

# **Geologist Board Meeting**

## **Tab 1 Call to Order**

March 3, 2015

9:00 AM

University of Puget Sound  
Tacoma, WA



STATE OF WASHINGTON  
**DEPARTMENT OF LICENSING**

**GEOLOGIST LICENSING BOARD**  
**DRAFT AGENDA**  
***REGULAR BOARD MEETING***

**DATE:** March 3, 2015

**TIME:** 9:00 AM

**LOCATION:** University of Puget Sound  
 Thompson Hall Room 109  
 1500 N Warner St  
 Tacoma, WA 98416

**AGENDA:**

**OPEN SESSION ..... 9:00 AM**

**1. Call to Order**

- 1.1 Introduction of visitors
- 1.2 Order of agenda
- 1.3 Approval of minutes: December 2, 2014
- 1.4 Review communications
  - 1.4.1 Inactive/Retired status
  - 1.4.2 Correspondence from Steve Neugebauer

**2. Public Comment Opportunity**

- 2.1. Meet with geology students

**3. New Business**

- 3.1. Officer elections

**4. Old Business**

- 4.1. Master action items list
- 4.2. Outreach schedule

**5. Complaint Cases for Review\***

**6. Legal Issues for Deliberation\***

**7. Disciplinary and Investigation Reports**

- 7.1. Closed session deliberation report (only necessary if closed session is held)
- 7.2. Disciplinary cases report
- 7.3. Administrative closure report

**8. Assistant Attorney General's report****9. Committee/Task Force Reports**

- 9.1. Specialty exam committees
- 9.2. California reciprocity

**10. Board Administrator's Report**

- 10.1. Program Operations
  - 10.1.1. Legislative update
  - 10.1.2. Financial report
  - 10.1.3. Licensing and application statistics
- 10.2. Department of Licensing
- 10.3. Other items

**11. Other Business**

- 11.1. Action Items from this meeting
- 11.2. Agenda Items for next meeting
- 11.3. Any other business

**12. Adjourn Business Meeting****Geologist Licensing Board Work Session – Rules Updates**

\*The Board may enter into closed session to discuss disciplinary proceedings.



STATE OF WASHINGTON  
DEPARTMENT OF LICENSING

**GEOLOGIST LICENSING BOARD  
MINUTES  
REGULAR BOARD MEETING**

**DATE:** December 2, 2014  
**TIME:** 9:00 AM  
**LOCATION:** LOTT Clean Water Alliance  
500 Adams St NE  
Olympia, WA 98501

**BOARD MEMBERS PRESENT:** Brian Beaman, EG, HG; Chair  
Robert Mitchell, HG; Vice-Chair  
Bill Laprade, EG; Secretary  
Dave Norman, EG, HG; Member  
William Ernst, LG; Member  
Gene St. Godard, HG; Member  
Sandy Letzing, Public Member

**STAFF PRESENT:** Lorin Doyle, Administrator  
Rick Storvick, Assistant Administrator  
Autumn Dryden, Administrative Assistant  
Eric Sonju, Assistant Attorney General  
Julia Gambrel, Licensing Manager  
Lily Reinecke, Administrative Assistant  
Jeremiah Wedding, Management Analyst  
Sabrina Jackson, Program Representative  
Mike Villnave, Board of Registration for Professional  
Engineers and Land Surveyors

**OTHERS PRESENT:** Ken Neal, Licensee  
Bruce Turcott, Assistant Attorney General

**1. Call to Order 9:00 AM**

## 1.1 Introduction of visitors

Board members, staff, and guests were introduced. The board heard a presentation by Mr. Ben McConkey of the LOTT Clean Water Alliance. The board's new public member, Sandy Letzing, was introduced via telephone.

## 1.2 Order of agenda

The agenda was amended as follows:

- Item 3.2, ASBOG meeting recap, was added
- Rules workshop was tabled

Mr. St. Godard made a MOTION to approve the agenda as amended. Mr. Ernst seconded the MOTION and it carried.

## 1.3 Approval of minutes: September 30, 2014

Mr. St. Godard made a MOTION to accept the minutes as presented. Mr. Ernst seconded the MOTION and it passed.

## 1.4 Review communications

No business.

**2. Public Comment Opportunity**

Mr. Neal addressed the board over concerns of mapping landslides. The Department of Natural Resources maintains a database that contains public information. Mr. Neal would like the information to be more accessible. Ms. Doyle offered to share a link to the database with the administrator of the Department of Licensing's Real Estate Division so it can be distributed to real estate licensees.

**3. New Business**

## 3.1. 2015 Meeting Schedule – Bring your calendars

Board meetings were scheduled for the following dates and locations:

March 3, 2015	University of Puget Sound, Tacoma
June 30, 2015	TBD, Olympia
September 22, 2015	TBD, Olympia
December 15, 2015	TBD, Olympia

The board decided to begin the March meeting at 9AM and to change the start time of all other meetings to 8AM.

## 3.2. ASBOG Annual Meeting/Council of Examiners report

Mr. Ernst attended the Council of Examiners and Annual Meeting for ASBOG November 10-15, 2014. Attendees discussed length and locations of meetings. Future Councils of Examiners will be held separate from the annual meetings. Annual meetings will be held via videoconference.

**4. Old Business**

## 4.1. Master action items list

The board reviewed and discussed the master action items list.

## 4.2. Outreach schedule

The board reviewed and discussed the outreach schedule. The board will staff a booth at the Hydrogeology Symposium and will not attend the Association of Washington Cities conference in 2015.

## 4.3. ASBOG Correspondence RE exam order deadline

A request to adjust the exam order deadline was submitted to ASBOG. Staff received a response confirming receipt of the letter, but no further details.

**5. Complaint Cases for Review\***

No business.

**6. Legal Issues for Deliberation\***

No business.

**7. Disciplinary and Investigation Reports**

## 7.1. Closed session deliberation report

No business.

## 7.2. Disciplinary cases report

Packet item; no action.

## 7.3. Administrative closure report

No business.

**8. Assistant Attorney General's report**

Mr. Turcott introduced the board's new advisor, Mr. Eric Sonju.

**9. Committee/Task Force Reports**

## 9.1. Specialty exam committees

Engineering Geology

Ms. Doyle reported the engineering exam subcommittee met with the Oregon board's subcommittee in June and October to review exam questions. The group will next meet in 2015 after the exam is given.

**Hydrogeology**

The hydrogeology subcommittee planned to meet after the board meeting to review exam questions.

## 9.2. California reciprocity

The California board and staff continue to review the information provided by Washington.

**10. Board Administrator's Report**

## 10.1. Program Operations

## 10.1.1. Legislative update

No business.

## 10.1.2. Financial report

Standard report; no action.

## 10.1.3. Licensing and application statistics

The board reviewed the latest licensing and applications statistics and discussed licensing trends.

**Action Item:** Staff will add a graph of specialty licensee statistics to the report.

## 10.2. Department of Licensing

No business.

## 10.3. Other items

No business.

**11. Other Business**

## 11.1. Action Items from this meeting

Action items were reviewed and will be added to the master action items list.

## 11.2. Agenda Items for next meeting

- Meet with students at the University of Puget Sound
- Rules workshop

**Action Item:** Ms. Doyle will distribute the current rules draft prior to the next board meeting.

## 11.3. Any other business

No business.

**12. Adjourn Business Meeting 10:34 AM**

Submitted by: \_\_\_\_\_

Lorin Doyle, Administrator

Date \_\_\_\_\_

Approved by: \_\_\_\_\_

Brian Beaman, Board Chair

Date \_\_\_\_\_

## Dryden, Autumn (DOL)

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**From:** DOL INT Geologist  
**Sent:** Thursday, January 29, 2015 7:18 AM  
**To:** Dryden, Autumn (DOL)  
**Subject:** FW: Inactive Status for Geologists in Washington State

Autumn:

Can this be added to the board correspondence for the next meeting please?

Thanks,  
Julia

Julia Gambrel  
Licensing Services Manager  
Registration Boards Section  
Department of Licensing  
(360) 664-6557

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**From:** [Ken.Green@CH2M.com](mailto:Ken.Green@CH2M.com) [<mailto:Ken.Green@CH2M.com>]  
**Sent:** Wednesday, January 28, 2015 9:12 AM  
**To:** DOL INT Geologist  
**Subject:** Inactive Status for Geologists in Washington State

Date: 28 Jan 2015

Re: Consider Establishing an Inactive Status

Hello,

I am writing to request consideration be given to establishing an inactive status for registered geologist and engineering geologists. I understand that under current regulation, if one does not reinstate the license at the annual renewal period, the license becomes invalid and the person then must go through a reinstatement process. Most states including Washington have an inactive status for professional licensees including engineers and architects.

I am licensed as a PE in Washington as well as PG and what prompts this request in my case is that as I move into retirement after 42 years of working in these fields, I do not anticipate continuation of my work. At the same time I would prefer that the status not be consider delinquent if I don't continue payment of one or both at some point and would prefer there be an inactive status rather than delinquent. I am sure that there are other professional geologists with the same desire.

Thanks for your consideration.

Ken Green  
425-233-3290 office  
425-785-3484 cell  
[kgreen@ch2m.com](mailto:kgreen@ch2m.com)

**From:** [DOL INT Geologist](#)  
**To:** [Dryden, Autumn \(DOL\)](#)  
**Subject:** FW: Licenense Renewal - Looking to Properly Go to Inactive Status without Penalty  
**Date:** Wednesday, February 04, 2015 7:30:08 AM  
**Attachments:** [Arizona-prof-renew.pdf](#)

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Hi Autumn- This gentleman is requesting that the board consider inactive/retired status for Geologists. He has asked that I forward this email along with attachment to the board for discussion. Thank you for your time and have a great day.

Thank you,

**Sabrina Jackson**

**Program Representative**

Board of Registration For Landscape Architects  
[landscape@dol.wa.gov](mailto:landscape@dol.wa.gov)  
 Geologist Licensing Board  
[geologist@dol.wa.gov](mailto:geologist@dol.wa.gov)  
 Board for Architects  
[architects@dol.wa.gov](mailto:architects@dol.wa.gov)

**Join the Architect Board's electronic [mailing list](#)**

*"Skip a trip - go online"*  
[WWW.DOL.WA.GOV](http://WWW.DOL.WA.GOV)

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**From:** Skip and Pat [mailto:[spouncey@sbcglobal.net](mailto:spouncey@sbcglobal.net)]  
**Sent:** Tuesday, February 03, 2015 3:40 PM  
**To:** DOL INT Geologist  
**Subject:** Re: Licenense Renewal - Looking to Properly Go to Inactive Status without Penalty

Hello,

Please find attached an example, from Arizona, which includes on the renewal form an option for inactive or retired status without penalty. Please forward this to the Geologist licensing board along with my request to properly go to inactive status.

Thank you,

H.D. Pouncey, WA Geologist License #29940 2520

**From:** [DOL INT Geologist](#)  
**Sent:** Tuesday, February 03, 2015 1:31 PM  
**To:** [Skip and Pat](#)  
**Subject:** RE: Licenense Renewal - Looking to Properly Go to Inactive Status without Penalty

Hello,

Currently RCW 18.220 and WAC 308-15 do not include a provision for inactive or retired status for a geologist license in Washington State. You are more than welcome to write the Geologist Licensing Board a letter explaining your concerns around this subject and we can escalate it to the board for

discussion. Also please feel free to come to one of the Geologist Licensing Board meetings and present this concern before the board. Thank you for your time.

Thank you,

**Program Representative**

Board of Registration For Landscape Architects  
[landscape@dol.wa.gov](mailto:landscape@dol.wa.gov)  
Geologist Licensing Board  
[geologist@dol.wa.gov](mailto:geologist@dol.wa.gov)  
Board for Architects  
[architects@dol.wa.gov](mailto:architects@dol.wa.gov)

**Join the Architect Board's electronic [mailing list](#)**

*"Skip a trip - go online"*  
[WWW.DOL.WA.GOV](http://WWW.DOL.WA.GOV)

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**From:** Skip and Pat [<mailto:spouncey@sbcglobal.net>]  
**Sent:** Tuesday, February 03, 2015 10:10 AM  
**To:** DOL INT Geologist  
**Subject:** License Renewal - Looking to Properly Go to Inactive Status without Penalty

Hello,

I am a licensed Geologist in CA looking to properly go to inactive status in Washington without penalty or fees.

Ms. Sabrina at 360.664.1497 explained that she could not find a form or process in place for Geologist and advised me to contact via this email.

Please let me know.

H.D. Pouncey, Geologist License #29940 2520

[spouncey@sbcglobal.net](mailto:spouncey@sbcglobal.net)



**State of Arizona  
Board of Technical Registration**

1110 W. Washington, Phoenix, Arizona 85007 (602) 364-4930 FAX: (602) 364-4931 www.azbtr.gov

**Professional Renewal Form**

**All areas of this form must be completed or renewal will be returned and may result in penalty fees being added.**

**Please complete the following:**

**BUSINESS:**

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Birth Date: \_\_\_\_\_

**HOME:**

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Soc. Sec.# : \_\_\_\_\_

(Birth Date and Social Security # are optional if provided to the Board with prior renewal)

**Please Return This Renewal Form With Your Payment For:**

Registration No: \_\_\_\_\_

Renewal Fee : \_\_\_\_\_

Category: \_\_\_\_\_

Penalty : \_\_\_\_\_

Current Expiration Date: \_\_\_\_\_

Total Submitted : \_\_\_\_\_

For the Period: \_\_\_\_\_ To: \_\_\_\_\_

Any renewal fee received after the expiration date shown will be subject to a penalty fee. The penalty fee is \$32.50 during the first 12 months of delinquency.

**Exemption from payment of Renewal Fee:**

Check one:  Please place my license in **Inactive** status  Please place my license in **Retired** status

I understand that:

- **I cannot perform or practice** services in the State of Arizona **while in this status**;
- I will not have to pay renewal fees while in this status;
- I may request return to **Active** status at any time by filling out a short form application and payment of a three year renewal fee as long as I continue to practice in the profession, either in another jurisdiction or in in an exempt position;
- I understand that the Board may require re-examination after 5 years of non-practice ( A.R.S. 32-127(H));
- **I understand that if I am in Expired status, I cannot place my license in Inactive or Retired status.**

**Questions to be completed by all registrants:**

Have you been convicted of a felony or misdemeanor other than a minor traffic violation since your last renewal? If you answer yes, you must attach the official court documents.

YES  NO

**NOTE:** Alcohol and drug-related offenses that occur when driving or riding in an automobile (i.e., DUI, DWI, OWI, etc) are NOT considered minor traffic violations.

Has any regulatory agency determined that you violated any of their statutes or rules pertaining to practice of your profession?

YES  NO

Have you been disciplined by any regulatory agency since your last renewal?

YES  NO

Do you have any pending investigation by any regulatory agency at this time?

YES  NO

For any questions answered yes, please provide written explanation and attach relevant documentation.

**Making a false unsworn statement is a misdemeanor punishable by fine or imprisonment. A.R.S. 13-2704.**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Dryden, Autumn (DOL)

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**From:** Brian Beaman [bbeamman@iciclecreekengineers.com]  
**Sent:** Monday, January 12, 2015 2:08 PM  
**To:** Doyle, Lorin (DOL)  
**Subject:** FW: AG says wetland specialists override licensed hydrogeologist studies for wetland hydrology and soils in Washington State  
**Attachments:** AG Response to S Neugebauer RE incorrect wetland studies - Searchable.pdf; AG Attachment to response to S Neugebauer - Searchable.pdf; 2006 AGO Takings Guidance(1).pdf

Lorin... more from Steve N.

**Brian Beaman, PE, LEG, LHG**  
**Principal Engineer/Geologist/Hydrogeologist**  
 Icicle Creek Engineers, Inc.  
 29335 NE 20th Street, Carnation, WA 98014  
 w 425.333.0093 | c 206.498.1279




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**From:** Steve Neugebauer [mailto:steve@snrcompany.com]  
**Sent:** Monday, January 12, 2015 12:52 PM  
**To:** Brian Beaman  
**Cc:** geologist@dol.wa.gov; stephen.pidgeon@comcast.net  
**Subject:** AG says wetland specialists override licensed hydrogeologist studies for wetland hydrology and soils in Washington State

Brian:

SNR has stopped conducting wetland studies because it is unfair to our clients to conduct studies that municipal staff refuse to review and now that the Department of Ecology has the right to simply state that our studies are incorrect (Ecology has threatened our clients and has told every planner in the state to automatically reject SNR's signed stamped report), because the Board has chosen to not enforce the geologist licensing codes and the AG has apparently determined that the board policy needed to be changed regarding wetland studies because it purposely omitted the second paragraph of the Boards December 19, 2012 policy (see attached):

The interpretation and application of hydrogeologic data, beyond the observation of shallow groundwater, used to inform the multidisciplinary wetland delineation process is included in the practice of hydrogeology as adopted by state law (RCW 18.220 and WAC 308-15).

*Washington State Geologist Licensing Board, 12/19/2012, Policy 190-2*

This means that the Board cannot meet its obligations under RCW 18.220.005 and it means that it is illegal for hydrogeologist to conduct wetland studies. Considering the AG has indicated that every wetland study must be conducted by wetland specialists who have a week of training and that Ecology staff have the final word even though Ecology staff are not hydrogeologist or geologist and the hydrogeologic and geologic studies the wetland specialists do not meet the standard and customary practice of geology or hydrogeology and every study we have reviewed is incorrect (even per the Corps guidance).

Unfortunately, every error made by wetland specialists, Ecology staff, and municipal planners constitutes a unconstitutional taking (see the attached AG – McKenna guidance attached), which is a civil rights violation and if the property is worth more than \$5,000 can be a class B felony.

Regardless, Ecology's activities, and the Boards lack of activities to enforce the geologist licensing codes have cost SNR over \$160,000 in revenues and SNR's clients hundreds of thousands of dollar and that does not include the land that is lost when the police power is used unconstitutionally.

It should be noted that Ecology and wetland specialists also challenge SNR's stream studies which include fluvial geomorphologic, sedimentary, hydrogeologic and other geologic studies and again Ecology trumps that hydrogeology studies even though there are no licensed hydrogeologists in the shoreline group. Same goes for lake and stream studies including limnologic studies.

I guess Board should remove hydrogeology and geology licensing considering that anyone can challenge our studies and anyone can conduct these studies (incorrectly) without any threat of sanctions from the Board, better yet, maybe the licensing board should be disbanded since the board serves no purpose and choses to not enforce the geologist licensing codes as is required by the legislature when the promulgated RCW 18.220 and when the added geologist licensing to RCW 19.235.

SNR's studies do meet all federal guidance and the standard and customary practice of geology and hydrogeology. However, per the Board's decisions on every complaint I was forced to submit pursuant to WAC 308-15-140.3 C:

*(c) If a geologist has knowledge or reasonable cause to believe another person or geologist is in violation of the licensing law, chapter [18.220](#) RCW, or the related administrative rules, the geologist must present such information in writing to the board.*

If I do not complete detailed documentation that takes at least 40 hours to prepare, I can lose my license. However, every time I submit a complaint, the Board ignores the complaint and sends me a form letter to the "consumer", with no explanation of why the person is not practicing geology and hydrogeology, especially when these unlicensed person challenge SNR's reports SNRs reports and are considered peer review of a signed stamped hydrogeologic report. As of January 1, 2014, municipal staff in Whatcom County, Bellingham, Skagit County, Snohomish County, Mukilteo, SeaTac, King County, and other municipalities have disregarded SNR's signed stamped reports because they can since the Geologist licensing board is not enforcing the licensing codes and the Board is no meeting the requirements the legislature assigned to the board that protects the citizen's rights and their property.

Based on the AGs letter above anyone can conduct geologic and hydrogeologic studies, including planners, wetland specialists, and Ecology staff who are not licensed and have liberal art degrees (even soils scientists). Because the Board REFUSES to enforce the licensing codes, civil rights violations are occurring and the property owners have had a class B felony crime committed against them. This can expose the Board to lawsuits by these clients who are having their civil rights violated and their property illegally taken. However, that is not the point why have licensing requirements if the board is not going to enforce them?

As indicated above, SNR has stopped conducting any critical area wetland and fish and wildlife habitat conservation studies (streams, lakes, ponds, and marine shorelines) because this has become the realm of the wetland specialists and anyone can ignore our studies, because the licensing board refuses to enforce RCW 18.220, RCW 18.235, and 308-15 WAC. This is putting SNR out of business, which is probably what you want, however, this can be considered to be an ethics violation because the board is bending to staff rather than enforcing the code.

I welcome any of the Board members to go on a field trip so I can show you the sites where there can be no wetland hydrology present yet Ecology determines that the water table is to the surface based on their 18" sample plot and no research whatsoever. I dare any of you to determine a water table is present based exclusively on observations made in

a 18" deep sample plot in the middle of a area where Horton storage occurs and has filled the macropores in the bioturbation zone; especially when another sample plot is conducted 100 feet away at the same elevation and no water table is identified (SNR has excavated 15 foot deep test pits within 15 feet of a sample plot where Paul Anderson (Ecology) who has a degree in nursing and a MA in general education with an emphasis in trumpeter swans, determined the water table was to the surface. The test pit logged by SNR was completely dry to the 14 foot deep bottom.

It is clear that RCW 18.220 does not allow unlicensed wetland specialists to conduct hydrogeologic or geologic studies or studies that determine if a surface water feature is a stream, especially when these determination are made, it means that the property owner will have their property ceased pursuant to the State's police power, even though the Section 1, Chapter 16 of the Washington Constitution and the property owners 5<sup>th</sup> and 14<sup>th</sup> amendments rights are violated.

It's too bad that our licenses mean nothing however if they mean nothing, why did the legislature pass the licensing codes and why is there a licensing board?

I certain hope I get a response form the Board members rather than staff considering your lack of action is putting my company out of business and it is causing unconstitutional takings of private property.

Sincerely,

Steve

Steven Neugebauer  
Principal Hydrogeologist/Engineering Geologist  
SNR COMPANY  
15211 3<sup>rd</sup> PL NE  
Duvall, WA 98019  
425-788-3015  
206-291-5556 (Cell)  
<http://www.snrcompany.com>  
cell e-mail: [steve.neugebauer60@gmail.com](mailto:steve.neugebauer60@gmail.com)

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PS – Please show me where in RCW 18.220 that anyone can conduct hydrogeologic and geologic studies. None of the Ecology shoreline staff are licensed and none of them know anything about hydrogeology or geology.

S

RCW 18.220.005

Finding.

The legislature finds it is in the public interest to regulate the practice of geology to safeguard life, health, and property and to promote the public welfare.

RCW 18.220.190

Permitted activities — Certificate of licensing not required.

The following activities do not require a certificate of licensing under this chapter:

(1) Geological work performed by an employee or a subordinate of a geologist or specialty geologist licensed under this chapter, provided that the work does not include responsible charge of geological work as covered by this section, and is performed under the direct supervision of a geologist licensed under this chapter, who shall be and remains responsible for such work;

(2) Geological work performed by officers and employees of the United States practicing solely as such officers and

employees;

(3) Geological work performed exclusively in the exploration for energy and mineral resources, insofar as such work has no substantial impact upon the public health, safety, and welfare as determined by regulations issued by the director;

(4) Geological research conducted through academic institutions, agencies of the federal or state governments, nonprofit research institutions, or for-profit organizations, including submission of reports of research to public agencies;

(5) Teaching geology or related physical or natural sciences;

(6) The practice of engineering or other licensed professions: (a) The acquisition of engineering data involving soil, rock, groundwater, and other earth materials; evaluation of the physical and chemical properties of soil, rock, groundwater, and other earth materials; and the utilization of these data in analysis, design, and construction by professional engineers appropriately registered or licensed in this state; and (b) similar work performed by persons or organizations licensed or registered in any other profession or occupation related to geology, provided that such work is permitted under the applicable licensing or registration law, and is incidental to the practice or the profession or occupation for which licensing or registration is required. Nothing in this section shall be construed to permit the use of the title geologist or engineering geologist, or any other specialty as defined by the director, by an engineer or other licensed professional except as licensed under this chapter;

(7) General scientific work customarily performed by such physical or natural scientists as chemists, archaeologists, geographers, hydrologists, oceanographers, pedologists, and soil scientists, providing such work does not include the design and execution of geological investigations, being in responsible charge of geological or specialty geological work, or the drawing of geological conclusions and recommendations in a way that affects the public health, safety, or welfare; or

(8) The giving of testimony, or preparation and presentation of exhibits or documents for the sole purpose of being placed in evidence before any administrative or judicial tribunal or hearing, providing such testimony, exhibits, or documents do not imply that the person is registered under the provisions of this chapter.

[2000 c 253 § 20.]



Bob Ferguson  
**ATTORNEY GENERAL OF WASHINGTON**

Ecology Division  
2425 Bristol Court SW 2nd Floor • Olympia WA 98502  
PO Box 40117 • Olympia WA 98504-0117 • (360) 586-6770

January 6, 2015

Steven F. Neugebauer  
15211 3<sup>rd</sup> Place NE  
Duvall, WA 98019

RE: Your email to Attorney General Ferguson dated December 17, 2014

Dear Mr. Neugebauer:

Thank you for your email dated December 17, 2014. As an assistant attorney general who advises the Department of Ecology (Ecology) on matters related to the Shoreline Management Act, I have been asked to respond to your email on behalf of Attorney General Ferguson.

The Attorney General's Office (AGO) is authorized to provide advice only to state agencies and certain state officials. By law, the AGO is not authorized to provide legal advice to private citizens. Consequently, the information provided in this letter is of a general nature, and should not be construed as an official opinion of the AGO.

In your email you assert that staff at Ecology and at the local government level are accepting wetland delineations that you believe to be inaccurate. You have not identified any wetland study in particular but more generally make the allegation that, based on your status as a licensed hydrogeologist, wetland studies have incorrectly identified wetland hydrology and soils. Your email implies that only a licensed hydrogeologist is qualified to delineate a wetland.

As you may know, the Washington State Geologist Licensing Board has made a determination that the delineation of wetlands does not require licensure as a hydrogeologist:

The delineation of a wetland by a qualified wetlands professional, specifically the observation of water-saturated soils or shallow groundwater and other field indicators of wetland hydrology when applied according to the wetland delineation methods adopted by state law (RCW 90.58.380 and WAC 173-22-035), shall not be considered the practice of hydrogeology.

## ATTORNEY GENERAL OF WASHINGTON

Steven F. Neugebauer  
January 6, 2015  
Page 2

See <http://www.dol.wa.gov/business/geologist/geoboardpolicies.html#wetlands>. In addition, the AGO has issued an informal opinion on this topic, in which the Office concluded that while some geologists might be qualified to identify and delineate wetlands, it is not a requirement that one be a licensed geologist or hydrogeologist in order to identify and delineate a wetland. A copy of the AGO informal opinion is enclosed for your convenience.

In light of the above, it is not correct to allege that a wetland delineation is inaccurate simply because it is performed by an individual who is not licensed as a geologist or hydrogeologist. As outlined in the AGO informal opinion, a person performing a wetland delineation must follow state and federal requirements. State law requires that wetland delineations be conducted in accordance with the current Army Corps of Engineers wetland delineation manual and applicable regional supplements. See WAC 173-22-035. If you have reason to believe that a particular wetland study is inaccurate, or that the wetland delineation manual is being interpreted incorrectly in a particular case, you may choose to bring this to the attention of the agency that is reviewing the wetland study. You may also choose to appeal the agency decision that is relying on the wetland study, if appropriate.

You asked how the Attorney General is addressing this issue in which you believe several hundred incorrect wetland determinations have been made. The AGO does not have a direct role in reviewing wetland delineations. Rather, it is Ecology that implements and enforces laws such as the Shoreline Management Act (RCW 90.58) and the Water Pollution Control Act (RCW 90.48). As such, the AGO might assist Ecology in enforcing the law, but does not typically do so directly.

Your email also asserts that Ecology has directed local government staff to not accept the wetland studies performed by your company, SNR. Ecology staff are asked on occasion to provide technical assistance and review wetland studies submitted to local government on a case by case basis. In this context, Ecology has been asked to review several wetlands studies performed by SNR and found them to be inconsistent with the federal wetland delineation manual. However, based on my discussions with Ecology staff, it would not be accurate to state that Ecology has instructed "every municipal staff member" to not accept any of SNR's wetland studies. Rather, of the SNR studies that Ecology has reviewed, Ecology has advised that they were not consistent with the wetland delineation manual. If you believe that a wetlands study that SNR has completed for a property owner has been inappropriately evaluated, the matter can be raised with the relevant agency as described above.

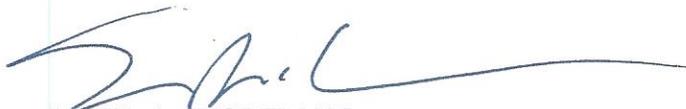
## ATTORNEY GENERAL OF WASHINGTON

Steven F. Neugebauer  
January 6, 2015  
Page 3

Because the Attorney General's Office is not authorized to provide advice to private citizens, I cannot advise you on a specific course of action or provide specific legal advice. Should you wish to formally pursue these issues, I recommend that you seek private legal counsel.

I hope this information has been helpful.

Sincerely,

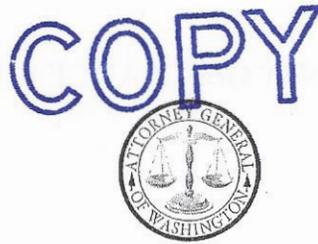


SONIA A. WOLFMAN  
Assistant Attorney General  
(360) 586-6770

SAW:df

Enc.

cc: Paul Anderson, Department of Ecology



Rob McKenna

**ATTORNEY GENERAL OF WASHINGTON**

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

August 2, 2012

The Honorable Shelly Short  
State Representative, District 7  
PO Box 40600  
Olympia, WA 98504-0600

Dear Representative Short:

By letter previously received, you have requested an opinion on several questions that I have consolidated and paraphrased as follows:

**Does the practice of wetland identification or delineation, or wetland functions assessment, constitute the practice of geology for others?**

I understand your questions to ask whether, in all cases, identification, delineation, and assessment of functions of wetlands must be performed by a licensed geologist or hydrogeologist.

**BRIEF ANSWER**

In light of the categorical nature of your questions, I conclude that the answer is no. My conclusion is based primarily upon the general nature of the activities you ask about, statutes governing the licensing of geologists and hydrogeologists, and a related policy of the Washington State Geologist Licensing Board.

**BACKGROUND**

The Growth Management Act (GMA) and the Shoreline Management Act (SMA) both impose limitations on the development and use of wetlands. RCW 36.70A; RCW 90.58. Under state law, a "wetland" is an area that is "inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas." RCW 36.70A.030(21); RCW 90.58.030(2)(h). This definition is taken verbatim from 33 C.F.R. § 328.3(b) and 40 C.F.R. § 230.3(t), the U.S. Army Corps of Engineers and the Environmental Protection Agency regulations implementing the federal Clean Water Act, 33 U.S.C. §§ 1251-1387.

**COPY**



## ATTORNEY GENERAL OF WASHINGTON

The Honorable Shelly Short  
 August 2, 2012  
 Page 3

other reasons to facilitate wetland management under local, state, and federal environmental regulations. The Department of Ecology has developed a set of assessment methods, one for Western Washington and one for the Columbia Basin. In both areas, assessing wetland function requires evaluating the potential effects of a particular wetland on water quality improvement, hydrology (maintenance of water flow and recharge), and functions related to habitat suitability. These include assessing wetlands for their potential to remove certain materials, such as sediments, from the water, as well as the potential for wetlands to control erosion or recharge groundwater. They also include assessing wetlands biologically for their suitability as habitat for both plants and animals. Washington State Department of Ecology, *Methods for Assessing Wetland Functions, Volume I: Riverine and Depressional Wetlands in the Lowlands of Western Washington* at 37 (1999)<sup>4</sup>; and Washington State Department of Ecology, *Methods for Assessing Wetland Functions, Volume II: Depressional Wetlands in the Columbia Basin of Eastern Washington* at 36-37 (2000)<sup>5</sup> See *Yakima Cy. v. Eastern Washington Growth Management Hearings Bd.*, \_\_\_ Wn. App. \_\_\_, 279 P.3d 434, 442 (2012) (describing categories of wetland functions).

## ANALYSIS

The crux of your question is whether the identification and delineation of wetlands, or the assessment of wetlands functions, are tasks that can only be legally performed by licensed geologists or hydrogeologists. The answer to this question derives from an examination of the statutes governing the licensing of geologists, and upon a related policy of the Washington State Geologists Licensing Board (the Geologist Board), in light of the general nature of the activities you ask about. That examination leads to the conclusion that wetland identification, delineation and function assessment are not categorically within the scope of practice for geologists, even if geologists might be among those qualified to perform some tasks involved in these functions. The answer to your question is, therefore, “no.”

A “geologist” must be licensed by the Board. RCW 18.220.020(1). A “hydrogeologist” must have a Geologist Board-issued geology license and a hydrogeology specialist license. RCW 18.220.020(1); WAC 308-15-53(2). It is against the law “for any person to practice, or offer to practice, geology for others in this state . . . unless the person has been licensed under the provisions of this chapter.” RCW 18.220.020(1).

RCW 18.220.010(7) provides that “geology” under the law is “the science that includes: Treatment of the earth and its origin and history, in general; the investigation of the earth’s constituent rocks, minerals, solids, fluids, including surface and underground waters, gases, and

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<sup>4</sup> Volume I, Part 1 is available at <https://fortress.wa.gov/ecy/publications/summarypages/99115.html>; Volume I, Part 2 is available at <https://fortress.wa.gov/ecy/publications/summarypages/99116.html>.

<sup>5</sup> Volume II, Part 1 is available at <https://fortress.wa.gov/ecy/publications/summarypages/0006047.html>; Volume II, Part 2 is available at <https://fortress.wa.gov/ecy/publications/summarypages/0006048.html>.

## ATTORNEY GENERAL OF WASHINGTON

The Honorable Shelly Short  
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RCW 18.220.010(12).<sup>6</sup>

The statute also offers a lengthy list of activities that do not require a license under RCW 18.220. Among other activities, no license is required for:

General scientific work customarily performed by such physical or natural scientists as chemists, archaeologists, geographers, hydrologists, oceanographers, pedologists, and soil scientists, providing such work does not include the design and execution of geological investigations, being in responsible charge of geological or specialty geological work, or the drawing of geological conclusions and recommendations in a way that affects the public health, safety, or welfare.

RCW 18.220.190(7).

In light of this statutory safe harbor, the Geologist Board adopted a Board Policy in 2009 that provides as follows:

RCW 18.220.190: Permitted activities – Certificate of licensing not required.

The Washington State Geologist Licensing Board will not pursue complaints of unlicensed practice for the following activities:

...

- Collection of groundwater level data for the sole purpose of wetland delineation. . . .

Geologist Licensing Board Policy 190-1 (June 2009), *available at* [www.dol.wa.gov/business/geologist/geoboardpolicies.html](http://www.dol.wa.gov/business/geologist/geoboardpolicies.html).

The statutes defining “geology,” “hydrogeology,” and the “practice of geology for others,” do so quite broadly. Standing alone, the statutes might suggest an equally broad

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<sup>6</sup> More generally, the “practice of geology” is separately defined as the “performance of geological service or work including but not limited to collection of geological data, consultation, investigation, evaluation, interpreting, planning, geological mapping, or inspection relating to a service or work that applies to geology, and the responsible supervision thereof, the performance of which is related to public welfare or the safeguarding of life, health, property, and the environment, except as otherwise specifically provided by . . . chapter [18.220 RCW].” RCW 18.220.010(11). Similarly, the “practice of hydrogeology” is defined as “the performance of or offer to perform any hydrogeologic service or work in which the public welfare or the safeguarding of life, health, environment, or property is concerned or involved. This includes the collection of geological data, and consultation, investigation, evaluation, interpretation, planning, or inspection relating to a service or work that applies hydrogeology.”

## ATTORNEY GENERAL OF WASHINGTON

The Honorable Shelly Short  
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Page 7

exclusively within the scope of practice for geologists and hydrogeologists. As with the identification and delineation of wetlands, this task is excluded from the geologist licensing requirement as general work that might be performed by biologists, hydrologists, or soil scientists. RCW 18.220.190(7).

The Geologist Board's policy provides further support for these conclusions. "[A]n agency's interpretation of an ambiguous statute is entitled to great weight where the statute is one which the agency is charged with implementing and concerns matters within the agency's expertise." *State ex rel. Evergreen Freedom Found. v. Washington Educ. Ass'n*, 140 Wn.2d 615, 645, 999 P.2d 602 (2000) (Madsen, J., concurring and dissenting) (citing *City of Seattle v. Department of Labor & Indus.*, 136 Wn.2d 693, 704, 965 P.2d 619 (1998); *Seattle Bldg. & Constr. Trades Council v. Apprenticeship & Training Council*, 129 Wn.2d 787, 799, 920 P.2d 581 (1996); *City of Pasco v. Public Employment Relations Comm'n*, 119 Wn.2d 504, 509, 833 P.2d 381 (1992)).<sup>7</sup> The Geologist Board is charged with administering and enforcing the geologist licensing statutes. RCW 18.220.050 (describing the authority of the Geologist Board). Analysis of the scope of practice for which a geologist license is required is uniquely within the expertise of the Geologist Board. RCW 18.220.030 (requiring five of the seven members of the Geologist Board to be licensed geologists).

As noted, the Geologist Board has adopted a policy, construing the "[c]ollection of groundwater level data for the sole purpose of wetland delineation" as falling within the exclusion from the geologist licensing requirement under RCW 18.220.190(7). Geologist Board Policy 190-1. Whether or not that policy covers the full scope of all functions related to the identification and delineation of wetlands or the assessment of wetland function, it strongly indicates that the administrative body granted authority to administer and enforce the geologist licensing statutes does not construe those functions as falling categorically within the scope of the geologist licensing requirement.

I trust that the foregoing information will prove useful. This is an informal opinion and will not be published as an official Attorney General Opinion.

Sincerely



DIERK MEIERBACHTOL  
Assistant Attorney General  
(360) 586-2940

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<sup>7</sup> This is not to suggest that any of the statutes under consideration are ambiguous. I reach my conclusions based upon the plain language of RCW 18.220.010 and RCW 18.220.190, and cite the Geologist Board policy as confirmation of this plain language construction.

**From:** Dryden, Autumn (DOL)  
**To:** ["Brian Beaman \(BBeaman@iciclecreekengineers.com\)"](mailto:BBeaman@iciclecreekengineers.com)  
**Subject:** FW: All of SNR's Hydrogeologic Reports are being deemed incorrect by Municipal Staff  
**Date:** Tuesday, December 23, 2014 3:06:00 PM  
**Attachments:** [image001.png](#)  
[City Of Bellingham - SNR Response Letter - SN - Word.docx](#)  
[letter.pdf](#)  
[E-Mail Challenges to SNR's studies.pdf](#)  
[page 2 comment letter parkside.pdf](#)  
[20141120120004096.pdf](#)

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Hi Brian. Lorin suggested I ask you how much of this you'd like in the packet. Would you like just his email or all of the attachments too?

### *Autumn Dryden*

Administrative Assistant to  
 Lorin Doyle, Administrator  
 Regulatory Boards Section  
 Phone: (360) 664-1567

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**From:** Brian Beaman [<mailto:bbeaman@iciclecreekengineers.com>]  
**Sent:** Thursday, December 18, 2014 8:29 AM  
**To:** Doyle, Lorin (DOL)  
**Subject:** FW: All of SNR's Hydrogeologic Reports are being deemed incorrect by Municipal Staff

FYI

**Brian Beaman, PE, LEG, LHG**  
**Principal Engineer/Geologist/Hydrogeologist**  
 Icicle Creek Engineers, Inc.  
 29335 NE 20th Street, Carnation, WA 98014  
 w 425.333.0093 | c 206.498.1279




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**From:** Steve Neugebauer [<mailto:steve@snrcompany.com>]  
**Sent:** Wednesday, December 17, 2014 3:14 PM  
**To:** Brian Beaman  
**Cc:** 'Ed Kilduff'; Rone Brewer  
**Subject:** FW: All of SNR's Hydrogeologic Reports are being deemed incorrect by Municipal Staff

Hi Brian,

I was wondering if I can buy you lunch sometime (in Carnation, here in Duvall, or elsewhere) to discuss the problems we are facing with Ecology and our studies that are being classified as "incorrect" by municipal staff because Ecology told them to. Because of the Licensing Boards refusal to sanction those who challenge our reports by simply saying they are wrong has escalated because

the Licensing Board has never taken any action on any complaint I am forced to file because WAC 308-15-140 "C" requires me to do so and the task of preparing these complaints takes approximately one week of my time, during which I am unable to bill my time to clients, effectively losing over \$5,000 each time I must file the complaint. Each time I have filed a complaint, I get a boiler plate snail mail letter that advises me as a consumer that the Board has determined that the person is not practicing hydrogeology or geology without a license with no explanation, especially when it is clear that these individuals are not only practicing hydrogeology and geology (including soil studies which are not exempt even for pedologists and soil scientists because these projects deal with the States Police power and the taking of property and legal cases where clients are facing code violations for conducting activities in a wetland even though our studies clearly indicate that wetland hydrology cannot be present.

I'm not sure if you know what is happening to property owners in our state, Ecology is hell bent on identifying wetlands and "fish and wildlife habitat conservation areas" (streams, ponds, lakes, Rivers, and marine shorelines) on every parcel in the state (Ecology is also going after water rights based on one study for larger areas, such as the Spokane River Valley where 500,000 people will lose water rights and/or face restrictions on ground water withdrawals per Ecology's instream flow rule which is devoid of science but, because the licensing board has chosen to not enforcing the licensing codes, Ecology can do whatever they please (Ecology and Snohomish County are challenging SNR studies on the Schmitt property where ground water is located about 100 feet below the ground surface based on the water wells in the area including the well on the Schmitt property. The problems with the Schmitt property is that the County and WSDOT are diverting their storm water onto the Schmitt property. Ecology has already required Mr. Schmitt to "restore a wetland" where the County's storm water enters the northeastern corner of the property.

I need to find out from you why the licensing board refuses to enforce the geologist licensing codes and why the Board won't even enforce its December 19, 2012 policy. The Board's failure to act has already cost SNR over \$160,000 in revenues because Ecology is taking advantage of the Boards inaction and has notified every staff planner to reject SNR's studies and reports and as you can see the attachments this is not only impacting SNR, it is impacting the property owners through an abuse of the police power and the use of capricious and arbitrary determinations to not even review our, signed, stamped reports.

The worst part is that we have yet to find any mineral wetlands above mean seal level nor can inundation above mean sea level result in saturated soil conditions (actually an aquic moisture regime per the Corps, which means the ground water filling the pore space is anaerobic and has a ORP of  $< -100$  Eh which means that nitrates and phosphates are no available to plant roots and it means that 95% of the wetland vegetation the Corps lists as wetland vegetation is not wetland vegetation.

Regardless, citizens civil rights are being impacted by municipal staff and Ecology on purpose and SNR is the only geologic firm that we know of that has entered the world of "critical areas" and we have demonstrated that mineral wetlands do not exist above mean sea level, which is obvious because we have topography in Washington state and this means that virtually all of the subsurface hydrology that occurs above 10 feet MSL is unsaturated zone flow bypass and preferential flow.

Additionally, Ecology and all of the wetland specialists we have encountered (especially those who are municipal staff) practice non-science and pseudo science on purpose and they ignore any inconvenient documentation, requirements, or other information in the Corps Guidance Documents that does not support their desire to have critical areas located everywhere. In reality per the USGS and Ecology only 2% of the land surface in Washington State are wetlands, and 95% of these wetlands are located in the marine shorelines. The other 5% are organic wetlands (bogs and fens) which do not have ground water hydrology (they have the same hydrology kettle ponds have (unsaturated zone preferential flow). This is why Ecology, staff, and wetland specialists ignore the following from Page 44 (b) of the Corps 1987 Wetlands Delineation Manual:

(b) *Analyze hydrologic data.* Subject the hydrologic data to appropriate analytical procedures. Either use duration curves or a computer program developed by WES (available from the Environmental Laboratory upon request) **for determining the mean sea level elevation representing the upper limits of wetland hydrology**. In the latter case, when the site elevation is lower than the mean sea level elevation representing a 5-percent duration of inundation and saturation during the growing season, the area has a hydrologic regime that may occur in wetlands. *NOTE: Duration curves do not reflect the period of soil saturation following dewatering.*

Regardless, SNR is being put out of business because of the Board's inaction giving Ecology all the help they need to try to put SNR out of business while violating citizens rights and committing class B felonies against the property owners (and violating their civil rights).

I presume the Licensing Board does want to enforce the licensing codes and wants to protect citizens rights and to protect them from illegal activities that municipal staff and Ecology have no problems violating. After all the very first statement in RCW 18.220 is:

RCW 18.220.005 - Findings

*The legislature finds it is in the public interest to regulate the practice of geology to **safeguard life, health, and property and to promote the public welfare.***

If the Board is not going to enforce the geologist licensing codes then it must revise the WAC 308-15-140 "C" to eliminate the requirement for licensed geologists and specialty geologists from being required to file complaints because it has already cost SNR over \$40,000 in revenues to write the complaints that are apparently thrown in the trash because the Board has refused to take action even when RCW 18.220.005 is being violated daily.

This has grown into a major problem and we need to resolve it; otherwise we might as well do away with geologist licensing. I would really appreciate the opportunity to discuss this with you and I will buy you lunch or a expensive dinner just to get the opportunity to talk with you about problems caused by the Boards inaction, which is also leading to criminal activities.

Thanks!

Steve

PS – the attachments above are just few of the challenges SNR gets everytime we conduct hydrogeologic and geologic studies that include wetlands and streams (municipal staff in Whatcom County are proud to say that they overrode SNR’s fluvial geomorphologic, hydrogeologic, hydrologic, and other geologic studies that demonstrate that relict glacial meltwater channels are not stream and more importantly, that drainage ditches, irrigation ditches, point source conveyances, and other man made features are not streams. In fact the City of Sammamish “Laura Casey” ignored SNR’s findings the City’s diverted point source MS4 storm water onto a private property is a stream so the City would not have the liability of having a ongoing trespass and this cost the client over \$300,000 because of the buffers the City required on their own storm water conveyance.

S

Steven Neugebauer  
Principal Hydrogeologist/Engineering Geologist  
SNR COMPANY  
15211 3<sup>rd</sup> PL NE  
Duvall, WA 98019  
425-788-3015  
206-291-5556 (Cell)  
<http://www.snrcompany.com>  
cell e-mail: [steve.neugebauer60@gmail.com](mailto:steve.neugebauer60@gmail.com)

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**Snohomish County**  
**Planning and Development Services**

John Lovick  
 County Executive

Clay White, Director  
 3000 Rockefeller Avenue M/S #604  
 Everett, WA 98201-4046  
 (425) 388-3311 FAX (425) 388-3832

**REVIEW COMPLETION LETTER**

**DATE OF LETTER:** November 20, 2014

**PROJECT FILE NO:** 14-112601-CUP / 13-110909-LDA

**PROJECT NAME:** Schmitt Oversized Storage Building

**COMPLETE APPLICATION DATE:** September 24, 2014

**APPLICANT:**

Jeff Schmitt  
 30221 3RD AVE NE  
 STANWOOD, WA 98292

**CONTACT:**

Elden McCall  
 MAC Engineering LLC  
 PO BOX 177  
 SILVANA, WA 98287

**PROJECT DESCRIPTION:**

Conditional Use Permit to construct a 4,704 square foot non-accessory storage structure on agricultural lands.

Dear Elden McCall:

The information listed below is required to evaluate your proposal further. Please respond to all of the comments. Your application will expire one year after the date of this letter if the requested information is not provided per SCC 30.70.140(1).

**Planning/Land Use:**

Project Planner: Andrew Galuska

1. SCC 30.25.029 requires landscaping and other measure to mitigate potential land use incompatibilities. The proposed structure is very close to the western property line. There is vegetation screening the structure from adjacent uses but it is located entirely on the neighboring property. **Because there is no guarantee that the vegetation on a neighboring property will be retained we would require some form of vegetative screening from the western property line.**

**Drainage/Grading/Geohazard:**

Reviewer: R. Alan Murray, P.E.; (425) 388-3311 – Ext 2162

The following comments remain from the previous review of 13-110909 LDA.

1. The total of new impervious surfacing exceeds 10,000 square feet (sf). . **(Informational)**
2. Total PGIS exceeds 5,000 sf. **(Informational)**
3. Total disturbed area exceeds 1 acre. **(Informational)**
4. To be more specific, analysis indicates that on the property increases in runoff will exceed 0.1 cfs and in fact will exceed 0.5 cfs. **Analysis must show that increase in runoff from the entire property does not exceed 0.1 cfs or stormwater detention will be required. Analysis must include all changes in cover type on the site.**
5. Application does not demonstrate meeting the requirements for full dispersion as outlined in Volume V, Chapter 5, section 5.3.3. BMPT5.30, Snohomish County Drainage Manual. Design Criteria requires that the site remain more than 65% forested and less than 10% impervious. **Nothing has been provided to support full dispersion including un-disturbed property to be set aside.**
6. Critical areas do not count as part of the required forested area. See also Volume III, Chapter 7, Section 7.2 Dispersion. **(Informational)**
7. It appears that all of the runoff from the non-pollution generating structures will mix with pollution generating gravel parking areas before sheeting into the grass. **Current plan addresses this comment.**
8. It appears that runoff on the north side of the pole building will concentrate at the north edge of the driveway and flow easterly toward the culvert, not resulting in any water quality treatment, ineffective dispersion. . **Current plan addresses this comment.**
9. Since there is only one site, and all runoff appears to either flow through the culvert or flow from the back of the pole building into the wetland southeast of the improvements, dividing the site into two sub-basins is inappropriate. **Second Request.**
10. It is expected that the applicant will seek coverage under the WDOE Construction Stormwater Permit. **A notice of intent should have been filed with WDOE.**
11. Engineer should submit a separate SWPPP for the project meeting the requirements of WDOE. The project exceeds 1 acre. **While building is complete, the site is still an active construction site.**
12. The LDA application appears to ignore the previous grading quantities associated with the fill installed for construction of the pole building and perimeter gravel surfaces. **No calculations have been provided.**

#### New Comments

13. Full Drainage Report has not been signed and dated by the engineer.
14. Include previously recorded CASP boundaries on plans.
15. Show removal of fill behind building.
16. Transition Zone is not an acceptable water quality BMP because a water quality treatment facility (engineered filter strip) is required when PGIS is greater than 5,000 square feet.

<b>Critical Areas (Streams/Wetlands/Fish &amp; Wildlife):</b>
---

Reviewer: Kirk Prindle, Senior Environmental Planner, Ext 2006

1. A previously-recorded CASP (AF#200710260119) exists for the subject parcel. It appears that all unpermitted development may have been located outside of critical areas and buffers as shown per the recorded CASP. However, the location of critical areas and buffers as vested per the

previously-recorded CASP are not shown on project plans. Please provide revised plans showing the location of critical areas and buffers relative to project development as required per SCC 30.62A.130.

2. As mentioned above, submitted project plans do not show the location of critical areas per CASP AF#200710260119. Therefore, although it appears unpermitted development may have fully avoided vested critical areas and buffers, this cannot be definitely confirmed. If project plans are provided that demonstrate that all unpermitted development avoided critical areas and buffers (per CASP AF# 200710260119), then no further critical areas/site review will be required.
3. The submitted project critical areas study (*Hydrogeomorphologic GMA Critical Areas Wetland and Stream Report* dated July 1014 prepared by SNR Company) strains credulity given the previously-recorded CASP and long history of critical areas studies conducted on the parcel. This study is not accepted as accurate. If the applicant intends to contest the accuracy of previous studies and review through use of this report – and, again please note, no critical areas study or additional CAR review is required if project plans confirm unpermitted development avoided critical areas and buffers – a third-party peer review of submitted studies would be required. Typically, staff from the Washington State Department of Ecology (DOE) provide initial third-party peer review in a contestation of recorded critical areas information.
4. At this time, please provide revised project plans showing the location of critical areas and buffers (per CASP AF# 200710260119) relative to project development. If revised project plans show critical areas per the submitted critical areas study, then an on-site meeting with DOE staff will be scheduled to verify the accuracy of submitted project plans/documents.
5. Thank you. And, please feel free to contact me directly if additional discussion would be helpful.

**Fire:**

Reviewer: Don Beckwith

1. No comments. A second review will be made at building permit submittal.

**Other Information Required:**

1. A cover letter that identifies the proposed change(s) cross referenced to the comments on this project is required. Be sure to include and identify any additional changes proposed as well. Please provide five (5) copies.

**RESUBMITTAL OF REQUESTED ITEMS**

Please contact the PDS Project Manager, Andy Galuska, (425) 388-3311 x2764, [andrew.galuska@snoco.org](mailto:andrew.galuska@snoco.org) to arrange for submittal of the requested information. The resubmittal package must address all changes in order to be accepted.

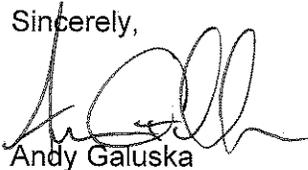
Please be sure to provide the following number of copies:

Site Plans	(5)
Grading/Drainage Plans	(3)
Landscaping Plans	(3)

Review of your application will continue upon the receipt of the required information. At the conclusion of that review, you will be notified if the project is ready for a SEPA threshold determination and scheduling for public hearing.

PDS is required to comply with processing requirements established in Snohomish County Code (SCC) section 30.70.110, which states that the county shall issue a final decision within 120 days from when the application is determined to be complete. Consequently, the department will recommend denial of your application if it cannot be approved after review of the resubmitted items. However, as an applicant, you may choose to waive the 120 day requirement to allow for additional review time. If you wish to waive the 120 day requirement, please submit a letter stating your intention. As a courtesy, we have provided a standardized letter that you may use.

Sincerely,



Andy Galuska  
Project Manager

cc:            Applicant  
                 Property Owner



**PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT**  
 210 Lottie Street, Bellingham, WA 98225  
 Telephone: (360) 778-8300 Fax: (360) 778-8302 TTY: (360) 778-8382

CERTIFIED MAIL

November 25, 2014

Kai Farrar  
 345 Viewcrest Rd.  
 Bellingham, WA 98226

RE: Bellingham Municipal Code Violations (CIA2014-00112)  
 345 Viewcrest Rd; parcel number 370212 096073

Dear Mr. Farrar:

This letter is in regard to vegetation clearing and earthwork on your property (referenced above) that was reported to the city on July 23, 2014. After site visits by city staff, it was determined that clearing and grading occurred in a wetland and wetland buffer without permits authorizing the work. Those permits include a Critical Areas Permit (CAP) and a Stormwater. Permit.

On August 7, 2014, the city sent you a letter notifying you of the requirements to comply with city codes for the work already done. The letter required you to submit an application for a CAP and a Stormwater Permit by September 11, 2014.

On November 3, 2014, after asking for a time extension, you submitted a report to the Planning and Community Development Dept. titled, "Hydrogeomorphic Report--Growth Management Act Wetland Critical Areas" (SNR Company, October 2014). You stated that the consultant you hired, SNR Company, found no wetlands on your property and therefore you didn't need to apply for a permit. You did not address the requirement to also apply for a Stormwater Permit for the estimated 10,000 square feet of bare soil you exposed during the earthwork.

The city has reviewed the SNR report and concludes that the consultant did not apply the methodology required in BMC 16.55.290 for determination of wetlands nor did the report address the presence of wetlands within 150 feet of the property boundary, as stipulated in Bellingham Municipal Code (BMC) 16.55.290 B 3.

The basis of the SNR findings is that only groundwater can be the hydrology source for a true wetland and that the five-foot pit that was dug did not encounter groundwater. Wetlands are also commonly created by surface water and are defined in BMC 16.55.510 this way: "'Wetlands' means areas that are inundated or saturated by surface water or ground water at a frequency and duration....." In fact, the report describes the area mapped in the 2008 wetland delineation as being inundated with stormwater from the surrounding residences that are at higher elevations.

Because SNR did not follow the proper methodology, the conclusions in the report are conflicting, misleading, and inaccurate, and as a result, the City cannot accept the report. In addition to not following the code-required methodology for wetland determination, the report from SNR contradicts the wetland determination from an earlier wetland study (David Evans and Associates, April 2008).

The city regulates all clearing and grading in critical areas and their required buffers, in accordance with best available science and the provisions of BMC 16.55.030. In accordance with BMC 16.55.060 B, the City cannot approve any permit or otherwise authorized alterations to critical areas without first ensuring compliance with BMC 16.55, the Critical Areas Ordinance.

On November 21, 2014, city staff met you on your property to review the condition of the previously cleared slope. Grass has grown in covering all the bare soil so there is no additional erosion/sedimentation control needed. However, a Stormwater Permit is still required for the soil exposure that occurred without a permit.

**ACTION REQUIRED:**

- Complete the CAP application enclosed. Include the required critical areas report by a qualified professional following the methodology in BMC 16.55.290 for determination of wetlands.
- Submit all the required materials with the CAP application (\$1,063 fee).
- Submit the Stormwater Permit application enclosed (fees based on square footage).
- Pay the application fees.
- Submit all the above requirements by **December 29, 2014.**

Failure to submit the applications by this deadline will result in the matter being turned over to the Police Dept. Code Enforcement Officer; citations may be issued.

Per BMC 16.55, an appeal to the Hearing Examiner may be filed within 14 days of the date of the letter if you believe the City's decision to not accept the SNR report is in error. Appeal forms are available at the Permit Center in City Hall (210 Lottie St., Bellingham, WA); the fee is \$1,081.

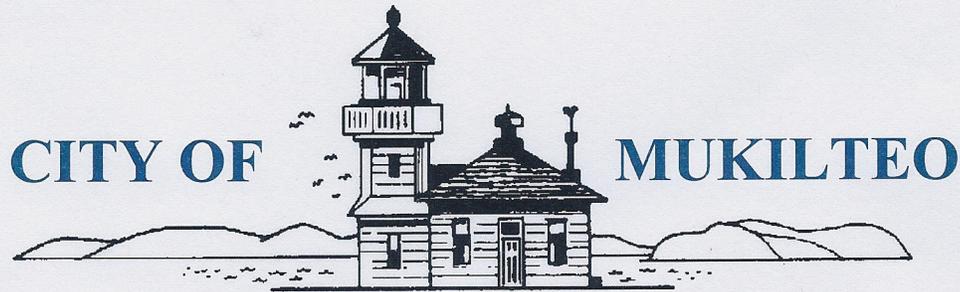
If you have questions, you can contact me at (360)778-8356 or [kweil@cob.org](mailto:kweil@cob.org).

Sincerely,



Kim Weil,  
Environmental Planner

Enclosures



11930 Cyrus Way – Mukilteo, WA 98275

November 17, 2014

Clive Freidenrich  
19048 Chandon Lane  
Huntington Beach, CA 92648

Project/File Numbers: SD2014-002 Freidenrich Short Plat  
Location: 15XX 3<sup>rd</sup> Lane

**RE: Request for Peer Review of Critical Area Report**

Dear Mr. Freidenrich:

In accordance with Mukilteo Municipal Code (MMC) 17.13.040(C), the City may request additional information to complete its review of a project. City staff has determined on review that further information is necessary to complete our review of your project.

On October 14, 2014 the City requested a peer review of the critical area report per MMC 17.52B.080(C). Without peer review of the critical area report that has been provided, staff will have no choice but to deny the application based on the fact staff does not have sufficient information to complete its review of the application.

Please note that in accordance with MMC 17.13.060(E), when the City requests additional information, the applicant has 90 calendar days to submit additional information. If the required information is not submitted within the 90 calendar days, the application will be considered lapsed for failure to submit the necessary information in a timely manner and the file will be closed. The applicant may request, in writing, an extension of up to an additional 90 calendar days. Additionally following MMC 17.13.080(B), any time for which the City has requested and is awaiting additional information can be subtracted from the overall review period for a project.

If you have any questions or need additional assistance, please feel free to contact me at (425) 263-8043.

Sincerely,

 A handwritten signature in cursive script that reads "Linda Ritter".
 

Linda Ritter  
Associate Planner

pc: Jesse Jarrell, P.E., Western Engineers Inc., 13000 Highway 99 S., Everett WA 98204  
Planning project file  
Correspondence file

**Steve Neugebauer**

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**From:** Shari <calcoug@aol.com>  
**Sent:** Wednesday, December 17, 2014 10:54 AM  
**To:** Steve Neugebauer  
**Subject:** Fwd: Additional questions on Short Plat Project

What do you think our next step should be?

Shari

Shari L. Freidenrich, CPA

Begin forwarded message:

**From:** Linda Ritter <[lritter@ci.mukilteo.wa.us](mailto:lritter@ci.mukilteo.wa.us)>  
**Date:** December 17, 2014 at 10:03:56 AM PST  
**To:** Shari - Personal <[calcoug@aol.com](mailto:calcoug@aol.com)>  
**Subject: RE: Additional questions on Short Plat Project**

Mr. Friendenrich,

I'd like us to take a step back from this back and forth discussion we've been having regarding a third party review of the wetland report you submitted.

Here's what the issue is. You submitted a report stating there is no wetland on the subject property. Three factors makes city staff question whether or not that report is accurate. First, the report is in a format that it is completely different and is many times more complex and larger than any other wetland report submitted to the city before. Second, our knowledge of Mukilteo's geography makes us believe there is a probability a wetland exists on the subject property. Vegetation was removed the property which may or may not skew the wetland results.

Given these facts, and because the city doesn't have a certified biologist on staff to do a wetland evaluation, we have informed you a third party review of the wetland report you submitted is necessary. Because the cost of the third party review is the responsibility of the applicant, a deposit is required to cover the costs of the third party review. Without a deposit the third party review cannot take place and without the third party review the preliminary short plat application cannot be approved.

Previously you had requested a hydro geologist be part of the team doing the third party review. As the city doesn't have a relationship with a hydro geologist we suggested having a hydrologist assist with the review; a suggestion which you have rejected. We believe at this stage the only necessary professional needed to do the third party review is a wetlands biologist. Depending on what the biologist reports, it may become necessary to consult with a hydro geologist or hydrologist. However, we should wait on getting another expert involved until we know their services are need. In doing this you can avoid a potentially unnecessary cost.

Given all of the above, here's the course of action necessary to move forward towards approving

the preliminary plat application. You provide the city with a deposit in the amount of \$2,470 to cover the costs of the city having our on-call biologist review the wetland report you submitted and visit the site to confirm or refute the accuracy of the report. If he confirms the accuracy of the report we can move forward and complete our review of the short plat application. If he refutes the report, he and the person who did your wetland report will meet and discuss the issues; specifically why they came to different conclusions as to whether or not a wetland is on the property. The objective is they settle on a conclusion both can support.

Therefore, I'm requesting you provide the deposit so we can move review of the short plat application forward. Your 90 days does not expire until January 14, 2015, therefore the City would like to receive the deposit before or on January 14, 2015. If the deposit has not been received by January 14, 2015 we will assume you are declining to pay for the third party review in which case we will move forward to deny the short plat application because we don't have all of information necessary to approve it.

If indeed you need an additional 90 days to submit the deposit the City will grant you an additional 90 days, otherwise the statement above stands.

Please do not hesitate to contact me if you have questions.

Linda Ritter  
Associate Planner  
City of Mukilteo  
11930 Cyrus Way  
Mukilteo WA 98275  
424-263-8043  
[lrutter@ci.mukilteo.wa.us](mailto:lrutter@ci.mukilteo.wa.us)

-----Original Message-----

From: Shari - Personal [<mailto:calcoug@aol.com>]  
Sent: Wednesday, December 10, 2014 10:23 PM  
To: Linda Ritter  
Cc: 'Jesse Jarrell'  
Subject: RE: Additional questions on Short Plat Project

Dear Linda:

Thank you for getting back to us. It appears that a hydrologist was added, but in our prior email, we indicated that a hydrogeologist would be required to do a peer review per the WAC 365-195-905. A hydrologist is not the same specialty as a licensed hydrogeologist in the State of Washington. As stated in the Washington State Personnel Job descriptions ([www.dop.wa.gov/JobClasses/514I.doc](http://www.dop.wa.gov/JobClasses/514I.doc)), a hydrogeologist is to "provide peer review of hydrogeologic activities and reports".

RCW 18.220.210 defines the following (8) "Hydrogeology" means a science that involves the study of the waters of the earth, including the study of the occurrence, circulation, distribution, chemistry, remediation, or quality of water or its role as a natural agent that causes changes in the earth, and the investigation and collection of data concerning waters in the atmosphere or on the surface or in the interior of the earth, including data regarding the interaction of water with

other gases, solids, or fluids.

Finally, the Washington State Board of Licensing policies (<http://www.dol.wa.gov/business/geologist/geoboardpolicies.html>) state the following:

Wetland delineation and the practice of hydrogeology RCW 18.220.190:

Permitted activities - Certificate of licensing not required

(<http://app.leg.wa.gov/RCW/default.aspx?cite=18.220.190>)

WAC 308-15: Geologist licensing services

(<http://app.leg.wa.gov/wac/default.aspx?cite=308-15>)

The delineation of a wetland by a qualified wetlands professional, specifically the observation of water-saturated soils or shallow groundwater and other field indicators of wetland hydrology when applied according to the wetland delineation methods adopted by state law (RCW 90.58.380 and WAC 173-22-035), shall not be considered the practice of hydrogeology. The interpretation and application of hydrogeologic data, beyond the observation of shallow groundwater, used to inform the multidisciplinary wetland delineation process is included in the practice of hydrogeology as adopted by state law (RCW 18.220 and WAC 308-15).

Also, as you mention below, the second reason stated for requiring a peer review is related to water, and a licensed hydrogeologist is the only qualified individual to be able to interpret and review this aspect as outlined in the information above from RCW and the WA State Board of Licensing. A wetland specialist per the above is not able to interpret hydrogeological data and under RCW 18.220.020, a license in hydrogeology is required to perform hydrogeological services as defined above. In addition, as per the Appendix X - Hiring a Qualified Wetland Professional (<http://www.ecy.wa.gov/programs/sea/wetlands/pdf/Hiring%20a%20Qualified%20Wetland%20Professional.pdf>), a person may have in-depth training in plant ecology or soils or hydrology, but few people have all three. Since the City request for a peer review is based on the water, the peer review (and related deposit for services) should focus on this aspect that falls under hydrogeology as defined above.

Then based on the findings of the peer review performed by a licensed hydrogeologist, any additional work (and related deposit) can be determined and paid by us at that time, if necessary. The initial estimate you provided also includes costs for a memo and sketch and that would only be required if critical areas were present on our property. As you know, the report submitted by us by a licensed hydrogeologist does not support it being a critical area. Therefore, we request that this section of the estimate be removed from the deposit for the peer review and are unclear why it was included in the initial estimate. The Mukilteo codes states that "The city may retain a qualified wetland specialist, at the expense of the applicant, to review and confirm the applicant's reports, studies, and plans." We expect that a licensed hydrogeologist will confirm the report we submitted based on best available science.

Please provide us with the updated detailed estimate of the deposit required for the peer review of the report by a licensed hydrogeologist (per requirements in WAC 365-195-905), without including any additional work until the peer review is completed on the report. Please also send us the licensed hydrogeologist's name and qualifications so that we can keep this project moving forward and once we review the estimate and qualifications, we will send in the deposit to keep this project moving forward.

If you need assistance in getting a licensed hydrogeologist, please let us know.

Finally, the reasons you stated for the peer review don't appear to change after the review by the engineer in the Public Works Department. This seems odd as the report submitted should be one that they are familiar with as they should deal with these types of reports regularly as part of their job.

However, the licensed hydrogeologist to be hired for the peer review, will be familiar with these types of reports and will then be able to independently provide input to the City when they complete the peer review.

We do still believe that the factors triggering a peer review appear to be arbitrary and would like to know all of the specific factors and whether they are consistent with other development applications reviewed in the past.

In closing, since we are getting close to the first 90 day period as per your letter, I am formally requesting a 90 day extension as allowed.

Clive

-----Original Message-----

From: Linda Ritter [<mailto:lr Ritter@ci.mukilteo.wa.us>]

Sent: Thursday, December 04, 2014 10:12 AM

To: Shari - Personal

Cc: 'Jesse Jarrell'

Subject: RE: Additional questions on Short Plat Project

Mr. Freidenrich,

I contacted our consultant and with the hydrologist added the cost of the peer review will be \$3,415. As stated in the first email, the following reasons are why the City requested a peer review of the submitted document:

MMC 17.52B.080(C) provides the authority for the city to retain a qualified wetland specialist, at the expense of the applicant, to review and confirm the studies and reports submitted by the applicant. There is no standard procedure employed by the city in determining when a wetland report is reviewed because it is an uncommon procedure and the determination is made on a case-by-case basis. The decision to require third-party review of a report submitted by the applicant is made jointly by the Associate Planner managing the permit application and the Planning Manager. Factors that may trigger peer review, listed here in no particular order and not intended to be a comprehensive list, may include:

- \* Observations made in the report that differ from staff observations;
- \* The complexities of the project;
- \* The complexities of the critical area;
- \* A report in an unfamiliar format;
- \* Methodologies used that differ from the best practices commonly used in the State of Washington;
- \* Conclusions reached that seem unsupported by the facts described in the report or at odds with observations staff has made at the site.

In this case, two of the factors that led to the decision to require third-party review are the atypical format and large size of the submitted report (fourth bullet point) and the assertion in the report that the surface water flow on the subject property does not follow a natural drainage way

but is the result of alteration of water flow created on adjacent properties (third bullet point).

The City would like to get this moving and complete the peer review as soon as possible. If you have any questions, please do not hesitate to contact me.

Linda Ritter  
Associate Planner  
City of Mukilteo  
11930 Cyrus Way  
Mukilteo WA 98275  
424-263-8043  
[lr Ritter@ci.mukilteo.wa.us](mailto:lr Ritter@ci.mukilteo.wa.us)

-----Original Message-----

From: Shari - Personal [<mailto:calcoug@aol.com>]  
Sent: Monday, December 01, 2014 11:54 PM  
To: Linda Ritter  
Cc: 'Jesse Jarrell'  
Subject: RE: Additional questions on Short Plat Project

Dear Linda:

We appreciate your getting back to us with responses to our first and third questions. We also received the letter from you dated November 17 and want to keep our project moving forward.

Thanks also for having your Engineering Division in your Public Works Department review the report. Since they are more familiar with this type of report, does this change any of the reasons for requiring this? We would still need an answer to our second question on all of the reasons for requiring a peer review, so that we are kept informed and knowledgeable as we go through the application process for our project. As mentioned below, we want to make sure that our project is being evaluated on a consistent standard with other projects in the city and it is not an arbitrary decision inconsistent with other decisions that the City has made on other development projects.

As you are requesting a peer review, the requirements in the WAC 365-195-905 state clearly that require a peer review must be by a person who is a qualified scientific expert in that scientific discipline (hydrogeology in this case). Therefore, any peer review of the report must be done by a licensed hydrogeologist. Someone who is just a wetland specialist, as the person you suggest, but whom is not a licensed hydrogeologist in the State of Washington would not be permitted under this code section to do a peer review. Therefore, we are requesting that a licensed hydrogeologist do the peer review.

As you earlier mentioned, there may be a different cost amount for having a peer review done by a licensed hydrogeologist, and we are ready to put up the deposit for a peer review that complies with the WAC 365-195-905.

Please provide us with the details and the estimate along with the information on the peer reviewer and their qualifications so that we can continue moving this project forward.

Thanks.

Clive

-----Original Message-----

From: Linda Ritter [<mailto:lr Ritter@ci.mukilteo.wa.us>]

Sent: Monday, November 17, 2014 11:01 AM

To: Shari

Cc: Jesse Jarrell

Subject: RE: Additional questions on Short Plat Project

Mr. Freidenrich,

Per MMC 17.52B.080(C) the Planning Manager and I, as the Project Manager of this project, have the authority to request a third party review of all critical area reports for any project that is being reviewed if we determine that it is warranted. Staff felt that the report submitted warranted a peer review based on factors outlined in the previous email. Both the Planning and Engineering Departments have reviewed the material submitted and jointly agree with the decision for a peer review of the document. Without peer review of the critical area report that has been provided, staff will have no choice but to deny the application based on the fact staff does not have sufficient information to complete its review of the application.

Linda Ritter

Associate Planner

City of Mukilteo

11930 Cyrus Way

Mukilteo WA 98275

424-263-8043

[lr Ritter@ci.mukilteo.wa.us](mailto:lr Ritter@ci.mukilteo.wa.us)

-----Original Message-----

From: Shari [<mailto:calcoug@aol.com>]

Sent: Friday, November 14, 2014 9:45 AM

To: Linda Ritter

Cc: Jesse Jarrell

Subject: Additional questions on Short Plat Project

Dear Linda:

Thank you for your responses to Jesse to our questions regarding the peer review. I am sorry that it has taken me so long to get back to you, but I have been very busy and had not planned that I would need to spend additional time this month on our development project. We have three questions regarding the City's response for a peer review.

In an earlier email, you mentioned the following:

"The decision to require third-party review of a report submitted by the applicant is made jointly by the Associate Planner managing the permit application and the Planning Manager. Factors

that may trigger peer review, listed here in no particular order and not intended to be a comprehensive list, may include:

- \* Observations made in the report that differ from staff observations;
- \* The complexities of the project;
- \* The complexities of the critical area;
- \* A report in an unfamiliar format;
- \* Methodologies used that differ from the best practices commonly used in the State of Washington;
- \* Conclusions reached that seem unsupported by the facts described in the report or at odds with observations staff has made at the site.

In this case, two of the factors that led to the decision to require third-party review are the atypical format and large size of the submitted report (fourth bullet point) and the assertion in the report that the surface water flow on the subject property does not follow a natural drainage way but is the result of alteration of water flow created on adjacent properties (third bullet point)."

First, during our review of the code online, we were unable to locate where in the code or in the development documents does it identify the above factors and that the decision is jointly made by the Association Planner and the Planning Manger? Please provide us with this code sections to ensure that these are not arbitrary reasons and that development plans submitted are treated the same for all applicants?

Secondly, we also would like to request that the City identify all of the factors that actually led to the decision to request a peer review not just the two you indicated. As the property owner, we believe that we have a right to know all of the reasons especially since a peer review is a "may" and not a "shall" requirement of the Mukilteo Code for our specific property development permit.

Thirdly, your response identified two factors that led to the decision for a review.

The first factor is that the report is in an unfamiliar format. The report we submitted is in the format required by the Geology Licensing Board of the State and should be similar to other reports provided and used by the City in areas such as the Clean Water Act for programs such as septic tank systems and unlined storm water facilities. Your Public Works Department should be very familiar with these type and size of reports and should be able to provide the Planning staff with their input on this report. This should be the first step to have a review done by your own agency if you have questions on this report. Then, if the Public Works Department or the Planning Department still has questions, we can have our licensed hydrogeologist available to answer any questions that they have. Therefore, this does not appear to be a reasonable justification for a peer review at this time.

Next, the second factor is because of the complexities of the critical areas, specifically referencing in the report that the surface water flow on the subject property does not follow a natural drainage way but is the result of alteration of water flow created on adjacent properties (third bullet point). This statement is not accurate based on the report we submitted.

The report in section 1.7 Conclusions does states that the primary hydrology on the subject property is diverted storm water point source flow from the developed parcels located upgradient of the subject property. It also states that this flow is significant and at high velocity, which is causing erosion in the southern portion of the subject property. Finally, it does state that this flow is collected in the relict glacial meltwater channel that drains through the subject property (to the north, northwest). Our licensed hydrogeologist has told us that this critical area assessment is not complex and that he has analyzed the water flow and the report indicates that the storm water does drain through the relict glacial meltwater channel on the property as storm water runoff from the developed properties around the site and does follow the channel, but in much higher volumes due to the diverted storm water runoff. As your question relates to the flow of water that our licensed hydrogeologist has identified as storm water runoff, it makes sense that the Public Works staff, who deal with storm water should be the first line of review to assist in this process. As mentioned above, they should be very familiar with this report format and the size of the report and having them review it first should be the next logical step in the process. They can review the report and provide their input to Planning on the report details discussing the storm water runoff and flow and we can make our licensed hydrogeologist available for any questions that they have on the diverted storm water runoff.

We appreciate your input on the above and look forward to hearing back from you.

Thanks.

Clive Freidenrich

- 2.) Per 30.23.020 and submittal requirements, please include minimum net density calculations on the ASP.
- 3.) Lot coverage (roof area) calculations/percentages should be included on the ASP.
- 4.) Label general landscape areas (basic information only, please).
- 5.) Clearly indicate full extent of clearing.
- 6.) You may omit information that is not required on the site plan submittal checklist (such as maximum building height allowed, etc.) in order to create room for required information; alternatively, you may add a second sheet to the plans in order to add detail to information provided on the ASP.

#### Miscellaneous

- 1.) Notice of posting statement has not been received. Please submit the posting statement to the PDS cashier station.

**Drainage/Grading:** *Please see attached comments for additional detail.*

Reviewer: Jack Hurley (425) 388-3311, ext. 4295 email: [jack.hurley@snoco.org](mailto:jack.hurley@snoco.org)

- 1.) Provide written response to citizen comments (Cindy Wellborn April 18, 2014 and April 22, 2014) and Gene Peretti (April 21, 2014)
- 2.) Revise the 1/16 and ¼ section call outs on all plans.
- 3.) Provide more detailed grading plan that shows required set back from property lines (setback is 1/2 the height of fill, 1/5 the height of cut, 2 feet minimum). On any rockery/ wall detail, show a 2-foot setback from the property line for construction grading, walls and rockeries unless a temporary construction easement agreement will be obtained.
- 4.) Provide description of flows onto the site. Maps show flow from the west at point discharge.

**Critical Areas:** *Please see attached comments for additional detail.*

Reviewer: Sean Curran, 425-388-3311, ext. 2965 email: [sean.curran@snoco.org](mailto:sean.curran@snoco.org)

- 1.) Please submit a revised critical area study and wetland delineation meeting the requirements of SCC 30.62A.140 (1-13).  ← *Specifically references DOE Worksheets & Guidelines, let's discuss ASAP*
  - a.) Pursuant to SCC 30.62A.140(1), the wetland delineation shall be conducted pursuant to the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys and Coast Region (Version 2.0). A link to the manual is included in the attached Biologist memo.
- 2.) Please submit a revised site plan meeting the requirements of SCC 30.62A.130.

**Transportation:** *Please see attached comments for additional detail.*

Reviewer: Ann Goetz, 425-388-3311, ext. 4580 email: [ann.goetz@snoco.org](mailto:ann.goetz@snoco.org)

# **Board Meeting**

## **Tab 2**

### **Public Comment**

The board has the option to allow comment from the public on agenda items or other topics, unless the comment is related to an open investigation.

The board may limit the comment period, and will provide instructions if it chooses to do so.

# **Board Meeting**

## **Tab 3**

### **New Business**

Topics for action or discussion by the board that were identified at or since the last board meeting.

# **Board Meeting**

## **Tab 4**

### **Old Business**

Topics from past meetings, presented for update, action or further discussion by the board.

## ***Geologist Licensing Board***

### *Board or Staff Assignments*

#### *Date Assigned*

<i>Agenda Item</i>	<i>Action Item</i>	<i>Assigned to</i>	<i>Status</i>	<i>Due Date</i>
9/30/2014 10 .3.	Other business - Staff will look into moving the exam registration deadline for Washington closer to the deadline for ASBOG.	Gambrel	In progress - researching	<input type="checkbox"/> <i>Completed</i> <input type="checkbox"/> <i>Out dated</i>
2/11/2014 3 .1.	WA/CA Specialty Exam - The subcommittee will draft a Memorandum of Understanding with the state of CA.	Beaman, Laprade, St. Godard	In process - waiting on response from CA	<input type="checkbox"/> <i>Completed</i> <input type="checkbox"/> <i>Out dated</i>
2/11/2014 3 .7.	Dept of Commerce contacts: Reporting violations - Mr. Norman & Mr. Ernst will contact the Dept of Commerce about contractual requirements (licensees vs. non-licensees).  Correspondence - Mr. Norman and Mr. Ernst will contact the Dept of Commerce about an outreach effort concerning the board's wetland policy.	Norman, Ernst		<input type="checkbox"/> <i>Completed</i> <input type="checkbox"/> <i>Out dated</i>
12/2/2014 10 .1.3	Licensee statistics - Staff will add a graph of specialty license totals to licensee report.	Wedding		<input checked="" type="checkbox"/> <i>Completed</i> <input type="checkbox"/> <i>Out dated</i>
12/2/2014 11 ..	Next agenda - Staff will send most recent rules draft info to all board members prior to March 2015 board meeting.	Doyle	Done Dec 2014	<input checked="" type="checkbox"/> <i>Completed</i> <input type="checkbox"/> <i>Out dated</i>

## Geologist Licensing Board Outreach/Conference Schedule

### Conferences & Events

<u>Dates</u>	<u>Title</u>	<u>Reg Cost</u>	<u>Attendees</u>	<u>Audience</u>
Oct 19-22, 2014	Geological Society of America; Vancouver, BC	Booths range \$300-\$2,000	Not attended	Licensees
Nov 12-15, 2014	ASBOG Council of Examiners & Annual Mtng (Indianapolis, IN)	\$450		
April 1-2, 2015	American Public Works Association – APWA (Tacoma, WA)	\$550-\$600		
April 10-11, 2015	ASBOG Council of Examiners (Tampa, FL)	\$0	Bill	
April 14-16, 2015	Washington Hydrogeology Symposium	\$650 Reg has been submitted	Send attendees and staff a booth	
June 23-26, 2015	Association of Washington Cities, Vancouver	Booths range \$800-\$3,000	Do not attend	Building officials
Nov 13-15, 2015	ASBOG Council of Examiners (Wilmington, DE)	\$450		
December 2, 2015	ASBOG Annual Meeting (videoconference)			
April 1-2, 2016	ASBOG Council of Examiners (New Orleans, LA)	\$0		
June 21-24, 2016	Association of Washington Cities, Yakima	Booths range \$800-\$3,000	Attend every other year	
Nov 4-6, 2016	ASBOG Council of Examiners (Wichita, KS)	\$450		
December 7, 2016	ASBOG Annual Meeting (videoconference)			
April 7-8, 2017	ASBOG Council of Examiners (Little Rock, AR)	\$0		
Nov 3-5, 2017	ASBOG Council of Examiners (Flagstaff, AZ)	\$450		

## Geologist Outreach

Updated 12/2/2014

## Colleges &amp; University Outreach

March 2012	Eastern Washington University	Board meeting
October 2012	Western Washington University	Board meeting
February 2013	University of Washington	Board meeting
November 2013	Pacific Lutheran University	Board meeting
June 2014	Central Washington University	Board meeting
September 2014	Whitman College	Board meeting
March 2015	University of Puget Sound	Board meeting

# **Board Meeting**

## **Tab 5**

# **Complaint Cases for Review**

Complaint closure recommendations  
presented by the assigned case manager.

Board action is required on each case.

# **Board Meeting**

## **Tab 6**

### **Legal Issues for Deliberation**

Negotiated settlement orders or default orders presented by the board's prosecution team.

Board action is required on each order.

# **Board Meeting**

## **Tab 7**

# **Disciplinary & Investigation Reports**

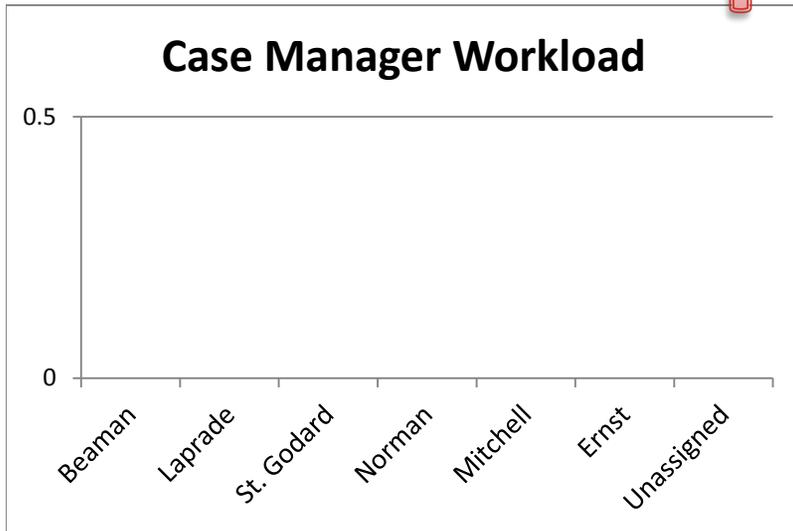
Standard disciplinary reports and a list of any administratively-closed complaints.

Provided for information only – typically no board action is needed.

## Geologists - Open Cases

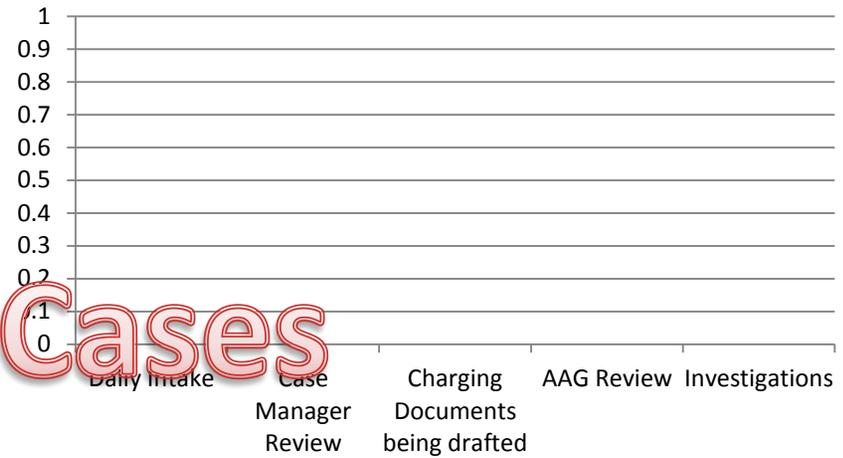
Open Cases: nature of complaint	
Unprofessional conduct	0
Practice with an invalid license	0
Practice outside of scope of license	0
Aiding/Abetting unlicensed practice	0
Unlicensed practice (U/L)	0
<b>Total</b>	<b>0</b>

**No Open Cases**



Recent Case History	2014	2015
Beginning amount	4	2
Opened	3	0
Closed	5	0
Ending Amount	2	2

## Open Case Status



### Typical Complaint Process (Open Case Status)

- o Staff receive complaint (*Daily intake*)
- o Staff evaluate complaint (*Daily intake*)
- o Staff use BAP if appropriate (*BAP*)
- o Staff assign to Case Manager (CM) (*Case Manager Review*)
- o CM review; determine whether to investigate (*Case Manager Review*)
- o Staff investigate complaint (*Investigations*)
  
- o If no evidence supports allegation, CM recommend closure (*Case Manager Review*)
  
- o If evidence supports allegation, CM determine sanctions (*Case Manager Review*)
- o Staff drafts charging documents (*Legal*)
- o Board Attorney reviews charges, moves forward with prosecution (*AAG*)

Run date: 2/9/2015

## Geologists - Closed Cases

### Maximum fine allow per violation:

Unprofessional conduct - \$5,000 / per occurrence

Unlicensed practice - \$1,000 / per day

### Range of other sanctions available (not inclusive)

Revoke license

Suspension (not stayed)

Suspension (stayed)

Reprimand

Law summary

Severe



Mild

### Common Resolution Methods (2012-2014)

Allegation	Admin. Closure	Closed with no action *	Default orders	Negotiated settlements	Hearing
Unprofessional conduct	0	6	1	0	0
Practice with an invalid license	n/a	0	0	1	0
Practice outside of scope of license	n/a	0	0	0	0
Aiding/Abetting unlicensed practice	n/a	0	0	0	0
Unlicensed practice	n/a	5	2	0	0
Other	0	0	0	0	0

Administratively close if outside of board's jurisdiction

Closed with no further action if 1) compliance; 2) no violation; 3) no evidence of violation

### Compliance Monitoring

Cases monitored for compliance	2
Cases sent to collections	1
Monetary sanctions due (fines)	\$ 2,000.00
Fines recovered to date	\$ 1,000.00
Outstanding fines	\$ 1,000.00

### Past Board Sanctions

Sanction	Unlicensed Activity	Unprofessional Conduct
Cease and Desist	2	0
Fine	3	0
Reprimand	3	0
Revocation	0	1

Run date: 2/9/2015

# **Board Meeting**

## **Tab 8**

# **Assistant Attorney General's Report**

Presentation of general legal issues  
of interest to the board.

Provided for information only –  
typically no board action is needed

# **Board Meeting**

## **Tab 9**

# **Committee/Task Force Reports**

Reports and updates from the board's  
standing committees or task forces.

Board action may be needed.

# **Board Meeting**

## **Tab 10**

# **Board Administrator's Report**

Operational reports and information  
about legislative matters of interest to the board.

Provided for information only –  
typically no board action is needed.

Washington State Board for Geologists  
March 3, 2015  
Tacoma, WA

**Legislation of Interest:**

**Bill:** SB 5088/HB 1182 – Concerning a geological hazards assessment.

**Summary:** Senate bill 5088 further prescribes how the department of natural resources maps geologic hazards

**Status:** Both house and senate bills passed through their initial committees and were referred to the Rules Committee.

**Bill:** HB 1137 - Authorizing licensed geologists to perform the duties of licensed water well operators or resource protection well operators.

**Summary:** Authorizes licensed geologists to perform the duties of licensed water well operators or resource protection well operators.

**Status:** This bill first read and referred to Natural Resources & Parks on January 14<sup>th</sup>, 2014.

**Legislation affecting the program:**

**Bill:** HB 1349/ SB 5678 - Concerning requesting public records for the purpose of obtaining exempted information relating to employment and licensing.

**Summary:** This bill prohibits a party obtaining the identity of employees or volunteers from an agency from using that information for the purpose of obtaining employment and licensing information.

**Status:** Both bills are awaiting public hearings in their respective committees.

**Bill:** HB 1371 - Regarding administrative procedures that promote accountability, transparency, and economic relief.

**Summary:** This bill suspends agency rule making.

**Status:** Awaiting executive action in the House Committee on State Government.

**Recommendation:** No action required at this time.

Submitted by board staff  
January 14, 2015

# Geologist Financial Reports

2013-2015 Biennium  
March 2015

# 2013-2015 Revenue Summary

# Geologists

PERIOD ENDING 12/31/2014

## Current Revenue Data based on Actuals

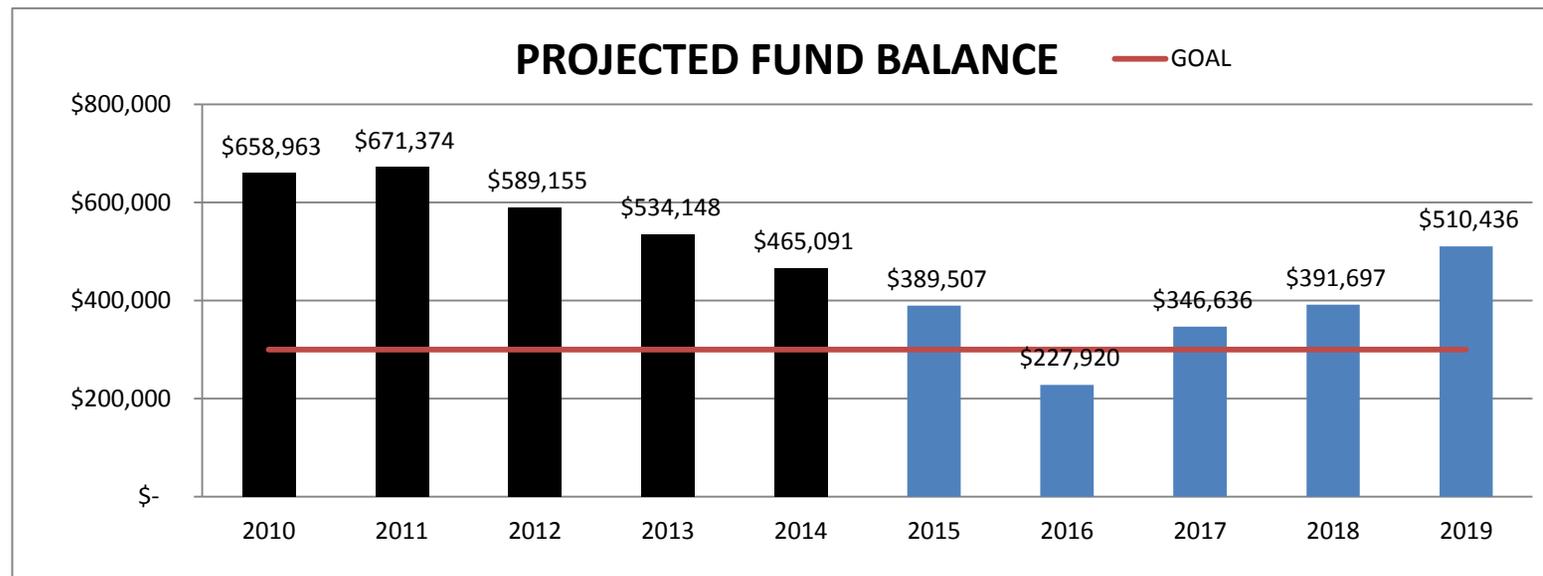
<b>Beginning Fund Balance</b>	\$	<b>534,148</b>
Fund Balance Adjustment to Actual	\$	1,000
<b>Add: Current Biennium Revenue to Date</b>	\$	<b>272,065</b>
<b>Less: Actual Expenditures to Date</b>	\$	<b>378,343</b>

**Current Fund Balance** \$ 428,870

## Projected Revenue Data based on Six-Year Plan

<b>Current Fund Balance</b>	\$	<b>428,870</b>
<b>Add: Projected Revenue</b>	\$	<b>98,425</b>
<b>Less: Projected Expenditures</b>	\$	<b>137,768</b>

**Projected Fund Balance** \$ 389,526



**Fund balance Goal: \$300,000 (12 months expenditures)**

Based on partially suspended renewal fees effective through FY2015

# 2013-2015 Expenditure Summary

# Geologists

PERIOD ENDING 12/31/2014

Program Detail	Biennium to Date - Actual			Biennial Projection		
	Allotment	Expenditure	Variance	Allotment	Expenditure	Variance
<b>FTE's</b>	<b>2.5</b>	<b>2.3</b>	<b>0.3</b>	<b>2.5</b>	<b>2.3</b>	<b>0.2</b>
Salary	\$ 179,094	\$ 159,807	\$ 19,287	\$ 239,540	\$ 216,491	23,049
Benefits	\$ 63,852	\$ 56,368	\$ 7,484	\$ 83,744	\$ 75,812	7,932
Contracts	\$ -	\$ -	\$ -	\$ -	\$ -	-
Goods & Services	\$ 67,186	\$ 41,711	\$ 25,475	\$ 84,340	\$ 55,517	28,823
Travel	\$ 20,324	\$ 17,385	\$ 2,939	\$ 27,100	\$ 22,185	4,915
Equipment	\$ 1,001	\$ 836	\$ 165	\$ 2,002	\$ 1,837	165
Intra-agency	\$ -	\$ -	\$ -	\$ -	\$ -	-
<b>Total Direct Program</b>	<b>\$ 331,457</b>	<b>\$ 276,107</b>	<b>\$ 55,350</b>	<b>\$ 436,726</b>	<b>\$ 371,842</b>	<b>\$ 64,884</b>
<b>Division Support</b>	<b>\$ 38,577</b>	<b>\$ 30,177</b>	<b>\$ 8,400</b>	<b>\$ 53,172</b>	<b>\$ 44,211</b>	<b>\$ 8,961</b>
<b>Management &amp; Support Services</b>	<b>\$ 49,373</b>	<b>\$ 47,975</b>	<b>\$ 1,398</b>	<b>\$ 64,901</b>	<b>\$ 64,901</b>	<b>\$ -</b>
<b>Information Services</b>	<b>\$ 27,930</b>	<b>\$ 27,128</b>	<b>\$ 802</b>	<b>\$ 38,201</b>	<b>\$ 38,201</b>	<b>\$ -</b>
<b>TOTAL</b>	<b>\$ 447,337</b>	<b>\$ 381,387</b>	<b>\$ 65,950</b>	<b>\$ 593,000</b>	<b>\$ 519,155</b>	<b>\$ 73,845</b>

Geologist Licensing Board  
 March 3, 2015  
 Tacoma, WA

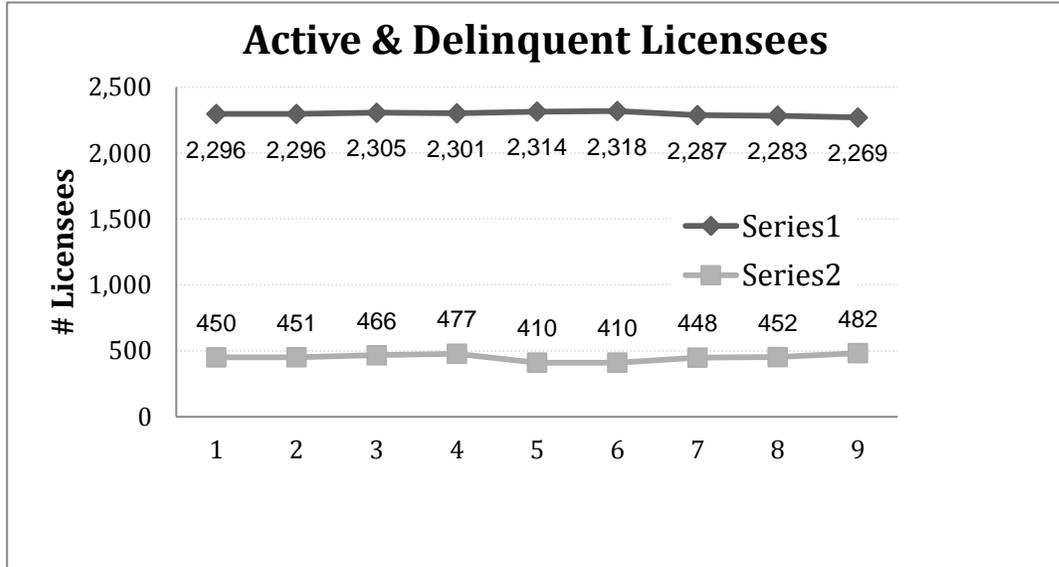
License Status Report

	<u>Total licensees</u>	<u>Washington</u>	<u>Out-of-State</u>
Active	2,269	1314	955
Delinquent	482	211	271
Pending Reciprocity	14		
Pending Examination	228		

By endorsement

Engineering Geologists	526
Hydrogeologists	835
No Specialty	1089

Note: these totals are not a sum of the numbers above because licensees may have multiple endorsements.



Washington State Board for Geologists  
 March 3, 2015  
 Tacoma, WA

### Licensing History:

The board requested a report about licensing history at the last meeting.

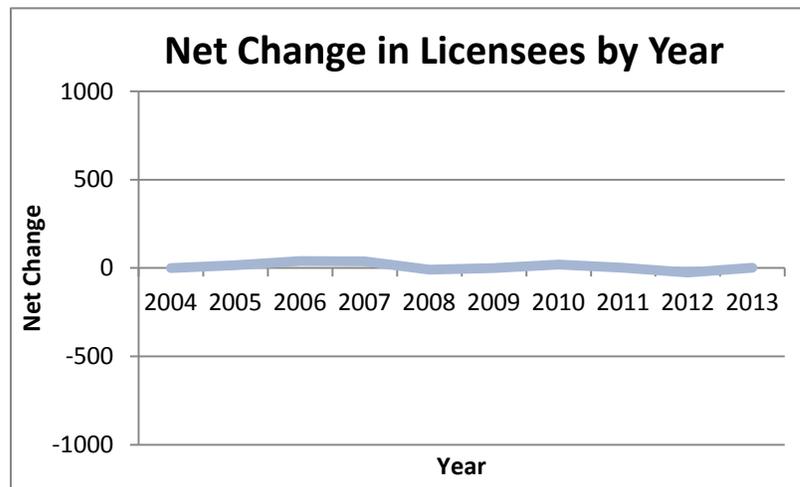
### Current Numbers:

Active Licensee Counts	Male	Female
No Endorsements	844	239
HG Only	539	117
EG Only	308	43
Both Endorsements	157	7
Total	1848	406
	<b>2254</b>	

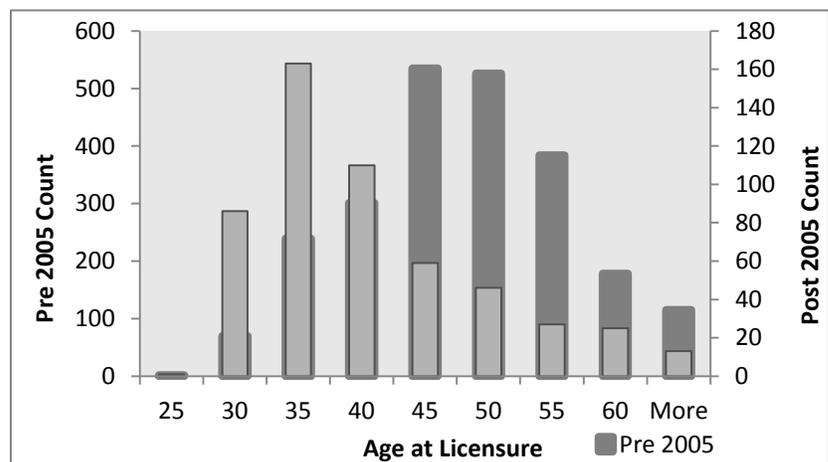
### Licensing Trends:

Geologist licenses stabilized a few years after regulation in 2004. Since 2004 an annual average of 55 new licenses were issued, and 54 expired. This indicates the licensing base has been stable the past ten years.

Before 2004, the average applicant age was 45. After 2005, the average age went down to 38 and in the last year it has gone down again to 34.



Submitted by board staff  
 February 10, 2015



Geologist Licensing Board  
Tacoma, WA  
March 3, 2015

**New licensees:**

*Qualified by Examination*

**Total:** 14

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3055	Kelsay Stanton, Leavenworth, WA	Western Washington University
3056	Nicholas Legg, Portland, OR	Oregon State University
3057	Joshua Hardesty, Bellingham, WA	Portland State University
3058	Julia Fitts, Bellingham, WA	Western Washington University
3059	Ellen Engnerg, Normandy Park, WA	Michigan Technological University
3062	Lyndsey Kleppin, Anchorage, AL	Carleton College
3063	James McDermott, Seattle, WA	University of Illinois
3064	Brian Metzenheim, Reno, NV	University of Reno
3065	Michael Olson, Spokane, WA	University of Idaho
3066	Anthony Palmieri, Seattle, WA	
3067	Amy Tice, Seattle, WA	University of Wasington
3069	Kendra Williams, Portland, OR	Portland State University
3069	Kendra Williams, Portland, OR	Portland State University
3073	Sean Coan, Helena, MT	University of Oregon

*Qualified by Reciprocity*

**Total:** 6

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3054	Jedediah Greenwood, Minnetrista, MN	
3068	Christopher Kochiss, Portland, OR	
3070	Alexander Pappas, Richland, WA	
3070	Alexander Pappas, Richland, VA	Hanover College
3071	JOSHUA KANNENBERG, MOSCOW, ID	
3072	CLINT CARNEY, SUPERIOR, CO	

**Grand Total:** 20

Recommendation: For information only; no action required.

Submitted by Board Staff  
February 9, 2015

Geologist Licensing Board  
Tacoma, WA  
March 3, 2015

**New licensees with geologist specialty endorsements:**

<i><b>Engineering Geology</b></i>	<i><b>Total: 1</b></i>
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Reciprocity

3054 Jedediah Greenwood, Minnetrista, MN

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***Grand Total: 1***

Recommendation: For information only; no action required.

Submitted by Board Staff  
February 9, 2015

# **Board Meeting**

## **Tab 11**

### **Other Business**

Review of action items from this meeting, agenda items for the next meeting, and discussion of topics added under the Order of the Agenda.

**Board Meeting**

**Tab 12**

**Adjournment**