

DRAFT

Meeting of the Professional Surveying Committee
of the Board of Licensure for Professional
Engineers & Professional Surveyors held at 1:00
p.m., June 8, 2006 at the Hawthorne Suites, 107
Sierra Blanca Dr., Ruidoso, NM.

Members Present Fred Sanchez, PS, PSC Chair [Participating by teleconference]
 Gilbert Chavez, PS, Board Vice Chair
 Salvador Vigil, PS
 Charles Atwell, Public Member

Others Present Elena Garcia, Executive Director
 Candis Bourassa, Licensing Manager
 Mary Smith, Assistant Attorney General, Legal Counsel
 Ed Ytuarte, Complaint Manager
 Chuck Pinson, Central Valley Electric Coop
 Jack Callaway, Central Valley Electric Coop
 Carroll Wagner, Central Valley Electric Coop

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Mr. Atwell convened the meeting at approximately 1:00 p.m. since Chair Sanchez was unable to participate at the beginning of the meeting due to the meeting room not having a speakerphone. A roll call was taken, and it was noted that a quorum of the Committee was present

2. APPROVAL OF THE AGENDA

It was moved by Mr. Vigil, second by Mr. Chavez and unanimously,

VOTED: To approve the agenda as presented

3. APPROVAL OF THE MINUTES

3.1 Approval of the April 21 [agenda typo], 2006 Minutes [Note: minutes approved had a meeting date of April 20, 2006 which was correct]. It is corrected that Mr. Vigil was present at this 1:00 p.m. meeting, striking the words (Arrives at 10:00 a.m.) – No addition corrections from board, minutes stand approved as corrected.

4. NEW BUSINESS

4.1 Case 05-05-27 Appointment with Board – Charles t. Pinson, Jr. asked the board to reconsider its opinion that Central Valley Electric Cooperative was in violation of the Act since the surveying work the Coop does is falls outside the industry exemption provision. He stated that the Coop is a not-for-profit organization, member owned, a rural cooperative serving Lee, Eddie, Chavez, and parts of Otero county. Mr. Pinson

explained they are experiencing an escalation of costs. The board's opinion written earlier had addressed the way the Central Valley Electric Cooperative had been preparing without a licensed surveyor legal descriptions in determining the boundaries of a tract of land for rights-of-ways. They believed they were operating within the provisions of the exemption. They never survey for the public and the work they do is strictly for their own right-of- way acquisitions. They do write centerline descriptions for the power line right- of-ways. These are not for property boundaries, but merely a centerline survey for construction and maintenance. Mr. Pinson clarified that no monuments, property corners, or section corners are being set, and when they are needed, a licensed surveyor is hired. Doing centerlines in-house helps control their costs for the cooperative members. They are doing 200 to 225 power line surveys a year. If a professional surveyor costs \$1,500 for a highway crossing, it is estimated at approximately \$2,000 each for a licensed surveyor for centerlines. This would cost the cooperative an additional \$400,000 annually. Mr. Atwell asked what specifically the cooperative disagreed with in the opinion issued. Mr. Pinson responded that they do not engage in setting boundaries of a tract of land and the setting of corners. Land descriptions are not being done in violation of the exemption statute. Mr. Atwell asked if their records are filed at the county clerks office as public records. Mr. Pinson indicated the cooperative does file right-of- way surveys with the county courthouse. Mr. Chavez's concern is the encumbrances on the property, how it affects the property owner, and the public's protection when discrepancies arise. It was the board's observation when the opinion was written that the cooperative was doing land descriptions. Mr. Vigil inquired as to their contact with property owners and the size of easements. Mr. Pinson answered that widths normally measure 15' to each side of the centerline and their relationship with the landowners who want the coop service is a good working relationship. Mr. Chavez asked if their easements are exclusive, and Mr. Pinson responded in the affirmative, but they do have joint use agreements. Mr. Pinson asked for suggestions on how they may comply with the statutes without having to hire a full-time professional surveyor. Mr. Vigil pointed out that a professional surveyor on staff would be less expensive than hiring one for each individual right-of-way job. Mr. Atwell ended the discussion and stated the board will take their presentation into consideration and will respond accordingly.

4.2 Ratification of PS Scores –

4.2.1 NM Two Hour Surveying Exam – NM 2 hr. exam score report was presented by staff. There were seven examinees with two failing the exam. Five were first time takers, and two 2nd time takers. Two took both the PS and NM2HR. Both passed the PS, one failed the NM 2 hr. exam. The scores were accepted as presented and it was noted the results were distributed.

4.3 Election of Officers – Chair & Vice Chair - nominations for chair are opened, Mr. Vigil motions to nominate Mr. Atwell, second by Mr. Chavez. No other nominations presented. Nominations for vice-chair are opened and Mr. Chavez motion to nominate Mr. Vigil, second by Mr. Atwell. No other nominations are presented

5. OLD BUSINESS

5.1 Requiring of NCEES Council Record for Comity Applications – Mrs. Garcia reviewed the requirements for licensure in NM and stated requiring the Council Record from applicants for licensure by comity would not be very beneficial for either the applicant or the Board due to the number of applicants and other considerations. She indicated the PEC has voted to require the council record of their comity applicants. It was moved by Mr. Chavez, seconded by Mr. Vigil and unanimously,
VOTED: that the PSC not require the NCEES Council Record from comity applicants.

6. **CORRESPONDENCE** – Mr. Sanchez entered the meeting, participating by teleconference and takes over the Chairmanship for the meeting

6.1 Rick Fencil, PS – RE: Request for Opinion Regarding Technical Software & Responsibility – Mr. Chavez stated that to sign and seal his work he must use equipment that allows survey work to meet NM standards. Mr. Sanchez added that any professional surveyor who has knowledge of the lack of accuracy for any hardware or software and continues to sign and stamp work is in violation of the surveying standards for accuracy. Motion by Mr. Sanchez to send a letter stating these opinions, second by Mr. Chavez and unanimously,

VOTED: to prepare a decision letter. Mrs. Garcia will draft the letter for review and signature by the Chair.

6.2 Scott Andrae, PS – RE: Request for Opinion Regarding the Surface Area of Untransferred Original Water Right and Require Survey. Mr. Sanchez clarified that the water rights in NM do require a survey and this goes with the declarations of water rights to the state engineer's office. Mr. Sanchez explained the water rights cannot exceed the parcel size, so to declare water rights for sale, a boundary survey is first required. Many parcels are not considered in their entirety because only those portions of the parcel that can be irrigated qualify. For example, Mr. Sanchez stated that a large field that was totally irrigated once and then the owner chose over the last four years to not irrigate is forfeited. This creates the need for two surveys. One boundary and one for the parcel portions irrigated within the last four years. Mr. Sanchez indicated Mr. Andrae be advised that it does require a boundary survey and a declaration to the state engineer's office. Every declaration will change for an individual parcel according to the irrigation history. There are also other considerations as senior rights that pertain to Indian land, then others as municipalities, water associations and down to owners and lessors leasing water rights. From the Attorney General web site, cases can be reviewed. [web sites referred to are <http://www.ago.state.nm.us> Attorney General and <http://www.ose.state.nm.us> New Mexico State Statute Chapter 72, Statutory Chapters in New Mexico Statutes Annotated 1978, Chapter 72, Water Law.]. It was moved by Mr. Chavez, seconded by Mr. Vigil and unanimously,
VOTED: to notify Mr. Andrae in writing that the PSC cannot give opinion on this very broad complex problem that changes according to varying situations, but notify him that a water right survey is a boundary survey. It has to meet the standards required by statute. He is responsible for the class of survey needed for boundary or irrigated land water rights.

6. **CLOSED SESSION** [Complaint and Violations] – It was moved by Mr. Vigil, seconded by Mr. Chavez and unanimously,

VOTED: To convene in closed or executive session pursuant to NMSA 1978, Section 10-15-1 (H) (1) to discuss only those cases listed in item 7 of the agenda, [items 7.1 through 7.9]. A roll call vote was taken. Voting yes, Mr. Sanchez, Mr. Atwell, Mr. Chavez and Mr. Vigil. Motion carried unanimously

During closed session Mr. Vigil recused himself from discussions on cases 06-05-46 and 06-05-47.

- 6A. **OPEN SESSION** – It was moved by Mr. Chavez, seconded by Mr. Vigil and unanimously,

VOTED: To reconvene the meeting in open session and further stated that the discussions in closed session were limited to those listed under 7.1 through 7.9 on the agenda

7.1 Case 05-04-05 It was moved by Mr. Chavez, seconded by Mr. Vigil and unanimously,

VOTED: To request the AG's Office to issue a Notice of Contemplated Action based on unprofessional conduct and alleged violations of the Minimum Standards for Surveying.

7.2. Case 04-04-42: Timothy Oden – Review Compliance – It was moved by Mr. Chavez, seconded by Mr. Vigil and unanimously,

VOTED: To write Mr. Oden a letter indicating his corrected plat does not comply (first document) since it does not establish the county line correctly and file an Order to Show Cause (second document) why the Respondent's license should not be revoked.

7.3 Case 04-04-44: Joseph R. Maestas – Issue Decision – It was moved by Mr. Chavez, seconded by Mr. Vigil and unanimously,

VOTED: To accept the recommendations of the Hearing Officer and issue a Decision and Order based on that.

7.4 Case 05-04-02: Tommy R. Conley – Review Compliance – It was moved by Mr. Vigil, seconded by Mr. Atwell and unanimously

VOTED: To contact Mr. Conley to appear before the PEC during the August, 2006 meeting.

7.5 Case 06-05-44: it was moved by Mr. Chavez, seconded by Mr. Vigil and unanimously,

VOTED: To issue a Notice of Contemplated Action based on alleged violations of the Minimum Standards for Surveying based on the Respondent's Survey Plat.

7.6 Case 06-05-46: It was moved by Mr. Chavez, seconded by Mr. Atwell and unanimously,

VOTED: To dismiss the case as unfounded due Respondent's actions to correct the plat (informal settlement) and complainant's wishes to withdraw the complaint. Voting Yes: Mr. Chavez, Mr. Sanchez, and Mr. Atwell. Abstaining: Mr. Vigil.

7.7 Case 06-05-47: It was moved by Mr. Chavez, seconded by Mr. Atwell and unanimously,

VOTED: To dismiss the case as unfounded since the matter is a civil matter. Voting Yes: Mr. Chavez, Mr. Sanchez, and Mr. Atwell. Abstaining: Mr. Vigil.

7.8 Case 06-05-48: It was moved by Mr. Chavez, seconded by Mr. Atwell and unanimously,

VOTED: To request that the AG's office issue an NCA for alleged violations of unlicensed practice of surveying and of Section 61-23-27.15.

7.9 Case 06-05-52: It was moved by Mr. Chavez, seconded by Mr. Atwell and unanimously,

VOTED: To dismiss the case as unfounded since the case has been settled informally by voluntary compliance and the complaint being withdrawn.

7. **REVIEW OF APPLICATIONS**

7.1 Applications to Reactivate License from Retired Status and Inactive Status/Approve for Retired Status – None submitted

7.2 Applications for Exam – Karen Meckel's application was approved, and decision was noted in the file.

8. **ADJOURNMENT** – Having no further business, Mr. Atwell adjourned the meeting.

Submitted by:

Approved by:

Elena Garcia, Executive Director

Fred Sanchez, Chair, PSC

Approval Date