

THE NEVADA CONNECTION

January 2023



CHAIRMAN'S MESSAGE



By Michael Kidd, PLS

Mr Kidd was elected by the Board to serve as chair effective July 1, 2021, and he was re-elected to serve a second one-year term on June 9, 2022. He was initially appointed to the Board by Governor Brian Sandoval July 1, 2014. Governor Sandoval reappointed Michael, July 1, 2017, to serve his second three-year term. He was reappointed July 1, 2020, to serve his third three-year term by Governor Steve Sisolak.

2022 was a busy year for the Board, and I'd like to highlight several of our accomplishments.

First, the Board reviewed PLS regulations, and created a subcommittee of land surveying experts to thoroughly review all of the PLS Standards of Practice regulations and propose updated language. This effort will continue in 2023, and we will hold several public workshops to receive comments and make further changes as needed. We are hopeful we can get through the process this year and are working diligently to have updated regulations adopted before the end of 2023. I also want to thank Matt Gingerich, a Board member and fellow professional land surveyor, for his leadership and work on this important project.

Second, the Board overhauled the Nevada State Specific PLS exam that applicants must pass to become licensed in Nevada. As a licensed professional land surveyor, I am proud of the Board's efforts in adopting an open-book exam format and also updating the questions and text in the exam. I want to thank the committee volunteers: Paul Burn, PLS, Robert Carrington, PLS, Dan Church, PLS & CFedS, Alan Dill, PLS, Jason Fackrell, PLS, Kevin German, PLS, Jason Higgins, PLS, Russell Jamison, PLS, Michael Kidd, PLS, George Lindesmith, PLS, Steve Parrish, PLS & CFedS, and Greg Phillips, PLS.

And third, the Quality of Plan Submittal Task Force, facilitated by the Board and led by the City of Henderson in 2022, is very close to completing a Best Practices guide that will be made available to public agencies and professionals. We hope the Best Practices Guide developed by the Task Force will serve as a useful resource to agencies and professionals. I look forward to announcing the guide's completion in the near future and thanking the many people who made it possible. Stay tuned.

I'd like to also highlight the board's efforts to be flexible in considering what constitutes a four-year degree required for licensing as a professional land surveyor. Please read the [PLS Education](#) article in this newsletter which provides case studies of applicants who were licensed in the past two years.

As for other Board activities, please read the following:

- [Reappointment of two board members – Matt Gingerich, PLS and Tom Matter, Public Member](#)
- [NCEES PE Mechanical Engineering Survey 2022](#)
- [Unconventional Pathways to Become a Licensed Land Surveyor](#)
- [Continuing Education - PDH Questions and Answers](#)
- [Nevada Law Books are available for licensees to order FREE on our web site](#)
- [Nevada Board Compliance Actions](#)

REAPPOINTMENT OF TWO BOARD MEMBERS

Governor Sisolak reappointed Matt Gingerich, PLS, and Tom Matter, Public Member, to the board effective July 1, 2022.



Matt Gingerich, PLS

Matt Gingerich was initially appointed to the board by Governor Sisolak July 1, 2019 to take over the seat previously held by past chair Robert LaRiviere, PLS, whose term expired June 30, 2019. Governor Sisolak reappointed Matt, July 1, 2022 to serve a second three-year term.

Matt is a licensed professional land surveyor in Nevada. His surveying career began with the Bureau of Land Management and he later worked in the private sector. Currently, Matt leads the Land Resources department for NV Energy's northern service territory. Over the last twenty years he has been involved with a wide range of responsibilities in surveying and land rights related to the construction and operation of the expanding gas and electric utility infrastructure in Northern Nevada. One of the larger projects he has contributed to was the 500 kilovolt transmission line connecting northern and southern Nevada.

Matt graduated from the University of Nevada, Reno with a Bachelor of Arts in History and the Oregon Institute of Technology with a Bachelor of Science in Land Surveying. He has served as President of the Nevada Association of Land Surveyors Chair of the Western Federation of Professional Surveyors, and Chair of the Bureau of Land Management Sierra Front-Northern Great Basin Resource Advisory Council. Matt and his wife Laura live in Sparks and have two sons, Chad and Troy.



*Tom Matter,
Public Member*

Tom Matter was elected by the Board to serve as vice-chairman effective July 1, 2021, and he was re-elected to serve a second one-year term on June 9, 2022. Tom is the first public board member to serve as vice-chairman on the Board. He was initially appointed to the board by Governor Brian Sandoval April 18, 2018, to finish a partial term of a board member that was unable to complete their three-year term. He was then appointed by Governor Sandoval July 1, 2018 to serve his first three-year term. Governor Sisolak reappointed Tom, July 1, 2021, to serve a second three-year term.

Tom is currently the Project Manager for Mountain West Builders and resides in Reno, NV. At Mountain West Tom oversees multiple vertical building projects across a multitude of business sectors. Prior to joining Mountain West Builders, Tom worked for Granite as the Vertical Market Manager with the primary responsibility of growing Granite's Vertical Construction group regionally. And prior to Granite, he was at CH2M HILL as part of its Industrial and Advanced Technologies Group focusing on front-end solutions for high-tech clients.

Tom earned his Bachelor of Science degree in Mechanical Engineering and his MBA from the University of Nevada, Reno. Since graduating with an engineering degree he has over 10 years of experience in both construction and engineering design work. Tom and his wife Kara have two children, Kolten and Reese. For fun, Tom enjoys skiing, golfing, exercising, and coaching his children's various athletic teams. Tom is also an active board member for the University of Nevada Alumni Football Association and Strengthen the Pack, a fundraising group with a goal of assisting the University of Nevada, Reno in building nationally ranked athletic programs.

NCEES PE MECHANICAL ENGINEERING SURVEY 2022

NCEES is still seeking licensed mechanical engineers to participate in a professional activities and knowledge study, or PAKS, for the PE Mechanical exams. The results of this online survey will be used to update the content of the PE exam, which is used throughout the United States. The survey can be completed in 20–40 minutes.

For access to the online survey, visit ncees.org/PEMechanicalPAKS.

The survey will be open until March 15, 2023. Please help us spread the word about this important study by sharing this email with any colleagues who are licensed mechanical engineers.

For more information, contact **NCEES Exam Development Engineer Don Colman, P.E.**, at dcolman@ncees.org.

UNCONVENTIONAL PATHWAYS TO BECOME A LICENSED LAND SURVEYOR



Nevada Revised Statutes states that a PLS applicant must be **“a graduate of a land-surveying curriculum of 4 years or more that is approved by the board.”** The Board reads the statute literally which has resulted in unconventional pathways to become a licensed land surveyor. Following are a few case studies of applicants that were granted initial licensure by the Board where the applicant had an unconventional pathway to meeting the education requirement for becoming a licensed land surveyor:

Case Study #1 for initial licensure

Applicant had a Bachelor’s degree in civil engineering and 45 credit hours of land surveying courses from Great Basin College.

Case Study #2 for initial licensure

Applicant had a Bachelor’s degree in mechanical engineering and 35 credit hours of land surveying courses from Great Basin College.

Case Study # 3 for initial licensure

Applicant had a Bachelor’s degree in Geodesy, Cartography, and Land Management and a Masters in Land Management and Land Resources, coursework included 36 credit hours of land surveying.

Case Study # 4 for initial licensure

Applicant had a Bachelor’s degree in Regional Development and a Masters in Forest Resources and Conservation, coursework included 30 credit hours of land surveying.

Following are a few case studies of applicants that were granted comity licensure—applicant was licensed in another state and applied for licensure by comity in Nevada:

Case Study #1 for comity licensure

Applicant had an Associate of Arts from a Community College (65 credit hours), 55 credit hours from University of Nevada Reno, 31 credit hours in Land Surveying from Great Basin College. The applicant did not have a Bachelor’s degree in land surveying, but had the equivalent of a Bachelor’s degree, at least 120 credit hours, and also had at least 30 hours of land surveying.

Case Study #2 for comity licensure

Applicant had a Bachelor’s degree in English with a minor in Mathematics and 18 credit hours in land surveying.

Case Study #3 for comity licensure

Applicant had an Associates of Science degree in General Studies (coursework included surveying coursework) and a Bachelor of Arts in International Studies.

In all the example cases provided, the Board deemed the applicant met the intent of the statutory requirement for education. General advice given by staff to applicants with unusual education circumstances, is to take land surveying courses to augment their military training, associate or Bachelor’s degrees that will best prepare the applicant to pass the NCEES Fundamentals of Surveying exam and the Professional Surveyor exam. If you have an unusual educational circumstance, you can [contact the board office](#) and talk to staff about your options for becoming a licensed land surveyor.

The Board is committed to providing for the licensure of qualified and competent professional land surveyors in a manner that safeguards life, health and property and to promote public welfare, while remaining flexible when considering non-traditional educational credentials of land surveyor applicants.

CONTINUING EDUCATION - PDH QUESTIONS AND ANSWERS

We try to make our website your go-to resource to answer all engineering and land surveying questions in Nevada, but we still get phone calls and emails from licensees looking for answers to specific questions. Some of the most common questions are related to continuing education requirements, also known as Professional Development Hours (PDHs).

Our [Continuing Education page](#) does a pretty good job of explaining the basics, but we thought it would be helpful to answer a few questions we get asked repeatedly:

- With Covid-19 restrictions during the past couple years, in-person conferences and other educational opportunities were limited or unavailable. Does Nevada still offer a PDH waiver or grace period?

No. The Board did offer a grace period for PDH requirements in 2020 and 2021, but most regularly scheduled PDH conferences and courses returned to in-person in 2022, giving licensees ample opportunities to earn PDH credit. Additionally, the regulation that addresses PDH activities (NAC 625.470) was also updated to allow PDH credit for self-study activities. This means that you can earn PDH credit for reading white papers, reports, or attending online webinars.

- I haven't been practicing engineering or land surveying in Nevada during the most recent renewal period. Do I still need to report PDH activity?

Yes. If you plan to renew your Nevada license, you must report a minimum of 30 PDH credits by your renewal deadline. If you choose not to renew your Nevada license, then you are not required to report your PDH activity. But if you do not renew your license, you are prohibited from offering engineering or land surveying services in Nevada until your license is made current.

Your other option is to renew as "INACTIVE" which exempts you from PDH reporting. But if you renew as INACTIVE, you would also be prohibited from practicing in Nevada. You could bring your license to ACTIVE status during the renewal period by providing proof that you completed 30 PDH credits. But keep in mind, you would need to satisfy another 30 PDH credits by your renewal deadline.

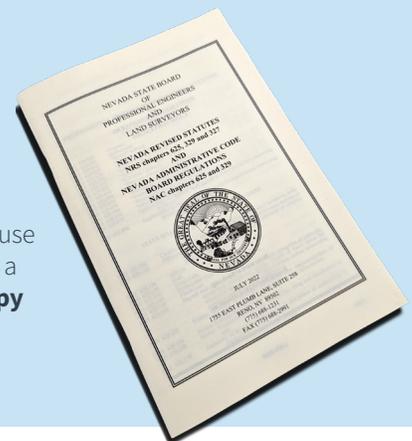
- I am current on my PDH requirement in Nevada. Do I need to send certificates of completion or other proof to the board in order to renew my license?

No. As a licensed professional in Nevada, it is your responsibility to log your PDH activity and keep records, but you are not required to provide proof unless you are audited. If you are audited, you will be required to provide a PDH Activity Report and accompanying certificates and other forms of proof.

If you have other question regarding PDH's, you're always welcome to email us or call us.

NRS/NAC 625 LAW BOOK AVAILABLE

The Nevada legislature codified several updates to NRS and NAC 625 in July 2022. Because the updates were significant, we are making printed books available to our licensees as a courtesy. Current licensed engineers and land surveyors may request a **free mailed copy** by filling out a simple form on our website - <https://nvbpels.org/book-request/>.



NEVADA BOARD COMPLIANCE ACTIONS

Ali Fakih, PE 028788

Case Number: 20210007

Violation of NRS 625.520(1), (2) and (3); NRS 625.407(3)(b); and NAC 625.530

STIPULATED AGREEMENT with the Nevada Board of Professional Engineers and Land Surveyors

In June 2020, Sustainability Engineering Group, LLC (“SEG”), of which Mr Fakih is the principal engineer, began engaging in discussions with a client for SEG to provide professional services for actual and conceptual commercial property development projects in Arizona, California, Colorado, New Mexico and Nevada. On October 12, 2020, a contract was accepted and executed between the client and SEG.

In early 2021, issues arose between the parties. SEG claims the client was late on payments and failed to pay for some of the completed work, while the client alleges SEG failed to meet the contracted obligations by not performing services in a timely and diligent manner, plus billing for fifty percent (50%) completion on projects yet-to-be fifty percent (50%) completed. The client refused to pay SEG until they received an explanation as to why it was being billed for work that had not been completed. However, SEG did not provide explanation acceptable for the billing irregularities. In May of 2021, after failed attempts at resolution, SEG terminated the contract due to the client’s failure to pay invoices, and filed a mechanic’s lien on a Las Vegas project. In May 2021, P9 learned that, during the course of work, Mr Fakih was not licensed in Nevada and SEG was not registered with the State Board. As a result of the above assertions, the client filed the complaint initiating this matter with the State Board.

On February 27, 2020, prior to beginning work with the client, Mr Fakih submitted an online endorsement licensure application. At the time of application, Mr Fakih was actively licensed in Arizona, California, Colorado, and Oregon and was seeking licensure in Florida. On February 28, 2020, a record from the National Council of Examiners for Engineering and Surveying (“NCEES”) was received by the State Board. On March 6, 2020, an email was sent by the State Board to Mr Fakih with conditional approval pending him passing of a short-written exam per NAC 625.240.1(b) and payment of a pro-rated license fee per NAC 625.410(3). Between April 2020 and March 2021, the State Board sent several reminder emails to Mr Fakih of the additional steps needed to complete his application process.

Violations and Disciplinary Actions

Pursuant to NRS 625.520 (a), (l) and (2), it is unlawful for any professional engineer to practice or to offer to practice a discipline of professional engineering in which the State Board has not qualified him. Mr Fakih admits that he erred in not completing licensure in Nevada and not filing firm registration before contracting for and providing professional engineering services in Nevada, but he asserts that these errors were inadvertent and without intent. Nevertheless, even if inadvertent, the error is a violation of NRS 625.520 (a)(l) and (2). In addition, under NRS 625.520(3), it is unlawful to offer services as an engineer in a discipline licensed in Nevada without disclosing the lack of licensure. Mr Fakih did not disclose his lack of licensure as a professional civil engineer in Nevada to the client, so he violated NRS 625.520(3).

Further, it is a violation of NRS 625.407(3)(b) for a person to hold him or herself out as practicing a certain discipline of engineering services in Nevada, unless that person is licensed in that discipline or employs at least one full-time professional engineer or professional land surveyor licensed in that discipline. Mr Fakih was neither licensed in Nevada for any discipline of engineering, nor did he have any licensed Nevada engineer in his employ, civil or otherwise. Thus, Mr Fakih violated NRS 625.407(3)(b).

Additionally, Pursuant to NAC 625.530, in a professional engineer’s relations with his clients, the professional engineer shall act in professional matters as a faithful agent or trustee for his client. Mr Fakih failed to act as a faithful agent to the client by providing engineering services therefor in Nevada without appropriate licensing for himself or registering SEG with the State Board, and he did not disclose these facts to the client when contracting, and subsequently performing the work. The client only discovered the lack of licensure and registration when filing a complaint with the State Board. This lack of disclosure is not the act of a faithful agent, and, thus, Mr Fakih violated NAC 625.530.

-- Nevada Board Compliance Actions continued --

Based on the foregoing, Mr Fakih stipulates that he violated NRS 625.520(1), (2) and (3); NRS 625.407(3)(b); and NAC 625.530.

Pursuant to NAC 625.640, a disciplinary matter may be resolved without a formal hearing by a Stipulated Agreement. To that end, to resolve the complaint, Mr Fakih and the State Board resolve this matter on the following basis:

1. Mr Fakih's Nevada license shall be suspended for twelve (12) months but with the suspension stayed and probation imposed for the duration of that time period. The stay of Mr Fakih's suspension may be lifted by the State Board upon notice and the opportunity to be heard should Mr Fakih fail to abide by the terms hereof. Mr Fakih's successful completion of probation is expressly conditioned upon his full compliance with the following conditions of probation:
 - (a) Mr Fakih shall submit detailed bi-monthly probation reports to the Executive Director of the Nevada Board, which shall report any work completed in Nevada during the previous two (2) month period. A report shall be filed even if no work is performed in Nevada during the previous two (2) month period. The first report shall be due within two (2) months of the effective date of this Stipulated Agreement. Each report shall include client contact information and a copy of the contract executed for any work in Nevada, including the scope of work detail.
 - (b) Mr Fakih shall pay a fine of Three Thousand and No/100 Dollars (\$3,000.00) within six (6) months of acceptance and execution of this Agreement by the State Board.
 - (c) Mr Fakih shall pay the State Board Two Thousand Seven Hundred Three and No/100 Dollars (\$2,703.00) as reimbursement of legal and administrative expenses expanded by the State Board in this matter, within six (6) months of acceptance and execution of this Agreement by the Board.
 - (d) Mr Fakih shall provide notice to client(s) on Nevada projects whereupon work was performed prior to May 10, 2021, that he was not licensed to offer or perform engineering services in Nevada, and that SEG was not properly registered to operate in Nevada prior to May 10, 2021. Mr Fakih shall provide proof of notice to the Board within thirty (30) days of acceptance and execution of this Agreement by the Board.

Robert Mercado, PLS 010352

Case Number: 20210001

Violation of NRS 625.410(5), NRS 625.340, NAC 625.425, and NAC 625.545

DECISION and ORDER by the Nevada Board of Professional Engineers and Land Surveyors

On or about July 14, 2021, as culmination of disciplinary complaint filed against Mr Mercado, the State Board executed a Stipulated Agreement with terms offered by Executive Director of the Board and accepted by Mr Mercado ("the Stipulated Agreement"). Pursuant to the Stipulated Agreement the State Board imposed a two (2) year suspension of Mr Mercado's Nevada professional land surveying license, but the suspension was stayed so long as Mr Mercado abided by the terms of the Stipulated Agreement.

The Stipulated Agreement provides, in relevant part, that Mr Mercado's license shall be suspended for two (2) years immediately following entry of this Stipulated Agreement, but with the suspension stayed and probation imposed for the duration of that time period." However, the stay comes with the proviso that "[t]he stay of Mr Mercado's license suspension may be lifted by the State Board, upon notice and the opportunity to be heard, should Mr Mercado fail to abide by the terms hereof".

The terms of the Stipulated Agreement required Mr Mercado to:

- pay the State Board an administrative fine of One Thousand Five Hundred and No/100 Dollars (\$1,500.00)
- reimburse legal fees to the State Board in the amount of Two Thousand Two Hundred Seventy-One and No/100 Dollars (\$2,271.00)

- submit a White Paper of defined content for State Board approval, all by October 12, 2021
- submit detailed bi-monthly probation reports to the Executive Director of the State Board for the duration of the probation.

After the Stipulated Agreement was entered, Mr Mercado requested and was granted by the State Board staff an extension and graduated payment plan for the fines and fees, as well as an extension of time to submit the White Paper.

Nonetheless, Mr Mercado has been late on payments, even with extended and graduated payment dates. In addition, Mr Mercado still has not submitted the White Paper. Further, the bi-monthly probation reports have been routinely late from Mr Mercado, and to date he has failed to submit the probation reports since November 15, 2021.

Via a letter from the State Board counsel, dated December 22, 2021, sent certified mail and via email (Mr Mercado confirmed email receipt January 3, 2022), Mr Mercado was provided notice of consideration on the matter of the assertion of lack of compliance with the terms of the Stipulated Agreement, to be heard by the State Board on January 20, 2022 at 9:00 a.m. Mr Mercado responded that he would be attending the hearing of the matter. Mr Mercado failed to appear at the time and place set for the matter, nor did he call in to participate/appear telephonically, although given the opportunity.

Mr Mercado has failed to abide by the terms of the Stipulated Agreement by failing to make timely payments of fines and fees due under the Stipulated Agreement, even with extensions and payment plans provided to him by the State Board (through staff), subsequent to the Stipulation Agreement being entered. Mr Mercado has further failed to abide by the terms of the Stipulated Agreement by not submitting a White Paper as specified to the Board by the subsequently extended date of December 1, 2021. Mr Mercado has further failed to abide by the terms of the Stipulated Agreement by not timely submitting bi-monthly probation reports. Mr Mercado did not appear before the State Board at the time and place for consideration of this matter, after due notice.

Pursuant to the Stipulated Agreement, Mr Mercado's professional land surveying license, No. 010352, issued by the State Board, was suspended for a period of two (2) years, i.e. until July 14, 2023, but that suspension was stayed and probation was imposed so long as Mr Mercado abided by the terms of the Stipulated Agreement. Pursuant to the Stipulated Agreement, the stay of the suspension of Mr Mercado's professional land surveying license, No. 010352, issued by the State Board, may be lifted by the State Board upon notice and the opportunity to be heard, should Mr Mercado fail to abide by the terms of the Stipulated Agreement.

Mr Mercado has failed to abide by the terms of the Stipulated Agreement.

THEREFORE, ON MOTION DULY MADE, SECONDED AND ADOPTED, THE STATE BOARD ORDERED THAT:

The stay on the suspension of Mr Mercado's professional land surveying license, No. 010352, issued by the State Board, is hereby lifted, and **said license is thus hereby suspended until July 3, 2023, or until Mr Mercado comes into compliance with all of the terms of the Stipulated Agreement** (albeit past the dates set for performance under the Stipulated Agreement and administratively extended by State Board staff), whichever occurs first.