

Washington State Board of Registration for Professional Engineers & Land Surveyors

Special Board Meeting

April 27, 2023

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Board Meeting

Tab 1

Call to Order

- 1.1 Roll Call
- 1.2 Order of Agenda
- 1.3 Approval of April 6, 2023 Meeting Minutes
- 1.4 Public Comment Opportunity



STATE OF WASHINGTON
BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Special Board Meeting Agenda

DATE & TIME: April 27, 2023 8:00 am

LOCATION: BRPELS Office [WebEx Link](#)
 605 11th Ave SE Suite 201 and Or
 Olympia, WA 98501

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 United States Toll

ATTENTION: All meetings are open to the public except when business calls for a Closed Session. During Closed Session all guests will be excused. Start times are subject to change by the Board or Committee Chair.

OPEN SESSION

1. Call to Order

- 1.1. Roll Call
- 1.2. Order of Agenda
- 1.3. Approval of April 6, 2023 Meeting Minutes
- 1.4. Public Comment Opportunity

EXECUTIVE SESSION: The chair will announce the purpose and estimated duration for the Executive Session. No formal actions will be taken during the Executive Session. Once the Executive Session concludes, the Board will take a break to announce and invite visitors to the Open Session.

OPEN SESSION RECONVENES

2. Disciplinary Action

- 2.1. Case Deliberation
- 2.2. Disciplinary Report

3. Committee Reports

- 3.1. Executive Committee
- 3.2. Practice Committee
- 3.3. Exam Qualifications Committee
- 3.4. Survey Committee
- 3.5. On-Site Committee

4. New Business

- 4.1. Assign a Nominating Committee
- 4.2. Approval of State Specific Exam Cut Scores
- 4.3. Approval of Amended Language and Filing of CR105 for WAC 196-26A & WAC 196-30
- 4.4. Approval of Amended Language and Filing of CR102 for WAC 196-12

- 4.5. Approval of Filing a CR-101 for WAC 196-09
- 4.6. Approval of the Draft Letter Regarding Clarification on Practice of Engineering/Specialty Construction
- 4.7. Taking Civil Action Discussion

5. Director's Report

- 5.1. Financial Report
- 5.2. Agency Operations
- 5.3. Program Reports
 - 5.3.1 Communication & Outreach
 - 5.3.2 Regulatory
 - 5.3.3 Investigation & Compliance
 - 5.3.4 Licensing
 - 5.3.5 Admin
- 5.4. Other Items

6. Assistant Attorney General's Report

7. Other Business

- 7.1. Additional Public Comment
- 7.2. Upcoming Outreach and Events
- 7.3. Action Items from This Meeting
- 7.4. Agenda Items for Next Meeting

8. Adjourn Meeting



STATE OF WASHINGTON
BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
BOARD MEETING MINUTES

DATE: April 6, 2023
TIME: 3:00 pm
LOCATION: BRPELS Office
 605 11th Ave SE, STE 201
 Olympia, WA, 98501

ATTENDANCE:

Board Members

Doug Hendrickson, PE, Chair (WebEx)
 Dave Peden, PE, SE, Vice Chair (WebEx)
 Aaron Blaisdell, PLS (WebEx)
 Nirmala Gnanapragasam, Ph.D, PE
 (WebEx)
 Marjorie Lund, PE, SE (WebEx)
 James Wengler, PLS, CFedS
 (WebEx)

Staff Members

Elizabeth Lagerberg, Advising AAG (WebEx)
 Ken Fuller, PE, Director (WebEx)
 Mackenzie Wherrett, Executive Assistant
 Shanan Gillespie, Regulatory Program Manager
 (WebEx)
 Greg Schieferstein, Communication Manager
 (WebEx)

1. Call to Order at 3:00 pm

1.1. Roll Call

Mr. Hendrickson took roll call.

1.2. Order of Agenda

A motion was made by Mr. Peden, and seconded by Ms. Lund, to accept the agenda. Motion carried.

1.3. Approval of February 23, 2023, Meeting Minutes

A motion was made by Mr. Peden, and seconded by Ms. Gnanapragasam, to accept the February 23, 2023, Meeting Minutes.

Discussion:

Mr. Wengler stated that during the February Special Board Meeting, he voted on a case closure recommendation in which he should have abstained. The Board Chair stated that Mr. Wengler's vote did not affect the closure recommendation outcome. Board staff apologized for not informing Mr. Wengler of the closure.

Mr. Hendrickson made a friendly amendment for correction of a typo within agenda item 2.1 of the February 23, 2023, Meeting Minutes. Mr. Peden and Ms. Gnanapragasam accepted the friendly amendment.

Mr. Hendrickson called a vote to approve the minutes as amended. Motion approved.

1.4. Public Comment Opportunity

None provided.

Executive Session

Mr. Hendrickson, Board Chair, announced that the Board would move into closed session to consult with the board attorney, discuss matters related to enforcement and potential cases in litigation. It was estimated the Executive Session would last from 3:11 p.m. until 4:26 p.m.

Open Session Reconvened - 4:26 p.m.

2. New Business

2.1. Discuss Proposed Direction for Amendments to WAC 196-29

Ms. Lund made a motion, seconded by Mr. Blaisdell, for the Survey Committee and Practice Committee to form a task force and work with counsel on amendments to WAC 196-29-110.

Discussion:

The board discussed withdrawing the CR101 previously filed with the Code Reviser's Office and the advancement of a CR101 to amend WAC 196-29, which better meets the objectives of the board.

Ms. Lund retracted the motion for the Survey Committee and Practice Committee to form a task force and to work with counsel on amendments to WAC 196-29-110. Mr. Blaisdell, as second, agreed to retract the motion.

Mr. Wengler made a motion, seconded by Ms. Lund to withdraw the CR101 and replace it with a CR101 which provides a broader statement of board objectives. Motion approved. Mr. Hendrickson directed the Survey Committee and Practice Committee to work on amending WAC 196-29.

Action Items

- Board Staff to withdraw the CR101 for amendments to WAC 196-29 and file a new CR101 with the Code Reviser's Office which provides a broader statement of the board objectives.

3. Adjourn Meeting

A motion was made by Mr. Peden, and seconded by Mr. Blaisdell, to adjourn the meeting at 4:33 p.m. Motion approved.

Next Meeting: April 27, 2023 - Special Board Meeting - Olympia & WebEx

Respectfully submitted,

Ken Fuller, PE, Director

Board Meeting

Tab 2

Disciplinary Activity

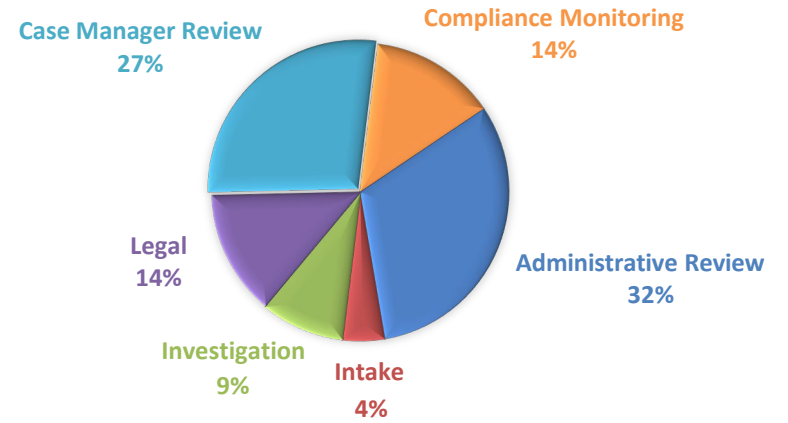
- 2.1 Case Deliberation
- 2.2 Disciplinary Report

Board of Registration for Professional Engineers Land Surveyors Disciplinary Report - April 2023

Open Case Status

Status	Program Type			Total
	Engineers	Land Surveyors	OSW	
Administrative Review	0	7	0	7
Intake	0	1	0	1
Investigation	0	2	0	2
Legal	1	2	0	3
Case Manager Review	1	5	0	6
Compliance Monitoring	2	1	0	3
Total	4	18	0	22

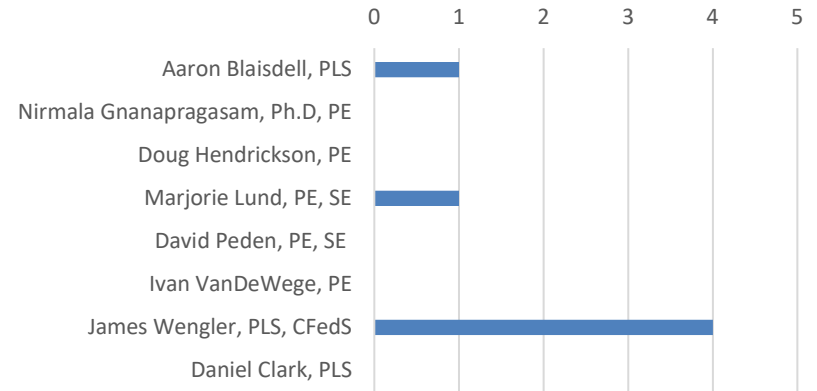
Open Complaint Status



Case Manager Review

Case Manager	Program Type		Total
	Engineers	Land Surveyors	
Aaron Blaisdell, PLS	0	1	1
Nirmala Gnanapragasam, Ph.D, PE	0	0	0
Doug Hendrickson, PE	0	0	0
Marjorie Lund, PE, SE	1	0	1
David Peden, PE, SE	0	0	0
Ivan VanDeWege, PE	0	0	0
James Wengler, PLS, CFedS	0	4	4
Daniel Clark, PLS	0	0	0
Total	1	5	6

Case Manager Open Complaints



Administrative Review

Board Staff	Engineers	Land Surveyors	OSW	Total
Ken Fuller, PE	0	0	0	0
Rich Larson, PLS	0	7	0	7
Total	0	7	0	7

Board Meeting

Tab 3

Committee Reports

- 3.1 Executive Committee
- 3.2 Practice Committee
- 3.3 Exam Qualifications Committee
- 3.4 Survey Committee
- 3.5 On-Site Committee

Board Meeting

Tab 4

New Business

- 4.1. Assign a Nominating Committee
- 4.2. Approval of State Specific Exam Cut Scores (from EQC)
- 4.3. Approval of Amended Language and Filing of CR105 for WAC 196-26A & WAC 196-30 (from Executive Committee)
- 4.4. Approval of Amended Language and Filing of CR102 for WAC 196-12 (from EQC)
- 4.5. Approval of Filing a CR-101 for WAC 196-09 (from PC)
- 4.6. Approval of the Draft Letter Regarding Clarification on Practice of Engineering/Specialty Construction (from PC)
- 4.7. Taking Civil Action Discussion (from PC)

WAC 196-26A-040 Renewals for professional engineer and professional land surveyor licenses. (1) Licenses for professional engineers or professional land surveyors shall be renewed every two years. The date of expiration shall be the licensee's birthday. The initial license issued to an individual shall expire no earlier than one year after the issue date.

(2) To renew your license, complete an application for renewal, pay the required renewal fee, and provide the information requested in the renewal notice and application form. This information may include email address or other contact information and information regarding ~~prior unprofessional conduct~~previous enforcement actions pursuant to RCW 18.235.110 and 18.235.130. Information regarding ~~unprofessional conduct~~previous enforcement actions will be evaluated by the board to determine whether it is related to the practice of the applicant's profession.

(3) For a professional land surveyor the renewal application requires completion of professional development requirements and an attestation by the applicant that they have

read chapters 58.09 RCW and 332-130 WAC as part of the renewal process.

(4) If a completed application for renewal has not been received by the board by the date of expiration (postmarked before the date of expiration if mailed or transacted online before the date of expiration), the license is invalid. Renewals that remain expired over 90 days past the date of expiration require payment of a late fee equivalent to the fee for a one-year renewal in addition to the base renewal fee, and completing of a renewal application.

(5) If your license has been expired for five or more years, you must submit a renewal application and you will be required to take and receive a passing score on the board's law review examination. In the first year of reactivated practice professional land surveyors may be required by the board to collect an additional 15 professional development hours (PDH). The licensee is responsible for timely renewal whether or not they received a renewal notice from the department.

[Statutory Authority: RCW 18.43.035. WSR 23-06-073, § 196-26A-040, filed 3/1/23, effective 4/1/23. Statutory Authority: RCW 18.43.080 and 43.24.086. WSR 14-03-029, § 196-26A-040, filed

1/8/14, effective 2/8/14. Statutory Authority: RCW 43.24.086 and
18.43.035. WSR 02-13-080, § 196-26A-040, filed 6/17/02,
effective 9/1/02.]

WAC 196-30-030 License renewals. (1) On-site licenses and certificates of competency shall be renewed every two years. The date of expiration shall be the licensee's birthday. The initial license issued to an individual shall expire no earlier than one year after the issue date.

(2) To renew your license, complete an application for renewal, pay the required renewal fee, and provide the information requested in the renewal notice and application form. This information may include email address or other contact information and information regarding ~~prior unprofessional conduct~~ previous enforcement actions pursuant to RCW 18.235.110 and 18.235.130. Information regarding ~~unprofessional conduct~~ previous enforcement actions will be evaluated by the board to determine whether it is related to the practice of the applicant's profession. No refunds will be made, or payments accepted for a partial year.

(3) It shall be the licensee's or certificate holder's responsibility to pay the prescribed renewal fee to the board on or before the date of expiration.

(4) If a completed application for renewal has not been received by the board by the date of expiration (postmarked before the date of expiration if mailed or transacted online before the date of expiration), the license is invalid. Renewal that remain expired over 90 days past the date of expiration require payment of a late fee equivalent to the fee for a one-year renewal in addition to the base renewal fee, and completion of a renewal application.

(5) Any designer license that remains expired for more than two years would be canceled. After cancellation, a new application must be made in accordance with chapter 18.210 RCW to obtain another license.

[Statutory Authority: RCW 18.43.035. WSR 23-06-073, § 196-30-030, filed 3/1/23, effective 4/1/23. Statutory Authority: RCW 43.24.086 and chapter 18.210 RCW. WSR 12-06-064, § 196-30-030, filed 3/6/12, effective 4/6/12; WSR 07-10-126, § 196-30-030, filed 5/2/07, effective 6/2/07. Statutory Authority: RCW 43.24.086 and 18.210.050. WSR 99-24-022, § 196-30-030, filed 11/23/99, effective 12/24/99.]



March 7, 2023

Mr. Ken Fuller, PE, Director
State of Washington
Board of Registration for Professional Engineers &
Land Surveyors
PO Box 9025
Olympia, WA 98507-9025

Dear Mr. Fuller:

We request clarification of the “practice of engineering” definition as it pertains to specialty construction and the applicability of Professional Engineering licensure in the Washington State. Please see the scenarios and questions below.

Scenario 1: An engineer with experience working in a specialty discipline would provide input to a contractor working on a construction project in Washington State. The engineer would be located onsite at the construction project and employed by a firm that is a subcontractor to the contractor. The contractor would be operating construction equipment and performing specialty construction work that follows the guidance provided by this onsite engineer.

The input provided by the onsite engineer would be based on various site factors and would require arithmetic calculations on a day-to-day basis using quantitative site inputs such as water pressures, soil and rock mass and strength, and distances. The engineer in this position would have the necessary field experience to complete this work and have a general engineering background. The nature of this work is a specialty such that there are only several dozen people worldwide with the necessary experience and expertise, and these individuals travel worldwide to perform such work. These individuals are generally licensed as the equivalent of a professional engineer in their home country. Personnel with this field experience are not available locally.

Based on the above Scenario 1, we respectfully submit the following questions to the Board:

1. *Does the work of the onsite engineer in the scenario described above fall under the definition of the “practice of engineering” as described in RCW 18.43.020 Definitions?*
2. *Does the onsite engineer require licensure in the Washington State if the construction project for which they are providing these services is in Washington State?*

Scenario 2: The onsite work described in Scenario 1 would be performed by the same individuals as described in Scenario 1. However, the work of the onsite engineer would be overseen by a Professional Engineer licensed in Washington State. The Professional Engineer would act as the Engineer-in-Responsible Charge (ERC) for the specialty engineering provided to support the construction work performed by the contractor. Prior to the beginning of the specialty construction work, the onsite engineer would develop a decision flow chart to assist with the day-to-day construction operations. The flow chart would be reviewed and approved for use in the field by the ERC. The flow chart is not intended to be the only means of providing input to the contractor for their operations; consideration of the various site factors is necessary. Daily operations could require deviation from the flow chart. The onsite engineer would track and use site factors, which could include the results of previous construction activities, as the ultimate means of developing their input to the contractor. The onsite engineer would provide a summary of the quantitative site inputs, the consideration of any other site factors, and the resulting construction operations to the ERC on a regular basis. The ERC would review the summaries for conformance with the engineering principles and goals applicable to the project. The ERC would be available fulltime during construction for consultation; the ERC would not be onsite except for periodic field visits.

Based on the above Scenario 2, we respectfully submit the following question to the Board:

3. *For Scenario 2: Are the roles of the licensed ERC and the non-licensed onsite engineer compliant with Washington State regulations for engineering practice.*

We appreciate the Board's considerations of our questions and look forward to the Board's response.

Sincerely,

SHANNON & WILSON



Stan Boyle, PhD, PE, DGE, M.ASCE
Vice President

GNS:SRB/gns

OPTIONS FOR ENFORCEMENT OF JUDGMENTS
EXCERPTS FROM AGO APA DESKBOOK CHAPTER 10

A. INTRODUCTION

The APA grants administrative agencies, and other persons with standing, the power to petition the superior court for enforcement of agency orders and subpoenas. It also authorizes administrative agencies to petition for judicial enforcement of its rules. This chapter provides an overview of the procedures for judicial enforcement of administrative orders, rules, and subpoenas, and some defenses which can be raised by parties against whom enforcement is sought.

The APA's process for the enforcement of agency orders, rules, and subpoenas is a critical component of an agency's ability to carry out its programs and duties. Administrative agencies are creatures of the legislature and may exercise only those powers conferred by statute, either expressly or by necessary implication. *Ass'n of Wash. Bus. v. Dep't of Rev.*, 155 Wn.2d 430, 437, 120 P.3d 46 (2005).

Agencies usually lack legislative authority to compel a person's compliance with an agency order. See generally 73A C.J.S. Public Administrative Law and Procedure § 575 (2014). **The agency must petition the court for an order requiring or prohibiting the conduct, directing payment of the fine or penalty, or otherwise enforcing the order.**

Agencies must also look to the courts when the sanction for noncompliance with an order is criminal. See generally 2 Charles H. Koch, Jr., Administrative Law and Practice § 5.70 (2nd ed. 1997 & Supp. 2008-2009).

Similarly, administrative agencies do not possess the power to enforce their own subpoenas in investigative or adjudicative proceedings such as a court may do with its contempt powers. An agency must rely upon the court to enforce an agency's subpoenas issued under its subpoena power. See RCW 34.05.446(5), .588(1); *United States v. Powell*, 379 U.S. 48, 85 S. Ct. 248, 13 L. Ed. 2d 112 (1964) (Internal Revenue Service seeks enforcement of its summons). However, the contempt of court provisions in RCW 7.21 may simplify the show cause process for direct enforcement of agency subpoena in superior court.

B. OVERVIEW – ENFORCEMENT OF AGENCY ORDERS, RULES, AND SUBPOENAS: RCW 34.05.578–.594 1.

Major Provisions Regarding Orders and Rule.

The APA includes several sections dedicated to the process for civil enforcement of agency orders and rules. These sections provide for the following procedures in civil enforcement proceedings. *Those applicable to enforcement of Agency Orders are as follows:*

Authorization for an agency to petition the superior court to enforce an agency order or rule. RCW 34.05.578(1)

A requirement for the transmittal of the agency record for use in a proceeding to enforce an order or rule, and specifications regarding the record's content and supplementation. RCW 34.05.590(2), .566.

A provision for judicial review of decisions on petitions for civil enforcement “as in other civil cases.” RCW 34.05.594. In addition, discovery orders and protective orders issued in an adjudicative proceeding may be enforced pursuant to these sections.

C. RCW 34.05.446(4) CIVIL ENFORCEMENT OF AGENCY ORDERS AND RULES – SECTION-BYSECTION ANALYSIS: RCW 34.05.578–.582

Enforcement cases brought under RCW 34.05.578–.582 arise in a variety of contexts which influence the standards the court uses to analyze the issues raised. Below are four basic scenarios for civil enforcement proceedings.

- **First, an agency** or another person may **seek to enforce an order issued by the agency.** If the order was contested, there may be a substantial administrative record for the court to review. Records the agency is required to transmit to the court include any documents expressing the agency action, administrative appeal, and any subsequent petitions. See RCW 34.05.566(1), (2), .590(2).
- **Second, an agency or another person may seek to enforce a default order issued by the agency,** where a respondent failed to apply for an adjudicative proceeding or failed to participate in such a proceeding. See RCW 34.05.440(1), (2).
- Third, an agency may seek to enforce a rule directly in superior court without a prior adjudicative proceeding. In this case, because the matter was not adjudicated administratively prior

1. Requirements for Agency Petitions to Enforce Rules or Orders in Superior Court;

Available Relief: RCW 34.05.578 RCW 34.05.578(1) authorizes any state agency to petition the superior court to enforce that agency’s rule or order as to a specific person or persons. This authority is “[i]n addition to other remedies provided by law.”

Therefore, an agency whose enabling act grants enforcement authority may elect to use that authority rather than the APA.

A third option is for the agency to use both the APA and its own enforcement statute where the statutory framework allows and when doing so provides the agency strategic advantages.

An agency may also use APA enforcement procedures to enforce its discovery and protective orders. RCW 34.05.446(4). However, the APA does not address whether or how interested parties may seek enforcement of discovery and protective orders against the agency. See RCW 34.05.446(4).5

2. Relief Available to an Agency Seeking Civil Enforcement: RCW 34.05.578(4)

In a civil enforcement proceeding brought by an agency, the court is permitted to grant a wide range of possible relief, including declaratory relief, temporary or permanent injunctive relief, or “any other civil remedy provided by law, or any combination of the foregoing.” RCW 34.05.578(4)

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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN THE COUNTY OF WHATCOM**

STATE OF WASHINGTON,
DEPARTMENT OF AGRICULTURE,

Plaintiff,

v.

ARON HOVANDER, HOVANDER DAIRY

Defendant.

No. 05-2-02813-7

MOTION FOR CONTEMPT OF
COURT AND MEMORANDUM IN
SUPPORT

MOTION

Plaintiff, Washington State Department of Agriculture (“Department”), through its attorneys, Rob McKenna, Attorney General, and Kristen K. Mitchell, Assistant Attorney General, moves the Court for an order finding Defendants Aron Hovander and Hovander Dairy (“Hovander”) in contempt of court for failure to comply with the Order for Civil Enforcement of Final Administrative Orders and Injunctive Relief (“Civil Enforcement Order”) issued by this Court on February 3, 2006. The Department requests that the order of contempt provide the relief requested as follows:

- 1) A forfeiture of two thousand dollars (\$2,000.00) for each day the contempt of court continues after the order of contempt is issued.
- 2) An order prohibiting Hovander from keeping livestock on the Hovander property until he provides the Court with evidence of compliance with all terms of the Civil Enforcement Order.

1 3) An order awarding the Department costs and reasonable attorney's fees incurred in
2 connection with the contempt proceeding.

3 MEMORANDUM

4 This motion for contempt of court is made pursuant to RCW 7.21.020 and is based on
5 Hovander's noncompliance with the Civil Enforcement Order issued by this Court. The
6 Department seeks enforcement of the Civil Enforcement Order to prevent Hovander from operating
7 his facility in a manner that pollutes the waters of the State of Washington in violation of law.

8 I. STATEMENT OF THE ISSUES

9 1) Whether Hovander should be held in contempt for violating the terms of the February 3,
10 2006 Civil Enforcement Order issued by this Court.

11 2) Whether requiring Hovander to pay two thousand dollars (\$2,000) a day for each day the
12 contempt continues is an appropriate remedy.

13 3) Whether an order prohibiting Hovander from keeping livestock on their property until he
14 provides the Court with evidence of compliance with all terms of the Civil Enforcement Order is an
15 appropriate remedy.

16 4) Whether the Department should be awarded its costs and expenses, including attorney's
17 fees.

18 II. EVIDENCE RELIED UPON

19 This motion is supported by the Affidavit of Mailing of Laurel Crose, attached hereto and
20 the Declaration of Jeff Canaan, Livestock Nutrient Inspector, Washington State Department of
21 Agriculture, and attached exhibits.

22 III. STATEMENT OF FACTS

23 On December 5, 2005, the Department filed its Summons and Petition for Civil
24 Enforcement of Final Administrative Orders and Injunctive Relief and related documents with
25 Whatcom County Superior Court. The Summons and Petition were properly served on Defendants
26 and Defendants answered the Petition on December 28, 2005. A hearing was held on February 3,

1 2006 on the Department's Motion for Civil Enforcement of Final Administrative Orders and
2 Injunctive Relief. Hovander failed to appear for the hearing. A Civil Enforcement Order was
3 issued by the Court requiring Hovander to comply with the terms of the Department's
4 Administrative Orders by specified dates. A copy of the Civil Enforcement Order is included here
5 as Attachment A. While not required under RCW 7.40.130, Hovander has received notice of the
6 Civil Enforcement Order as the Department has served the Order on Defendants by mail. See
7 Affidavit of Mailing of Laurel Crose.

8 Since the Civil Enforcement Order was issued, Hovander has removed and presumably sold
9 the dairy herd from the facility. See Declaration of Jeff Canaan, Paragraph 4. However, ceasing to
10 function as a dairy does not relieve Hovander of his obligations to comply with the terms of the
11 Civil Enforcement Order. Continued compliance with the Civil Enforcement Order is necessary to
12 address the vast build-up of manure already present on the property and to ensure that the lagoons
13 function properly so that the already accumulated waste is not discharged into the waters of the
14 state.

15 Hovander has violated the terms of the Civil Enforcement Order in a number of respects.
16 Paragraph 3 of the Civil Enforcement Order permanently enjoined Hovander from violating the
17 terms of the Department's Administrative Order Number 04-LNMP-0302 and Supplemental
18 Administrative Order Number 05-LNMP-4010 as they were modified by this Court in the Civil
19 Enforcement Order. Hovander was also enjoined from violating the provisions of RCW 90.48
20 and RCW 90.64. Inspections by Livestock Nutrient Management Inspector Jeff Canaan on
21 February 10, 2006, February 24, 2006, March 17, 2006, April 13, 2006 and May 4, 2006
22 revealed that Hovander was not in compliance with the Civil Enforcement Order. See Declaration
23 of Jeff Canaan.

24 Hovander was ordered to "cease and prevent all further discharge of pollutants from
25 Defendants' facility into waters of the state" in Paragraph 1.A. of the Civil Enforcement Order.
26 In addition, Paragraph 1.B.i. and Paragraph 2.J. required that Hovander contain all manure and

1 runoff into the lower lagoon and cease using the bermed area for storage of manure and other
2 runoff. Hovander was also ordered to prevent all overflow of liquid over dikes into the bermed
3 area, and from the bermed area into adjacent surface waters. In Paragraph 1.G. of the Civil
4 Enforcement Order, Hovander was ordered to take such other action that may be required to
5 prevent further discharges and violations of RCW 90.48. However, Hovander took no action to
6 address the situation at his facility which was presenting a serious and immediate risk of discharge.
7 See Declaration of Jeff Canaan, Paragraph 3. Further, testing of water samples showed that fecal
8 coliform levels downstream of the Hovander facility were in violation of water quality standards.
9 See Declaration of Jeff Canaan, Paragraph 5.

10 Paragraph 1.B.ii. requires that Hovander “restore the lower lagoon to full design capacity
11 as soon as can be safely completed and in no case later than May 1, 2006 by removing solids
12 from the lagoon.” Paragraph 2.A. requires that Hovander restore the upper lagoon to full design
13 capacity by no later than May 1, 2006. All the damaged section of the upper and lower lagoon
14 dikes were required to be repaired by May 1, 2006 in Paragraph 2.B. of the Civil Enforcement
15 Order. Hovander has not made any attempt to begin these repairs or remove the solids from the
16 lagoons. Declaration of Jeff Canaan, Paragraph 12. Nor has Hovander pursued the option of
17 decommissioning the lagoons which would be required if the lagoons were no longer going to be
18 in service because Hovander was going to permanently cease conducting any animal-based
19 farming operation at the facility. Until Hovander provides this Court with an approved plan to
20 decommission the lagoons, it must be presumed that Hovander could restock the facility with
21 animals at any time and thus all the terms of the Civil Enforcement Order must be enforced.

22 In Paragraph 1.B.iv., Paragraph 2.I., and Paragraph 2.J. of the Civil Enforcement Order,
23 Hovander was ordered to maintain a minimum of 2 feet of freeboard in each of the two lagoons
24 and the bermed area at all times after January 15, 2005. Hovander was also ordered to monitor
25 and document freeboard levels. On February 10, 2006, Hovander had no freeboard in the lower
26 lagoon and it was overflowing into the bermed area. The bermed area had 6 inches of freeboard

1 and the wall was saturated with liquid. See Declaration of Jeff Canaan, Paragraph 3. On
2 February 24, 2006, the lower lagoon still had no freeboard and was overflowing into the bermed
3 area. The bermed area still only had 6 inches of freeboard. See Declaration of Jeff Canaan,
4 Paragraph 6. On March 17, 2006, the lower lagoon again had no freeboard and the bermed area had
5 only 6 to 12 inches of freeboard, with overflow continuing from the lower lagoon into the bermed
6 area. See Declaration of Jeff Canaan, Paragraph 8. As of the April 13, 2006 inspection, the lower
7 lagoon had two feet of freeboard and the bermed area had one foot of freeboard. Declaration of Jeff
8 Canaan, Paragraph 11. During the May 4, 2006 inspection, the lower lagoon had two feet of
9 freeboard and the bermed area had one to two feet of freeboard. Declaration of Jeff Canaan,
10 Paragraph 12.

11 In Paragraph 1.E. of the Civil Enforcement Order, Hovander was ordered to update the
12 facility's Dairy Nutrient Management Plan to reflect current cow numbers and designated fields
13 for liquid waste application by March 10, 2006 and in Paragraph 1.F. Hovander was ordered to
14 manage and operate the facility in compliance with all criteria in the Plan. Paragraph 5 of the
15 Civil Enforcement Order required Hovander to provide a copy of the Plan to the Department by
16 March 10, 2006. Hovander was also ordered to review the Plan elements with the inspector on
17 request. Hovander did not supply a copy of the Plan to the Department until March 23, 2006.
18 See Declaration of Jeff Canaan, Paragraph 7. Because Hovander could restock the dairy facility
19 with animals at any time, Plan updates are not irrelevant and should be required. No update of the
20 Plan has occurred as ordered by the Court. See Declaration of Jeff Canaan, Paragraph 7.

21 Paragraph 1.B.vi. of the Civil Enforcement Order required Hovander to maintain the
22 lagoons located on Imhof Road in working order. During the March 17, 2006 inspection, the
23 inspector observed that the Imhof Road lagoons were nearly full. See Declaration of Jeff Canaan,
24 Paragraph 8. In a return visit to the Imhof Road lagoons on March 21, 2006, the inspector
25 observed that the smaller of the lagoons was nearly full and the largest of the four only had one
26 foot of available freeboard. Proper pumping and application of the liquid in these lagoons as

1 described in the Hovander Nutrient Management Plan would have relieved storage capacity
2 issues and allowed Hovander to pump more liquid from the Dairy Facility lagoons into the Imhof
3 Road lagoons. This could have prevented the overflows of waste between lagoons and the
4 bermed area at the Dairy Facility and presented a lower risk of discharge. See Declaration of Jeff
5 Canaan, Paragraph 9.

6 Paragraph 1.H. of the Civil Enforcement Order required Hovander to contact the
7 Department on the first of each month beginning March 1, 2006 to confirm progress in meeting
8 the requirements of the Civil Enforcement Order. Hovander did not contact the Department on
9 March 1, 2006, April 1, 2006, or May 1, 2006. See Declaration of Jeff Canaan, Paragraph 13.

10 Paragraph 2.C. of the Civil Enforcement Order required Hovander to seed all lagoon dikes
11 with grass seed by March 10, 2006 and Paragraph 2.F. required that Hovander seed with grass
12 seed a 50-foot filter strip in front of the manure solids storage area by March 10, 2006.
13 Hovander has done no seeding yet. See Declaration of Jeff Canaan, Paragraph 4, 6, 8, 11 and 12.

14 Prior to issuance of the Civil Enforcement Order, Hovander installed a solids screening
15 mechanism. Paragraph 2.E. of the Civil Enforcement Order required that Hovander keep the
16 solids screening system in place, and use and properly manage a functional system to screen
17 solids from manure before manure enters the spillway to the lagoons. Since the Civil
18 Enforcement Order was issued, Hovander has removed the system and has not replaced it with
19 any functioning solids screening mechanism. See Declaration of Jeff Canaan, Paragraph 4, 6, 8,
20 11 and 12.

21 Paragraph 2.G. of the Civil Enforcement Order required Hovander to repair fresh water
22 broken pipes and water trough overflows to prevent excess water from entering the lagoon
23 system. During the February 10, 2006 inspection, water from a broken water main was flowing
24 through the barn and entering the lagoon system. See Declaration of Jeff Canaan, Paragraph 3.
25 The broken water main was repaired as of the February 24, 2006 inspection. See Declaration of Jeff
26 Canaan, Paragraph 6. But during the March 17, 2006 inspection, a second leaky pipe in the barn

1 was then sending excess water into the lagoon system. See Declaration of Jeff Canaan, Paragraph
 2 8. This pipe appeared to have been repaired as of the April 13, 2006 inspection but some water flow
 3 continued into the upper lagoon. See Declaration of Jeff Canaan, Paragraph 11.

4 IV. LEGAL AUTHORITY

5 This motion is brought under Chapter 7.21 RCW. RCW 7.21.020 provides “[a] judge or
 6 commissioner of the supreme court, the court of appeals, or the superior court, a judge of a court of
 7 limited jurisdiction, and a commissioner of a court of limited jurisdiction may impose a sanction for
 8 contempt of court under this chapter.”

9 RCW 7.21.010(1) provides that “contempt of court means intentional: . . . (b) disobedience
 10 of any lawful judgment, decree, order, or process of the court.” In addition, RCW 7.21.030
 11 provides in pertinent part:

12 (1) The court may initiate a proceeding to impose a remedial sanction on its own
 13 motion or on the motion of a person aggrieved by a contempt of court in the
 14 proceeding to which the contempt is related. Except as provided in RCW 7.21.050,
 the court, after notice and hearing, may impose a remedial sanction authorized by
 this chapter.

15 (2) If the court finds that the person has failed or refused to perform an act that is
 16 yet within the person’s power to perform, the court may find the person in contempt
 of court and impose one or more of the following remedial sanctions:

17 . . .

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of
 court continues.

(c) An order designed to ensure compliance with a prior order of the court.

18 . . .

19 (3) The court may, in addition to the remedial sanctions set forth in subsection (2)
 20 of this section, order a person found in contempt of court to pay a party for any
 losses suffered by the party as a result of the contempt and any costs incurred in
 connection with the contempt proceeding, including attorney’s fees.

21 The Department may bring this motion under RCW 7.21.060 which provides that a state
 22 administrative agency party to an action may petition the superior court for a remedial sanction
 23 under RCW 7.21.030. The Department brought this action to achieve compliance with
 24 Administrative Orders it had issued to Hovander. This Court has found that the Administrative
 25 Orders were final and binding on Hovander. This Court ordered Hovander to comply with the
 26 terms of the Administrative Orders as described in the Civil Enforcement Order. Hovander has

1 refused to comply with the terms of the Civil Enforcement Order and the Department must bring
2 this Motion to request that the Court enforce its Civil Enforcement Order and find Hovander in
3 contempt.

4 Chapter 7.21 RCW gives this Court significant authority to impose remedial sanctions for
5 the purpose of securing performance of the terms of the Civil Enforcement Order. The Court may
6 order Hovander to forfeit a sum of \$2,000.00 for each day he remains in contempt of the Civil
7 Enforcement Order. However, the primary purpose of this motion is to once again ask this Court to
8 impress on Hovander the importance of complying with the terms of the Department's
9 Administrative Orders as set forth in the Civil Enforcement Order before the rainy season begins
10 this coming Fall and accumulated waste from the facility once again threatens to cause serious
11 environmental damage to the waters of the state.

12 The purpose of remedial sanctions is to secure compliance with a court order and the
13 sanctions that the Department requests are appropriate for achieving this goal. In cases where non-
14 compliance with a court order is financially advantageous, it is appropriate for a court to order a
15 monetary forfeiture under RCW 7.21.030(2)(b). If Hovander's noncompliance with the Civil
16 Enforcement Order is continuous, a large fine would be appropriate to remove any economic
17 advantage Hovander has gained over law abiding dairies by remaining in violation of the Civil
18 Enforcement Order. Other dairies expend significant effort and resources to ensure that they
19 comply with environmental laws and Hovander should not be allowed to avoid this responsibility.
20 Nor should Hovander be allowed to avoid his obligation to comply with the Civil Enforcement
21 Order because he has apparently sold his dairy herd. Hovander has an obligation to deal with the
22 previously accumulated waste on the property. If Hovander's intention is to discontinue his dairy
23 operation, he must dispose of the accumulated waste and properly decommission his lagoons. In
24 addition, Hovander should not be allowed to resume a dairy operation until the terms of the Civil
25 Enforcement Order are completed and the Department asks that the Court prohibit Hovander from
26 keeping livestock on the property until that time. Under RCW 7.21.030(3), this Court may also

1 order that Hovander pay for costs and attorney's fees incurred by the Department as a result of
2 Hovander's contempt.

3 **VI. CONCLUSION AND RELIEF REQUESTED**

4 The Department requests that the order of contempt provide the relief requested as follows:

- 5 1) A forfeiture of two thousand dollars (\$2,000.00) for each day the contempt of court
6 continues after the order of contempt is issued.
- 7 2) An order prohibiting Hovander from keeping livestock on the Hovander property until
8 Hovander provides the Court with evidence of compliance with all terms of the Civil Enforcement
9 Order.
- 10 3) An order awarding the Department's costs and reasonable attorney's fees incurred in
11 connection with the contempt proceeding.

12 A proposed order granting the relief requested accompanies this motion.

13
14 DATED this _____ day of May, 2006.

15
16 **ROB MCKENNA**
Attorney General

17
18
19 KRISTEN K. MITCHELL, WSBA No. 31601
Assistant Attorney General
Attorneys for Plaintiff
Washington State Department of Agriculture
20 (360) 459-6683
21
22
23
24
25
26

Board Meeting

Tab 5

Director's Report

- 5.1 Financial Report
- 5.2 Agency Operations
- 5.3 Program Reports
 - 5.3.1 Communication & Outreach
 - 5.3.2 Regulatory
 - 5.3.3 Investigations & Compliance
 - 5.3.4 Licensing
 - 5.3.5 Admin
- 5.4 Other Items

From: [Bitar, Paul \(DES\)](#)
To: [Fuller, Ken \(BRPELS\)](#)
Cc: [Wherrett, Mackenzie \(BRPELS\)](#)
Subject: March 2023 Financial Status
Date: Tuesday, April 18, 2023 4:34:18 PM
Attachments: [BRPELS Financial Status March 2023.xlsx](#)

Hi Ken,

I have attached BORPELS' March 2023 financial status and projection reports. The information in the reports shows that **BORPELS is in excellent financial condition**. At this time, I project the agency will end the biennium with about \$1.6 million in its operating account, Fund 024. Additionally, the agency is on track to underspend its appropriation by \$512k.

REVENUE

Biennium 2021-23 revenue collections have been strong. For the period of July 2021 – March 2023, the agency generated \$3.75 million in revenue vs. \$3.33 million during the same period last biennium. This represents an increase of 12.6% between biennia. I currently project that BORPELS will generate about \$4.39 million in revenue this biennium.

EXPENSES

Based on information provided by Mackenzie, I moved the \$40,000 expense for outreach modules to next fiscal year and added \$1,700 per month for Vorsite. Additionally, I noticed that BORPELS hired a new non-permanent employee, Kristel Perezchica, so I added this cost to the projection.

Thanks,

Paul Bitar

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Category	BI Allotment	BITD Allotment	BITD Expenditures	BITD Variance	BI Variance
Capital Outlays	48,000	42,000	161,716	(119,716)	(113,716)
Employee Benefits	516,755	448,581	391,190	57,391	125,565
Goods and Services	2,064,716	1,824,134	1,372,372	451,762	692,344
Grants, Benefits & Client Services	0	0	1,505	(1,505)	(1,505)
Professional Service Contracts	0	0	54,620	(54,620)	(54,620)
Salaries and Wages	1,473,529	1,284,166	1,179,775	104,391	293,754
Travel	126,000	110,250	58,181	52,069	67,819
Sum:	4,229,000	3,709,131	3,219,358	489,773	1,009,642

Category	FM Allotment	FM Expenditure	FM Variance	BITD Allotment	BITD Expenditures	BITD Variance
Salaries and Wages	63,121	61,445	1,676	1,284,166	1,179,775	104,391
A Salaries and Wages	4,000	0	4,000	84,000	0	84,000
AA State Classified	47,401	48,230	(829)	954,382	917,174	37,208
AC State Exempt	11,186	10,833	353	234,570	227,500	7,070
AE State Special	534	1,225	(691)	11,214	12,425	(1,211)
AU Overtime and Call-Back	0	1,156	(1,156)	0	22,676	(22,676)
Employee Benefits	22,726	21,255	1,471	448,581	391,190	57,391
B Employee Benefits	1,900	0	1,900	39,900	0	39,900
BA Old Age and Survivors Insurance	3,567	3,657	(90)	73,516	70,619	2,897
BB Retirement and Pensions	6,260	6,257	3	124,161	120,218	3,943
BC Medical Aid & Industrial Insurance	346	310	36	7,155	6,000	1,155
BD Health, Life & Disability Insurance	9,819	10,170	(351)	186,651	176,478	10,173
BH Hospital Insurance (Medicare)	834	855	(21)	17,198	16,516	682
BK Paid Family and Medical Leave	0	6	(6)	0	29	(29)
BV Shared Leave Provided Annual Leave	0	0	0	0	1,305	(1,305)
Other Employee Benefits	0	0	0	0	25	(25)
Professional Service Contracts	0	4,200	(4,200)	0	54,620	(54,620)
CA Management and Organizational Services	0	0	0	0	50,420	(50,420)
CZ Other Professional Services	0	4,200	(4,200)	0	4,200	(4,200)
Goods and Services	80,198	52,912	27,286	1,824,134	1,372,372	451,762
E Goods and Other Services	5,450	0	5,450	114,450	0	114,450
EA Supplies and Materials	1,000	2,246	(1,246)	21,000	17,397	3,603
EB Communications/Telecommunications	800	581	219	16,800	14,620	2,180
EC Utilities	50	0	50	1,050	345	705
ED Rentals and Leases - Land & Buildings	3,000	4,171	(1,171)	63,000	48,032	14,968
EE Repairs, Alterations & Maintenance	1,000	702	298	21,000	40,802	(19,802)
EF Printing and Reproduction	500	2,810	(2,310)	10,500	17,002	(6,502)
EG Employee Prof Dev & Training	1,000	(375)	1,375	21,000	23,813	(2,813)
EH Rental & Leases - Furn & Equipment	500	5,748	(5,248)	10,500	16,626	(6,126)
EJ Subscriptions	100	0	100	2,100	681	1,419
EK Facilities and Services	5,667	5,382	285	111,003	98,491	12,512
EL Data Processing Services (Interagency)	12,167	10,421	1,746	253,503	229,697	23,806
EM Attorney General Services	15,417	16,325	(908)	318,753	239,974	78,779
EN Personnel Services	1,100	1,401	(301)	23,100	30,709	(7,609)
EP Insurance	79	81	(2)	3,647	3,748	(101)
ER Other Contractual Services	16,250	946	15,304	422,250	214,070	208,180
EW Archives & Records Management Svcs	18	55	(37)	378	373	5
EY Software Licenses and Maintenance	16,000	2,257	13,743	408,000	375,147	32,853
EZ Other Goods and Services	100	163	(63)	2,100	843	1,257
Travel	5,250	8,404	(3,154)	110,250	58,181	52,069
GA In-State Subsistence & Lodging	1,500	5,112	(3,612)	31,500	24,723	6,777
GB In-State Air Transportation	700	310	390	14,700	7,803	6,897
GC Private Automobile Mileage	1,500	614	886	31,500	7,755	23,745
GD Other Travel Expenses	700	195	505	14,700	3,809	10,891
GF Out-of-State Subsistence & Lodging	300	0	300	6,300	4,797	1,503
GG Out-of-State Air Transportation	300	1,874	(1,574)	6,300	7,926	(1,626)
GN Motor Pool Services	250	300	(50)	5,250	1,369	3,881
Capital Outlays	2,000	60,262	(58,262)	42,000	161,716	(119,716)
JA Noncapitalized Assets	1,000	0	1,000	21,000	101,454	(80,454)
JB Noncapitalized Software	1,000	0	1,000	21,000	0	21,000
JC Furnishings & Equipment	0	60,262	(60,262)	0	60,262	(60,262)
Grants, Benefits & Client Services	0	0	0	0	1,505	(1,505)
NZ Other Grants and Benefits	0	0	0	0	1,505	(1,505)
Total Dollars	173,295	208,478	(35,183)	3,709,131	3,219,358	489,773

Through FM ----> 21

**Board of Registration for Professional Engineers and Land Surveyors
Biennium 21-23 Projections
Fund 024 - Operating Account**

Revenue Category	Biennium 21-23	Actual	Projected			Projected	Projected
	Revenue Allotments	Revenues through FM21 Mar-2023	FM 22 Apr-2023	FM 23 May-2023	FM 24 Jun-2023	Revenue Total	Variance
Licenses and Fees	3,900,000	3,747,340	214,687	214,687	214,687	4,391,400	491,400
Fines, Forfeits and Seizures		750				750	750
Recov of Prior Expend Authority Expendit		122				122	122
Cash Over and Short		610				610	610
Total Revenue	3,900,000	3,748,821	214,687	214,687	214,687	4,392,882	492,882

Revenue projection based on 19-21 revenues, plus 12.6%. Revenue receipts have been strong this biennium.

Expenses Category	Biennium 21-23	Actual	Projected			Projected	Projected
	Expense Allotments	Expenses through FM21 Mar-2023	FM 22 Apr-2023	FM 23 May-2023	FM 24 Jun-2023	Expenditure Total	Variance
Salaries and Wages	1,473,529	1,179,775	60,835	64,002	64,002	1,368,613	104,916
Employee Benefits	516,755	391,190	21,147	22,549	22,549	457,435	59,320
Professional Service Contracts						59,720	(59,720)
Goods and Other Services	2,064,716	1,372,372	63,990	63,018	100,573	1,599,953	464,763
Travel	126,000	58,181	2,771	2,771	2,771	66,493	59,507
Capital Outlays	48,000	161,716	483	483	483	163,165	(115,165)
Grants, Benefits & Client Services	0	1,505	0	0	0	1,505	(1,505)
Sum:	4,229,000	3,219,358	150,925	154,522	192,077	3,716,883	512,117

Operating Transfers	Biennium 21-23	Actual	Projected			Projected	Projected
	Operating Transfers	Operating transfers through FM21 Mar-2023	FM 22 Apr-2023	FM 23 May-2023	FM 24 Jun-2023	Op. Trans. Total	Variance
Operating Transfer In		30,131				30,131	(30,131)
Total Net Operating Transfers	0	30,131	0	0	0	30,131	(30,131)

Fund Balance Projection	Biennium 21-23	Actual	Projected			Projected	Projected	
	Rev Allotments - Exp Allotments	Rev - Exp through FM21 Mar-2023	FM 22 Apr-2023	FM 23 May-2023	FM 24 Jun-2023	end of BI 21-23	Variance	
Net Income (Loss)	BI 21-23 Beginning Balance	(329,000)	559,594	63,761	60,164	22,609	706,130	1,035,130
	\$ 939,391	610,391	1,498,985	1,562,747	1,622,911	1,645,520	1,645,520	<-- Ending Fund Balance (projected)

Expenses Detail Category	Biennium 21-23	Actual	Projected			Projected	Projected
	Expense Allotments	Expenses through FM21 Mar-2023	FM 22 Apr-2023	FM 23 May-2023	FM 24 Jun-2023	Expenditure Total	Variance
Salaries and Wages	1,473,529	1,179,775	60,835	64,002	64,002	1,368,613	104,916
A Salaries and Wages	96,000	0				0	96,000
AA State Classified	1,096,589	917,174	48,335	51,502	51,502	1,068,513	28,076
AC State Exempt	268,128	227,500	10,833	10,833	10,833	259,999	8,129
AE State Special	12,812	12,425	587	587	587	14,186	(1,374)
AU Overtime and Call-Back		22,676	1,080	1,080	1,080	25,915	(25,915)
Employee Benefits	516,755	391,190	21,147	22,549	22,549	457,435	59,320
B Employee Benefits	45,600	0				0	45,600
BA Old Age and Survivors Insurance	84,217	70,619	3,668	3,864	3,864	82,015	2,202
BB Retirement and Pensions	142,937	120,218	6,148	6,148	6,148	138,662	4,275
BC Medical Aid & Industrial Insurance	8,193	6,000	303	334	334	6,971	1,222
BD Health, Life & Disability Insurance	216,108	176,478	10,170	11,300	11,300	209,248	6,860
BH Hospital Insurance (Medicare)	19,700	16,516	858	903	903	19,180	520
BK Paid Family and Medical Leave		29				29	(29)
BV Shared Leave Provided Annual Leave		1,305				1,305	(1,305)
BZ Other Employee Benefits		25				25	(25)
Professional Service Contracts	0	54,620	1,700	1,700	1,700	59,720	(59,720)
CA Management and Organizational Services		50,420	1,700	1,700	1,700	55,520	(55,520)
CZ Other Professional Services		4,200				4,200	(4,200)
Goods and Other Services	2,064,716	1,372,372	63,990	63,018	100,573	1,599,953	464,763
E Goods and Other Services	130,800	0				0	130,800
EA Supplies and Materials	24,000	17,397	828	828	828	19,882	4,118
EB Communications/Telecommunications	19,200	14,620	696	696	696	16,709	2,491
EC Utilities	1,200	345				345	855
ED Rentals and Leases - Land & Buildings	72,000	48,032	2,233	2,233	2,233	54,731	17,269
EE Repairs, Alterations & Maintenance	24,000	40,802	486	486	486	42,260	(18,260)
EF Printing and Reproduction	12,000	17,002	810	810	810	19,431	(7,431)
EG Employee Prof Dev & Training	24,000	23,813	1,134	1,134	1,134	27,215	(3,215)
EH Rental & Leases - Furn & Equipment	12,000	16,626	792	792	792	19,002	(7,002)
EJ Subscriptions	2,400	681	173	173	173	1,200	1,200
EK Facilities and Services	128,000	98,491	4,711	4,711	4,711	112,624	15,376
EL Data Processing Services (Interagency)	290,000	229,697	11,122	10,408	10,408	261,635	28,365
EM Attorney General Services	365,000	239,974	11,427	11,427	11,427	274,256	90,744
EN Personnel Services	26,400	30,709	1,659	1,401	1,401	35,170	(8,770)
EP Insurance	3,884	3,748	81	81	81	3,991	(107)
ER Other Contractual Services	471,000	214,070	11,086	11,086	48,586	284,828	186,172
EW Archives & Records Management Svcs	432	373			55	428	4
EY Software Licenses and Maintenance	456,000	375,147	16,233	16,233	16,233	423,846	32,154
EZ Other Goods and Services	2,400	843	519	519	519	2,400	0
Travel	126,000	58,181	2,771	2,771	2,771	66,493	59,507
GA In-State Subsistence & Lodging	36,000	24,723	1,177	1,177	1,177	28,255	7,745
GB In-State Air Transportation	16,800	7,803	372	372	372	8,917	7,883
GC Private Automobile Mileage	36,000	7,755	369	369	369	8,863	27,137
GD Other Travel Expenses	16,800	3,809	181	181	181	4,354	12,446
GF Out-Of-State Subsistence & Lodging	7,200	4,797	228	228	228	5,483	1,717
GG Out-Of-State Air Transportation	7,200	7,926	377	377	377	9,058	(1,858)
GN Motor Pool Services	6,000	1,369	65	65	65	1,564	4,436
Capital Outlays	48,000	161,716	483	483	483	163,165	(115,165)
JA Noncapitalized Assets	24,000	101,454	483	483	483	102,903	(78,903)
JB Noncapitalized Software	24,000	0				0	24,000
JC Vehicles		60,262				60,262	(60,262)
Grants, Benefits & Client Services	0	1,505	0	0	0	1,505	(1,505)
NZ Other Grants and Benefits		1,505				1,505	(1,505)
Total Dollars	4,229,000	3,219,358	150,925	154,522	192,077	3,716,883	512,117

5/1/23 Projection takes into account cost of non-perm. empl

AU cost based on BITD avg

Vorsite expenses will be about \$1,700 per month for April through June. Express Employment Services estimated at \$15k

EA projection based on BITD monthly avg

EB projection based on BITD monthly avg

no utilities costs projected at this time

\$1,938/mo firefighter's building rent costs

\$295/mo Secure It Self Storage

Projection based on 25% of BITD monthly average, as it is assumed most tenant improvement costs for the new space have already been incurred.

EF projection based on BITD monthly avg

EG projection based on BITD monthly avg

EH projection based on BITD monthly avg

EJ projection based on half of Bi 23 allotment, as expenditures have been low this biennium

\$3,019/mo SAFS

\$1,500/mo CMS (estimated)

\$127/mo DES Office Facilities

\$65/mo campus security starting July 2022

\$1,410/mo CTS Allocations

\$31/mo CTS Services

\$64/qtr avg OFM Core Financials

\$650/qtr avg OFM Enterprise Systems Fee

\$17/mo DES Information Systems

\$8,950/mo CTS Desktop Support

EM projection based on BITD monthly avg.

\$1,378/mo Small Agency HR

\$23/mo DES Personnel Svcs

\$258/qtr OFM Personnel Services

\$81/mo DES Risk Management

\$1,020/yr Self Insurance Premium

\$10,000/mo est. misc DOL costs

\$1,000/mo estimated misc other costs

\$86/mo avg OFM Central Services

\$40k outreach modules (new plan is to spend funds in FY24 instead of FY23)

\$25k FY23 question development (estimated)

\$12.5k FY23 OS Adhoc and Exam (estimated)

\$55/qtr archives

\$15,900/mo POLARIS FY23 (estimated)

\$300/mo CTS Services

\$33/mo Adobe

EZ projection based on Bi 23 allotment

GA projection based on BITD monthly avg

GB projection based on BITD monthly avg

GC projection based on BITD monthly avg

GD projection based on BITD monthly avg

GF projection based on BITD monthly avg

GG projection based on BITD monthly avg

GN projection based on BITD monthly avg

Monthly JA purchases projected to be just 10% of BITD avg, as it is assumed most purchases have already occurred.

\$60,000 acquisition of vehicle, per info obtained in 2/22/23 Exec. Committee meeting.

**Communication Discussion/Report
Special Board Meeting, April 2023
Greg Schieferstein**

Current/Upcoming Projects

Communication Task Force – Task Force named: Marjorie, Dave, Ken, Mackenzie and Greg. Next steps include developing a clear understanding of mission/goals/objectives with timelines.

- audit past/present (what works/what doesn't)
- identifying target audiences and their contexts (who to reach)
- developing clear and easy-to-understand key messages (what to say)
- defining mediums for integrated communication, engagement and education (how to say it)
- identifying a ready bench of messengers on key topics (pre-prepare messages)

The Journal

Producing the Spring/Summer edition of the Journal for release mid-May. As requested, some of the articles include:

- reputation management – “preventing bad reviews” and social media management
- update on proposed changes to WAC 196-12
- CBT exam update
- state specific PLS exam update
- bio on Nimmy, leading up to her retirement from the Board

Completed Projects

Outreach Support: Saint Martin's class (Ken presented), Septic-Con (Ric Wilkerson, Robert Suggs and Rich Larson presented), LSAW in Spokane (Jim & Aaron presented). All will be in *The Journal*.

NCEES Graduates/FE Recognition

About 50% participation from universities and colleges for “graduation cords,” provided by NCEES. They recognize graduates who have passed the FE exam, with the goal of encouraging licensure. NCEES asked for our help coordinating with local schools. About 750 cord requests total.

Regulatory Program Report 4/27/23

Current Items:

- Rulemaking
 - * 196-09 CR101 filed. Indexing rule language being drafted.
 - * 196-12 CR101 filed. EQC working on draft language.
 - * 196-26A & 196-30 Ex.Comm. reviewing comment & recommend the filing of CR105.
 - * 196-29 CR101 filed. Survey Comm to work on draft language.

- Exam Development (Team: Rich, Vonna, Shanan)
 - * Pending: Enter exam information into Scantron
- Legislation (Last day of Regular Legislative Session – April 23, 2023)
 - * Tracking 14 bills
 - 6 licensing bills
 - 2 budget bills
 - 6 agency – administrative
- Public Records Requests:
 - * 2023: 33 (as of 4/10/23)
 - * 2022: 85
 - * 2021: 63
 - * 2020: 74 (Prior to February 1, 2020, DOL was processing our requests)

Investigation/Compliance Program Report

4/27/23

Current Items:

- PDH Audits
 - * Project Team Assigned
 - Rich Larson/Vonna Cramer/Jill Short
 - Meeting scheduled with Polaris group and project team.
 - Met with Polaris group. This feature in Polaris is currently turned off due to a glitch. They are working on a fix.
 - Rich/Vonna/Jill will now be conducting a manual blind draw process of 1% of renewals for PLS and OS. Will measure results for approximately 6 months to determine results.
 - Template audit letters prepared.
 - Vonna in contact with Polaris team on difference between PDH/CE

- Complaint Process/Tracking
 - * Project Team Assigned
 - Jill Short/Ken Fuller/Rich Larson/Diane Gallagher
 - Team developed a step-by-step complaint process and determined times for completion during each status stage and notification/tickler points.
 - Team met with Diane Gallagher regarding capabilities and notification/tickler points.
 - Diane Gallagher will be putting together a process to present to the team by 2/13/23.
 - Diane and staff have met on several occasions to discuss how we would like the system to work.
 - Diane has created a testing site. Mackenzie/Jill are now testing the system to ensure it is working properly.
 - Diane/Mackenzie/Jill have weekly update meetings.

Completed Items:

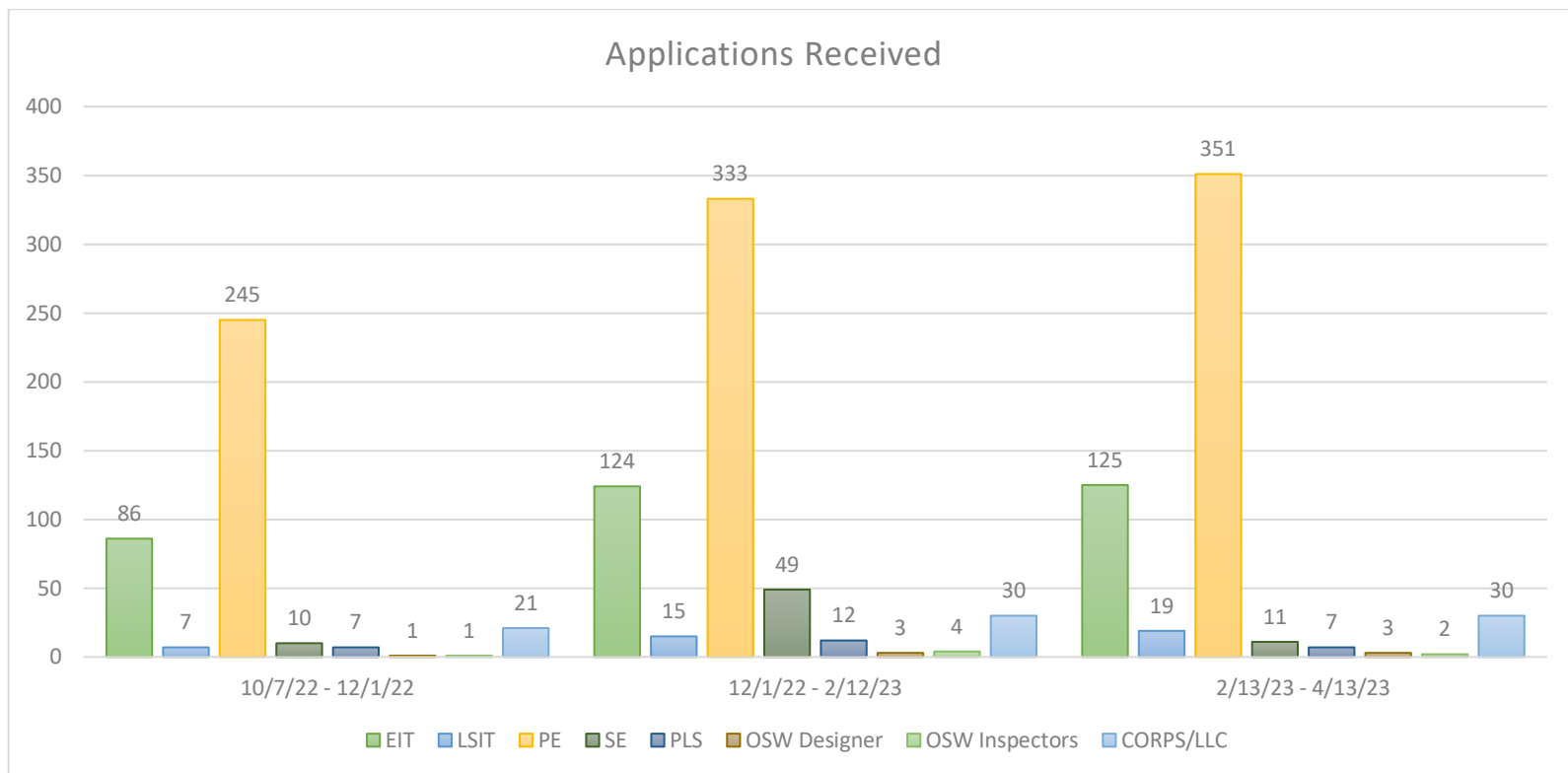
- PLS Standards
 - * Project Team Assigned
 - Aaron Blaisdell/Rich Larson/Jill Short
 - Project team met and discussed next steps.
 - Team determined next steps would be to look at each investigation on a case-by-case basis. If a CM determines charges

are appropriate, the CM, board staff, and AAG will meet to discuss violations and appropriate sanctions.

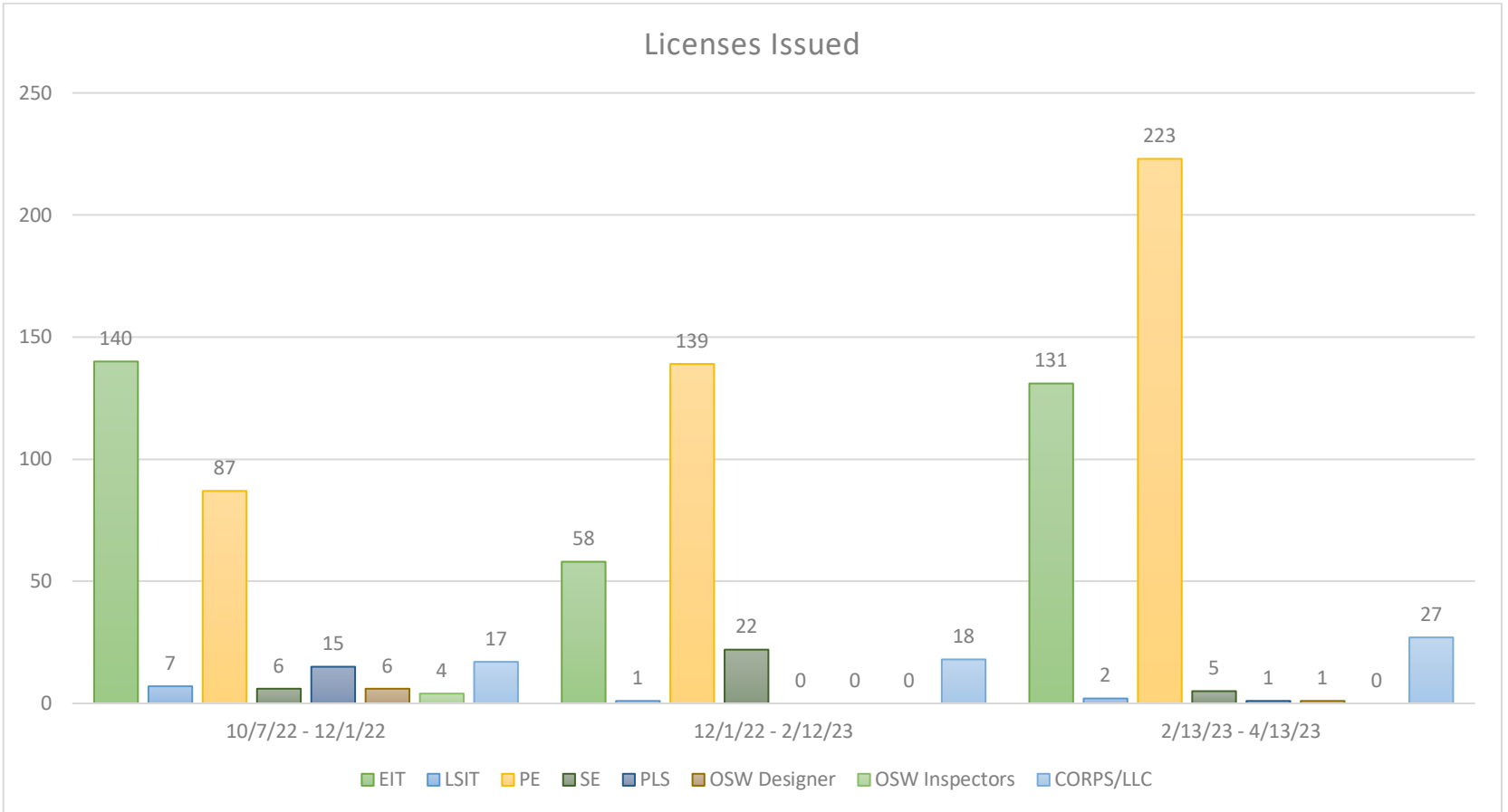
- The Advising AAG and Prosecuting AAG will be conducting a board training.
- A document showing past violations and sanctions will be posted to the Board Resources SharePoint site.

Committee and/or Board Action Items:

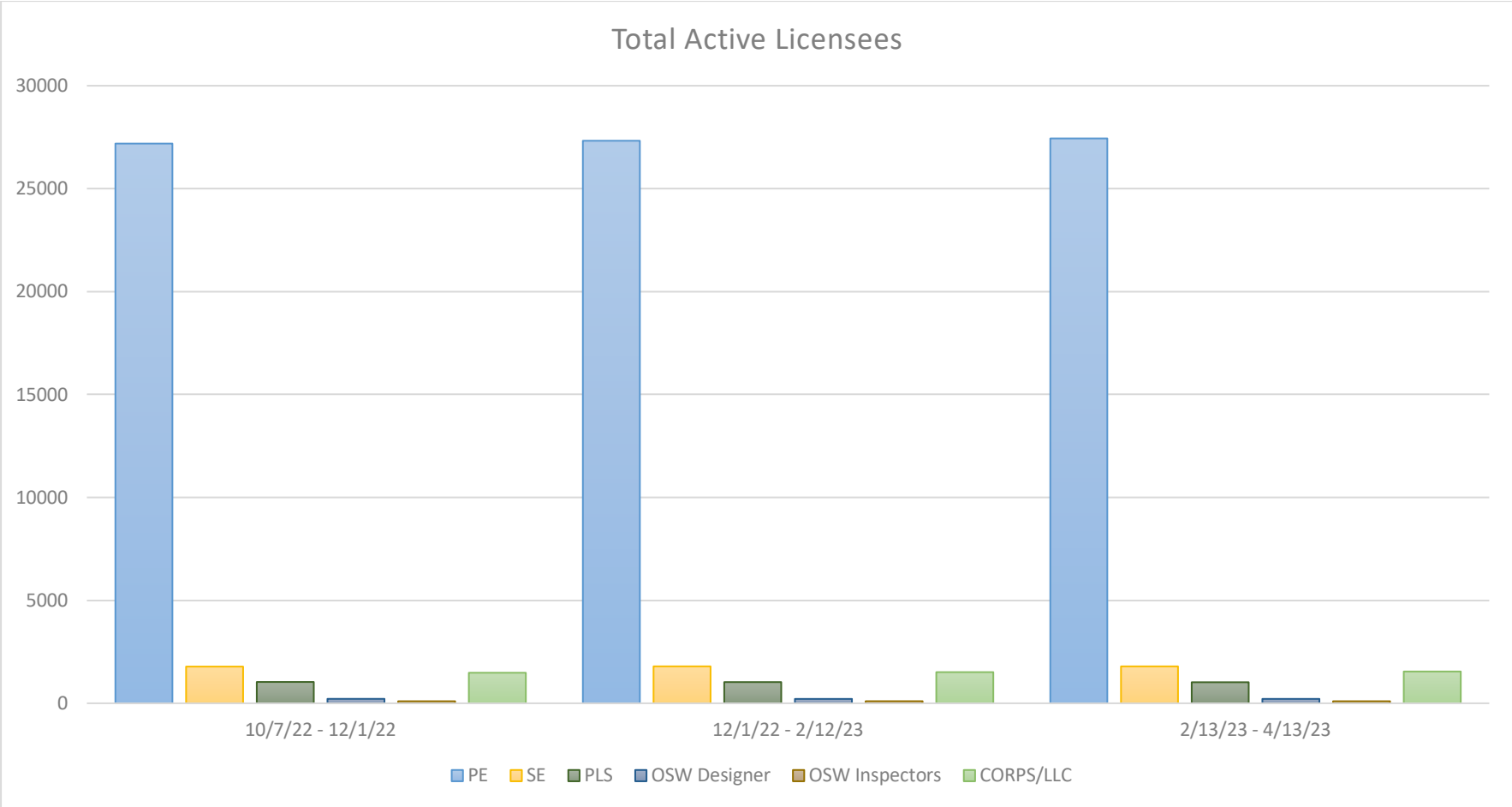
- Board training by Advising and Prosecuting AAGs.
- A document showing past violations and sanctions will be posted to the Board Resources SharePoint site (Indexing with Shanana).



	EIT	LSIT	PE	SE	PLS	OSW Designer	OSW Inspectors	CORPS/LLC
10/7/22 - 12/1/22	86	7	245	10	7	1	1	21
12/1/22 - 2/12/23	124	15	333	49	12	3	4	30
2/13/23 - 4/13/23	125	19	351	11	7	3	2	30



	EIT	LSIT	PE	SE	PLS	OSW Designer	OSW Inspectors	CORPS/LLC
10/7/22 - 12/1/22	140	7	87	6	15	6	4	17
12/1/22 - 2/12/23	58	1	139	22	0	0	0	18
2/13/23 - 4/13/23	131	2	223	5	1	1	0	27



	PE	SE	PLS	OSW Designers	OSW Inspectors	CORPS/LLC
10/7/22 - 12/1/22	27189	1784	1036	216	100	1484
12/1/22 - 2/12/23	27327	1795	1030	213	102	1514
2/13/23 - 4/13/23	27440	1794	1023	214	100	1545

Licensing Program Report April 27, 2023

Apps received 1-1-23 to 4-13-23

EIT = 213

LSIT = 27

PE = 544

- SE = 42

PLS = 18

On-Site Wastewater

- Designers = 6
- Inspectors = 5

Corp/LLC = 188

Apps approved 1-1-23 to 4-13-23

EIT approved = 182

LSIT approved = 12

PE Exams approved = 133

- SE approved: 6

PLS exams approved = 27

On-Site Wastewater

- Designers approved = 4
- Inspectors approved = 5

Corp/LLC approved = 141

Licensed 1-1-23 to 4-13-23

EIT - 186

LSIT - 4

PE - 381

PLS - 1

On-Site Wastewater

Designers - 1

Inspector

Corp/LLC - 41

- **Total active licenses:**
 - PE: 27,440
 - SE: 1,794
 - PLS: 1,023
 - Corp/LLC: 1,545
 - On-Site Wastewater:
 - Designer: 214
 - Inspector: 100

Licensing Program Report April 27, 2023

Currently working on:

- **Special Projects**
 - PLS SME group
 - Uploading questions to Scantron
 - On-Site SME group
 - Scheduling review meetings for 2023
 - Monitor Polaris issues/bug
 - Polaris
 - DOL/BRPELS “bug” meeting: 7
 - Currently have 2 work items
 - Currently have 3 story items
 - Scantron – in progress
 - Uploading PLS SME approved question
 - Uploading OS SME test data
 - Box cleanup – in progress
 - Working with Jill on creating PDH reports within Polaris

Completed items

- Scantron set up
- Hiring of OA3 start date May 1, 2023
- New OS SME & OS Committee onboarded from Eastside of the state (Jesse Cox)

Administration Program Report 04/27/23

Current & Ongoing Items:

- **Required Training**
 - * Board Member Training - August 2nd
 - Training topics may include Open Public Meetings Act, Legal Process, Public Records
 - * Board Member Training – TBD
 - **NEW** Culture of Military Spouses
 - **NEW** Diversity, Equity, and Inclusion Training per [SHR Directive 23-01](#)
- **Develop BRPELS Training Process (W/ Vonna) (90% complete)**
 - * Establish standard process of obtaining access to POLARIS for new or existing employees.
- **Agency Form Clean Up Project (90% complete)**
 - * Update Form Numbers (logos, and misc. information).
 - * Update Barcodes on licensing applications and forms.
- **Admin Policies – List & Reorg**
 - * Develop and establish any missing policies.
 - Layoff Policy
 - Continuity Of Operations Plan (COOP)
 - Mobile Working and Flexible Scheduling Policy
 - Mobile Work Handbook, Mobile Work Agreement, Employee Self-Assessment for Mobile Working, Mobile Work Evaluation, Employee’s Daily Mobile Work Plan
 - * Create a robust employee attestation regarding policies.

Completed Items:

- ✓ **Psychometrician for PLS and OSW Examination**
 - * Contract signed
 - * Vonna & Shanan to provide exam data
- ✓ **Admin Policies – List & Reorg**
 - * Tuition Reimbursement Policy, Tuition Reimbursement Form.
 - * Agency Vehicle Policy & Procedure, Driver Safety Program, Authorized Driver Acknowledgement Form, and Supervisor Risk Management and Safety Checklist.
- ✓ **Department of Enterprise Services Interim Delegated Authority**
 - * Purchasing of goods & services
- ✓ **Hired Non-Perm Office Assistant 3 Position**
 - * Hired Kristel Perezchica
 - * Start Date: 05/01/2023
- ✓ **New Cubicle Space in BRPELS Office**
 - * Delivery/install date: 04/24/2023

Board Meeting

Tab 6

Assistant Attorney General's Report

Board Meeting

Tab 7

Other Business

- 7.1 Additional Public Comment
- 7.2 Upcoming Outreach and Events
- 7.3 Action Items from this Meeting
- 7.4 Agenda Items for Next Meeting

2023

IMPORTANT DATES

JANUARY

SUN	MON	TUE	WED	THU	FRI	SAT
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

FEBRUARY

SUN	MON	TUE	WED	THU	FRI	SAT
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

MARCH

SUN	MON	TUE	WED	THU	FRI	SAT
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

APRIL

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

MAY

SUN	MON	TUE	WED	THU	FRI	SAT
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

JUNE

SUN	MON	TUE	WED	THU	FRI	SAT
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

JULY

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

AUGUST

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

SEPTEMBER

SUN	MON	TUE	WED	THU	FRI	SAT
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

OCTOBER

SUN	MON	TUE	WED	THU	FRI	SAT
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

NOVEMBER

SUN	MON	TUE	WED	THU	FRI	SAT
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

DECEMBER

SUN	MON	TUE	WED	THU	FRI	SAT
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

April

6 Special Board Meeting, Olympia

13-14 NCEES Structural Exams

14 Pacific Northwest ASCE Student Symposium, MSU Bozeman

17-21 & 27 Committee and Board Meeting, Olympia

26-27 American Public Works Association – AWPA, Tacoma

27-29 NCEES Interim Zone Meeting, Houston

May

June

21-22 Committee and Board Meetings – Tri-Cities

30 21/23 Biennium End

July

August

2-3 Committee and Board Meetings – Sea-Tac

2 Board Member Training

15-18 NCEES Annual Meeting, Boston

September

22 State Specific Exams

October

18-19 Committee and Board Meetings, Spokane

26-27 NCEES Structural Exams

4-5 American Public Works Association – AWPA, Wenatchee

November

December

6-7 Committee and Board Meetings, Olympia

2023 State Holidays

PO Box 9025

Olympia, WA 98507-9025

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BRPELS.WA.GOV



Board of Registration for Professional Engineers and Land Surveyors

Action Item List

Executive Committee

Date Assigned	Action Item	Assigned To	Status

Exam Qualifications Committee (EQC)

Date Assigned	Action Item	Assigned To	Status
2/17/21	Research options for the Law Review and State Specific exams to be administered through an alternate platform.	Ms. Cramer	In Progress
10/21/21	Review WAC 196-16 and 196-34 and consider adding language to address the issue of reporting PDHs when a newly licensed surveyor is audited within a year of obtaining their license.	Committee	Pending

Practice Committee (PC)

Date Assigned	Action Item	Assigned To	Status
10/21/21	Review RCW 18.43 and determine next steps to address outcomes from recent litigation concerning the use of the word engineer and the practice of engineering.	Committee	In Progress

Survey Committee

Date Assigned	Action Item	Assigned To	Status
02/22/23	Ms. Lagerberg to perform research regarding records retention (field notes) and bring it back to the committee to discuss at the next meeting.	Ms. Lagerberg	In Progress
02/22/23	Mr. Wengler, Mr. Blaisdell, and Mr. Larson to meet with DNR SAB to discuss the reporting requirements in WAC 332-130-110.	Mr. Wengler, Mr. Blaisdell, & Mr. Larson	In Progress
02/22/23	Ms. Cramer to provide the committee and SMEs with data to determine whether the Angoff score(s) need to be adjusted, as well as looking at exam question performance to see what questions may need to be replaced.	Ms. Cramer	In Progress

On-Site Committee

Date Assigned	Action Item	Assigned To	Status
4/12/22	Compile OS Designer & Inspector pass/fail & reexam statistics over the last 5 years.	Ms. Cramer	In Progress

Board Staff

Date Assigned	Action Item	Assigned To	Status
10/20/22	Discuss and begin writing a Communication Action Plan for board review.	Mr. Fuller Mr. Schieferstein	In Progress
3/3/22	Develop a Letter of Education and BAP alternative to present to the Board.	Mr. Fuller	In Progress
10/20/22	Mr. Schieferstein to provide outreach to licensees regarding general renewal information.	Mr. Schieferstein	In Progress
12/08/22	Mr. Schieferstein to add article to the spring journal to clarify changes to WAC 196-12.	Mr. Schieferstein	In Progress
12/08/22	Mr. Fuller and Board Staff to begin the process of onboarding a new pro-tem board member.	Mr. Fuller Board Staff	In Progress
02/23/23	Mr. Fuller and Ms. Short to contact Island County to determine if they have moved forward with a case against Mr. Hawkins.	Mr. Fuller Ms. Short	In Progress

AGO

Date Assigned	Action Item	Assigned To	Status
4/21/22	Check with Mr. Pitel regarding facilitating a training with the Board.	Ms. Lagerberg	In Progress
6/15/22	Work with staff and Mr. Pitel to review “Standard of Care” in the industry to outline an objective process of what errors or how many errors may trigger moving forward with formal investigation/statement of charges for presentation at August board meeting.	Ms. Lagerberg Ms. Short Mr. Fuller	In Progress
02/23/23	Ms. Short to connect with county prosecutor groups/meetings where the board could engage with them to discuss the gravity of unlicensed practice.	Ms. Short	In Progress

Board Meeting

Tab 8

Adjourn Meeting