



4207 SE Woodstock #326 Portland, OR 97206

June 3, 2019

Oregon Public Utility Commission
201 High Street SE, Ste 100
Salem, OR 97301

RE: Docket No. UM 2001, Comments on Interconnection Transparency

Oregon Public Utility Commission Staff,

Thank you for the opportunity to provide input on increasing transparency for interconnection issues in Oregon. A diverse scope of information and perspectives have been represented in the process so far. As you sift through everything to prepare your recommendations for the Commission, I wanted to call attention to a few key points to hopefully help illustrate the broader issue.

First, as you consider input from the development community it is important to remember that we not asking for, or seeking, any special treatment or undue privilege. Rather, all we are seeking is an interconnection process that meets the “just and reasonable, and not unduly discriminatory or preferential” requirement of PURPA. All we want is a process that ensures utility treatment is indisputably honest and fair. The utilities’ have obvious perverse incentives to prevent non-utility interconnections that are not only counter to the overarching principles of the existing rules, but are also counter to improvement efforts PUC staff is currently tasked with. Therefore, the success of this initiative depends on a high level of shrewdness towards utilities’ attempts to obscure the issue and their arguments should be subject to a high burden of proof.

Secondly, I would like to recall your attention to what I had advocated for at the start of this investigation which was for the Commission to use Oregon’s existing laws and rules for the practice of engineering as a self-enforcement mechanism to ensure the rules are being followed and hold utilities to a reasonable level of ethical conduct. In the time since, a complaint against two individuals at PGE was submitted by my PE electrical engineer to the Oregon Board of Examiners for Engineering and Land Surveying (OSBEELS). My engineer submitted the complaint without my knowledge after he had received numerous dubious replies to his technical questions. Upon review, the OSBEELS Law Enforcement Committee voted unanimously to open an investigation into the matter. You can read more about the matter on page 11 in the April 11 Law Enforcement Committee meeting minutes, of which a copy is included for your reference. While the engineering investigation is pending, the fact that it originated from a licensed engineer who submitted the inquiry to fulfil his professional duty should underscore the level of ill-behavior that is plaguing interconnection in Oregon. In light of this, I would like to suggest that the PUC consider seeking input from OSBEELS and other related engineering organizations (such as Professional Engineers of Oregon) on Oregon’s existing engineering laws and rules and their relevance for generator interconnection.

Sincerely,

Jonathan Nelson
Conifer Energy Partners LLC



Law Enforcement Committee

Minutes of Meeting

April 11, 2019

Members Present:

Jason Kent, Chair
Shelly Duquette
Daren Cone
Paul Gribbon

Staff Present:

Jenn Gilbert, Interim Administrator
Danee Vig, Support Services Supervisor
Eric Engelson, Communications Coordinator
Rob Sobotka, Investigator
Veronica Gloria, Accounts Specialist
Tina Sorensen, Accounts Specialist

Others Present:

Katharine DiSalle, Assistant Attorney General
Scot Freshwater, PLSO
Marv Krush, PLS
Ron Bradsby, PLS
Chris Fischborn, PLS
Doug Ferguson, PLS
Kenny Delano, Public Member
Bob Bagett, PLS, CWRE
Tod Kelso, PLS

The meeting of the Law Enforcement Committee (LEC) was called to order at 8:06 a.m. in the Conference Room of the Board office at 670 Hawthorne Avenue, SE Suite 220, in Salem, Oregon

Public Comment

There was no public comment.

Cases Subject to Monitoring/Collections Report

Ms. Sorensen provided a summary of updates for the Committee regarding the Cases Subject to Monitoring/Collections Report. Mr. Kent asked whether there was an update from the Department of Revenue regarding their collection efforts for individuals within the report. Ms. Sorensen stated the information provided to staff by the Department of Revenue was included within the report.

Unfinished Business

Case #2876 - Krush / Peer Review Discussion

Mr. Marv Krush, PLS, and Mr. Ron Bradsby, PLS, Peer Reviewer, met with the LEC to discuss the Committee's expectations for the monthly reports Mr. Bradsby submits regarding his Peer Review of Mr. Krush's work. The Committee reviewed previously submitted Peer Review reports and discussed the desired information and level of communication from Mr. Bradsby. Mr. Bradsby stated previously there was some confusion between him and Mr. Krush regarding preferred method of contact, which has since been resolved. Mr. Bradsby noted he has begun requesting additional clarification from Mr. Krush when developing the reports in order to present the proper amount of information to the Committee. Mr. Kent reiterated that the work Mr. Bradsby is performing as a Peer Reviewer is the practice of land surveying and the standards of care and preparations of these reports should be similar to his professional work. Following some additional discussion regarding the desired responses and information for listed projects within the Peer Review report, the Committee thanked Mr. Krush and Mr. Bradsby for attending today's meeting.

Case #3072 - Grover

Mr. Sobotka summarized case #3072, which involved Mr. Grover, PE, by stating it involved manufactured homes and allegations that Mr. Grover was not being ethical or following federal guidelines for lending institutions such as HUD/FHA/VA, Fannie Mae, Freddie Mac, US Bank and Wells Fargo, for manufactured home engineered foundation certifications regarding tie downs and added on structures to be self-supported. He noted the complaint included 10 different complaints from July 2013 to May 2018. Mr. Sobotka stated the Committee had waited to make a determination in the case because they wanted to look into the Building Codes Division's (BCD) rules for manufactured homes. AAG DiSalle noted she had reviewed the BCD's rules and provided a memo to the Committee members for their review. She stated it's usually a business practice regarding what guidelines are used; however, regardless of whether the lender's building standards are higher, Mr. Grover must meet the standards set forth by the state of Oregon's BCD code on manufactured installations. She noted within his response to allegations, Mr. Grover mentioned he most often uses a HUD document for manufactured design and build, but this case involves the installations.

In review of the entire case, AAG DiSalle noted Mr. Grover made several statements that look like the legal definition of professional incompetence due to a basic lack of knowledge and preparation. She stated there would need to be some additional follow up done with Mr. Grover to determine how old some of the dwellings are within the complaint. Noting if the work being reviewed by Mr. Grover was done after April 1, 2010, then there would need to be additional work done depending on the location and type of work completed on the dwellings. AAG DiSalle also noted upon her review, the complaint did not identify whether Mr. Grover was involved in each one of the cited dwelling, but actually stated the complainant's involvement. She stated in order to have a complete complaint they would need to submit evidence that Mr. Grover provided insufficient certifications for the mobile homes. Ms. Duquette noted the complainants within the case are also Mr. Grover's competition within the area.

Mr. Sobotka stated in order to gather the necessary information for the case, he would follow up with Mr. Grover and see if he has records of his services for each mobile home site and then also the timing of the installation, reinstallation, or renovations. The Committee directed Mr. Sobotka to conduct the described follow up work.

Case #3120 - Roberts

Mr. Sobotka summarized case #3120, involving Mr. Richard Roberts, PLS, by stating the case stemmed from case #2980 in which Mr. Roberts had submitted a complaint against Mr. Dale Hult, PLS, alleging Oregon State Board of Examiners for Engineering & Land Surveying

negligent practice of surveying. Mr. Sobotka noted during an informal conference with Mr. Hult, he shared the two surveys completed by himself and Mr. Roberts that depicted a 7 ft. discrepancy along a Northern boundary line. Mr. Sobotka noted based on the information provided by Mr. Hult during the informal conference, the LEC decided to close that case and open a new case against Mr. Roberts for failing to provide all pertinent information with his complaint.

Mr. Sobotka stated following this, AAG DiSalle realized the previously completed analysis may have been wrong, and as a result of this Committee member Mr. Cone performed a review of the case materials and prepared a memo for the Committee's review. Mr. Cone noted following his review of the surveys provided, that it appeared that County Survey Number (CSN) 36-58 was the initial survey completed for the boundary line in 1960, which Mr. Roberts based his survey off of. He stated there is a 7 ft. discrepancy near the 16th section corner, which Mr. Roberts noted, and Mr. Cone was unable to resolve through his analysis. Regardless of this, Mr. Cone explained CSN 36-58 appeared to be the original survey for these lots and Mr. Roberts was correct in placing the plat where he did within his survey. Mr. Cone stated the 7 ft. discrepancy in the deed call tie to the Section corner was likely attributed to differences in measuring technology and standards between 1960 and present day, or may have simply been the result of an error in the original survey that has been perpetuated in the deed descriptions.

Mr. Cone noted the Committee could continue the case against Mr. Hult given this new information, because he failed to tie the corners within his survey to what the original deed called for. Mr. Sobotka asked the Committee to consider the current case against Mr. Roberts was for failing to provide all relevant information to the Board, and because he failed to provide this original survey in his complaint against Mr. Hult, did he fail to meet these requirements. Mr. Kent stated it was clear he was aware of the CSN 36-58 survey, and he knowingly failed to include it. AAG DiSalle informed the Committee that the discrepancies between Mr. Hult and Mr. Roberts' surveys were 7ft, however, they were not relevant to one another. Mr. Cone stated it appeared that Mr. Hult's discrepancy was the result of him not utilizing the CSN 36-58 survey and just tying the section corners.

Mr. Sobotka reiterated that there are two cases involved in this matter; Mr. Hult's negligent case and Mr. Roberts' failure to include all relevant information. He question was the fact that Mr. Roberts did not include the survey and the information pertaining to this 7 ft. discrepancy result in him failing to provide all relevant information with his complaint. Mr. Cone felt Mr. Roberts could have submitted more information at the time of his original complaint against Mr. Hult. AAG DiSalle questioned if Mr. Roberts' 7 ft. discrepancy mitigate Mr. Hult's 7 ft. discrepancy. Mr. Cone responded that if the Committee would have had all the surveys and information they do have now, then the Committee would have likely ruled differently against Mr. Hult. AAG DiSalle noted that this situation may be that Mr. Hult was untruthful to the Committee during his Informal Conference when he told the Committee this survey did not exist or that it may have been Mr. Hult was unaware of the survey, which would mean he was negligent in performing this surveying work. She felt because of this, the Committee should re-open the case involving Mr. Hult. Mr. Kent noted he would like to make a determination regarding Mr. Roberts' case first. Mr. Cone further explained the research he performed for the memo and what it appeared Mr. Roberts did. Regarding the lack of Mr. Roberts sharing the CSN 36-58 survey with his original complaint, Mr. Cone felt that it was irrelevant to that complaint. Following this, it was moved and seconded (Cone/Gibbon) to dismiss case #3120 as allegations unfounded. The motion passed unanimously.

Following this, AAG DiSalle noted the committee could vote to open a new case against Mr. Hult regarding what he presented to the LEC or that he may have been potentially negligent in his practice of Oregon State Board of Examiners for Engineering & Land Surveying
Law Enforcement Committee Meeting Minutes

surveying. She reiterated that Mr. Hult either knew about CSN 36-58 and lied about it to the Committee or he was unaware of the survey and as a result of this, he was acting negligently. The Committee continued to discuss the appropriate action to take with opening a new case and issuing a NOI or asking for a response to allegations. The Committee determined it would like Mr. Hult to have the opportunity to respond to both allegations. Following this, it was moved and seconded (Duquette/Kent) to open a new case against Mr. Hult for allegations of negligence for not using CSN 36-58 when preparing his survey and for providing untruthful statements to the Committee about not knowing about this survey in his informal conference. The motion passed unanimously.

Case #3121 - Blew

AAG DiSalle noted she was still waiting for the information from the state of Wyoming due to staff in the office being out on maternity leave. She stated now that staff are back in the office, she is working to receive the subpoenaed information. Ms. Duquette noted she reviewed the case and felt it was questionable that he reviewed and stamped 57 surveys in one day. Mr. Cone noted he agreed with this and his noted methods of sealing documents. Mr. Cone asked if the Board could look into his company for questionable professional practices. AAG DiSalle noted since Mr. Blew was the registrant whose stamp was on all the documents, they were investigating him. Mr. Kent felt AAG DiSalle should continue to work with the Wyoming state Board to receive the requested files.

The Committee further reviewed the case summary. AAG DiSalle noted the complainant is alleging his seal fraudulently applied to documents and submitted by his form employer after he left the company. Mr. Kent questioned if these were concerning ALTA surveys completed within the company. Mr. Sobotka confirmed this. Mr. Kent noted they would need to open an additional case against the two co-workers, Mr. Price and Mr. Temple, which allegedly were using the seal and representing themselves as a professional registrant. The Committee then reviewed the additional cases in other states that Mr. Blew is currently involved in. Mr. Cone noted since this case involves ALTA surveys, staff investigators would need to gather client information and contact them to receive the maps. Following this, it was moved and seconded (Kent/Duquette) to open a case against Mr. Tyler Price for unlicensed practice of land surveying and unauthorized use of another individual's stamp without permission, violating Oregon Revised Statue (ORS) 672.045(3), and to also open a case against Mr. James Temple for plan stamping and seal violations. The motion passed unanimously.

AAG Noted Mr. Blew submitted a subpoena request to receive information. The Committee discussed and decided to submit a subpoena to Mr. Temple requesting all surveys completed by him, in Oregon, during him time of employment at Blew & Associates.

Mr. Kent later noted the LEC had previously opened cases against Mr. Temple and Mr. Price. He request staff review those cases to understand what the allegations are and combine the cases with these new allegations if necessary.

Case #3115 - Schulze

Mr. Sobotka noted at the previous meeting, he was directed to follow up with surrounding property owners to determine whether they were given proper notice prior to Mr. Schulze and his crew entering onto their property. After conducting his search, Mr. Sobotka determined there were only two (2) properties near the property in question and one of the owners of those two properties was the complainant in this case and Mr. Sobotka noted he was unable to establish contact with the other neighbor. He asked whether the Committee would like him to continue to attempt to follow up. Mr. Kent noted at this point in the case the complainant and the respondent had both been unable to provide

sufficient evidence to support their claims. Following this, it was moved and seconded (Kent/Cone) to close the case as insufficient evidence. The motion passed unanimously.

Case #3122 - Dunckel

Mr. Sobotka stated case #3122 stemmed from Mr. Dunckel attempting to submit boundary changes to his property in an attempt to land grab. He noted moving forward on this case was pending the results of a stipulated general judgement that the matter was currently involved in. Mr. Sobotka noted the judgement had been received and it determined he did attempt to land grab. AAG DiSalle noted the Committee could now move forward with this case. Mr. Cone felt this was a violation of Oregon Administrative Rule (OAR) 820-020-0030, potential conflict of interest. AAG DiSalle noted the interesting thing about that rule is it only addresses employers or clients and does not mention affected adjacent land owners. She felt this matter should be revised to include a broader scope of potentially affected parties. Ms. Duquette requested to send this rule to the Rules & Regulations Committee.

The Committee further discussed the survey work completed to determine whether there was any professional incompetence or negligence. Mr. Cone felt the allegations that the survey work completed was in direct conflict with his recorded description were correct and in this case it was negligent professional practices because he knowingly adjusted the property line, as the deed states, despite Mr. Dunckel claiming that was not the intent of the survey. The Committee further discussed and determined it rose to the level of gross negligence. Following this, it was moved and seconded (Duquette/Cone) to issue a NOI assessing a \$1,000 civil penalty for violations of ORS 672.200(2), gross negligence and violation of OAR 820-020-0055, rules of professional conduct. Mr. Kent requested a friendly amendment to include a 180-day license suspension. Ms. Duquette and Mr. Cone accepted this friendly amendment. The motion passed unanimously.

Case #3127 - Springer

Mr. Sobotka noted the case was last discussed at the previous meeting and the Committee determined to close the case as allegations unfounded. Since that meeting, Mr. Sobotka informed the Committee that the case's complainant, Mr. Patrick Mills, submitted a letter to the LEC regarding the case and allegations of Mr. Springer providing false information. Mr. Gribbon and Ms. Duquette stated they felt this letter provided no new evidence and the allegations of false information was already reviewed within the case. The Committee decided to not take any additional actions.

Informal Conferences

Case #2927 – Chris Fischborn

The Committee met with Mr. Chris Fischborn, PLS, in an informal conference regarding case #2927. Mr. Fischborn stated he had received, read, and understood the NOI assessing him a 180- day license suspension and \$1,500 civil penalty for gross negligence in the practice of land surveying, ORS 672.200(2), and violations of the Board's rule of professional conduct, OAR 820-020-0015(2).

Mr. Fischborn began his address to the Committee by noting he had wrote a letter to the Board following the case being opened and questioned whether the Board received that letter. Mr. Sobotka confirmed he did and it was included in the Committee's materials. Following this, Mr. Fischborn noted in 2011 his firm was hired to do a boundary and topography survey. He went on to explained the process his crew used to collect the field data and his completion of the plat using this data. Mr. Fischborn stated his crew found several plats and monuments in the surrounding subdivision. He noted his team was interested in finding the monument located at the extreme east end of the street but was unable to locate it. Mr. Fischborn further explained his crew's process for locating other pins in the project area and the challenges they had in locating the necessary monuments to set the corners. He stated his crew was able

to locate several other original boundary plats and 10-15 monuments for the project area to develop an accurate calculation of the boundary line.

Mr. Gribbon asked within this project, why the monuments on the Southwest corner were not discovered in lot 7 and it appeared that his crew did not look for them. Mr. Fischborn noted he was unsure and would have to check with his crew to determine this. He stated his survey did lack an explanation why he did not use the other monuments to calculate the plat, which was why he submitted the letter of explanation to staff investigators. Mr. Cone asked if he thought it would have been good to have his crew go look to locate all the necessary corner monuments. Mr. Fischborn responded it would have been better if they had.

Mr. Kent asked Mr. Fischborn to clarify that his crew was in the field in the project area in 2011 and 2014. Mr. Fischborn clarified they were. Mr. Kent then asked if he or his crew checked with the County office to determine any new monuments that had been placed in the interim period. Mr. Fischborn stated he guesses that he did not but stated he has since looked and could not find a record for several other monuments found on the project site.

The Committee asked Mr. Fischborn what his preferred outcome would be for this informal conference. He stated he hoped the Committee would see his point of view and would consider dismissing the charges. Mr. Fischborn stated he and his crew always strived to conduct the proper amount of research prior to performing their surveying duties and look into County records. Ms. Duquette noted if this was the case, then why did he and his team not perform the necessary research in 2014 and perform their work off of the 2011 survey information. Mr. Fischborn noted that may have been the case but he could remember exactly since it was several years ago.

The Committee exited its public meeting pursuant to ORS 192.690(1) for private deliberation on a contested case. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting.

Upon reentering public meeting, it was noted no decisions were made during private deliberations. Mr. Kent noted at this point, the Committee can offer a Settlement Agreement. Following this, no Committee members motioned to propose a Settlement Agreement. Mr. Kent stated, following the information Mr. Fischborn provided during the informal conference, the Committee felt he did not present any mitigating factors. AAG DiSalle noted if Mr. Fischborn should continue to dispute the charges, he could choose to have hearing scheduled with an Administrative Law Judge, or if he agreed to withdraw his dispute he could agree to the penalties. Mr. Sobotka noted he would receive additional correspondence and information in the mail following this conference.

Case #3100 – Douglas Ferguson

The Committee met with Mr. Douglas Ferguson, PLS, in an informal conference regarding case #3100. Mr. Ferguson was joined by Mr. Bob Bagett, PLS, CWRE, a former business partner and Mr. Kenny Delano who is a current business partner with Mr. Ferguson. Mr. Ferguson informed the Committee he would not be represented by his legal counsel during this Informal Conference. Because of this AAG DiSalle exited the meeting until the Informal Conference had concluded. Mr. Ferguson confirmed he had received, read, and understood the NOI assessing him a \$2,000 civil penalty for violation ORS 209.250(1) and for committing negligence prohibited by ORS 672.200(2).

Mr. Ferguson began his address to the Board by stating the main allegation within this case was negligence due to not completing the survey in-question in a proper way. He noted the two boundary

lines related to the survey he completed were identified as streets on the east and northern end of the property. Mr. Ferguson stated they were first established in 1980, and have remained the boundary lines since that time, and during this survey he did not intend to modify those boundary lines. Mr. Cone noted streets do not define the center of a section. Mr. Ferguson stated he did not define the center of section within the survey related to this case. The Committee further reviewed the case exhibits to determine what Mr. Ferguson had established in his survey. Mr. Gribbon asked about the fence line Mr. Ferguson referenced in his survey narrative. Mr. Ferguson explained his process for surveying the fence line, which turned out to be the center section and was the boundary of occupation.

Mr. Kent asked Mr. Ferguson about the quarter corners he located within the survey. Mr. Ferguson explained that locating the quarter corners was not a requirement of this survey, he further discussed his process for completing this survey. Mr. Kent then asked about the survey narrative and boundary agreement between the property owners. Mr. Ferguson noted there was a boundary agreement in place between the two property owners and he shared this with staff investigators. The Committee further reviewed the boundary agreement that was provided. Mr. Gribbon asked if the fence line was in place when the boundary agreement was established even though it was not specifically identified in the agreement. Mr. Ferguson stated it was.

Mr. Cone questioned why they did not re-survey the boundary of the subdivision. Mr. Ferguson noted that was not necessary to do within this survey given the corner monuments had previously been destroyed and the fence line and roads acted as the property boundary lines. Mr. Ferguson noted many of the surveys that were completed when establishing the boundary lines within the town, the records are not clear where the intersection point and center points are exactly located and this causes judgement calls to be made when conducting surveys in the area. Following this, Mr. Ferguson stated he wished to have the case dismissed.

The Committee exited its public meeting pursuant to ORS 192.690(1) for private deliberation on a contested case. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting.

Upon reentering public meeting, it was noted no decisions were made during private deliberations. Following this, it was moved and seconded (Kent/Cone) to withdraw the NOI and close the case. The motion passed unanimously. Mr. Cone noted the Committee's reasoning for withdrawing the NOI were the result of two things, first the boundary agreement and second that this section of land does call for judgement calls in instances like Mr. Ferguson explained. There was no additional discussion.

Case #3060 – Omer Mohammed (via telephone)

Ms. Duquette noted they had previously met in an Informal Conference with the LEC and did not reach a Settlement Agreement because he did not dispute the penalties or allegations. He was now requesting another Informal Conference so he may propose a Settlement Agreement. Mr. Mohammed met with the Committee via teleconference.

Mr. Mohammed began his address to the Committee by agreeing that he was in violation of ORS 672.103(3) and ORS 672.045(1). He stated he wished to request the Committee to decrease the civil penalty from \$1,000 to \$500. Mr. Mohammed noted he requested the reduction in civil penalty as a result of him not being able to work while serving his suspension. The Committee clarified the suspension was only regarding him performing professional engineering work, they were not suspending him from work and noted he may be able to work something out with his employer. They also noted the

Board offers payment plans. Regardless, Mr. Mohammed requested the Committee consider the reduction.

The Committee exited its public meeting pursuant to ORS 192.690(1) for private deliberation on a contested case. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting.

Upon reentering public meeting, it was noted no decisions were made during private deliberations. It was moved and seconded (Cone/Duquette) to reduce the civil penalty to \$750 and offer a payment plan of \$75 for 10 months. The motion passed unanimously. Mr. Mohammed accepted this proposal. There was no additional discussion.

Case #3054 – Tod Kelso

Mr. Tod Kelso, PLS, met with the Committee in an Informal Conference regarding case #3054. Mr. Kelso stated he had received, read, and understood the NOI assessing him a \$1,000 civil penalty for violating ORS 672.047(4), right of entry.

Mr. Kelso began his address to the Committee by stating he let his professional responsibilities slip by not being on the ball regarding his and his crew's conduct. He noted it was not his intentions to violate the public or break statues, but he understands he violated the law. Mr. Kelso explained he requested the Informal Conference in order to request a reduced civil penalty due and payment plan to financial hardships. He noted as a state registrant he has always tried to maintain accordance with state laws.

The Committee exited its public meeting pursuant to ORS 192.690(1) for private deliberation on a contested case. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting.

Upon reentering public meeting, it was noted no decisions were made during private deliberations. Following this, it was moved and seconded (Cone/Duquette) to propose reducing the civil penalty to \$500 and offer a payment plan of \$50 for 10 months. The motion passed unanimously. Mr. Kelso agreed to the proposed settlement agreement.

Case Summaries

Case #3128 – Schmidt/Fotia

Mr. Sobotka summarized case #3128, involving Mr. Bill Schmidt, by stating it involved allegations of unlicensed practice of land surveying. He noted the complainant alleged their neighbor, Mr. Schmidt had been impersonating a land surveyor and was only accepting "his own" surveys. Mr. Sobotka noted this case was the result of an ongoing boundary line dispute between the two neighbors. He stated he had spoken with the complainant and requested additional evidence to support the allegations that Mr. Schmidt was purporting to be a land surveyor and they were unable to provide additional evidence. Mr. Sobotka noted he spoke with Mr. Schmidt regarding the allegations and he stated he has never held himself out as a surveyor and the only survey of his property he has was the survey completed during the purchasing of his house. Following this, it was moved and seconded (Cone/Gribbon) to close the case as allegations unfounded. The motion passed unanimously.

Case #3129 – Rogue Survey/OSBEELS

Mr. Sobotka noted case #3129, involving Rogue Survey, arose from the Professional Practice Committee (PPC) meeting in August 2018. In that meeting, Committee member Mr. Chris Aldridge raised concerns that the company was performing and advertising to perform professional land

surveying services. Mr. Sobotka noted he reached out to Rogue Surveying and they claim they do not hold themselves out, nor do they perform, any surveying work. Mr. Sobotka stated he reviewed the company's website and it did not appear that they were offering any surveying services. Mr. Sobotka noted at the time the case was opened the company name was Rogue Surveying, and when he initially reached out they had changed their name to RSAP, and most recently he was informed they changed their name to Rogue Reconnaissance. Mr. Kent noted he also reviewed the website and did not find any evidence that they were offering surveying services. He also believed RSAP and Rogue Reconnaissance were two separate companies, neither offering professional land surveying services. Following a brief discussion, it was moved and seconded (Kent/Gribbon) to close the case as compliance met. The motion passed unanimously.

Case #3138 – Kent/OSBEELS

(For this discussion, Committee member Jason Kent will be referred to as Mr. Jason Kent and the case's respondent will be referred to Mr. Tim Kent)

Mr. Sobotka noted case #3138 involved Mr. Tim Kent, who was previously the Team Liaison for the Land Surveying Exam Development Team. Following his dismissal from this position, the Board requested he return two (2) encrypted flash drives containing team materials. He stated in December 2018, Mr. Tim Kent submitted two (2) flash drives that were not the originally encrypted flash drives that were provided to him. Following the opening of this case, Mr. Sobotka noted office staff have located the two (2) encrypted flash drives that were originally assigned to him. Following this, it was moved and seconded (Jason Kent/Duquette) to close the case as allegations unfounded. The motion passed unanimously.

Preliminary Evaluations

(Respondent/Complainant)

Kass/Williams

Mr. Sobotka noted the office received an email from Mr. Gerry Williams alleging that Mr. Daniel Kass may have engaged in the unlicensed practice of engineering. Mr. Williams submitted an expert report drafted by Mr. Kass. On the cover page, Mr. Sobotka noted that Mr. Kass uses the designation "P.E." without specifying that he is licensed in California, not Oregon. Additionally, the report is not stamped. Mr. Sobotka stated the complaint also alleges that because the report will be used in arbitration, it most likely constitutes "testimony," which is defined under ORS 672.005(1)(b) as the practice of engineering. Following this, the Committee reviewed the provided report and determined it was not considered engineering work, and Mr. Kass did identify his California license, just not on the cover page, which did not violate any rules. It was moved and seconded (Kent/Gribbon) to not open a case. The motion passed.

Millard/Figueroa

Mr. Sobotka noted the office received an email from Mr. Wilfredo Figueroa claiming that Mr. Kenneth Millard used the "P.E." designation with an expired license. Mr. Figueroa provided an email from Mr. Millard in which he uses "P.E." as part of his signature. Mr. Sobotka noted he confirmed Mr. Millard's license expired on December 31, 2018 and he has not submitted a renewal application at this time. Following this, it was moved and seconded (Kent/Cone) to open a case for potential title violations. The motion passed unanimously.

Dowd & Klein/Steven Miller-Hart

Mr. Sobotka stated the office received an email from Mr. Steven Miller-Hart alleging that both Mr. Kevin Dowd, PLS, and Mr. James Klein, PLS, failed to consider all pertinent evidence when surveying his property. Mr. Cone noted this complaint was previously reviewed and a case was not opened. He Oregon State Board of Examiners for Engineering & Land Surveying Law Enforcement Committee Meeting Minutes

noted upon his review, there was no new information to support his allegations. Mr. Sobotka noted Mr. Miller-Hart places a lot of his complaint on a determination made by a colleague that is not a PLS. following this, it was moved and seconded (Kent/Gribbon to not open a case. The motion passed unanimously.

Krush/Kirkpatrick

Mr. Sobotka stated the office received a complaint from Ms. Gladys Kirkpatrick against Mr. Marvin Krush, PLS. According to the complaint, in July of 2016, Ms. Kirkpatrick paid Mr. Krush \$1500, which was half of Krush's fee, to survey her property. Mr. Sobotka noted he told her he was having medical issues at the time so there would be some delay in the work. Ms. Kirkpatrick alleges that Mr. Krush did not perform the survey work until October 2017 and filed the paperwork in November 2017. She noted Mr. Krush also told her he would cover any filing fees, which he did not. Additionally, Ms. Kirkpatrick claims that paperwork from the county notes that only 2 acres of her property needed to be surveyed, while Mr. Krush told her the whole 21.9 acres would need to be surveyed.

The Committee reviewed the complaint and felt the two parties had poor communications and other contractual issues. Upon additional review, the Committee determined there was not a sufficient amount of evidence provided to support the allegations. Following this, it was moved and seconded (Kent/Gribbon) to decline to open a case. The motion passed unanimously.

McKrola/Haley

Mr. Sobotka noted the office received a complaint submitted by Ms. Corinne Haley regarding Mr. Derrick McKrola, PLS. According to the complaint, Ms. Haley and her neighbor, Mr. Jeff Stephen, had been having a boundary line dispute. On August 20, 2018, Mr. McKrola came to the complainant's home and "made several statements which he presented as settled fact," including that Mr. Stephen had acquired part of the road through adverse possession. Mr. Sobotka noted sometime later, the Malheur County Sheriff forced Ms. Haley to remove a gate between her property and Mr. Stephen's. On September 29, 2018, Ms. Haley filed a Quiet Title action "so that a court may determine ownership of this property." Mr. Sobotka stated Mr. McKrola's survey was filed with Malheur County on November 9, 2018. Ms. Haley alleges that this map was filed in an attempt to address the complaints in her court action. Ms. Haley notes that she was never notified by first class mail prior to McKrola's visit, and that his behavior has been "less than professional on several occasions." Mr. Sobotka noted included with the complaint was a video which appears to show Mr. McKrola walking the property with Haley. Following a brief discussion, it was moved and seconded (Kent/Cone) to open a case for a potential right-of-entry violation. Mr. Sobotka asked if the Committee would want him to also look into the "adverse possession" statement as well. Mr. Kent and Mr. Cone accepted this. The motion passed unanimously.

Springer/Stout

Mr. Sobotka noted the office received an email forwarded from the Oregon Department of Justice regarding a complaint submitted by Carl Stout, PLS, against Grant County Surveyor Michael Springer, PLS. According to the complaint, Mr. Stout believes Mr. Springer is engaging in "irregular" practices that appear to be a "conflict of interest between Springer's private practice and his elected position".

Within the complaint, Mr. Sobotka noted that Mr. Stout included an example alleging that Mr. Springer will find a survey corner that he needs for control of a private job; then, as County Surveyor, he will re-monument the corner or bring it up to state requirements, bill Grant County, and the next "find" the updated corner as part of the private survey, thus benefitting his client by using county funds to update the needed corner.

AAG DiSalle noted they have jurisdiction over the potential conflict of interest but not over his conduct as the County Surveyor, and would need to forward this to the Government Ethics Commission if they felt there was concern. Following a brief conversation, it was moved and seconded (Duquette/Kent) to open an investigation regarding potential violations of professional conduct and forward the case to the Oregon Government Ethics Commission. The motion passed unanimously.

Strasky/OSBEELS

Mr. Sobotka noted the office received a Renewal Form from Mr. Jiri Strasky. Included with his renewal form were two engineering design documents, which, while not stamped by Mr. Strasky, indicated that he acted as a consulting engineer on the projects. On November 27, 2018, Mr. Sobotka stated OSBEELS informed Mr. Strasky that his license could not be renewed because it had gone into delinquent status on June 30, 2012, and because more than five years has passed, the license is lapsed and he must reapply for new licensure. On January 2, 2019, Mr. Strasky contacted OSBEELS admitting that he had mistakenly let his license lapse and requested that OSBEELS reconsider renewing his license because, in part, he recently “participated in [the] design of two outstanding bridge projects built in Oregon”. AAG DiSalle noted it would be worth looking into what work he provided and whether he altered these designs after they had been finalized and submitted. Following this, it was moved and seconded (Duquette/Gibbon) to open a case to look into the unlicensed practice of engineering and potential title violations. AAG DiSalle requested a friendly amendment for untruthful statements that he provided to staff. Ms. Duquette and Mr. Gibbon accepted this request. The amended motion passed, Mr. Kent abstained. The Committee also requested staff investigators look into potential violations of ORS 672.045(1).

Weber & Zeppe/Denman

Mr. Sobotka noted the office received an email from Mr. Jonathan Denman, PE, claiming that Mr. Nikee Weber and Mr. Jason Zeppe, employees of Portland General Electric (PGE), may be engaging in the unlicensed practice of engineering by conveying technical information related to electrical engineering work when they are not licensed to perform electrical engineering work themselves. Mr. Denman claims that PGE has provided a “system impact study” to his client, but the study has no author or endorsement from a licensed engineer. Denman is concerned that this study constitutes the practice of engineering, and by answering technical questions related to the report, Mr. Weber and Mr. Zeppe may have engaged in the unlicensed practice of engineering. Following a brief discussion, it was moved and seconded (Kent/Cone) to open an investigation. The motion passed unanimously. The Committee directed staff to look into what the two (2) PGE employees do and to also contract with an Electric Engineer to review the report and determine whether it is engineering work.

Yukse/Self-Report

On February 8, 2019, Mr. Sobotka stated the office received a self-report submitted by Mr. Errol Lars Yuksek, PE, regarding a DUI conviction he received. According to Mr. Yuksek, he was convicted on January 8, 2019, and sentenced to informal probation, payment of fines, and completion of an alcohol program. The Committee felt the report was timely and no related license discipline occurred. It was moved and seconded (Kent/Gibbon) to not open a case. The motion passed unanimously.

Blair/Self-Report

Mr. Sobotka stated on February 28, 2019, the office received a self-report from Mr. Roger Blair, PE, of disciplinary action taken against him by the Minnesota Board of Engineers in response to action taken by the Texas Board. According to the self-report, Mr. Blair was issued a Consent Order from the Texas Board for signing and sealing engineering design sheets for a Texas-located metal building which he Oregon State Board of Examiners for Engineering & Land Surveying

mischaracterized as a pre-engineered manufactured building. Mr. Sobotka noted Mr. Blair failed to include a disclaimer on the design sheets that his signature and seal were only attesting to the materials list and dimensions of the structure and not the entire engineering design.

Mr. Blair was ordered to pay a \$4,800 civil penalty to the Texas Board, as well as successfully complete the Texas Tech University Engineering Ethics Basic Level Course. The Texas Board also imposed a two-year probated suspension on Mr. Blair's license. The Texas Board's Order was issued on November 16, 2017. Because he failed to timely report the Texas Board's order within 60 days, the Minnesota Board issued a reprimand, a civil penalty in the amount of \$500, and a suspension of Mr. Blair's Minnesota license until he completes the Texas Tech Ethics Course. The Minnesota Order was issued on February 1, 2019. According to NCEES, the Colorado Board took reciprocal action against Blair on June 27, 2018, for failing to report the Texas Board's disciplinary action.

Mr. Sobotka noted on March 28, 2019, Mr. Blair notified OSBEELS that he has voluntarily relinquished his Florida license in response to the Texas Board's action. Per the agreement, the relinquishment is construed as disciplinary action. Mr. Sobotka also stated Mr. Blair had submitted a self-report for the initial Texas Board disciplinary action and the case was closed with a Letter of Concern (LoC). Following this, it was moved and seconded (Kent/Duquette) to not open case. The motion passed unanimously.

LeGuizamon/Self-Report

Mr. Sobotka noted the office received a self-report from Mr. Sergio LeGuizamon, PE, of disciplinary action taken by the Louisiana Professional Engineering and Land Surveying Board against Browder + LeGuizamon ("the firm") and Mr. LeGuizamon. According to the self-report, the firm had engaged in the practice of engineering before it had applied for professional engineering licensure. In a settlement agreement, the firm agreed to pay a fine of \$3,000 and administrative costs of \$185.84. Mr. Sobotka noted Mr. LeGuizamon also agreed to pay a \$500 fine, \$185.84 in administrative fees, complete the Louisiana Board's "Laws and Rules Quiz," and complete the Louisiana Board's "Professionalism and Ethics Quiz".

Mr. Sobotka noted Mr. LeGuizamon received the disciplinary action on December 3, 2018 and did not notify the Board until February 11, which violates the Board's 45-day notification rule. Following this, it was moved and seconded (Duquette/Cone) to open an investigation for failing to notify the Board within 45-days of receiving disciplinary action from another jurisdiction. The motion passed unanimously.

Vernon/Self-Report

Mr. Sobotka stated the office received a letter from Mazzetti, a firm located in San Francisco, CA, reporting that Mr. Walter Vernon, PE, has entered into a Settlement Stipulation with the Florida Board of Professional Engineers. Per the Settlement Stipulation, Mr. Vernon was "charged with violations of Chapter 471 of Florida Statutes," but the settlement is not specific as to which subsection of the statute he violated. As part of settlement, Mr. Vernon is required to pay an administrative fine of \$500 and costs of \$124.80. The Final Order was issued on November 1, 2018. Mr. Sobotka noted a copy of the complaint was not included with the letter from Mazzetti, but he was able to locate a copy of the complaint on the NCEES Enforcement Exchange. According to the complaint, Mr. Vernon failed to complete the necessary continuing education courses needed for renewal of his Florida license, which was discovered when he was selected during an audit. Following this, it was moved (Duquette) to open an investigation for failing to notify the Board within 45-days of receiving disciplinary action from another jurisdiction and to look into his continuing education credits submitted to OSBEELS. No further action was taken.

Staff Update: As a result of no Committee member seconding the motion in this section, the Board reviewed this Preliminary Evaluation during the May 14, 2019, Board meeting.

Abolhassani/Self-Report

Mr. Sobotka stated the office received a self-report letter from Mr. Ali Abolhassani, PE. According to the self-report, Mr. Abolhassani has had multiple license disciplinary actions from numerous states stemming from the dissolution of a business relationship with a former partner. Mr. Sobotka stated the disciplinary actions began in 2010 and most recently in 2018, none of which he had previously reported. Following this, it was moved and seconded (Kent/Gribbon) to open a case against Mr. Abolhassani for failing to notify the Board within 45-days of receiving disciplinary actions from another jurisdiction. The motion passed unanimously.

Rambo/Leahy

Mr. Cone recused himself from the discussion due to previously contracting with the case's respondent.

Mr. Sobotka noted the office received a complaint from Ms. Linda Leahy against Mr. Arthur Rambo, PLS. The complaint alleges there are errors affecting four (4) property boundary lines in Clear Creek Ranchos which is located in Selma, Oregon in Josephine County. Ms. Leahy states these errors arose after Mr. Rambo removed corner monuments, which physically moved her lot line just enough to allow her neighbors to use her driveway as a new lot. Following a brief discussion, it was moved and seconded (Kent/Gribbon) to open a case for potential negligent practices. The motion passed, Mr. Cone abstained.

Case Status Report

Regarding case #2930, AAG DiSalle noted a pre-hearing conference is arranged for May at which time a hearing date and additional hearing details will be discussed. The Committee then reviewed the other LEC cases related to Mr. Farber, who is the respondent in case #2930.

The meeting was adjourned at 1:47 p.m.