

[The following was prepared from an OCR scan of the original letter; some OCR errors may not have been corrected. MR/21 December 2002]

[Letterhead:] State of Oregon

State Board of Geologist Examiners
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December 19,2002

MARK H. REED
719 EAST BEACON DRIVE
EUGENE OR 97404

RE: CC#02-02-001 ; CC#02-02-002

Dear Mr. Reed:

At an Emergency Meeting of the Board held Friday, November 22,2002, the Board dismissed the above-numbered cases. With the Board's attorney's advice, the Board decided that the cases should be dropped.

During the investigative process, the Board concluded that in this unique instance, the First Amendment rights of free speech and the associated ability to write freely on any subject made it difficult to determine whether a violation of the Geology statute had occurred. Due to the complexity of the legal issues and the rules in place at the time you performed the work in question, the Board chose not to pursue this case. In addition, you had no prior history of complaints; you did not claim to be a Registered Geologist; and your actions focused on an issue of personal concern. In compliance cases, the Board's highest consideration is whether public harm has occurred or could occur. The Board did not believe that a decision to leave the property in question undeveloped could injure public health or safety .

This matter also highlighted issues with respect to the Board's Administrative Rule on public testimony. Again, based upon advice from the Board's attorney, the public testimony rule has been rescinded on a temporary basis pending a permanent rule change.

It is important for you to understand that the definition of the public practice of geology [ORS 672.505 (7)] "includes consultation, investigation, surveys, evaluation, planning, mapping, and inspection of geological work, in which the performance is related to public welfare or safeguarding of life, health, property and the environment." You publicly stated at the December 3,2002, meeting of the Board that you have "been on a steep learning curve from this process." In every compliance matter, the Board seeks to elevate the understanding of the practice and, in that respect, this process has been a good one.

However, the Board would have preferred to dismiss this issue at their regularly scheduled meeting of Tuesday, December 3,2002. Board members are all volunteers. Most Board members work and have a full schedule of other responsibilities unrelated to their duties as Board members. Requests for them to commit their time in additional meetings should only be made

when either life or property is in imminent danger. This matter did not present any such danger. It is difficult to understand your sense of urgency in November, since your own request for a delay (from the May 28, 2002, Compliance Committee meeting until August 30, 2002, a three-month period of time) had already significantly slowed the Board's review.

If you would like the Board to address any further questions or issues regarding the practice of geology, please forward those in writing so they may be placed on the agenda of a future Board meeting.

Sincerely,

Susanna Knight
Administrator

cc: OSBGE Members

Eugene Sand and Gravel
Marilyn Heiken, Attorney at Law
Christine Chute, AAG, Attorney in Charge
Marc Abrams, AAG

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