



consulting his two employees who were serving as co-trustees. This custodial account is in Kansas, and FSP has refused to allow the Board access to the financial records of the account. On January 25, the Riverside County Superior Court issued a preliminary injunction requiring FSP to allow the Board access to the financial records of the custodial fund and further requiring FSP to provide the Board with monthly statutory reserve figures for the custodial account.

In *Christensen, et al. v. Superior Court*, No. S016890, the California Supreme Court is reviewing the Second District Court of Appeal's June 1990 decision which substantially expanded the plaintiff class in this multimillion-dollar tort action against several Board licensees. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 61 and 75 for background information on this case, which is reported at 271 Cal. Rptr. 360.) Final reply briefs were filed on March 4; at this writing, the court has not yet scheduled oral arguments.

#### RECENT MEETINGS:

At its January 24 meeting in Ontario, the Board discussed the possibility of discontinuing the use of the California state embalmers' licensing examination. The state examination would be replaced by the National Board examination. One reason behind the proposed change is the fact that the majority of states use the national embalming examination. Legislation addressing this issue was subsequently introduced (*see supra* LEGISLATION).

Also at its January 24 meeting, the Board discussed the criteria and procedures it uses in recognizing and approving embalming schools and programs. The Board discussed the possibility of amending its current embalming program accreditation rule to specify the American Board of Funeral Service Education as the sole accreditation body for California embalming schools and programs. This rule would not substantially affect California's two embalming programs, the San Francisco College of Mortuary Science and Cypress Community College, because they are already accredited by the American Board of Funeral Service Education.

Also at its January 24 meeting, the Board elected its 1991-92 officers: Virginia Anthony was elected President, Carol Weddle was elected Vice-President, and Wesley Sanders was elected Secretary.

#### FUTURE MEETINGS:

July 25 in San Diego.  
September 26 in Eureka.  
November 21 in Brea.

### BOARD OF REGISTRATION FOR GEOLOGISTS AND GEOPHYSICISTS

*Executive Officer: Frank Dellechaie (916) 445-1920*

The Board of Registration for Geologists and Geophysicists (BRGG) is mandated by the Geology Act, Business and Professions Code section 7800 *et seq.* The Board was created by AB 600 (Ketchum) in 1969; its jurisdiction was extended to include geophysicists in 1972. The Board's regulations are found in Division 29, Title 16 of the California Code of Regulations (CCR).

The Board licenses geologists and geophysicists and certifies engineering geologists. In addition to successfully passing the Board's written examination, an applicant must have fulfilled specified undergraduate educational requirements and have the equivalent of seven years of relevant professional experience. The experience requirement may be satisfied by a combination of academic work at a school with a Board-approved program in geology or geophysics, and qualifying professional experience. However, credit for undergraduate study, graduate study, and teaching, whether taken individually or in combination, cannot exceed a total of four years toward meeting the requirement of seven years of professional geological or geophysical work.

The Board may issue a certificate of registration as a geologist or geophysicist without a written examination to any person holding an equivalent registration issued by any state or country, provided that the applicant's qualifications meet all other requirements and rules established by the Board.

The Board has the power to investigate and discipline licensees who act in violation of the Board's licensing statutes. The Board may issue a citation to licensees or unlicensed persons for violations of Board rules. These citations may be accompanied by an administrative fine of up to \$2,500.

The eight-member Board is composed of five public members, two geologists, and one geophysicist. BRGG's staff consists of two full-time employees (Executive Officer Frank Dellechaie and his secretary) and two part-time personnel. The Board's committees include the Professional Practices, Legislative, and Examination Committees. BRGG is funded by the fees it generates. Currently, two public member positions on BRGG are vacant.

#### MAJOR PROJECTS:

*Enforcement.* At its February 20 meeting, the Board discussed ways to handle its backlog of 100 outstanding complaints, which mostly concern licensees reporting unlicensed practice. Board members noted that its lack of enforcement work is due to its lack of enforcement staff and funding, and suggested the preparation of a budget which would add one full-time professional and one full-time clerical assistant to work on the complaint backlog. Cost estimates for the two additional positions range between \$100,000 and \$160,000. Possible sources for these salary costs include the Geology Trust Fund, the use of which would require legislative approval. Until additional staff can be obtained, the Board may hire former BRGG Executive Officer John Wolfe as a part-time consultant to help process complaints. At current staff levels, it will be difficult to make progress in the processing of the complaint backlog, in view of the continuing rapid increase in the number of applications for registration.

*Examinations.* The BRGG registration examinations will be given only once during 1991 (in November), but Executive Officer Frank Dellechaie stated at the February meeting that he would like the Board to give two exams next year. He has proposed several ways to expedite exam grading, including the greater use of automated correction. In the past, the Board's resistance to automated grading has been due to the inclusion of exam questions involving a large amount of geological interpretation, especially mapping questions and others which ask for graphical solutions. The potential for a relatively wide range of correct responses to some of these exam questions makes their grading subjective and time-consuming. Mr. Dellechaie has suggested that such exam questions could be restructured to resolve unnecessary ambiguities and to allow use of automated grading of their answers.

BRGG's exams will soon undergo an extensive validation process. Validation will include the use of detailed questionnaires sent to the Board's licensees asking them to help evaluate how well the current exams relate to their areas of practice. In particular, Board staff has prepared a Request for Proposals to solicit a consulting firm to prepare an occupational analysis of the practice of engineering geology; develop an examination plan; and develop, administer, and analyze the results of a questionnaire to assess the importance of reciprocity to licensed engineering geologists in California. The Request for Proposals puts a



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\$50,000 limit on the cost for the entire validation job for the engineering geology exam.

**Application Refunds.** Currently, two provisions permit a refund of part of the application fee for an unsuccessful application for BRGG registration. Half of the application fee for the geologist and geophysicist classes is refundable under Business and Professions Code section 7851, and half of the application fee for specialty certification in engineering geology is refundable under section 3025, Division 29, Title 16 of the CCR. At its February 20 meeting, the Board considered the possibility of discontinuing the present refund policy. Mr. Dellechaie explained that most boards in the Department of Consumer Affairs do not give refunds after applications have been processed and that the processing of refunds requires much staff time and effort. Not only must the staff make the initial effort of a complete evaluation of each application, but the refund process itself is time-consuming, especially for the relatively large number of unqualified applicants for registration as geologists and geophysicists. Following a review by BRGG counsel of the legal aspects of modifying the refund process, the Board decided to look into the requirements for amending its current refund policy.

**Practice Areas and Conflicts.** The separation of areas of expertise between geologists and civil engineers remains a problem for the Board. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 92 and Vol. 9, No. 4 (Fall 1989) p. 77 for background information.) A recent revision of the Orange County grading code appears to allow civil engineers to prepare and sign geological reports. BRGG's enabling statute (Business and Professions Code section 7838) provides an exemption for civil engineers from some regulations but, according to the Board's counsel, does not give civil engineers the right to sign geological reports. A 1975 California Attorney General's Opinion states that civil engineers are allowed to perform only incidental geological work. At its February meeting, the Board approved a motion to contact the Board of Registration for Professional Engineers and Land Surveyors in an attempt to correct the Orange County grading code's misinterpretation of the ability of civil engineers to practice geology. BRGG will continue its efforts to better define the practice areas which should be reserved for its licensees.

**State Employment of Unregistered Geologists.** Also in February, the Board discussed the issue of whether the state's

employment of unregistered geologists constitutes unlicensed activity. Numerous state agencies, including the Department of Health Services, the Department of Transportation, the California Integrated Waste Management and Recycling Board, and the Regional Water Quality Control Boards, employ unregistered geologists. Much of the work done by these geologists consists of review work, which has been held to be exempt from the definition of geological work under BRGG rules. BRGG has received complaints from licensees about the work being done by unregistered geologists in some of the state agencies. So far, BRGG has looked at each complaint on a case-by-case basis, attempting to draw the line between review of geological work and the actual practice of geology. Because of the rapidly increasing number of geologists employed by state agencies, especially those concerned with contamination of surface water and groundwater, the problem is likely to worsen. BRGG discussed ways to deal with the problem and decided to have its executive officer contact some of the large state agencies which employ unregistered geologists to get some idea of the extent of the problem. The Board will then discuss the results at a future meeting.

### LEGISLATION:

**SB 958 (Rogers).** Existing provisions of the Surface Mining and Reclamation Act of 1975 require lead agencies to conduct annual inspections of surface mining operations. As introduced March 8, this bill would require the inspection to commence only after the mining operation ceases to operate and would revise the qualifications of those conducting the inspection. This bill would amend Public Resources Code section 2774, which currently specifies that those conducting surface mine inspections must be state-registered geologists, state-registered civil engineers, state-licensed architects, or state-registered foresters. SB 958 would delete the requirement for state registration or licensure, and states that the proposed inspections would be conducted by a qualified professional with experience in land reclamation. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

**AB 892 (Tanner).** Existing law defines the term "qualified person" for purposes of the Toxic Injection Well Control Act and the Toxic Pits Clean-up Act of 1984 as a person who has specified experience in hydrogeology and is a registered geologist or registered engineer. Existing law also requires that,

before a solid waste water quality assessment test report for a listed solid waste disposal site is submitted to a California regional water quality control board, the report must be certified by a registered geologist, a certified engineering geologist, or a registered civil engineer with specified experience in hydrogeology. As introduced February 28, this bill would revise the definition of the term "qualified person" for purposes of those acts to include a person who is certified as a hydrogeologist or hydrologist by the American Institute of Hydrology and would also allow such a person to certify a solid waste water quality assessment test report. This bill is pending in the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development.

### RECENT MEETINGS:

BRGG president James Weddle attended a recent meeting of the Association of State Boards of Geology (ASBOG). At BRGG's February meeting, he reported on the ASBOG meeting and suggested that the Board should probably not join the organization at this time. The Board discussed the possible advantages of belonging to a national organization versus the cost of joining, especially in view of the Board's current deficit of approximately \$35,000 for this fiscal year. The Board decided to discuss the possibility of allocating funds for ASBOG membership next year, and agreed to discuss the item in greater detail at a future meeting.

Mr. Dellechaie reported that BRGG's consumer brochure is in its final stages of preparation. He stated that the publication and distribution of the brochure will cost approximately \$3,500. BRGG's current budget makes no allocation for this cost.

Mr. Dellechaie also reported on the status of the BRGG directory, which was last published in 1985. He proposed that a new version of the directory be published annually and mailed to all licensees, with some copies available for the general public. His estimate of the cost of publication and distribution of the new directory is approximately \$6,500-\$7,000 per year.

### FUTURE MEETINGS:

To be announced.

### BOARD OF GUIDE DOGS FOR THE BLIND

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The Board of Guide Dogs for the Blind has three primary functions. The