



TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

Board Meeting

August 12, 2011, 10:00 a.m.

William P. Hobby, Jr. Building
333 Guadalupe Street, Tower II, Room 225
Austin, Texas 78701

MINUTES

- A. The regularly scheduled Board meeting of the Texas Board of Professional Geoscientists was called to order at 10:05 a.m. Chairman Kitchens addressed the Board and mentioned that the agency survived the recent legislative session; it has a budget it can live with; it has qualified and diverse members on the Board; and it has staff that have continued with the agency despite turmoil. TBPG has a bright future, with challenges, but is poised to move forward.
- B. Roll was called and a quorum was certified. Members present were Chairman Ron Kitchens, Vice-Chair Charles Knobloch, P.G., J.D., Secretary/Treasurer Kelly Krenz-Doe, P.G., Tom Hallmark, P.G., Ph.D., Justin McNamee, Judy Reeves, P.G., Ph.D., and Barbara Roeling, P.G. Members Greg Ulmer, J.D. and Becky Johnson, P.G. were absent.
- C. The proposed minutes from the May 20, 2011 Board Meeting were approved as written.
- D. Public comments were offered from Mr. Matthew Cowan, P.G., on behalf of the Texas Association of Professional Geoscientists (TAPG). He was also in attendance as a member of the Houston Geological Society (HGS). Mr. Cowan addressed the Board regarding the recent Advisory Opinion Request, the proposed rules from the Oil/Gas workgroup, the retirement of LTC Hess from the TBPG, and the recommendation of TAPG that the Board open the position of the Executive Director to the public.

The Board went into Executive Session at 10:15 a.m. to request legal counsel per Texas Occupations Code §551.071 regarding personnel issues. The Board resumed open session at 10:49 a.m. No action was taken in closed session.

- E. Regarding the Executive Director's Report, Chairman Kitchens noted that Mr. Hess had gone to meet his son returning from Afghanistan, and thus was absent from the Board meeting. No report was given.
- F. Regarding the appointment of an Executive Director, the Board appointed Mr. Charles Horton as the next Executive Director of TBPG pending the retirement of Mr. Hess, in a vote of 6-1, with Member Reeves dissenting.
- G. Committee and Work Group Reports:
- The Application Review and Continuing Education Committee Report, given by Committee Chair Hallmark, addressed a waiver request which is on the agenda for later discussion; and a denied request to take the ASBOG® exams without having met the educational requirement. Additional topics considered included the portability of licensure, and criminal history checks.
 - The Compliance and Enforcement Committee (C&E) Report, given by Committee Chair Barbara Roeling, proposed revisions to the PG Seal Guidance Document and FAQs (Agenda Item K) and recommended two Board Members serve on the Complaint Review Team (CRT); that the CRT and C&E continue to direct enforcement case decision-making and process improvement and that the staff insure confidentiality of complaints.
 - The Financial Review and Strategic Planning Committee Report, given by Member McNamee, addressed the budget process and meeting for the next Strategic Plan.
 - The General Issues Committee Report, given by Committee Chair Krenz-Doe, addressed Advisory Opinion Request #5; the Oil/Gas workgroup's proposed rule changes; the

academic geoscience exemption in 1002.252(4); the issue of exploring the legality and feasibility of conducting committee meetings via conference call or other electronic media; the P.G. license issuance equilibrium number; training regarding Robert's Rules of Order; and processes and regulations involved in underground waste disposal and underground natural gas sequestration.

- The Legislative Committee had not met, per Chairman Kitchens. No report was given.
- The Joint Committee with TBPE had not met, per Member Roeling. No report was given.
- The Oil and Gas Advisory Workgroup Report was given by Workgroup Chair Charles Knobloch. The Workgroup had met earlier this week; they are pleased with the direction of the Board; and the Workgroup has submitted a petition for adoption of rules.

H. Staff Reports:

- The Licensing Report, given by Operations Manager Molly Roman, noted current licensing numbers and information on reciprocity.
- The Financial Report, given by Chief Financial Officer Leticia Kappel, addressed the agency's budget for fiscal years 2012-2013; TBPG is on track for its current budget and may have a surplus at the end of 2011; revenues are below target; discussed the Biennial Revenue Estimate (BRE) for the next biennium; and noted the breakdown of TBPG's 2012-2013 budget in the General Appropriations Act.
- The Compliance and Enforcement Report, given by Professional Standards Unit Chief George Dunfield, reviewed the changes in enforcement case resolutions through a graph of non-jurisdictional, jurisdictional and Disciplinary Action case closure data showing the transition from the education phase of enforcement to the Disciplinary Action accomplishments of the Board. Mr. Dunfield reported that outreach activities were cut back from May 20th and review of the TCEQ CAS list shows 21 CAS registered firms may be offering geoscience services without a geoscience firm license. Investigator Jimenez is working on updating the enforcement database.

- K. The Board next considered Agenda Item K. Regarding the proposed updates of the Compliance and Enforcement Committee to the "Guidance for Use and Application of Professional Geoscientist Seals" and Board webpage Frequently Asked Questions (FAQ), the Board unanimously approved the proposed changes with edits for posting on the agency's website in a vote of 6-0.

Member Roeling was excused and left the meeting at 12:37 p.m.

- J. The Board next considered Agenda Item J. Regarding the Application Review Committee's recommendation of Dr. Jerry Shi's request for waiver of the ASBOG® Fundamentals exam, the Board unanimously approved his request in a vote of 6-0.
- I. The Board next considered Agenda Item I. Regarding proposed Agreed Board Orders 2011-031, 2011-051, 2011-052, 2011-058, the Board approved all Board Orders in a vote of 4-0, with Member Hallmark not voting because he recused himself.
- L. The Board next considered Agenda Item L. Regarding draft Advisory Opinion Request AOR #5 (2011), the Board discussed the public comments received, and unanimously approved Advisory Opinion #5 as recommended and amended by the General Issues Committee.
- M. Regarding the Oil and Gas Advisory Workgroup's petition for proposed amendment to TBPG rules, the Board adopted 1) a proposed amendment to §851.10 for posting as a proposed rule to the Texas Register for public comment; 2) a proposed new rule section §851.33 after debate and amendment for posting as a proposed rule to the Texas Register for public comment; and 3) a proposed new rule section §851.34 after debate and contingent upon certification that the proposed rule has been reviewed by legal counsel and is found to be within the Board's statutory authority. The approved motion also included the contingency that if proposed new rule section §851.34 was not certified as within the Board's statutory authority for posting to the Texas



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Register for public comment, the text of §851.34 would be posted as an Advisory Opinion in response to the question of, "Are the following not exempt from the requirement of licensure as a Professional Geoscientist?"

- N. Regarding proposed changes to TBPG rules on the consequences of criminal convictions, the Board unanimously approved proposed changes to §851.108 as edited for posting to the Texas Register in a vote of 5-0.
- O. Regarding proposed changes to TBPG rules §§851.104 and 851.152 on the requirements to designate licensure and registration on media, such as advertising, announcements, business cards and letterheads, the Board unanimously approved amendments to §§851.104 and 851.152 as written for posting to the Texas Register.
- P. Regarding proposed amendments to TBPG rules §§851.32 and 851.156 that the Board had previously approved for posting to the Texas Register, the proposed amendments will be posted as previously approved to the Texas Register.
- Q. Regarding the fall meeting of the National Association of State Board of Geology (ASBOG®), it was noted that Dr. Hallmark is the current delegate representing TBPG. Dr. Hallmark is also an ASBOG® Council of Examiners subject matter expert. It was noted that there may be more than one representative at the annual meeting; Dr. Reeves volunteered to tentatively attend the ASBOG® fall meeting in addition to Dr. Hallmark.
- R. Regarding the date for next Board meeting and future topics, the next Board meeting is scheduled on November 18, 2011. Chairman Kitchens requested a regular publishing of the TBPG newsletter with projected costs; and the possibility of having committee meetings meet over the telephone. More information was also requested regarding which agencies TBPG reviews for P.G. seal usage; how many documents are reviewed; and how often these reviews take place.
- S. The meeting was adjourned at 3:25 p.m.


Ron Kitchens, TBPG Chairman