional engineering; whose livelihood is obtained by offering engineering services to the public; who is devoid of public, commercial and product affiliation that might tend to infer a conflict of interest; and who is cognizant of his public and legal responsibilities, and is capable of discharging them.

(6) "Engineer" means a person who is qualified to practice engineering by reason of his special knowledge and use of mathematical, physical and engineering sciences, and the principles and methods of engineering analysis and design, acquired by professional education and engineering experience.

(7) "Engineer intern" means a person who has qualified for, taken and passed an examination in the fundamentals of engineering subjects as provided in this chapter.

(8) to (10) no changes

Definitions. As used in this chapter:

"Authoritative"
"Benchmark"
"Board"
"Business entity"
"Consulting engineer"
"Engineer"
"Engineer intern"

Statute and Rule Changes

54-1202. Definitions. (continued)
(11) "Professional land surveying" and "practice of professional land surveying" mean responsible charge of land surveying services using such sciences as mathematics, geodesy, photogrammetry and involving: (1) the making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvement on the earth, the space above, on or below the earth; and (2) providing, utilizing, or developing the same into survey products such as graphics, data, maps, plans, reports, descriptions, or projects; or (3) to provide acts of consultation, investigation, testimony, planning, mapping, assembling, and interpreting, and gathering measurements and information related to any one or more of the following:

a. Determining by measurement the configuration or contour of the earth's surface or the position of any fixed objects;
b. Performing geodetic surveys to determine the size and shape of the earth or the position on any point on the earth;
c. Locating, relocating, establishing, reestablishing, or retracing property lines or boundaries of any tract of land, road, right-of-way, easement, or real property lease;
d. Making any survey for the division or subdivision, or consolidation of any tract(s) of land;
e. Locating or laying out of alignments, positions, or elevations in the field for the construction of fixed works;
f. Determining, by the use of principles of surveying, the position for any boundary or non boundary survey monument or reference point or for establishing or replacing any such monument or reference point;
g. Certifying elevation information;
h. Preparing narrative land descriptions; or
i. Creating, preparing, or modifying electronic or other data, necessary for the performance of the activities in items a-i of this paragraph.
"Professional land surveying" and the "practice of professional land surveying" shall not mean: (i) mapping or geographic information system work that is for non-authoritative boundaries and non-authoritative elevations; (ii) construction survey work that is unrelated to establishing vertical and horizontal project control; and (iii) construction staking of fixed works or the development and use of electronic models for machine controlled construction, that by design are unrelated to boundaries described in subsection 11(c)…

A concurrent change to section **54-1227**,
Idaho Code will clarify that only
boundary surveys require permanent monuments.

Statute and Rule Changes

Rule changes pending with the legislature in 2015

The Board has identified a rule change that will expand the option of requiring a credentials evaluation for any applicant who graduates from a non-EAC/ABET accredited B.S. engineering program, and modifications to the international comity licensure process. The details of this change were addressed in the last news bulletin. The final rule is now adopted by the Board and is pending final legislative review.

Another rule change adopted by the Board and pending final legislative review applies to the Rules of Professional Responsibility, section 009 Solicitation of Work, subsection 05 Selection on the Basis of Qualifications. The rule cites the Qualifications Based Section (QBS) law in section 67-2320(2)a, Idaho Code. The change removes the citation to subsection (2)a and will require licensees to comply with all sections of the QBS law, not just section (2)a. The current rule is ambiguous and the board sought to clarify the requirement.

The Board has adopted a change to the Rules of Corner Filing and Perpetuation, which is pending legislative review. The change adds the requirement to list subsequent history of original corners. It compliments the law change described earlier that removes the requirement to list all corner records on the Record of Survey map. Surveyors should note there are concurrent changes to the CP&F form. The draft new form is available on our web site; the new form will become final once this rule change is enacted by the legislature (after adjournment of the 2015 session). The rule change reads as follows:

Statute and Rule Changes

007. RECORD OF ORIGINAL CORNER AND SUBSEQUENT HISTORY.

Information provided in this section shall include the name of the original surveyor and the date or dates on which the original survey was performed and a description of the original monument set. The information shall also include the history of subsequent remonumentation, including the name(s) of the surveyor(s), the agency or company they represented, the date(s) of the survey(s) and a description of all monuments found or set, including all monuments and accessories which are not shown on previously recorded corner records. Information provided in this section shall also include the instrument numbers of all previously recorded corner records, or the filing information if the corner record was not recorded, pertaining to the corner in question.

008. DESCRIPTION OF CORNER EVIDENCE FOUND.

Information provided in this section shall include a description of evidence found relating to the original corner. If no evidence of the original corner is found, evidence of a subsequent remonumentation shall be indicated on the form.

009. DESCRIPTION AND SKETCH OF MONUMENT AND ACCESSORIES FOUND OR ESTABLISHED TO PERPETUATE THE LOCATION OF THIS CORNER.

Information provided in this section shall include a description and a sketch of the monument and accessories found or placed in the current survey as well as the date the work was performed and the true or assumed magnetic declination at the time of the survey if magnetic bearings are used. If magnetic bearings are not used, the professional land surveyor shall indicate the basis of bearing to accessories.

Education

Board meets with the Deans of Engineering and Land Surveying at the November meeting

They met with the deans to discuss common issues. Agenda items this year included: accreditation visits, fundamentals exam pass rates, enrollment trends, status of faculty licensing, changes to program offerings, matriculation agreements with pre-engineering programs at local colleges, and the status of the surveying program.

The UI has discontinued the Master's program in Environmental Engineering. ISU has discontinued the Land Surveying course offerings at the Meridian campus.

Surveying Task Force Formed

The Board agreed to form a task force with the Idaho Society of Professional Land Surveyors to evaluate the education issues and concerns associated with the Land Surveying. Pass rates of the fundamentals of surveying exam have dropped and number of students is not increasing. Land surveying is a profession with an aging workforce and too few new professionals are entering the profession. The task force will review the program offerings at Idaho State University and Lewis-Clark State College. They will offer recommendations for ideas and strategies that will increase enrollment and improve the pass rate for the fundamentals exam.

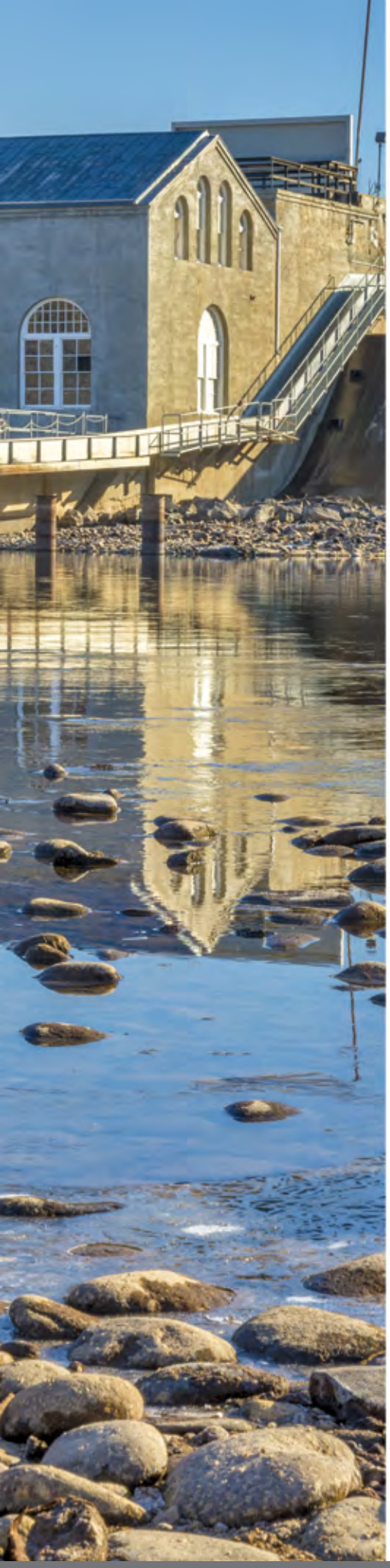
Education

Board Recognizes Student Status for One Year After Graduation

The board will continue to allow Idaho engineering students to take the FE and FS exam for a period of one year after graduation, even if they move out of state. The CBT process this last year showed many waited until after they graduated to take the exams. Some took jobs or enrolled in graduate school in other states. The Board wants to make sure that students are not unnecessarily restricted from taking the exams and have recognized that the capacity of some testing centers hinders some from taking it prior to graduation and subsequent relocation.

Masters or Equivalent

The National Council of Examiners for Engineering and Surveying (NCEES) adopted a change in the model law that modifies the educational requirements for engineering students. NCEES adopted the "Model Law 2020" amendment in 2006 that required a master's degree or equivalent (MOE) as a condition of first time PE licensure for those who would apply after 2020. In early 2014, the Board formed a subcommittee to evaluate whether this requirement should be applied in Idaho. The subcommittee met a few times but did not propose adopting the MOE requirement. In August of 2014, NCEES adopted a change that removed the Model Law 2020 MOE requirement. NCEES did recognize a long-term goal to strengthen the education of engineers. They will do this by working with the accrediting organization ABET, Inc., and the American Society for Engineering Education (ASEE). As a result of the NCEES decision, the chairman dissolved the subcommittee on MOE in Idaho.



Education

ISU Offer Engineering Programs Including Nuclear Engineering

Idaho State University's engineering programs continue to be a source of strong support to current and future students as well as to area professionals who seek advanced degrees. Since joining with the science and math departments to create the College of Science and Engineering in 2010, student support has grown to an unparalleled level.

Idaho State University's College of Science and Engineering offers undergraduate and graduate degrees in Civil and Environmental Engineering, Electrical Engineering, Mechanical Engineering, and Nuclear Engineering. Courses are taught on the Pocatello campus and in Idaho Falls.

Idaho State can make the unique claim that it is the home of the longest running nuclear engineering program in Idaho. In proximity to the Idaho National Laboratory, it gives students an opportunity to partner with major industry and Department of Energy employers. The program aims to produce nuclear engineers who will make significant contributions to the world nuclear enterprise, specifically by entering careers associated with nuclear reactors, the nuclear fuel cycle, and other applications of nuclear technology.

Continuing education is a vital component of every engineer's effort to remain a viable contributor in today's rapidly changing technological world. The engineering departments at ISU expect their faculty to remain current in their chosen emphasis areas, and encourage alumni and other area engineers to partake of the evening course offerings made available through the engineering departments. The various departments offer Fundamentals of Engineering exam review courses, courses in many and diverse fundamental areas of engineering, and participate in joint efforts with other universities throughout the country [e.g., Western Governors University (WGU) and the Inland Northwest Research Alliance (INRA)] directed toward continuing education. The engineering departments are committed to taking advantage of modern technology (e.g., compressed video, Internet, videotape) insofar as possible to make continuing education resources available as widely as possible. For more information about any ISU engineering program contact engineering@isu.edu.

Examinations

UI Offers PE Review Course in Boise

12 three-hour sessions on Thursdays from 6:00 - 9:00pm, running January 15, 2015 through April 9, 2015 which includes a mock exam. There will be no meeting during the Boise school district's spring break. The State Board of Licensure for Professional Engineers and Professional Land Surveyors will be holding the state PE exam on April 17 & 18, 2015.

Location

Classes will be held at the University of Idaho Water Center, 322 E. Front St, Boise, ID 83702.

Summary

UI Boise has offered this 12-week Professional Engineering (PE) Review Course each spring for many years. It prepares engineers to take the PE Exam. We usually offer two PE tracks: Civil Engineering and Mechanical Engineering. Each three-hour session is delivered by subject experts.

Instructors

Subject experts have been selected from local industry, universities, and government. Organizations include University of Idaho-Boise College of Engineering, Boise State University College of Engineering, The State Board of Licensure for Professional Engineers and Professional Land Surveyors, Tikker Engineering, and Mountain Home AFB.

Examinations

Who Should Attend

Engineers planning to take the State's PE Exam or those simply wanting to update skills and knowledge in the field of Mechanical and Civil Engineering.

Textbooks

Instructor teaching materials will be given on a weekly basis. In addition, most people purchase the texts mentioned below. If you follow this link you'll receive a 10% discount: http://www.ppipartner.com/GR047.

- Mechanical Engineering Reference Manual for the PE Exam, 13th edition, Michael R. Lindeburg.
- Practice Problems for the Mechanical Engineering PE Exam, 13th edition, Michael R. Lindeburg.
- Civil Engineering Reference Manual for the PE Exam, 13th edition, Michael R. Lindeburg.
- Practice Problems for the Civil Engineering PE Exam, 13th edition, Michael R. Lindeburg

Credits

Continuing Education Unit (CEU) credits are available upon request. CEUs are not the same as academic credits but they are important in maintaining certain kinds of professional licensing and useful in other areas. Approximately 3½ CEUs can be earned from this course. If interested in CEU credit, please let us know prior to the event start date – a separate application and fee of approximately $35 is required to cover Registrar processing and transcript costs.

Free Retake Policy

If you complete the PE Review Course and do not pass the PE Exam, you may retake the course again the following year at no additional charge.

Price & Enrollment Information: $750.00 Enrollment is limited due to space availability so contact Paula Peterman at 364-6188 to register.

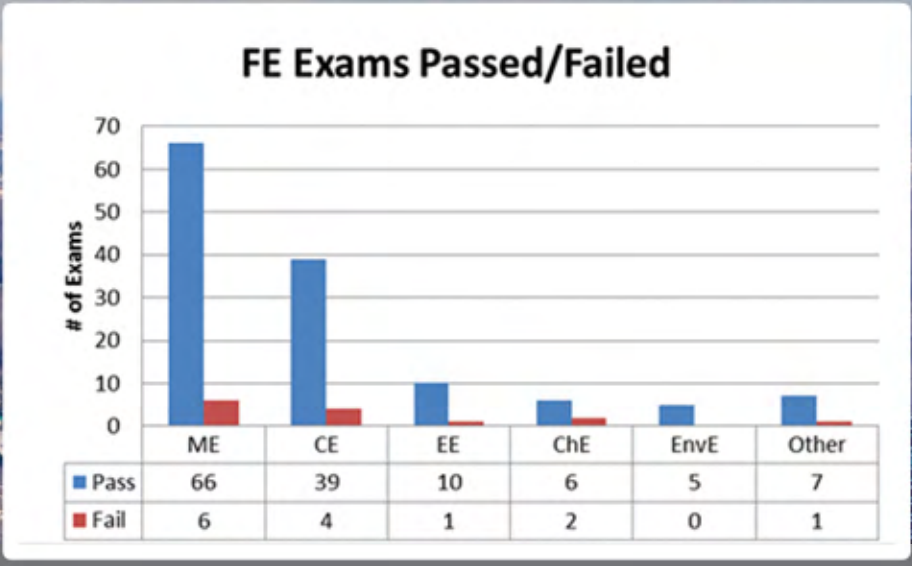
Examinations

Computer based testing (CBT) is fully implemented

The Fundamentals of Engineering (FE) and Fundamentals of Surveying (FS) examinations successfully converted from paper and pencil to CBT this year. The exams are offered in two month increments as follows: January-February; April-May; July-August; and October-November. Students need to apply to the Board for assignment prior to reserving a seat at a Pearson-Vue testing center until the law change described previously is enacted (anticipated effective date is July 1, 2015). For more information, go to the NCEES web site at this address: http://cbt.ncees.org/cbt-faq/. CBT is offered at any approved Pearson-Vue testing center which includes the campus testing centers in Moscow, Pocatello, Rexburg and Walla Walla, WA. Pearson-Vue operates testing centers at other locations including Boise, Spokane and Ogden, UT.

New Pearson-Vue Site Available

Name: Walla Walla University
Address: 133 South College Avenue, Meske Hall – Room 222
College Place, WA 99324
Capacity: 3 Seats; Open M-Th 9-4, F 9-12



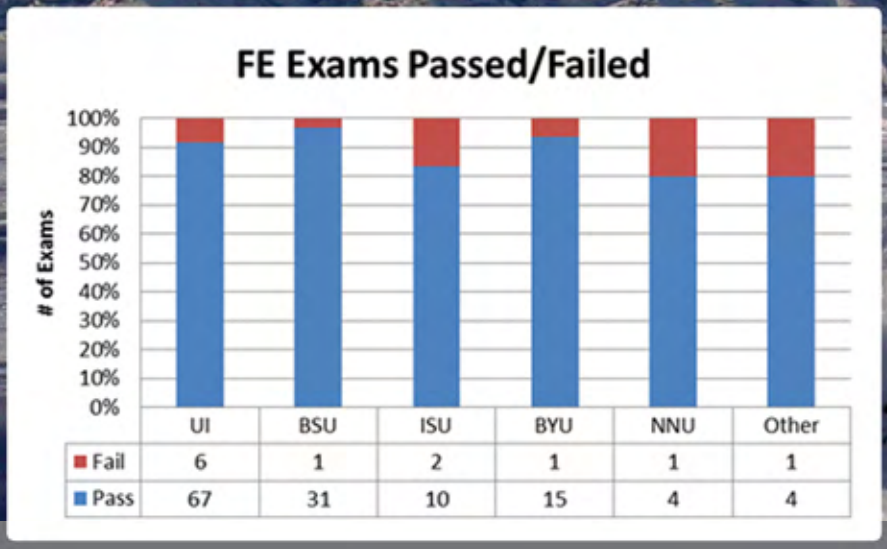
	ME	CE	EE	ChE	EnvE	Other
Pass	66	39	10	6	5	7
Fail	6	4	1	2	0	1

Note: data from January 1 through October 31, 2014

Examinations

Practice Exams Available

Students and graduates interested in practice exams for the FE and FS can obtain them directly from NCEES for a price of $49.95. They are now available online for 90 days instead of 14 days which was the previous policy. Sample questions and solutions for the PE and PLS exams are also available from NCEES for $39.95. The SE exam sample question publication is available for $49.95. More information can be found at http://ncees.org/exams/study-materials/.



	UI	BSU	ISU	BYU	NNU	Other
Fail	6	1	2	1	1	1
Pass	67	31	10	15	4	4

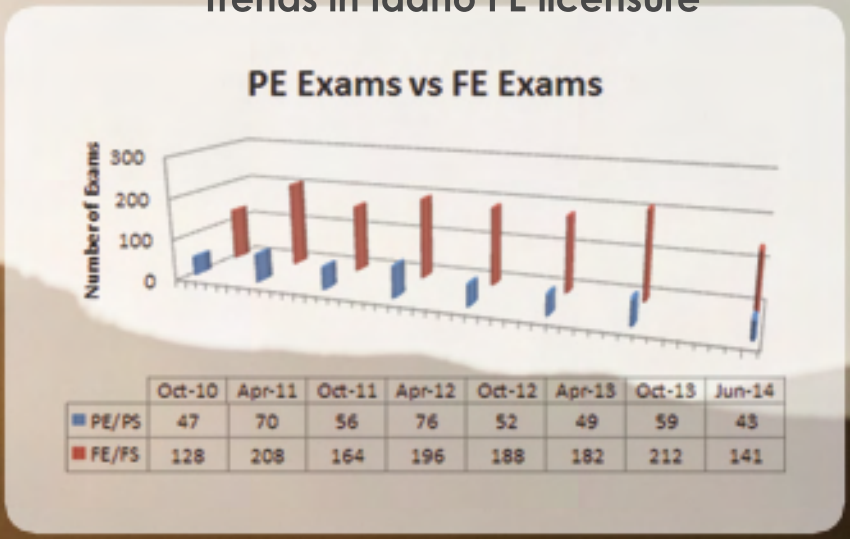
Note: data from January 1 through October 31, 2014

Idaho university pass rates for the FE exam exceed the national average

Our pass rate is over 80% where the national average is closer to 75%.

Examinations

Trends in Idaho PE licensure



	Oct-10	Apr-11	Oct-11	Apr-12	Oct-12	Apr-13	Oct-13	Jun-14
PE/PS	47	70	56	76	52	49	59	43
FE/FS	128	208	164	196	188	182	212	141

On average, 32% of Idaho students who take and pass the FE exam go on to take and pass the PE exam. This low percentage may be because they are working for a company that qualifies under the "industrial exemption" in our law or they moved out of state. Do you know engineers who are not licensed? Encourage them to consider taking the PE exam. The Board office receives calls from engineers who are out of work or looking for a career change and the jobs available or of interest require a license. They want to know what they have to do to get their license. The answer is – take the PE exam. Taking the PE exam 10 or 20 years past graduation is not easy. The optimal time to take the PE exam is 4 years past college graduation. That time period has the highest pass rate. There really is no downside to taking the PE exam and getting a PE license as early as you can. Even if you work for an exempt industry, your PE credential will help you in the long run as a demonstration of professionalism for future promotions. Some states and most Canadian provinces do not have an industrial exemption. Once you get your license, you should never have to take the exams again and you can usually keep the credential for life. The next time you get a chance to talk to an unlicensed colleague, ask them if they've considered the benefits of licensure.

Examinations

New Idaho Professional Engineers and Land Surveyors Licensed by Examination Summer 2014

L-15970 Kyle W. Mettler PLS	Coeur d'Alene, ID
L-15934 Ethan Allen Talbot PLS	Pocatello, ID
P-15972 David Williams Allison CE	Meridian, ID
P-15973 Michael Steven Blasy CE	Pocatello, ID
P-15974 Russell Harry Chatterton CE	Boise, ID
P-15975 Eric Edward Clark EnvE	Meridian, ID
P-15976 Alexander D. Crea CE	Hailey, ID
P-15977 Zachary T. Dobroth CE	Boise, ID
P-15978 Spencer John Ferguson CE	Sandpoint, ID
P-15979 Kevin Haight ME	Boise, ID
P-15980 Cara Jessalyn Haley CE	Moscow, ID
P-15981 Tyler Hansen EE	Boise, ID
P-15983 Brian D. Hritsco ME	Meridian, ID
P-15984 Casey Alan Huffaker ME	Boise, ID
P-15985 Scott J. Johnson ME	Boise, ID
P-15986 Donald Wade Lewis ME	Idaho Falls, ID
P-15987 William A. Lynch CE	Star, ID
P-15988 Robert F. O' Neil Jr. ME	Boise, ID
P-15989 Brian J. Renstrom ME	Boise, ID
P-15990 Ryan J. Smith CE	Spokane, WA
P-15991 Jake William Southwick CE	Jerome, ID
P-15992 Justin R. Strupp ME	Idaho Falls, ID
P-15993 Ryan G. Van Leuven CE	Emmett, ID
P-15994 Steven Whatley EE	Meridian, ID
P-15995 Tao Xing ME	Moscow, ID
P-15996 Stony Yakovac EE	Lava Hot Springs, ID

Enforcement

Disciplinary Actions

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

Docket Nos. FY 14.04 – 14.07 IN THE MATTER OF BROWN AND CALDWELL, C-349, et. al.
The matter involves work performed by Respondent in connection with the City of Middleton waste water treatment plant. The alleged violations include IDAPA 10.01.02.005.04 Obligation to Communicate Discrepancy. Rule **005.04** obligates a licensee to first notify another licensee of any material discrepancy, error or omission. The alleged conduct by Brown and Caldwell in this regard center on public statements made in a Middleton City Council Meeting on March 20, 2012 and April 4, 2014. As to Rule **005.04**, Respondent represents that its client instructed it to not communicate with the involved engineers with the waste treatment plant before the public city council meeting on March 20, 2012 and that in connection with this matter Respondent was following its client's direction as to communication and coordination with involved engineers during the meeting in question, which it believed, in good faith, to be consistent with the relevant rules at the time.

Upon this Stipulation and Consent Order and the record, the Staff and Respondent agrees that the Board may enter an Order to Respondent and require the following:

a. That the Board reprimands Respondent for the conduct specified (above).
b. That within thirty (30) days after the date of the Certificate of Service of the Final Order, after it is accepted by the Board, Respondent shall tender to the Board a check in the amount of $2,500, payable to the General Fund of the State of Idaho, as an administrative penalty.
c. That failure to timely comply with the above within the required time periods shall result, without any further hearing, in the immediate suspension of Respondent's certificate to offer professional engineering services until such time as the requirements are met. Notice of such action sent to the most current address provided by Respondent to Staff shall be deemed sufficient.
d. Staff agrees to not pursue action against specific engineers working for the respondent, and by this Stipulation and Order, the matters pending are dismissed with no adverse findings or conclusions affecting the licenses of the individual engineers working for the respondent.

Enforcement

Consent Orders and Stipulations for CPD Noncompliance

Audits revealed noncompliance with the Board's Rules for Continuing Professional Development (CPD) for failure to maintain CPD records and failure to make a complete, objective, and truthful statement in accordance with the Boards Rules of Professional Responsibility. Consent Orders and Stipulations were approved by the Board which includes an admonishment and $250 administrative penalty for:

Mary Magleby, P.E., Harriman, TN;
Elese D. Teton, P.E., Blackfoot, ID
Jame A. Goodsen., P.E., Coeur d' Alene, ID

Surrender Of Licenses In Lieu Of Discipline

Ronald J. Greslin, P.E., Centennial, CO

Hearing for Nonresponse to Board CPD Inquiry
Scheduled for February 5, 2015
Daniel W. Boyd, P.E. San Juan Capistranto, CA

Retirement Of Licenses

Shropshire, Geoffrey J., P.E., Moscow, ID chose to retire his license
Austin, Edward P., P.E. South Jordan, UT chose to retire his license
Hypnar, Peter R., P.E. Danville, CA chose to retire his license
Mashburn, Larry F., P.E./P.L.S., Mountain Home, ID chose to retire his license
Merlin W. Phillips, Jr., P.E., College Place, WA, chose to retire his license
Ariel Radai, P.E., Hailey, ID, chose to retire his license
David N. Randall, P.E. Spangle, WA chose to retire his license

Cease and Desist or Warning Letters for Unlicensed or Unauthorized Practice

Les W. Magers, Nampa, Idaho – commercial electrical design
Hildebrand & Associates, L.L.C., Boise, Idaho – Engineering Design and Control Technologies
Partners Assessment Corporation, Torrance, CA – no Idaho PE or COA for Autozone project in Ponderay, ID
MEA Consulting Engineers, L.L.C., Aurora, CO – no Idaho PE or COA for Blaze Pizza project in Meridian, ID

If licensees become aware of companies or individuals who are practicing without a COA or license, please notify the Board office.

In Memory Of Those Recently Deceased

Richard G. Weingart P-2531 (CE) Denver CO	9/24/13
Jack R. Taylor P-1898 (CE) Norman OK	1/30/14
R. J. Tallent P-1050 (EE) Weiser ID	6/30/05
Kenneth Eugene Frazee P-3758 (CE) Boise ID	4/14/14
Kenneth Wilfrid Hasfurther P-6030 (AgE) Gooding ID	2/4/14
C. W. Anderson P-1536 (CE) Boise ID	5/19/14
William A. Stockman L-853 (LS) Sandpoint ID	6/21/13
John R. Marks E-889 (EIT), P-3344 (MinE) Spearfish SD	5/16/14
John Calvin Taylor E-5109 (EIT) Seaford VA	6/9/14

Calendar Of Upcoming Events

February 2-3, 2015	Board Meeting in Boise, Idaho
February 25-28, 2015	ISPLS Meeting in Boise, Idaho
April 17-18, 2015	PE/PLS Examinations in Boise, Idaho
May 14-16, 2015	NCEES Western Zone Meeting in Scottsdale, AZ
June 11-12, 2015	Board Meeting in Coeur d' Alene, Idaho
June 11-13, 2015	ISPE Meeting, Coeur d' Alene, Idaho
August 3-4, 2015	Board Retreat in Riggins, Idaho
August 19-22, 2015	NCEES Annual Meeting in Williamsburg, VA
September 10-11, 2015	Board Meeting in Boise, Idaho
October 30-31, 2015	PE/PLS Examinations in Boise, Idaho
November 5-6, 2015	Board Meeting with Deans in Boise, Idaho

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