

D R A F T

Meeting of the Professional Engineering Committee of the Board of Licensure for Professional Engineers & Surveyors held on November 10, 2004 at NMSU, Las Cruces, NM.

Members Present: Subha Shah, PE  
Dr. Clifford E. Anderson, PE/PS  
Patricio Guerrerortiz, PE  
Dr. Rola Idriss, PE

Members Absent: Severiano Sisneros, PE  
Stevan J. Schoen, Public Member

Others Present: Elena Garcia, Executive Director  
Hank Rosoff, PE, NMSPE  
Nicholas A. Schiavo

1. **CONVENE/ROLL CALL/INTRODUCTION OF GUESTS**

Chair Shah convened the meeting at approximately 9:00 a.m.

2. **APPROVAL OF THE AGENDA**

It was moved by Dr. Idriss, seconded by Dr. Anderson and unanimously,

**VOTED:** To approve the agenda as presented.

3. **APPROVAL OF THE MINUTES**

- 3.1 Approval of the April 22, 2004 Minutes -
- 3.2 Approval of the August 5, 2004 Minutes

It was moved by Mr. Guerrerortiz, seconded by Dr. Anderson and unanimously

**VOTED:** To approve the minutes of the April 22, 2004 meeting.

It was moved by Mr. Guerrerortiz, seconded by Dr. Anderson and unanimously,

**VOTED:** To approve the minutes of the August 5, 2004 meeting.

4. **NEW BUSINESS**

4.1 Report on Discussions on Liquid Waste Systems Task Force – P. Guerrerortiz, PE reported that the Task Force had worked with NMED personnel to develop recommendations for solutions to the concerns posed by Dr. Richard Rose, PE of the NMED. He indicated that the recommendations being presented included proposed changes to the engineering disciplines, section 16.39.3.8 of the Board’s rules. The concerns voiced to the PEC had been that too many PEs were submitting substandard work on liquid waste systems. The recommendations include new language to the rules regarding specialty sub-disciplines to the already listed disciplines within the rule. The PEC would have the ability to declare a specialty sub-discipline based on a need identified by a New Mexico governmental agency, determine appropriate and timely training/education within the State of New Mexico, and identify a specialty sub-discipline to inform the public of needed special practice of engineering. The rule would specify the training /education and experience required for obtaining certification for the special engineering practice. The Board would maintain a list of engineers who have been certified as meeting the requirements for the specialty sub-discipline. Failure to obtain certification for the specialty sub-discipline would not limit the practice of engineering within any of the engineering disciplines identified in the rule, and failure to obtain

certification in the specialty sub-discipline would not constitute practice outside the licensee's area of competency provided there is not a determination by the PEC of inappropriate practice of engineering within the engineering specialty. The proposed rules would include the establishment of the specialty sub-disciplines of on-site wastewater engineering.

After some discussion, it was noted that this recommendation will be considered by the Board when considering amendments to the rules for public hearings after it is determined if the proposed changes to the Act are signed into law. Other members of the Task Force participating included: Dr. Cliff Anderson, Hank Rosoff, PE, Charles Atwell, public member, and Dr. Richard Rose.

5. **OLD BUSINESS**

6. **COMMUNICATIONS - none**

7.1 Dave Liebelt, PE – Policy Advisory on Municipalities Generating Lists of “approved” engineers – Mr. Liebelt inquired whether a governmental agency has the jurisdiction to specify the requirements for performing engineering work on private property. He was concerned about the City of Albuquerque Interim Policy for Development Within 1000 Feet of a Landfill. He indicated he was told that the City maintains a list of approved engineers who they believe are qualified to perform investigations for landfill gas and design of remedial systems when gas is encountered. He indicated there were no specific written requirements as to what qualifies an engineer to perform this work and felt the City's approval process appeared to be somewhat arbitrary. He would like to obtain the Board position on this issue. The “City of Albuquerque Interim Guidelines for Development within City Designated Landfill Buffer Zones (revised Sept. 2004) were discussed. After some discussion the committee requested that a letter be sent to the City expressing concern over the proliferation of such a list compiled by the City. The letter should request additional information regarding their guidelines, lists, the process, as well as the need for such a process. It should be mentioned that the PEC is currently working with another governmental entity regarding another specialty area of engineering in order to find a better resolution.

7.2 Hank Rosoff, PE – RE: Question of Engineering Activities by Unlicensed Individuals – Mr. Rosoff stated that NMSPE was concerned that unlicensed individuals may be practicing without a license. This included contractors who are performing engineering under the guise of a value engineering report and proposing substantive changes to the engineering plans which supposedly would save the owner some costs. Engineers are not being consulted on the proposed changes that are approved by the owner and constructed into the project. It was determined that if the contractor is providing engineering work as defined in the NM Engineering and Surveying Practice Act, the contractor would be in violation. The Committee would need to review the specifics once a complaint is filed against a specific individual.

7.3 Nicholas A Schiavo, PE applicant – RE: Acceptable Experience – Mr. Schiavo's letter of September 22, 2004 was presented to the Committee. Mr. Schiavo was present at the meeting and indicated that although he currently works at the New Mexico Environment Department he is not under the direct supervision of a licensed engineer. He does interact with several licensed engineers in the construction program Bureau which is within the same division. He would like to know the level of supervision required for his experience to be considered acceptable. It was determined that Mr. Schiavo would need to update his application after May 2006 with engineering experience verified by licensed professional engineers who would be very knowledgeable regarding his engineering experience, such as his supervisors.

7. **CLOSED SESSION (Alleged Violations)**

It was moved by Dr. Anderson seconded by Mr. Guerrerortiz to go into closed session pursuant to NMSA 1978, Section 10-15-1 H(1) to discuss the cases listed in this section of the agenda: cases 04-04-08; 04-04-16; and 04-04-22. A roll call vote was taken. All voting in the affirmative: Subhas Shah, PE; Dr. Clifford E. Anderson, PE/PS; Patricio Guerrerortiz, PE; and Dr. Rola Idriss, PE.

7A. **OPEN SESSION**

Mr. Shah opened the meeting indicating that only those cases on the agenda (04-04-08, 04-04-16, and 04-04-22) were discussed in closed session. It was moved by Mr. Guerrerortiz, seconded by Dr. Idriss to reconvene in open session. Motion carried unanimously.

8.1 Case 04-04-08

8.2 Case 04-04-16

Dr. Anderson moved, seconded by Dr. Idriss and unanimously,

**VOTED:** that in case 04-04-08 a Notice of Contemplated Action be issued in accordance with the provisions of the Act 61-23-24 E NMSA 1978 [practicing outside areas of expertise including practice outside of the area as noted in the incidental practice rule; and in case 04-04-16 that the matter be referred to another future meeting.

8.3 Case 04-04-22 - It was moved by Dr. Anderson, seconded by and unanimously

**VOTED:** that this matter be resolved by a letter of reprimand issued to the respondent. Once the informal settlement agreement with letter of reprimand is signed, notification should be made to the complainant.

7B. Appointment of Hearing Officer – The PEC indicated that case 04-04-08 be heard by the entire PEC.

8. **REVIEW OF APPLICATIONS**

**8.1 Application for Inactive Status: (McNeil E. Glassburn, PE 4984; William Masaramatsukas; Larry A. Fisher, PE 11013 –** It was moved by Dr. Idriss, seconded by Dr. Anderson and unanimously,

**VOTED:** To accept inactive status applications from the above individuals.

**8.2 Applications for Retired Status: (Kermit L. Holman, PE 5660; Merritt D. Redick, PE 4470; Paul A. Rechard, PE 12489; Terrence O. Hausken, PE 6405) –** It was moved by Dr. Anderson, seconded by Dr. Idriss and unanimously

**VOTED:** to accept all retired status applications from the above licensees.

**9.3 Applications from Applicants with “MLE” Council Records and “Substantial Equivalency” to MLEs –** It was moved by Dr. Idriss, seconded by Mr. Guerrerortiz and unanimously,

**VOTED:** to approve the list of MLE or those having substantial equivalency to MLEs as presented by staff as having been licensed during the months of June, July and to the present (approximately 101).

**9.4 Review of New Comity & Examination Applications -**

**9.4.1 Boris Ratner, PE Applicant – RE: Foreign Credentials -** Mr. Ratner had been unable to obtain a degree evaluation from ECEI on an engineering program from a Russian university. He did have a letter from Cleveland Univ. who completed an evaluation of his program. Mr. Ratner presented copies of his degree and a translation of the curriculum. He indicated ECEI would not be able to obtain official transcripts from the Russian university. Mr. Ratner has been working in the U.S. for twelve years and has adequate PE references. Dr. Idriss indicated that the engineering curriculum was very similar to an engineering curriculum in the U.S. Dr. Anderson indicated he should be requested to provide an independent translation from the original documents to ensure validity of the documents.

The Committee reviewed approximately 20 additional applications a list of which is on file and actions taken reported on each candidate’s application file.

9. **ADJOURNMENT** - Having no further business the chair adjourned the meeting.

Submitted by:

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Executive Director

Approved by:

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Subhas Shah, PE, PSC Chair

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Approval Date