

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

BOARD MEETING MINUTES

September 24, 2010

- A. The meeting was called to order at 9:07 a.m.
- B. Roll was called and members present were Board Chair Barbara Roeling, P.G., Vice-Chair Ron Kitchens, Secretary/Treasurer C. Tom Hallmark, P.G., Ph.D., Kelly Krenz-Doe, P.G., Y. Lynn Clark, P.G., Glenn Lowenstein, P.G., and Justin McNamee. Members absent were Gregory Ulmer, J.D., and Charles Knobloch, P.G., J.D. A quorum was certified.
- C. Minutes from June 3, 2010 Board meeting were reviewed and approved unanimously by consent.
- D. Public comment - Matthew Cowan, P.G., representing the Texas Association of Professional Geoscientists (TAPG) and the Houston Geological Society (HGS), was present. Also present were Dr. Christopher Mathewson, P.G., P.E., and Mr. Aaron Brewer. Mr. Cowan mentioned the Advisory Opinion regarding “responsible charge”, the challenge of the upcoming legislative session, and the continued support of TBPG by TAPG and HGS. Also addressed was a request to Mr. Horton via e-mail for a reduced requirement of continuing education hours for older licensees.
- E. Executive Director’s Report: Executive Director Michael Hess thanked the Board for their hard work and dedication. Current agency priorities include the upcoming legislative session, outreach, enforcement, and more initiatives.
- F. Committee and Work Group Reports:
- *Application Review and Continuing Education Committee*: Committee Chair Tom Hallmark addressed the Texas Geophysics exam; waiver requests by P.G. applicants; reciprocity updates; the committee’s decision regarding permanently expired P.G. licenses; and GIT mentoring. Dr. Mathewson mentioned some challenges facing the GIT/P.G. program.
 - *Compliance and Enforcement Committee*: Committee Chair Glenn Lowenstein discussed agency rule revisions, including the role of the “Authorized Official of the Firm”; the recent Complaint Review Team meetings; and outreach opportunities.
 - *Financial Review and Strategic Planning Committee*: Committee Chair Ron Kitchens discussed agency revenues and expenditures; the Legislative Appropriations Request and Strategic Plan; and the September 1, 2010 meeting with the Legislative Budget Board and the Governor’s Office of Budget, Planning and Policy. The committee will wait to see how the upcoming legislative session and budget process progresses.
 - *General Issues Committee*: Committee Chair Lynn Clark discussed the refinement of an Advisory Opinion regarding “responsible charge”.
 - *Legislative Committee*: Committee Chair Barbara Roeling discussed some legislative issues, the updated Memorandum of Understanding (MOU) with the Texas Board of Professional Engineers, and the issue of confidentiality of complaints, which could affect the Joint Committee. The Legislative Committee plans to meet again on November 4, 2010.
 - *Joint Committee with TBPE*: Committee Chair Roeling stated the Joint Committee has not met recently; no future date for the next meeting has been set.
 - *Oil and Gas Work Group*: Deputy Executive Director Charles Horton mentioned that this work group will likely address the Legal Interpretation Committee’s assessment of Oil and Gas activities at its next meeting.
- G. Staff Reports:
- *Licensing*: Operations Manager Molly Roman discussed current licensing numbers; the next ASBOG exam is October 1, 2010; and reciprocity.

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- Enforcement: Lead Investigator George Dunfield reported new efforts to resolve complaint cases since the June 3, 2010 Board meeting which resulted in the elimination of the enforcement case backlog. Mr. Dunfield discussed the progress on various new enforcement and interagency support efforts focused on public protection. The Board designated the Lead Investigator as Deputy to the Secretary/Treasurer for receipt of all complaints. The Board approved the use of four technical experts. Investigator Alberto Jimenez discussed recent attendance at an above ground storage tank conference, an Austin Geological Society meeting and completion of the audit of exhibitors at the 2010 TCEQ trade fair.
- Financial: Chief Financial Officer Leticia Kappel requested that the financial report be addressed later in the agenda under items J through M.

The Board took a short break at 11:20 a.m. and reconvened at 11:45 a.m.

- H. Regarding following waiver requests per §1002.259:
- a. Jennifer Lindquist: Ms. Lindquist's request for waiver of the ASBOG® Fundamentals exam was approved unanimously by the Board due to the amount of her experience and education. She is registered to take the upcoming Practice of Geology Exam.
 - b. Aaron Brewer: Mr. Brewer's request for waiver of the Soil Science degree requirement was approved unanimously by the Board, due to his high scores on the Council of Soil Science Examiners (CSSE) exam, his degree in Biology, and his continuing education coursework in geoscience since his graduation.
- I. Regarding final adoption of proposed revisions to 22 TAC 850 and 851 regarding general matters related to the regulation of geoscience, the Board discussed the public comments received. The Board unanimously approved the Compliance/Enforcement Committee's recommended responses to the comments as edited. The Board unanimously approved the final adoption of 22 TAC 850 and 851 as modified by the full Board.
- J. Regarding FY 2010-2011 Expenditures, Ms. Kappel briefly reviewed 2010 year end agency expenditures; the lapse of approximately \$4000; the end of year close out; the simplified Annual Financial Report; and appropriations for 2010-2011.
- K. Regarding Fiscal Years 2010-2011 Revenue, Ms. Kappel addressed August revenue, which was above the monthly target. The agency's revenue for fiscal year 2010 was \$ 1,227,204.
- L. Regarding the Biennial Revenue Estimate (BRE) 2012-2013, Ms. Kappel mentioned that that the BRE will not be released until early 2011. Letters with TBPG revenue updates have been sent to the Legislative Budget Board, Governor's Office and the Comptrollers' office.
- M. Regarding the Strategic Plan FY 2011-2015, Ms. Kappel mentioned that the Strategic Plan was completed and submitted on June 18, 2010.
- N. The Legislative Appropriations Request FY 2012-2013 (LAR), Ms. Kappel indicated that the LAR was completed and submitted on July 30, 2010. Mr. Horton gave an update explaining the total FY 2010-2011 appropriation, the reconciled base, the fiscal impact of the 10% reduction plan in two 5% increments, and the fiscal impact of a reduction based on one-time expenditures in FY 2010.
- O. Regarding the status of the Advisory Opinion on the issue of "responsible charge", a draft Advisory Opinion was approved by the General Issues Committee and was posted to the Texas Register in the September 17, 2010 edition. Public comments will be received through October 17, 2010.
- P. Regarding the Texas Geophysics Exam, Member Krenz-Doe addressed the clarification of the examination questions; TBPG owns the exam questions; possibly refining the exam; and the

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necessity of an updated contract with the exam administrator. Two exams will be administered October 8, 2010.

- Q. Regarding the Legal Interpretation Committee's determination regarding oil and gas exemptions/scope of practice, Mr. Horton indicated that Member Ulmer has compiled a list of relevant questions that may be used to determine jurisdictional issues. Member Ulmer plans to discuss this approach in the near future at a meeting of the Legal Interpretation Committee.
- R. Regarding the ASBOG® annual conference, Member Clark indicated that he and Mr. Horton will be attending the conference in November and would be representing the best interest of the Board. The Board should consider who will next represent TBPG at these conferences once Member Clark's term on the Board expires.
- S. Regarding election of Board officers, Chairman Roeling addressed elections of Board Officers. Elections typically happen in December of even numbered years, right before the Texas Legislative session begins in January. The terms may begin immediately after the election, at the beginning of the following Board meeting, or at some other time determined by the Board.

The Board went into closed session at 2:30 p.m. to consult with its attorney regarding the salary of the Executive Director. Open session resumed at 2:50 p.m.

- T. Regarding the salary of Executive Director Michael Hess, the Board unanimously approved a retroactive salary increase for Executive Director Hess, to be effective on September 1, 2010. The Executive Director's salary was increased to \$70,000.
- U. The next Board meeting is scheduled on December 10, 2010.
- V. The meeting was adjourned at 2:56 p.m.

Barbara Roeling, P.G., *TBPG Chairman*