MINUTES OF THE REGULAR MEETING LOUISIANA PROFESSIONAL ENGINEERING AND LAND SURVEYING BOARD 9643 BROOKLINE AVENUE, SUITE 121 BATON ROUGE, LOUISIANA 70809-1433 May 21, 2012

At 8:05 a.m. on May 21, 2012, Norma Jean Mattei, Ph.D., P. E., called the meeting to order with the following members present:

Norma Jean Mattei, Ph.D., P.E.	Chairman
Richard L. Savoie, P.E.	Vice Chairman
James E. Bowie, Ph.D., P.E.	Secretary

Timothy J. Allen, P.L.S. M. Ernest Gammon, P.L.S. Ali M. Mustapha, P.E. Theodore H. Thompson, P.E. Kevin E. Crosby, P.E., P.L.S. John W. "Billy" Moore, P.E.

Also present:

Donna D. Sentell, Executive Director

Victoria Hatton, Director of Enforcement

Joe H. Harman, P.E., Technical Support Staff

Tyson Ducote, Board Investigator

Justin Owens, Board Investigator

Justin Owens, Board Investigator D. Scott Landry, Board Attorney

Not present: Roger D. Danzy, P.E., Board Member Miles B. Williams, P.E., Board Member

The invocation was led by Mr. Thompson and the pledge by Mr. Allen.

Mr. Nelson Ball entered the meeting at 8:07 a.m.

Public comment time was recognized by Chairman Mattei. Mr. Ball addressed the Board concerning a complaint and exited the meeting at 8:10 a.m.

The Board unanimously approved the motion made by Mr. Savoie, seconded by Mr. Thompson, to accept the May 21-22, 2012 proposed Call for Meeting and Board Meeting Agenda.

Mr. Williams entered the meeting at 8:15 a.m.

The Board unanimously approved the motion made by Mr. Mustapha, seconded by Mr. Allen, to approve the Minutes from the March 19-20, 2012 Board meeting.

The Board unanimously approved the motion made by Mr. Mustapha, seconded by Mr. Crosby, to schedule the Board's next regular meeting for July 16-17, 2012.

The Board's March Task List was reviewed.

The Board recessed at 9:25 a.m. and resumed at 9:40 a.m.

Committee Reports

Liaison and Law Review Committee

Mr. Thompson presented a proposed Board position statement on compiled engineering as-built record drawings for discussion.

The Board approved the motion made by the Liaison and Law Review Committee, with Mr. Mustapha, Mr. Thompson, Dr. Bowie, Mr. Savoie and Mr. Williams for and Mr. Moore, Mr. Gammon, Mr. Allen and Mr. Crosby against, to adopt the following Board position statement on compiled engineering as-built record drawings:

POSITION STATEMENT ON COMPILED ENGINEERING AS-BUILT RECORD DRAWINGS

Position:

Compiled engineering as-built record drawings are often used to document how an existing structure, building site or other development project was constructed.

The Board does not consider the preparation of compiled engineering as-built record drawings to be the practice of engineering, when such preparation does not require the application of professional judgment. Therefore, the Board <u>does not require</u> that these drawings be sealed/signed by a professional engineer.

Furthermore, a professional engineer should not seal compiled engineering as-built record drawings unless he/she has been in responsible charge of the underlying engineering work. If the professional engineer was not in responsible charge of the underlying engineering work, he/she should (in lieu of a seal) include on the title page of the compiled engineering asbuilt record drawings a disclaimer (with date) which incorporates the following:

These compiled engineering as-built record drawings are a compilation of a copy of the original sealed engineering design drawings for this project, modified by addenda, change orders and information furnished by the contractor. The information shown on these compiled engineering as-built record drawings that was provided by the contractor or others not associated with me cannot be verified for accuracy or completeness. My compilation of this information does not relieve the contractor of responsibility for errors resultant to incorrect, incomplete or omitted data on the contractor's as-built record drawings - nor does it relieve the contractor of responsibility for non-conformance with the original contract documents. The original sealed engineering drawings are on file in the offices of _______.

Underlying Laws and Rules:

The laws and rules of the Board do not specifically mention compiled engineering as-built record drawings. The Board's laws and rules do, however, address what is considered the "practice of engineering". In this regard, La. R.S. 37:682(12) states:

- (a) "Practice of engineering" shall mean responsible professional service which may include consultation, investigation, evaluation, planning, designing, or inspection of construction in connection with any public or private utilities, structures, machines, equipment, processes, works, or projects wherein the public welfare or the safeguarding of life, health, and property is concerned or involved, when such professional service requires the application of engineering principles and the interpretation of engineering data.
- (b) A person shall be construed to practice or offer to practice engineering: who practices in any discipline of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer; or who represents himself as able to perform; or who does perform any engineering service or work or any other professional service designated by the practitioner or recognized by educational authorities as engineering. The practice of engineering shall not include the work ordinarily performed by a person who himself operates or maintains machinery or equipment.

Additionally, La. R.S. 37:682(15) defines "responsible professional services" as "the technical responsibility, control, and direction of the investigation, design, or construction of engineering service or work requiring initiative, engineering ability, and its use of independent judgment."

The Board's laws and rules also address the use of seals and "responsible charge". La. R.S. 37:682(14) defines "responsible charge" as "the direct control and personal supervision of engineering \ldots service or work…"

LAC Title 46:LXI§2503(C) and (D) state:

- C. Licensees shall approve and seal only those design documents... which are safe for public health, property, and welfare, which are complete and accurate, which are in conformity with accepted engineering... standards or practice, and which conform to applicable laws and ordinances.
 - 1. Licensees shall comply fully with Chapter 27 (Use of Seals).
- 2. Except as permitted by §2701.A.3.b.ii.(a), licensees shall not seal the work of or take the professional responsibility for any documents related to engineering...not performed by the licensee or under the licensee's responsible charge.
- 3. Licensees may not accept the responsibility for, nor review, revise, sign, or seal drawings when such plans are begun by persons not properly licensed and qualified; or do any other act to enable either such licensees or the project owners, directly or indirectly, to evade the requirements of the licensure law.
- D. Licensees shall submit to a client only that work (plans, specifications, reports, and other documents) prepared by the licensee or by an employee (or subordinate) of the licensee (which is under the licensee's responsible charge); however, licensees, as a third party, may complete, correct, revise, or add to the work of another licensee or other related design professional, if allowed by Louisiana statutes, when engaged to do so by a client, provided:
- 1. the client furnishes the documentation of all such work submitted to him by the previous licensee(s), or their related design professional(s);
- 2. the previous licensees or other related design professionals are notified in writing by the licensee of the engagement referred to herein immediately upon acceptance of the engagement; and
- 3. all work completed, corrected, revised, or added to shall contain a notation describing the work done by the licensee now in responsible charge, shall have the seal and signature of the licensee affixed thereto, the date of execution, and shall become the responsibility of the licensee.

LAC Title 46:LXI§2505(C) and (D) state:

- C. Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matters in which they lack competence, nor to any such plan or document not prepared under their responsible charge. Responsible charge requires a licensee or employee to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review. A licensee shall not contract with a non-licensed individual to provide these professional services. Research, such as title searches and soil testing, may be contracted to a non-licensed individual, provided the licensee reviews the work. The professional engineer . . . may affix their seal, signature and date to drawings and documents depicting the work of two or more professionals provided that a note under the seal designates the specific subject matter for which each is responsible.
- D. Licensees may accept an assignment outside of their areas of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that they are satisfied that all other phases of such project will be performed or supervised by licensed, qualified associates, consultants, or employees, in which case they may then seal, sign and date the documents for the total project.

A. The following rules for the use of seals to identify work performed by a professional engineer . . . shall be binding on every licensee.

3. Seal Responsibility

a. The application of the licensee's seal, signature, and date shall constitute certification that the work thereon was done by the licensee or under his/her responsible charge....

b. Responsible Charge

- i. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the responsible charge of a licensee only when:
- (a). the client or any public or governmental agency requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the licensee or the licensee's employee as long as the employee works in the licensee's place(s) of business;
- (b). the licensee supervises the initial preparation of the plans, specifications, drawings, reports or other documents and has continued input into their preparation prior to their completion;
- (c). the licensee reviews the final plans, specifications, drawings, reports or other documents; and
- (d). the licensee has the authority to, and does make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents:
- (i). if the plans, specifications, drawings, reports, or other such documents are prepared outside the licensee's office, the licensee shall maintain all evidence of the licensee's responsible charge including correspondence, time records, check prints, telephone logs, site visit logs, research done for project, calculations, changes, and all written agreements with any persons preparing the documents outside of the licensee's office accepting professional responsibility for such work;
- (ii). a licensee failing to maintain written documentation of the items set forth above, when such are applicable, shall be considered to be in violation of R.S. 37:698(A)(6), and the licensee shall be subject to the disciplinary action procedure as set forth in the licensure law.
- ii. No licensee shall affix his/her seal or signature to reports, plats, sketches, working drawings, specifications, design calculations, or other engineering...documents developed by others not under his/her responsible charge and not subject to the authority of that licensee, except:
- (a). in the case of an individual licensee checking the work of and taking the professional responsibility for an out-of-state individual licensee, the Louisiana licensee shall completely check and have responsible charge of the design. Such responsible charge shall include possession of the sealed, signed and dated reproducible construction drawings, with complete sealed, signed and dated design calculations indicating all changes in design;
- (b). certification of standard design plans which are initially prepared and sealed by a professional engineer properly licensed in the jurisdiction of origin of such plans. Standard design plans may then be reviewed by a Louisiana resident professional engineer for code conformance, design adequacy, and site adaption for the specific application within Louisiana. The professional engineer licensed in Louisiana assumes responsibility for such standard designs. Standard plans, which bear the seal of a professional engineer licensed in another state, territory, or possession of the United States, or the District of Columbia, shall be sealed, signed and dated by the Louisiana resident professional engineer who is assuming responsibility. In addition to the seal, signature and date, a statement shall be included as follows:

"These plans have been properly examined by the undersigned. I have determined that they comply with existing local Louisiana codes, and have been properly site adapted to use in this area."

(c). certification of single family residential design plans for conformance with applicable state and local building codes.

Such plans shall be sealed, signed and dated by the professional engineer who is making such certification. In addition to the seal, signature and date, a statement shall be included as follows:

"These plans have been properly examined by the undersigned. I have determined that they comply with the following existing state and local building codes for the jurisdiction in which the residence is to be located (check all that apply): \square structural; \square mechanical; \square electrical; \square plumbing."

- iii. No licensee shall affix his/her seal, signature or date to documents having titles or identities excluding the licensee's name unless:
- (a). such documents were indeed developed by the licensee under the licensee's responsible charge;
- (b). the licensee shall exercise full authority to determine his/her development; and
 - (c). except as set forth in §2701.A.3.b.i.(a).

LAC Title 46:LXI§2701(A)(4)(a) states, in pertinent part, as follows:

4. Seal Use

- a. Completed Work
- i. The licensee shall affix his/her seal, sign his/her name, and place the date of execution on all engineering documents that have been issued by the licensee to a client or any public or governmental agency as completed work....

iii. Drawings and Plats

- (a). In the case of multiple sealings, the first sheet or title page shall be sealed, signed and dated by the licensee or licensees in responsible charge. In addition, each sheet shall be sealed, signed and dated by the licensee or licensees responsible for each sheet.
 - iv. Specifications, Reports, Design Calculations and Information
- (a). In the case of specifications or reports of multiple pages, the first sheet or title page of each document shall be sealed, signed and dated by the licensee or licensees in responsible charge. Subsequent revisions shall be dated and initialed by the licensee in responsible charge whose seal, signature and date appears on the first sheet or title page.

Mr. Valraprasa Venkata entered the meeting at 10:25 a.m.

The Board approved the motion made by Dr. Bowie, seconded by Mr. Moore, with Mr. Mustapha, Mr. Williams, Mr. Gammon, Mr. Crosby and Mr. Allen for and Mr. Thompson, Mr. Savoie, Mr. Mustapha and Mr. Moore against, to delay adoption of the Board position statement on compiled engineering as-built record drawings until the Land Surveying Committee can consider the impact on the land surveying profession.

The Board unanimously approved the motion made by the Liaison and Law Review Committee to remove from the table the motion made at the March 2012 Board meeting concerning the discussion of potential rules changes relative to computer-based testing.

The Board unanimously approved the motion made by the Liaison and Law Review Committee to amend Rules 707(E)(4)(e); 709(C)(7) & (8); 901(A)(1), (2) & (3); 903(A)(1); 907(A)(1); 909(A)(1) & (2); and 1701(F), as follows:

Rule 707(E)(4)(e): "recommend passing scores for the written examinations on the Louisiana laws of land surveying."

Rule 709(C)(7): "make arrangements as required by the board for all written or oral examinations and interviews of applicants;"

Rule 709(C)(8): "supervise the administration of the written examinations;"

Rule 901(A)(1): "Graduates of an Accredited Engineering Curriculum. The applicant shall be a graduate of an accredited engineering curriculum of four years or more approved by the board as being of satisfactory standing, who is of good character and reputation, who has passed the written examination required by the board in the fundamentals of engineering . . ."

Rule 901(A)(2): "Graduates with Advanced Engineering Degree. The applicant shall be a graduate of a non-EAC/ABET accredited engineering or related science or engineering technology curriculum of four years or more approved by the board as being of satisfactory standing, who has obtained an engineering graduate degree in an engineering discipline or sub-discipline from a university having an undergraduate accredited engineering curriculum in the same discipline or sub-discipline, approved by the board as being of satisfactory standing, who is of good character and reputation, who has passed the written examination required by the board in the fundamentals of engineering . . ."

Rule 901(A)(3): "Other Non-EAC/ABET Engineering Graduates. The applicant shall be a graduate of a non-EAC/ABET accredited engineering curriculum of four years or more approved by the board as being of satisfactory standing, who has a specific record of four years or more of verifiable progressive experience obtained subsequent to graduation, on engineering projects of a level and scope satisfactory to the board, who is of good character and reputation, who has passed the written-examination required by the board in the fundamentals of engineering . . ."

Rule 903(A)(1): "the applicant for licensure as a professional engineer shall be an engineer intern, or an individual who meets the qualifications to be an engineer intern, who has a verifiable record of four years or more of progressive experience obtained subsequent to meeting the educational and applicable experience qualifications to be an engineer intern on engineering projects of a level and scope satisfactory to the board, who is of good character and reputation, who has passed the written examination required by the board in the principles and practice of engineering in the discipline of engineering in which licensure is sought..."

Rule 907(A)(1): "a graduate holding a baccalaureate degree from a curriculum of four years or more who has completed at least 30 semester credit hours, or the equivalent, in land surveying, mapping, and real property courses approved by the board, who is of good character and reputation, who has passed the written examination required by the board in the fundamentals of land surveying . . ."

Rule 909(A)(1): "an applicant for licensure as a professional land surveyor shall be a land surveyor intern, or an individual who meets the qualifications to be a land surveyor intern, who is of good character and reputation, who has a verifiable record of four years or more of combined office and field experience in land surveying including two years or more of progressive experience on land surveying projects under the supervision of a professional land surveyor, who has passed the oral examination required by the board, who has passed the written examinations required by the board in the principals principles and practices of land surveying..."

Rule 909(A)(2): "the applicant shall be an individual who holds a valid license to engage in the practice of land surveying issued to him/her by the proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law, and which were of a standard not lower than that specified in the applicable licensure law in effect in Louisiana at the time such license was issued, who is of good character and reputation, who has passed the a written examinations required by the board in the fundamentals of land surveying . . ."

Rule 1701(F): "An application for licensure may be considered incomplete by the board. The applicant may be denied admission to written an examinations until the information submitted in the application has been investigated and replies have been received from references. The board may require additional

information and documents it considers necessary for the proper evaluation of an application."

The Liaison and Law Review Committee made the motion to amend Chapter 13 of the Rules in the manner recommended by the Committee. These amendments would require applicants for the fundamentals of engineering and fundamentals of surveying examinations to apply directly to NCEES to take those exams.

Mr. Crosby made the substitute motion to not amend Chapter 13 of the Rules in the manner recommended by the Committee. The motion failed for lack of a second.

The Board unanimously approved the motion made by Mr. Gammon, seconded by Mr. Mustapha, to remove from the Liaison and Law Review Committee's recommended amendments to Chapter 13 of the Rules all references to any requirement that applicants for the fundamentals of surveying examination apply directly to NCEES to take that exam.

The Board approved the substitute motion made by Mr. Mustapha, seconded by Mr. Allen, with Mr. Mustapha, Mr. Moore, Mr. Savoie, Mr. Gammon, Mr. Crosby and Mr. Allen for and Mr. Thompson, Dr. Bowie and Mr. Williams against, to postpone until the July Board meeting any vote on the Liaison and Law Review Committee's recommended amendments to Chapter 13 of the Rules.

The Board unanimously approved the motion made by the Liaison and Law Review Committee to repeal the following Board policy which had been adopted on July 18, 2006: "The Board unanimously approved the motion made by Mr. Wink, seconded by Mr. Guillaume, that a firm applicant with an expired license of 5 or more years must complete a full application and pay the current application fee. Also, the firm's supervising professional must successfully complete the Board's online Ethics Examination and Laws and Rules Examination."

The Board unanimously approved the motion made by the Liaison and Law Review Committee to repeal the following Board policy which had been adopted on January 29, 2001: "Dr. Price made the motion, Mr. Green seconded, that the Board will allow a maximum of three (3) hours of CPD credit for preparation of the Fundamentals of Engineering and/or the Principles and Practices of Engineering examinations. The Board approved this motion unanimously."

The Board approved the motion made by the Liaison and Law Review Committee, with Mr. Moore, Mr. Thompson, Mr. Savoie, Mr. Gammon, Mr. Crosby and Mr. Allen for and Mr. Mustapha, Dr. Bowie and Mr. Williams against, to add a subsection D to Rule 1509 to read as follows:

D. For graduates of non-EAC/ABET accredited institutions, the applicant must have a verifiable record of four years or more of progressive experience obtained subsequent to meeting the educational and applicable experience qualifications to be an engineer intern at the time of application.

The Board unanimously approved the motion made by the Liaison and Law Review Committee to change the title of Rule 1509 from "Experience Should Not Be Anticipated" to "Experience At Time of Application".

The Board unanimously approved the motion made by the Liaison and Law Review Committee to amend Rule 1509 to read as follows:

- A. Experience should must not be anticipated.
- B. For applicants for professional engineer licensure under §903.A.1 of these rules, the "verifiable record of four years or more of progressive experience obtained subsequent to meeting the educational and applicable experience

qualifications to be an engineer intern" should must be gained by the time of licensure. Such applicant is required to have gained a minimum of three years and four months of such experience by the time of the application.

C. For applicants for professional land surveyor licensure under §909.A.1 of these rules, the "verifiable record of four years or more of combined office and field experience in land surveying including two years or more of progressive experience on land surveying projects under the supervision of a professional land surveyor" should must be gained by the time of licensure. Such applicant is required to have gained a minimum of three years and four months of such experience by the time of the application.

The Board recessed for lunch at 12:00 p.m. and resumed at 12:50 p.m. Mr. Moore, Mr. Venkata, Mr. Owens and Mr. Ducote were not present.

The Board approved the motion made by Mr. Mustapha, seconded by Mr. Williams, with Dr. Bowie, Mr. Savoie, Mr. Mustapha, Mr. Williams, Mr. Allen and Mr. Crosby for and Mr. Gammon and Mr. Thompson against, to reconsider the vote earlier today concerning adding a subsection D to Rule 1509.

Mr. Owens and Mr. Ducote entered the meeting at 1:00 p.m.

The Board disapproved the motion made by the Liaison and Law Review Committee, with Mr. Thompson, Mr. Gammon and Mr. Allen for, Mr. Mustapha, Dr. Bowie, Mr. Williams and Mr. Crosby against and Mr. Savoie abstaining, to add a subsection D to Rule 1509.

The Board unanimously approved the motion made by the Liaison and Law Review Committee to delete paragraph (2) from Rule 1301(F).

The Board unanimously approved the motion made by the Liaison and Law Review Committee to deny the proposed rule change requested by ACEC/L in its letter of March 30, 2012 and to have Mr. Landry draft a letter to ACEC/L informing them of the Board's decision. The Executive Committee will then review and approve the final version of the letter.

The Board unanimously approved the motion made by Liaison and Law Review Committee to approve the Committee's proposed ruling on Mr. Marc Berard's Petition for Declaratory Order and Ruling (2012-01).

The Board approved the motion made by Dr. Bowie, seconded by Mr. Crosby, with Mr. Mustapha, Mr. Thompson, Mr. Savoie, Mr. Williams, Mr. Crosby, Mr. Allen and Mr. Gammon for and Dr. Bowie against, to have the Liaison and Law Review Committee begin the work on drafting rules necessitated by the enactment of Act 31 of the 2012 Regular Session (naval architect/marine engineers). The individuals will be licensed as professional engineers rather than as a separate category of licensees.

The Board recessed at 3:00 p.m. and resumed at 3:20 p.m. Mr. Landry was not present.

Finance Committee

The Board unanimously approved the motion made by the Finance Committee to approve the amended budget for FY 2011-12.

The Board unanimously approved the motion made by Mr. Williams, seconded by Mr. Thompson, to appropriate \$2,000 for FY 2011-12 for expert review work in conjunction with investigations and Complaint Review Committee work.

The Board unanimously approved the motion made by the Finance Committee to reinvest the certificate of deposit at Fidelity Bank, which is due to mature on June 4,

The Board unanimously approved the motion made by Mr. Crosby, seconded by Mr. Williams, to fund Dr. Mattei, Dr. Bowie and Mr. Thompson as the funded delegates to the LES Tri-State Engineering Society Conference in Orange Beach, Alabama on June 21-23, 2012.

The Board unanimously approved the motion made by Mr. Mustapha, seconded by Mr. Williams, to approve Board and staff members to attend the NCEES Annual Meeting in St. Louis, Missouri on August 22-25, 2012.

Closing Business

The Board unanimously approved the motion made by Mr. Savoie, seconded by Mr. Thompson, to approve all committee recommendations and actions.

The Board unanimously approved the motion made by Mr. Mustapha, seconded by Mr. Crosby, to acknowledge and confirm all licenses and certificates issued by the Board.

The Board unanimously approved the motion made by Mr. Thompson, seconded by Mr. Savoie, to approve all Board expenses.

The Board unanimously approved the motion made by Mr. Gammon, seconded by Mr. Crosby, to adjourn.

The meeting adjourned at 4:30 p.m. on Monday, May 21, 2012.