

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

BOARD MEETING

March 26, 2010

Summary of Minutes

- A. The meeting was called to order at 9:00 a.m.
- B. Roll was called and members present were Board Chair Barbara Roeling, PG, Vice-Chair Ron Kitchens Y. Lynn Clark, PG, Charles Knobloch, PG, Glenn Lowenstein, PG, Justin McNamee and Greg Ulmer, JD. Secretary/Treasurer Tom Hallmark, PG and Kelly Krenz-Doe, PG, were absent. A quorum was certified.
- C. The minutes from the November 20, 2009 Board Meeting were approved as written.
- D. Public comments. No public comments were given.
- E. Executive Director's Report. Interim Executive Director Charles Horton addressed the letter for the Texas Engineering Extension Service (TEEX) regarding a potential training opportunity for licensed water well drillers and drilling logs; he also addressed a letter received from a licensed driller doing computerized mapping; the Texas Commission on Environmental Quality Trade Fair is May 4-5, 2010; the agency's reorganization including the return of LTC Hess on July 1, 2010; and options for a new licensing database.
- F. Discussion and Possible action on Strategic Plan. The Strategic Plan is due to be submitted June 18, 2010; the Legislative Appropriations Request is due July 30, 2010; and the date for submitting changes to definitions of Performance Measures is April 16, 2010. Requests for further changes to Performance Measures will be due at a later date.

The Board took a short recess at 10:37 a.m., and resumed the meeting at 10:55 a.m.

G. Committee and Work Group Reports:

- *Application Review and Continuing Education Committee Report:* Given by Member Lowenstein, he addressed the committee's decisions on requests for waivers, the issues with the Texas Geophysics exam administration, the issue of a bad reference submitted on behalf of an applicant, reciprocity, and the Geoscientist-in-Training Program.
- *Compliance and Enforcement Committee Report:* Given by Committee Chair Glenn Lowenstein, he indicated that the committee's big issue is the determination of public vs. private; whether there is a need for an advisory opinion determination, and a need for possible legal advice from the Office of the Attorney General's (OAG) office. Chairman Roeling created the "Legal Interpretation Committee" temporarily to formulate the specific question that should be posed to the OAG's office. Committee members will include Committee Chair Greg Ulmer, Y. Lynn Clark, Charles Knobloch, and Glenn Lowenstein.
- *Financial Review and Strategic Planning Committee Report:* Given by Committee Chair Ron Kitchens, he indicated that the committee did not meet; however the committee will meet to discuss a plan for Performance Measures updates/changes. The committee plans on meeting in May. Staff input on specific changes is requested before the committee meets.

- *General Issues Committee Report:* Committee Chair Y. Lynn Clark addressed the issue of fee structure for firms and sole-proprietors, and the formulation of an advisory opinion to address “responsible charge”. He indicated that this committee also needed to meet again in April or May.
- *Legislative Committee Report:* The committee had not met; no report was given.
- *Joint Committee with TBPE Report:* Chairman Roeling, PG, noted that the Committee met on December 11, 2009, and it was very productive. The committee was seeking closure on a “flowchart” and updated wording for the Memorandum of Understanding (MOU).
- *Oil and Gas Work Group:* The committee met for the second time; it was a team-building meeting; Mr. Horton’s status report was very much appreciated; there will be a longer meeting in April/May and it will focus on the issues of “public” practice, carbon dioxide sequestration, and cap and trade issues. The group will have guest speakers to address these issues.

H. Staff Reports:

- *Enforcement:* Given by Investigator Alberto Jimenez, PG, he explained the current Enforcement data; 11 complaints received; 5 were dismissed; and 6 are still active. Mr. Jimenez also mentioned that the Compliance Review Team (CRT) discussed a complaint with the result that a non-disciplinary letter of advisement was issued to the respondent. On February 17th, Mr. Jimenez also conducted outreach at Stephen F. Austin University where approximately twenty-five (25) students attended.
 - *Licensing:* Given by Molly Roman, she explained the current Licensing data, as reflected in the licensing chart: there are 4,923 current Professional Geoscientists not reflecting a total of 906 expired licenses; there are a total of 230 Firm Registrations and 42 Sole Proprietorship Registrations. Ms. Roman also gave an overview on the ASBOG October 2009 exam results, and indicated that the results of March ASBOG exam results are due in May.
 - *Financial:* Given by Financial Officer Leticia Kappel, she addressed appropriations; the 5% budget reduction; the biennial revenue estimates; and the expenditures to date. March revenue is on target. Ms. Kappel also addressed the Strategic Planning process.
- I. Discussion and Possible action on Reciprocity agreements. The Board unanimously adopted the Comity Agreement as adopted by the Arkansas State Board. Also addressed was the letter received from the South Carolina Board which declined the proposed reciprocity agreement with TBPG.
 - J. Regarding the discussion on TBPG input on the Sunset Committee’s review of the Texas Commission on Environmental Quality, Texas Railroad Commission, and Texas Department of Transportation, the Board unanimously approved the issuance of letters to the Sunset Commission regarding these entities subject to minor revisions by staff.
 - K. Discussion and possible action on previous Agreed Board Order for 09-003. No action was taken.
 - L. Discussion and possible action regarding the Texas Geophysics exam. Gainesville Independent Testing Services (GITS) can still assist TBPG with administering the Texas Geophysics exam. TBPG will still look at the option of ASBOG® potentially assisting in the future. The exam should remain on the agenda for the next Board meeting.

- M. Discussion and possible action regarding the Compliance and Enforcement Committee's recommendation regarding proposed revisions to 22 TAC 850 and 851 regarding general matters related to the regulation of geoscience. This item will be discussed after item "O".
- N. Discussion and possible action on public comments concerning proposed amendments to: 22 TAC 850.100-105, Advisory Opinions; 22 TAC 851.40-851.46, Geoscientist-in-Training Program; 22 TAC 851.80, Fees; and, 22 TAC 851.106, Responsibility to the Geoscience Profession. The Board discussed the public comment received regarding 851.106, and determined that the Board cannot change its enabling legislation at this time; the Board doesn't have the authority to protect individuals from civil lawsuits or proceedings; and that there is a provision for Board initiated complaints if the licensee would like to make an anonymous complaint.
- O. Discussion and possible action regarding the possible adoption of proposed rule actions:
- New rules 22 TAC 850.100-850.105, Advisory Opinions: The Board unanimously adopted the new rules.
 - New rules 22 TAC 851.40-851.46, Geoscientists-in-Training program: The Board unanimously adopted the new rules.
 - Proposed amendment to 22 TAC 851.80, Fees: The Board unanimously adopted the amendments.
 - Proposed amendment to 22 TAC 851.106, Responsibility to the Geoscience Profession: The Board adopted the amendment in a vote of 4-2, with Members Lowenstein and Knobloch dissenting.
- P. The next Board meeting is scheduled to be on June 3 and 4, 2010.
- Q. The meeting was adjourned at 2:55 p.m.

Barbara Roeling, PG
TBPG Chairman

Date