

DRAFT

Meeting of the Professional Engineering  
Committee of the Board of Licensure for  
Professional Engineers & Professional  
Surveyors held May 12, 2006 at the Board  
Office, 4001 Office Court Drive, Suite 903,  
Santa Fe, NM 87507-4962

Members Present:     Patricio Guerrerortiz, PE, PEC chair  
                              Dr. Rola Idriss, PE  
                              Severiano Sisneros, PE  
                              Subhas Shah, PE  
                              John Romero, Sr., PE  
                              Stevan Schoen

Others Present:       Elena Garcia, Executive Director, BLPEPS  
                              Candis Bourassa, Licensing Manager, BLPEPS  
                              Ed Ytuarte, Complaint Manager, BLPEPS  
                              Mary Smith, Assistant Attorney General, Board Counsel  
                              Tannis Fox, Office of General Counsel, NMED  
                              James H. Davis, Bureau Chief, Petroleum Storage Tank Bureau,  
                              NMED  
                              Tom Leck, Remedial Action Program, PSTB, NMED  
                              Joyce Shearer, NMED  
                              Raymond Hensley, NMSPE  
                              Richard Rose, NMED

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

Mr. Guerrerortiz convened the meeting at approximately 9:10 a.m. Roll call was taken, and it was noted that a quorum of the Professional Engineering Committee was present

**2.     APPROVAL OF THE AGENDA – Motion by Mr. Shah, second by Mr. Romero and unanimously,**

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

**3.     APPROVAL OF THE MINUTES**

3.1     Approval of the February 2, 2006 Meeting Minutes – Motion by Mr. Shah, second by Mr. Romero and unanimously,

**VOTED:** To approve the minutes of 2/2/2006

#### 4. NEW BUSINESS

4.1 RFP No. 60-667-30-01496- Mrs. Garcia indicated that a professional engineer had questioned whether the RFP included the practice of engineering. It appeared the RFP included engineering work. She had notified the NMED that this matter would be on the Board's agenda and had provided background information on underground storage tank engineering work. Dr. Shearer made a presentation for the NMED. She explained that she is aware that a complaint was filed with NMED for not using licensed professional engineers. She explained the agency cannot afford a full-time professional engineer. The department contracts out its clean up to consultants according to their code and regulations. Proposals are reviewed and contracts awarded with state required licensure documented. These can include engineering services, but at the proposal stage, no engineered work is required. Title 20 Chapter 20 part 16 requires licensed engineers where engineering work is preformed. The Board questioned at what point is engineering required and where in the scope of work is the connection to requiring a professional engineer for the engineering work. Dr. Shearer explained that at the proposal stage, it is not always included, but the proposal does say regulations must be followed and the regulations are clear that a PE license is required for the engineering work. The board questioned what guides the public to the engineering requirements when such an RFP as the one being reviewed goes out to the public. Dr. Shearer stated contractors are very familiar with NMED rules and their requirements. Mr. Hensley objected to environmental scientists making the decision on engineering requirements and engineers not being part of the team. He feels this group has excluded engineering reviews/judgments in the past. Mr. Sisneros asked how the clean ups are funded. Dr. Shearer explained the Correction Act fund includes insurance fees in the petroleum products charge and this money is used for the clean up. They manage that fund and the money is used to contract out for services. They have been unable to recruit a professional engineer for their staff, but Dr. Shearer indicated they have now modified their regulations to include professional engineers in the RFP requirements. The Board feels this is not clear in the current NMED process. It is suggested a joint committee be created to address these issues. Mr. Davis agreed dialog is a good place to start. He added that the RFPs are now not limited to engineers only so other ideas can be submitted at the proposal stage. As managers of the correction action fund, they are responsible for the action taken. Mr. Guerrerortiz in summary stated that clarification of engineering requirements should be added to the RFPs, a dialog will be started with the NMSPE and NMED. Mr. Guerrerortiz offered to assist this group. As information, Mr. Schoen asked what makes up the NMED corrections fund. Mr. Davis stated the fund is administered by his department and generates \$18,000,000 per year and currently carries \$16,000,000 in cash.

4.2 Clarification of Section 61-23-26 and Applicability to In-house and /or Contracted Engineering –Dr. Rose, Chief of Construction Programs for NMED inquired whether the \$100,000 dollar limit for public works projects applies to in-

house work or for contracted services. He asked if a PE is required for projects less than \$100,000. Mrs. Garcia recalls this being on the books a long time. Municipalities for in-house work probably supported it since municipalities can not afford to hire staff engineer. The Board discussed that the dollar amount is no guarantee that a projects will be safe if they are not handled by licensed engineers. Life and safety can be involved and a definition may be better than a dollar amount. The procurement code requires anything over \$25,000 to have licensed professional engineers, but the code deals with qualifications-based selection of professional engineers. It was noted CID has a rule regarding life safety and regardless of the \$50,000 cap for certain projects, it may require PEs if the project involves life safety issues. It was moved by Mr. Shah, seconded by Dr. Idriss and unanimously,

**VOTED:** that the board send this to the rules committee to acquire input from the municipalities. The committee will work with Dr. Rose and decide on possible legislative changes.

**It was noted that the rules committee included Mr. Shah, Mr. Chavez, and the Chair appointed Mr. Schoen also.**

5. **OLD BUSINESS**

**5.1 NCEES on Council Record & Action on Requiring a Council Record for Comity Licensure** - Mrs. Garcia summarized the presentation by NCEES to the full Board in Albuquerque. The presentation involved the possibility of requiring a council record from all applicants for licensure by comity. In her opinion and as noted previously, the NCEES record would simplify for staff the comity process. It was moved by Mr. Romero, seconded by Dr. Idriss and unanimously,

**VOTED:** to require the NCEES council record in order to apply for licensure by comity in New Mexico.

This would not replace the NM application and fee. This would replace the gathering of individual reference forms, transcripts, verifications of exams taken, etc. separately.

6. **COMMUNICATIONS – None**

6.1 Ronald C. Pasadyn, PE- RE: Section 61-23-22 Engineering-Exemptions (Clarification) - Mrs. Garcia indicated Mr. Pasadyn's letter explained his work as private for his company. He indicated it did not affect the public. It was moved by Mr. Romero, seconded by Mr. Sisneros and unanimously,

**VOTED:** that the work as described by Mr. Pasadyn would fall under the Act's exemption.

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7. **CLOSED SESSION (Complaints and Violations)** – It was moved by Mr. Shah, seconded by Mr. Romero and

**VOTED:** To convene in closed session pursuant to NMSA 1978, Section 10-15-1 (H) (#1) to discuss only those cases listed in 7.1 through 7.18 of the agenda. A roll call vote was taken. Voting yes: Mr. Guerrerortiz, Dr. Idriss, Mr. Sisneros, Mr. Shah, and Mr. Romero, and Mr. Schoen. The motion carried unanimously.

7. A. **OPEN SESSION** – Action on cases on the agenda – Mr. Guerrerortiz reconvened the meeting in open session and moved to convene in open session stating that the discussions in closed session were limited to those cases listed as items 7.1 through 7.18 on the agenda, and only those items. The motion was seconded by Mr. Romero and the motion carried unanimously.

7.1 Cases 04-04-20; and 05-04-08 Update – It was moved by Mr. Romero, seconded by Mr. Guerrerortiz and unanimously,

**VOTED:** that cases 04-04-20 and 05-04-08 be dismissed with a cautionary letter sent to the licensee.

7.2 Cases 05-05-24 A; and 05-05-24 B – It was moved by Mr. Sisneros, seconded by Mr. Romero and unanimously,

**VOTED:** to dismiss these cases as unfounded.

7.3 Cases 05-05-38 A; and 05-05-38 B – It was moved by Mr. Guerrerortiz that it be requested that a temporary board (PEC) be appointed by the Governor for a lack of quorum due to the recusal of Mr. Stevan Schoen and Mr. Guerrerortiz. At this time, it is noted that Mr. Shah was not in the room since he excused himself from the room during closed session.

7.4 Case 05-04-20 – It was moved by Mr. Sisneros, seconded by Dr. Idriss to continue this matter. Motion was withdrawn. It was moved by Dr. Idriss, seconded by Mr. Schoen and unanimously,

**VOTED:** to continue this case pursuant to the discussion since this matter is being discussed under a connection with issues that appear to get resolved under section 4.1 on this agenda. A report is to be requested of the Department in this case within 30 days.

7.5 Case 05-05-05 – It was moved by Dr. Idriss, seconded by Mr. Romero and unanimously,

**VOTED:** that this case be dismissed with a voluntary compliance in an informal settlement agreement.

7.6 Case 05-05-09

7.7 Case 05-05-10

7.8 Case 05-05-13

7.9 Case 05-05-15

7.10 Case 05-05-18

7.11 Case 05-05-19

7.12 Case 05-05-22

7.13 Case 05-05-31

7.14 Case 05-05-35

7.15 Case 05-05-37 – Excluded since case involved surveying.

7.16 Case 05-05-42 –

It was moved by Mr. Sisneros and seconded by Dr. Idriss and unanimously

**VOTED:** that cases listed as 7.6 through 7.16, excluding 05-05-37 listed as case 7.15, be dismissed as unfounded since they have been resolved with submittal of information and voluntary compliance.

7.18 Case 04-04-08 [Daniel Armstrong, PE] – Update only

PEC recessed for lunch and at 1:30 the full board will meet, the PEC will reconvene to complete its business on the agenda after the full board.

PEC reconvened after the full board adjourned in the afternoon. Members of the PEC in attendance included: Patricio Guerrerortiz, Dr. Rola Idriss, Severiano Sisneros, Subhas Shah and John Romero.

Cases 05-05-38 A; and 05-05-38 B – Mr. Guerrerortiz moved that a letter be sent to the Governor requesting a temporary PEC/Board be appointed to hear these cases since the PEC does not have a quorum after the recusals of Mr. Stevan Schoen and himself. Mr. Shah also indicated that he is recusing himself. The temporary PEC is to hear and decide the matter. The motion was seconded by Dr. Idriss. Motion carried with all committee members voting yes.

**8. REVIEW OF APPLICATIONS**

8.1 Applications for Retired Status & Inactive Status were approved.

8.2 Applications to Reactivate License from Inactive Status were approved.

8.3 Applications with “MLE” Council Records and “Substantial Equivalency” were approved.

8.4 Review of New Comity and Examination Applications – approximately 20 were reviewed and decisions noted in individual applications

**9. ADJOURNMENT** – Having no further business, it was moved by Dr. Idriss, seconded by Mr. Romero and unanimously,

**VOTED:** To adjourn the meeting

Submitted by:

Approved by

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Elena Garcia, Executive Director

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Patricio Guerrerortiz, PEC, Chair

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Approval Date