

**BOARD FOR PROFESSIONAL SOIL SCIENTISTS, WETLAND PROFESSIONALS
and GEOLOGISTS
MEETING MINUTES**

The Board for Professional Soil Scientists, Wetland Professionals and Geologists met on March 8, 2016, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

J. Meade R. Anderson
Robin Bedenbaugh
Bennette Burks
Warren Dean
Doug DeBerry
Larry Giannasi
Keith R. Goodwin
Robin Jones
Molly Plautz
Tom Saxton
R. Drew Thomas
Angela Whitehead

Board member David Spears was not present at the meeting.

Board staff present for all or part of the meeting were:

Kathleen (Kate) R. Nosbisch, Executive Director

Agency staff present for all or part of the meeting were:

Jay W. DeBoer, Director
Mark N. Courtney, Senior Director, Regulatory & Public Affairs
Amy Goobic, Executive Assistant

There was no representative from the office of the Attorney General present for the meeting.

Mr. Bedenbaugh, Chair, called the meeting to order at 10:02 a.m.

Call to Order

Mr. Bedenbaugh welcomed and introduced new Board member: Robin Jones.

**Welcome & Introduction
of New Board Member**

Mr. Bedenbaugh advised the Board of the emergency evacuation procedures.

**Emergency Evacuation
Procedures**

Mr. Anderson moved to approve the agenda. Ms. Plautz seconded the motion which was unanimously approved by members: Anderson, Bedenbaugh, Burks, Dean DeBerry, Giannasi, Goodwin, Jones, Plautz, Saxton, Thomas and Whitehead.

Approval of Agenda

Mr. Goodwin moved to approve the minutes from the following meeting:

Approval of Minutes

- December 1, 2015, Board for Professional Soil Scientists, Wetland Professionals and Geologists;
- December 1, 2015, Wetland Delineator Exam Review Committee; and
- January 7, 2016, Wetland Delineator Exam Review Committee.

Mr. Dean seconded the motion which was unanimously approved by members: Anderson, Bedenbaugh, Burks, Dean DeBerry, Giannasi, Goodwin, Jones, Plautz, Saxton, Thomas and Whitehead.

Mr. Michael Rolband, PE, PWD, was present to address the Board. Mr. Rolband stated that he was attending to comment and answer any questions on two agenda items- wetland boundary surveys and request for regulations pertaining to using the work of another wetland professional.

Public Comment Period

Mr. Rolband stated that clarification should be made in the PWD regulations with regards to the term 'survey.' Mr. Rolband feels that wetland delineators are conducting boundary surveys, which they are not allowed to do under their certification. Boundary surveys must be performed by a licensed land surveyor. He further commented that he has knowledge of PWDs using GPS surveying to determine wetland boundaries, and using the information for permitting. Mr. Rolband stated that the equipment being used is not accurate.

Mr. Rolband also addressed the need for the PWD regulations to include language regarding obtaining permission to use the work of another PWD. He stated that the APESCIDLA regulations include language which requires that a licensed professional obtain permission to use another professional's work. The licensed professional must then ensure the plans and calculations are accurate.

Dr. James Liu was present for the reading of his resolution. Mr. Bedenbaugh read the following resolution for consideration by the Board:

Resolution for Former Board Member – James Liu

RESOLUTION TO
Dr. Junzhe James Liu

WHEREAS, J. James Liu, did faithfully and diligently serve as a Board member of the Board for Professional Soil Scientists, Wetland Professionals, and Geologists from 2011 to 2016;

WHEREAS, J. James Liu, did devote generously of his time, talent and leadership to the Board;

WHEREAS, J. James Liu, did endeavor at all times to render decisions with

fairness and good judgment in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Board for Professional Soil Scientists, Wetland Professionals, and Geologists wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Board for Professional Soil Scientists, Wetland Professionals, and Geologists this 8th day of March 2016, that J. James Liu, be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

The Board members agreed to the resolution by consensus.

Discussion was held on the language in 18VAC145-30-140 of the Wetland Professional's regulations, which includes the term 'survey' in the Standards of Practice and Conduct. Mr. Rolband stated that the language is not clear in the regulations and requests clarification. Ms. Nosbsich stated that she spoke with a land surveyor member of the APELSCIDLA Board and he commented that when a survey becomes a boundary, it is under the purview of a land surveyor. Mr. Courtney commented that when the regulations were written, the Board consciously used the term 'survey' and not 'land survey' and referred to the definition in the APELSCIDLA regulations. Mr. Saxton stated that as a soil scientists they use the term 'soil survey,' which clearly indicates that it is not a land boundary survey. Dr. DeBerry suggested using the term 'wetland survey' similar to 'soil survey.'

Wetland Boundary Surveys

Discussion was held on the difference between 'mapping' and 'surveying' and whether PWDs are perceived to be representing surveys as boundaries. Mr. Goodwin stated that wetland surveys are not stamped or titled as such, and typically include a note as to what GPS equipment may have been used. He also stated the Army Corps of Engineers does not require wetlands to be surveyed. Ms. Nosbisch suggested a guidance document to clarify the difference between a wetland survey and a boundary survey. Mr. Bedenbaugh suggested including definitions similar to those in the soil scientist regulations defining soil mapping and soil survey. Dr. DeBerry moved to have staff draft a guidance document for review at the June 14, 2016 Board meeting. Mr. Saxton seconded the motion which was unanimously approved by members: Anderson, Bedenbaugh, Burks, Dean DeBerry, Giannasi, Goodwin, Jones, Plautz,

Saxton, Thomas and Whitehead.

Mr. Rolband explained to the Board his request for the addition of an ethics provision to the PWD regulations, stating that delineations his company prepared were used by another PWD without consent or permission. Mr. Rolband requests a provision similar to the APELSCIDLA regulations, which requires a licensed professional to obtain permission from the original professional to utilize plans or drawings. Discussion was held on the use of delineations by the US Army Corps of Engineers (USACE) and it was stated that the USACE information is public information, thus available to anyone. The Board also discussed the subject of who 'owns' the delineations is a contractual issue. Mr. Bedenbaugh suggested the Board review the regulations and evaluate whether similar language is needed for an ethical provision. Dr. DeBerry moved for the Board to take under advisement and review further. Mr. Goodwin seconded the motion which was unanimously approved by members: Anderson, Bedenbaugh, Burks, Dean DeBerry, Giannasi, Goodwin, Jones, Plautz, Saxton, Thomas and Whitehead.

**Request for Regulation
Pertaining to Using the
Work of Another Wetland
Professional**

Ms. Nobsch informed the Board that the issue of a professional seal for Soil Scientists was discussed last spring; however she has received additional correspondence regarding the matter. She further commented that there were no public comments received regarding a seal requirement during the recent periodic regulatory review. Ms. Nobsch stated that a seal is optional for Professional Soil Scientists, if the requirement is in the regulations then they would be bound to use one.

**Request for Regulation
Requiring a Seal for Soil
Scientists**

Ms. Whitehead commented that some localities require a seal, yet she is hesitant to have a seal made without any guidance on design. Discussion was held on the design components of a seal, with the suggestion of using the Geology seal requirements, or the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers & Landscape Architects (APELSCIDLA) seal requirements as guidelines. Mr. Courtney stated that a seal must not include any false or misleading information and must comply with the regulations. Ms. Nobsch stated that the information contained in the minutes of the meeting could be used for reference.

Ms. Nobsch informed the Board that the annual fee for the Council of Soil Science Examiners (CSSE) national examination has increased from \$2,000 to \$2,200.

**Annual Fee for Use of the
CSSE Examination**

Ms. Nobsch also informed the Board that the CSSE fundamentals and professional practice exam fees have increased to \$195.

**CSSE Fundamentals and
Professional Practice
Exam Fee Increase**

Ms. Nosbisch provided information regarding the Continuing Education (CE) requirements for Professional Soil Scientists (PSS). Effective July 1, 2015, PSS licensees are required to complete 16 hours (8 hours per year) of CE and submit documentation of CE with their renewal application and payment.

CE Requirement for Soil Scientist Renewals Effective July 1, 2015

Board members were provided a copy of the Louisiana Board Statement of Understanding of Reciprocity as reviewed at the December 1, 2015. At that meeting the Board requested more background information to make any decision. Ms. Nosbisch stated that she spoke with the Chair of the Louisiana Board and soil scientists are not licensed in Louisiana, however a licensed soil scientist may obtain a geoscientist license with 30 hours of geoscientist college credit and five years of geoscientist experience.

Review of Louisiana Board Statement of Understanding of Reciprocity and ASBOG Draft Model Cooperative Licensure Agreement

Board members reviewed information from the Association of State Boards of Geology (ASBOG) and a draft model of Cooperative Licensure Agreement developed by ASBOG for use by member boards as a template for reciprocity agreements. Discussion was held on ASBOG becoming a clearing house for reciprocity. Ms. Nosbisch stated that Virginia has an avenue for certification by virtue of the Board's regulations. Mr. Courtney further stated that reciprocal agreements are becoming outdated as regulations and Board requirements can change. The Board agreed by consensus to have Ms. Nosbisch draft correspondence to the LA Board thanking them and stating that Virginia would not be signing the agreement.

Board members were provided information regarding the proposal of an environment/engineering geology degree at Radford University. Mr. Dean stated that Radford is reviewing the tuition versus cost of establishing the program.

Environment/Engineering Geology Under Review at Radford University

Ms. Nosbisch informed the Board that with recent changes in the Administrative Process Act (APA), it is desirable to use former board members for IFFs, as not to taint Board members who would have to recuse themselves from meetings and discussion of cases. This would allow a better representation of Board members for case deliberation. Ms. Nosbisch presented the names of several former Board members who have agreed to preside at IFFs. The Board agreed by consensus on the names presented.

Review and Approval of Former Board Members to Serve on IFFs

Ms. Nosbisch informed the Board of a Virginia geologist applying in another state, the geologist took the Virginia exam prior to the establishment of the ASBOG exam. The other jurisdiction requested a copy of the Virginia exam to determine the equivalency; however the agency has not retained copies of the exam. Discussion was held on the fact that Virginia has an avenue by which a geologist could be certified by virtue of experience and licensure or certification another jurisdiction.

Pre-1995 Virginia State Geology Exam

Other jurisdictions should consider alternative paths.

Ms. Nosbisch reported that the Wetland Delineator Exam Review Committee met five times to develop exam questions and changes due to the Army Corps of Engineers supplements issued. Mr. Bedenbaugh stated they had sufficient questions for one complete exam, but will need further work to develop questions for the August exam. Ms. Nosbisch expressed gratitude for the committee's dedication and hard work.

Update on Wetland Delineator Exam Review Committee

Board members were provided financial statements for informational purposes.

Review of Financial Statements

Ms. Nosbisch informed the Board that Mr. Thomas would be attending the ASBOG Annual Meeting in Baton Rouge, LA, April 6-9. Mr. Bedenbaugh reported that VAWP will host two classes at their spring meeting in May. There was no update information for VAPSS.

Updates – ASBOG, VAWP, VAPSS

Ms. Nosbisch informed the Board that a Virginia soil scientist was applying for licensure in another state and asked that we send our previous exam to that state to determine equivalency with the national exam. Ms. Nosbisch contacted SSSA and provided information about Virginia's previous exam and SSSA determined it would not be equivalent to the national exam.

Other Business

SSSA is evaluating its CPSS and related exams and is requesting boards participate in a conference call. Mr. Giannasi volunteered to join Ms. Nosbisch on the call once it is scheduled.

Mr. Bedenbaugh informed the Board that the language in 18VAC145-30-50 from 2004, omitted the requirements for delineations from the USACE, and suggested this language be included as these delineations under the USACE replaced a practicum. The Board agreed by consensus to file a Notice of Intended Regulatory Action (NOIRA) to include this language.

There being no further business, the meeting was adjourned at 11:42 a.m.

Adjournment

Robin Bedenbaugh, Chair

Jay W. DeBoer, Secretary