



THE PELS NEWS

A Publication of the State Board of Licensure For Professional Engineers & Professional Surveyors

November 2010

Newsletter

Twenty-Seventh Edition

THE PRESIDENT'S MESSAGE

By Tommy Bond, P.E., P.S.

Family Bonds . . .

For just a few moments earlier this year, I was able to think about how much of an honor it was to be elected President of the Board. As some of you may know, licensing runs deep in the Bond family. My Dad, Morris Thomas Bond, was one of the earliest licensed engineers and licensed surveyors in Arkansas and my uncle Cyrus H. Bond was a licensed engineer too. My cousin, Cy Bond, Jr., was one of the first licensed surveyors (License #2) and is a licensed engineer. I have been licensed as an engineer and surveyor for over 40 years. In those brief reflections, I believed my Dad and Uncle would be pleased that I was continuing their tradition.

Any prideful ponderings quickly vanished, however, when the realities and responsibilities of my new position kicked in. In addition to the new routine tasks of reviewing 150 to 200 Engineer and Surveyor, Intern, Professional and Company applications, and the new batch of licensee and non-licensee complaints before each meeting, it is now my duty to work with staff to set meeting agendas and provide direction on current and future policy matters. I'll share a short introduction to two of the issues on which we are currently working with the promise you will hear much more about them later.

First, we need to continue the process of insuring that the Board's laws and rules treat our Surveyor and Engineer licensees equally and even-handedly. You may be aware that there is one set of laws that applies to Engineers and another for Surveyors. The laws are largely similar. On some issues, however, there are some subtle and even a few not so subtle differences on matters where we might expect them to be the same – things like continuing education, violations, penalties, etc. In 2009, we began the process of "harmonizing" the laws and hope to continue that process by replacing some parts of the engineer law with what we think are the better corresponding portions of the surveyor law and vice versa. Staff and our Attorney are currently in the process of preparing these amendments and we will share them with you and give you a chance to comment well in advance of the next legislative session in 2011.

Second, we need to take a fresh look at how we handle and process complaints against licensees and non-licensees. Since coming on the Board, I have made it a habit of prodding staff to move complaints along faster, and to make sure that any actions we take or sanctions we must assess are reasonable and consistent. Staff and our Attorney are also currently developing a report on alternatives to the current system. The goal is not to create any more or any less complaints but to just develop procedures that will better and more quickly resolve the ones we have. Any changes will result in rule amendments, and again you will be notified and have a chance to comment.

In closing, I am honored to be your Board President, but also know that Dad and Uncle Cy always preferred a good result over recognition. Their often heard words of "Get to work, Boy!" are ringing louder so I'm going to stop now and do that.

BOARD ELECTS BOND AND SMITH OFFICERS FOR 2010-2011



Tommy Bond, PE, PS

At its May, 2010 meeting the Board elected Tommy Bond, P.E., P.S. as its President and Sherman Smith, P.E., P.S., as its Vice-President for the following year. Mr. Bond founded Bond Consulting Engineers, Inc. in 1966 and is still actively involved in its management. He became a Professional Engineer in 1965 and a Professional Surveyor in 1967. Mr. Smith has been Public Works Director for Pulaski County since 1997. He became a Professional Surveyor in 1984 and a Professional Engineer in 1989.



Sherman Smith, PE, PS

THE DIRECTOR'S CORNER

by Steve Haralson, PE

BABY STEPS.....

"They have computers, and maybe other weapons of mass destruction" Janet Reno, U.S. Attorney General (1993-2000).

The quote from former Attorney General Reno is particularly apt at our office these days. Since about May of this year, we have gradually begun "going live" with several of what we fully expect will be significant improvements to our website and database that will benefit our licensees and applicants for many years to come. In the interim, however, and until we work out all the remaining problems with the new systems, the improvements have been nothing short of a pain in the neck to the Board and staff. We suspect many of you have been at least slightly inconvenienced too.

All this began in 2008 when we were audited not once but twice and both reported deficiencies with our old licensing database. That database was first developed back in the 1990's as a way to store information about licensees and applicants. Although we have kept every paper file since the Board's inception in 1925, the database has been the primary source of information on our licensees. Its fatal flaw, according to the auditors, was that anyone could make changes to it without leaving an audit trail about who did it or when. The auditors opined that any new system should have strict security roles and provide verification and a record about when a license is issued, who accepts money, etc.

Our solution was to develop a new system – "PELS" which stands for the Professional Examination and Licensure System - with the help of the Arkansas Department of Information Systems (DIS). The program was essentially built "from the ground up" and involved numerous meetings with DIS, hours of their programming and a lot of testing by staff with Linda taking the lead in this effort. In May, we started slowly bringing PELS to life by rolling out one part of the online application feature allowing students to register for the October exams. Since then, we have gradually added others, including features for existing licensees as announced in our recent mail out.

I truly believe any short term problems will yield long term benefits that will serve the Board and you well into the future. If you have suggestions about ways to make the website and database information more helpful and useful, please let me know.



GOVERNOR APPOINTS YOUNG, RE-APPOINTS HOFFMAN TO THE BOARD

Recently Governor Beebe appointed Dan Young, J.D. as a Consumer Member to replace Woodrow Turner whose term expired. The Governor also reappointed Ivan Hoffman, P.S. to his third term as the Surveyor member.

Mr. Young is an attorney with the Rose Law Firm specializing in taxation and business and estate planning. He holds a Juris Doctor degree with honors from the University of Arkansas and a Masters of Law in taxation from the University of Florida. Mr. Young is also a member of the Arkansas and American Bar Associations as well as several professional and civic organizations, and has received several awards and recognitions as well as being named as one of "40 under 40" by *Arkansas Business* in 2010.

Mr. Hoffman has been a licensed Surveyor since 1973 and President of Hoffman & Associates since 1978. The company has offices in Van Buren and Conway. He was initially appointed to the Board in 2002, was its Vice President in 2004-2005, its President in 2005-2006 and currently serves as the Board's representative to the State Surveyor's Land Survey Advisory Board. Mr. Hoffman also has served several terms on NCEES' Committee on Examinations for Professional Surveyors and is a frequent lecturer for continuing education activities.

Board Members

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Engineer Member

Sherman Smith, PE PS
Vice-President
Engineer Member

H James Engstrom, PE
Engineer Member

Ivan Hoffman, PS
Surveyor Member

Frank Vozel, PE
Engineer Member

Ronald R Hawkins, PE, PS
Engineer & Surveyor
Member

Robert Holloway, PE
Engineer Member

Nora Moses
Consumer Member

Dan Young
Consumer Member

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Asst. Exec. Director, Editor

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Professional Engineer

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Administrative Assistant

Marilyn F Smith
Administrative Assistant

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Office hours Monday-Friday
8:00 a.m. – 4:30 p.m.

THE COMPLAINT CORNER
By James Atchley, PE

REPORT ON DISCIPLINARY ACTIONS
Taken by the Board since April 2010

2008-34 in the matter of Quality Engineering and Software Technologies, LLC

Charged with providing or offering to provide engineering services in Arkansas without a valid COA. The Board accepted a Consent Agreement which provided for an admission of violation and a civil penalty of \$500.

2010-01 in the matter of Northwind, Inc

Charged with providing or offering to provide engineering services in Arkansas without a valid COA. The Board accepted a Consent Agreement which provided for an admission of violation and changes to the firm's webpage.

2010-03 in the matter of Terra Form, Inc

Charged with providing or offering to provide engineering services in Arkansas without a valid COA. Found guilty after a formal hearing and assessed a civil penalty of \$500.

2010-10 in the matter of Eddie Dwayne Wheeler, PS #1242

Wheeler pleaded *nolo contendere* to a felony offense. After a formal hearing, the Board revoked his license to practice surveying.

ADMINISTRATIVE HEARINGS
Judicial Review and Appeal

Previous newsletters have outlined the complaint resolution process and promised more details about what happens after a complaint is received. The subject of this last column in the series is Judicial Review and Appeal.

Let us say that the process has reached its conclusion. The Board has held a hearing and imposed administrative sanctions against a respondent. The Arkansas Administrative Procedures Act provides that any person who is aggrieved by any Board decision is entitled to judicial review of that action.

Proceedings for review are initiated by filing a petition within thirty (30) days after service upon petitioner of the Board's final decision, in the circuit court of any Arkansas county in which the petitioner resides or does business, or in Pulaski County Circuit Court. Copies of the petition must be served upon the Board and all other parties of record, according to the Arkansas Rules of Civil Procedure.

The review is conducted by the court without a jury and is confined to the record, except that in cases of alleged irregularities in procedure before the Board not shown in the record, testimony may be taken before the court. The court may, upon request, hear oral argument and receive written briefs.

The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if the substantial rights of the petitioner have been prejudiced because the administrative findings or decisions are:

- In excess of the agency's statutory authority;
- Made upon unlawful procedure;
- Affected by other error or law;
- Not supported by substantial evidence of record; or
- Arbitrary, capricious, or characterized by abuse of discretion.

If the Board's decision is affirmed or affirmed in part by the court, it becomes a final judgment subject to writ of garnishment or execution to the extent it is affirmed.

BOARD PROPOSES RULE AND LAW AMENDMENTS

At its September meeting the Board authorized seeking certain amendments to its laws and rules. The proposed rule amendments vary from minor changes in the timing of exam fee payments to implementing earlier Surveyor law amendments affecting licensing requirements for Surveyor Interns and Professional Surveyors in 2017. Other proposed amendments include; adding criteria for evaluating experience requirements for Professional Surveyor and Surveyor Intern applicants, increasing the fee for the Arkansas State Specific Surveying Exam, the general experience requirements regarding required time under a licensed professional, licensure requirements for Professional Surveyor comity applicants to allow consideration of experience subsequent to original licensure, increasing the continuing education carryover allowance to accommodate biennial renewals, and establishing procedures to audit reported continuing education.

The proposed law amendments continue the process begun in the last legislative session of "harmonizing" the Surveyor and Engineer laws. Specifically, the proposed amendments include; replacing the Engineer law section on continuing education requirements with those from the Surveyor law, replacing the Surveyor law section on administrative violations and sanctions with those from the Engineer law, adding the definition of "Responsible Charge" from the Engineer law to the Surveyor law, and both the Engineer and Surveyor law to require that disciplinary procedure rules conform to model rules prepared by the Attorney General.

A public hearing on the Rulemaking will be set for later in 2010 or in early 2011. The law amendments will be sought in the 2011 General Legislative Session. Each licensee will be notified about the proposed law and rule amendments and a summary and justification for each will be placed on the Board's website in the next 30-60 days. If you have questions or comments about the proposed amendments, please contact the Board at (501) 682-2824 or e-mail at StephenW.Haralson@arkansas.gov.

NCEES: Professional engineers provide the needed link between industry and public welfare

David Whitman, Ph.D., P.E., NCEES President Jerry Carter, NCEES Executive Director
(From June 2010)

Two months after oil began leaking into the Gulf of Mexico, it is now clear to the American public that their health, safety, and welfare can fall victim to bottom-line driven business decisions. This is particularly true when corporations such as BP, while operating in a climate of lax enforcement, fail to pursue properly qualified technical expertise.

In response to the unresolved Deepwater Horizon blowout, the Department of the Interior is in the process of implementing several new regulations on activities on the Outer Continental Shelf. One of the measures outlined in NTL No. 2010-N05, "National Notice to Lessees and Operators of Federal Oil and Gas Leases, Outer Continental Shelf," specifies that a professional engineer (PE) must certify all well casing designs and cementing procedures and verify that designs are appropriate for expected wellbore conditions. This is a much-needed requirement, and we should all hope that the proper steps are taken to ensure that it is enacted. We should also hope that similarly qualified professionals are called on more often to make informed judgments during the enforcement stage.

PEs, many of whom are employed in the private sector, demonstrate that business activities need not sacrifice the interests of the public. Professional engineers are licensed at the state level; they must meet education and experience requirements in addition to passing a standardized examination program. To maintain the license, a PE must adhere to a strict code of conduct, with the primary charge being to practice the profession in a manner that protects the health, safety, and welfare of the public. A PE who violates this obligation is subject to losing his or her license.

Under model rules developed by the National Council of Examiners for Engineering and Surveying (NCEES) and required by many states, a PE is obligated to notify authorities if his or her professional judgment is overruled under circumstances where the life, health, property, or welfare of the public is endangered. Unfortunately, cost considerations can prevent corporations from requesting the services of a PE unless they are compelled to do so.

It should be obvious by now that the millions of Americans who will be affected by the oil spill could have benefited from requiring the parties responsible to secure a professional engineer's sealed approval. While we can't go back and prevent what has already happened, we can work to ensure that the proper steps are taken to prevent similar disasters. Oil drilling is only one of many areas where professional engineers can be called on to ensure that business activities do not ignore the public welfare.

Examinees who passed April 2010 exams

2 Hour State Specific Exam

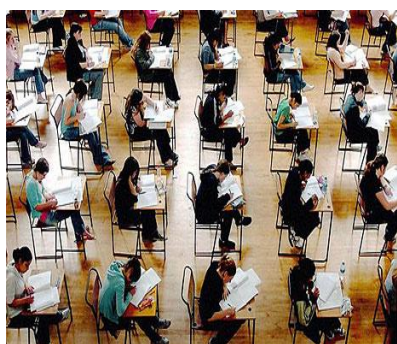
Bass, Canada McKenzie
Finkbeiner, Jonathan Corey
Gay, Harold Maurice
Huck, Daniel
Kelly, Michael Shane
Klasing, Michael Larry
Monheiser, Janet M
Payne, James Leigh Roy
Smith, Shawn Michael

Fundamentals of Surveying

Bussell, Christopher David
Gaston, William Doyle
Henderson, John Mark
Hope, Jonathan Lavell
Lane, John Abraham
Liley, Andrew Ryan
Mallett, Justin David
Martin, Robert Blake
McCollum, Andrew Everett
Christopher
Pennington, Daniel Kyle
Posey, William David
Redman, Ronald K.
Scheffer, Jason Joseph
Seal, Daniel Brauton
Thomas, Spencer Paul
West, Timothy Daniel

Principles of Surveying

Beard, Jason Donald
Cooke, John Alexander
Finkbeiner, Jonathan Corey
Foshee, Kevin Otis
Hargrove, Matthew Lewis
Kelly, Michael Shane
McNeese, Michael Patrick
Powell, Wilson Wade
Resecker, Brandon William
Robinson, Christopher Jacob



Aist, Jason Stewart
Arnold, John Caleb
Baker, David William
Bates, Chelsea Kaylynn
Beckwith, Allen Lorenzo
Boles, Eric Charles
Braddy, Nicholas Andrew
Bray, Kent Ryan
Brockman, Luke D
Brown, Amber Rachele
Brown, April Michelle
Bubien, Adam Walter
Busick, Robert Allen
Byram, Daniel Patrick
Clark, Stephanie Joy
Clary, Sean Paul
Coger, Logan Asa
Congdon, Thomas Andrew
Cousins, Sarah L
Crain, Stephen Gregory

Diaz, Paulina Maria
Dijkman, Nirmall
Djioleu, Angele Mezindjou Cardine
Dodson, Andrew McCall
Dowler, Joshua L
Felizco, Frederick Mnazryn
Filipek, Joshua Edward
Finkbeiner, Richard Allen
Forbess, Casey Olen
Gassmann, William John
Genoway, Scott Miles
Geurin, Scott Osborn
Gustin, Mark Nikolaus
Hayes, Lance Robert
Helmer, Ryan Michael
Hickle, Jeffrey P

Adams, James Patrick
Beam, Joshua Brant
Bland, Justin Roger
Booth, James Ramont
Bryant, Micah Alan
Burroughs, Aaron Robert
Cates, Charles Christopher
Chitwood, Kevin Henry
Cox, Brady Ray
Crawford, Joshua Blake
Dehnhardt, Jeffrey Kyle
Dunn, David Eric
Farmer, Kenneth Loyd

Fundamentals of Engineering

Hoffmann, Timothy Michael
Holden, William Andrew
Hougey, April Christine
Hubbard, Tom Mathew
Huff, William Edward
Jackson, Cody Glenn
Johnston, Ryan Zachary
Jones-Allman, Benjamin Keith
Jordan, Michele Kaye
Karstetter, Clint Alan
Kemp, Sean Landis
Kraner, William Robert
Langston, Nicholas William
Lawrence, James Sebastian
Lee, Stephanie Gaosuab
Libben, Keith Richard
Logsdon, Rebecca Anne
Longinotti, John David
Lovett, Matthew Bryan
Maestri, Ryan Louis

Manatt, Jackie Young
Mansell, Brent Alan
Marisetty, Sreeram Chakravarthy
Marriga, Misael E
Marshall, Leslie Jean
Matlock, Heath Parker
Mauldin, John Robert
Mayden, Caleb McKenzie
Mayer, Colin
Mayfield, Clayton Elwood
McElderry, Adam Michael
McGuire, Benjamin Patrick
McKinney, Claire Eileen
McKune, Benjamin Kelly
Messick, Andrew Lincoln
Mobbs, Wade Allen

Principles of Engineering

Fischer, George Travis
Frankenberger, Adam David
Hall, Scott A
Holifield, Eric Cameron
Hossley, Richard M
Jackson, Jessica Sue
Johnson, Christopher Evan
Logan, Grant David
Martin, Blair Amel
Moreton, Dayne Ives
Mosley, James Dixon
Msall, Joey Andrew
Porbeck, Nathan Matthew

Mokhtari, Parviz Moghanzo
Morris, Ryan David
Moshier, Derek Steven
Mullikin, Casey Ross
Neissl, Lindsey Arika
Nguyen, Alan Quoc Huy
Nguyen, Viet K
Nickell, Stephen Clay
O'Kelley, James Ross
Olson, Kay Lynn
Omar, Hady
Parker, Joseph Roy
Perea, Benjamin Michael
Peterson, David James
Pham, Tien D
Pickle, Christopher Michael
Rainwater, Ben Harris
Raley, John Kenneth
Reising, Jaimie Nicole
Sakhel, George Andrew

Sims, Michael James
Skelton, Chris D
Smith, Chance Brett
Spears, James Arnold
Teague, John Elba
Thomson, Joshua Paul
Thweatt, Justin Roy
Tidwell, James Wallace
Torres-Goitia, Juan Javier
Walsh, Thomas Benjamin
Walton, Christopher Avery
Wank, Tim R
Weir, Jeffrey Michael
Welch, Hillary Gayle
Wilson, Erin Michelle
Woodward, Scott Allen
Zeledon, Tatiana

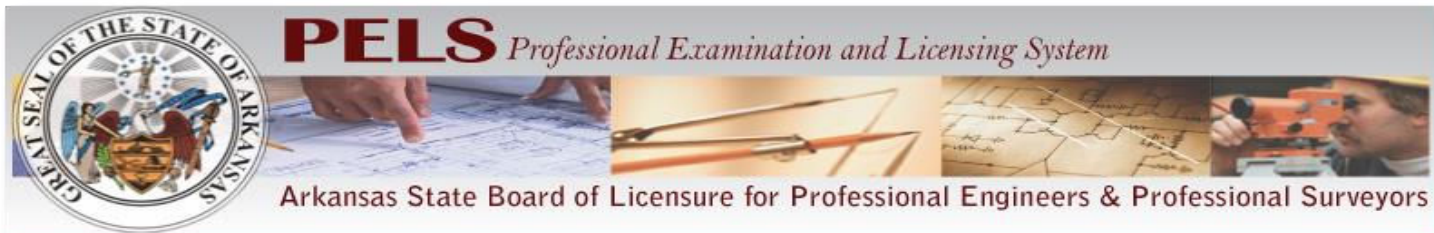
Richardson, Eric Ryan
Richardson, Melanie Carol
Schoggin, Nicholas Vaughn
Sellers, Gregory Scott
Smith, Robert Ashley
Springer, Richard Scott
Staton, Blake William
Tootle, William Terrel
Vowell, Aaron David
Walker, Joshua Lee
Wiley, Jared Dent
Wilhite, Lester James

FE, FS EXAMS TO BEGIN MOVE TO COMPUTER-BASED FORMAT

The state licensing boards that compose NCEES, voted to accept the Computer-Based Testing Task Force (Task Force) recommendation to begin converting the Fundamentals of Engineering (FE) and Fundamentals of Surveying (FS) exams to a computer-based format. Flexibility for candidates, more uniformity in testing conditions and enhanced security were key reasons given by the Task Force in making its recommendation to convert the exams.

"The language approved by the Council includes the phrase 'at the earliest feasible date.' Exam writers and staff will need to adapt exam item banks, select vendors, and communicate with licensing boards and examinees before we can begin offering the exams via computer," said Jerry Carter, NCEES President. "We anticipate it will be at least two years before FE and FS candidates begin taking the exams at computer-testing centers."

The PE and PS exams will continue to be paper-and-pencil exams for the foreseeable future.



**LICENSEES, WOULD YOU LIKE TO CHANGE YOUR CONTACT INFORMATION?
VISIT THE NEW PROFESSIONAL EXAMINATION AND LICENSING SYSTEM (PELS)**

Please visit www.pels.arkansas.gov and click on the "Change Contact Information" link under the "Online Services" on the left of the screen. You will now be at the new Professional Examination and Licensing System (PELS). You will need to create a user name and password by clicking the "New Online User" button. On the New Online User screen, you'll enter a unique user name, password, valid e-mail address and other information then click on "register". At this point, an e-mail will be sent to the e-mail address you provide. Follow the instructions in the email to complete the registration process and then you will be able to log into PELS. Once logged in, you may view and change selected information from your file, including contact information. You may also print your pocket card and if receipting information is available.

We are aware that during the process of converting licensure data from the "old" system to the new, some of the information that was used during the licensure process did not transfer. Be assured that although PELS may show that information was not received, we have all licensing information in your physical file. Please assist us by providing notification of any other problems with the information that you may find.

Return Service Requested

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AND PROFESSIONAL SURVEYORS
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