

State Board of Professional Engineers and Land Surveyors

Minutes of September 6, 2001

PUBLIC SESSION

CALL TO ORDER

The meeting of the State Board of Professional Engineers and Land Surveyors was called to order by the Board President James Kelly at 9:00 am in the Hudson Conference Room, Sixth Floor, 124 Halsey Street, Newark, New Jersey. All parties were duly notified of the time, date and place, with all pertinent material being provided.

SUNSHINE LAW ANNOUNCEMENT

President Kelly read the statement required by Chapter 231, Laws of 1975 known as the Open Public Meeting Act, and announced that notice of this meeting was prepared in the office of the Board and mailed to the Secretary of State, the Star-Ledger, the Courier Post and the Bergen Record.

ROLL CALL

BM's present:

James Kelly
Pravin Patel
Edward Vernick
Robert Marshall
Richard Frantz
Theodore Cassera (9:45am)
Rishi Raj
Louis Raimondi
Albert Faraldi

BM's absent:

Robert Bogart

Others present: Arthur Russo, Executive Director, William Mandeville, Program Development Assistant Joseph Grabowy, Auditor/Accountant Assistant, Ernest Gonzalez, Acting Recording Secretary, Martha Richardson, Staff, Deputy Attorney General Michelle Albertson, and two members of the public.

APPROVAL OF MINUTES

June 21, 2001

On a motion by BM Frantz, seconded by BM Vernick, the Board unanimously voted to approve the minutes of June 21, 2001 as submitted.

July 12, 2001

On a motion by BM Frantz, seconded by BM Vernick, the Board unanimously voted to approve the minutes of July 12,

2001 as submitted. BMs Marshall and Faraldi abstained from this motion.

COMMITTEE REPORTS

Legislation

BM Vernick submitted a legislation report outlining the following:

A1712/S842 - Authorizes assessment of development impact fees by municipalities - On January 11, 2000 this bill was introduced and referred to the Assembly Housing Committee. It appears similar to A494 from the 1998/99 session which was supported by the League of Municipalities but opposed by the Builders' Association.

A2336/S789 - Capital and Educational Facility Financing Act (Impact Fees) - On May 1, 2000 this bill was introduced and referred to the Assembly Local Government Committee. It appears to be the Builders' Association response to A1712 (above).

A755 - Changes the duration of contracts for professional services under the "Local Public Contracts Law" from 12 months to 24 months - On January 11, 2000 this bill was introduced and referred to the Assembly Local Government Committee.

A1142 - Establishes the Professional, Occupational and Trades Licensing Review Commission - On January 11, 2000 this bill was introduced and referred to the Assembly Consumer Affairs and Regulated Professions Committee.

S1079 - Establishes ten year limitation on surveyor's liability with an exception for adverse possession cases - S1079 passed the Senate on October 2, 2000, with amendments. Passed the House on March 26, 2001 and was signed on May 4, 2001.

A2567/S1408 - Provides broader investigative and enforcement authority to professional licensing boards and other amendments to the statute - Reported favorably out of the Assembly Consumer Affairs and Regulated Professions Committee on August 23, 2001.

A2768/S2282 - Interior Designers Certification Act - On September 25, 2000 this bill was introduced and referred to Assembly Consumer Affairs and Regulated Professions Committee. On March 1, 2001 this bill was reported out of this Committee and referred to the Assembly Appropriations Committee on March 29, 2001. Similar legislation (S2282) was introduced in the Senate.

The Board had previously reviewed the provisions of this bill along with comments from the Board of Architects. It generally agrees with the concerns and position that the Board of Architects expressed in its writing to the Director of Consumer Affairs, and, at its October 19, 2000 meeting, voted to support this position. S2282 passed the Senate on June 28, 2001.

A2913 - Prohibits limitations on a contractor's remedy for delay caused by contracting unit under the "Local Public Contracts Law." On November 9, 2000, this bill, which was introduced and referred to the Assembly Local Government Committee, would prohibit "no damage for delay" clauses in contracts made under the Local Public Contracts Law. The bill was reported out of Assembly Local Government Committee on January 18, 2001, with amendments to include the Public School Contracts Law. On March 26, 2001 this bill passed the Assembly and was referred to the Senate Education Committee. This bill passed the Senate on June 28, 2001 and was signed by the Governor on August 8, 2001.

AJR51/SJR26 - Establishes a "Local Public Works Contracting Law Study Commission" consisting of nineteen members - On October 12, 2000 AJR51 was introduced and referred to the Assembly Local Government Committee. On December 4, 2000 SJR26 was introduced and referred to the Senate Community and Urban Affairs Committee. A Senate Committee hearing was held on December 14, 2000, and passed the Senate on March 29, 2001 and referred to the Assembly Local Government Committee.

A2945/S1991- Authorizes public entities to use asphalt milling and recyclable concrete as a paving material, notwithstanding any other law, rule or regulation by NJDEP - On December 7, 2000, A2945 was reported out of the Assembly Transportation Committee. On December 15, 2000, S1991 was introduced and referred to the Senate Transportation Committee. A2945 was passed in the Assembly on June 28, 2001.

A3154/S2269 - Permits issuance of home inspector licenses to professional engineers and architects - A3154 passed both the Assembly & the Senate and was signed by the Governor on July 13, 2001.

S2112 - Includes Certified Landscape Architect as a "closely allied professional" - Passed the Senate on March 26, 2001 and was reported out of the Assembly Consumer Affairs & Regulated Profession Committee on May 17, 2001.

S1714/A2863 - Appropriate \$135 million to DEP for dam, lake and stream projects - On October 12, 2000 A2863 was introduced and referred to the Assembly Environmental Committee. On December 18, 2000 S1714 was passed in the Senate and referred to the Assembly. The Board reviewed and discussed both bills and on a motion by BM Vernick, seconded by BM Patel, unanimously voted to take no position on them. Director Herr, in a March 5, 2001 memo, was so notified. Passed the Assembly on June 28, 2001.

A3496/S1740 - Local Bridge Bond Act of 2001 authorizes \$250 million in bonds for County and Municipal bridge improvements - On May 21, 2001, A3496 was reported out of the Assembly Transportation Committee and referred to the Assembly Appropriation Committee. On June 7, 2001, S1740 was introduced and referred to the Senate Transportation Committee.

Watershed Management Rules (D.E.P. rules & regulations) - Opposition voiced by both builders and environmental groups. Assembly has passed ACR 124 opposing rules. Identical Senate bill, SCR76 is being held by sponsor. The portion of the rules that covers discharge of wastewater to groundwater became effective on March 20, 2001 (N.J.A.C. 7:15-8.)

S2250/A3293 - Rescinds recent NJ DEP rules on subsurface sewage disposals for development of 6 lots or more, or 2,000 gpd or more (see above) - On March 22, 2001, A3293 was referred to the Assembly Environmental Committee. S2250 was referred to the Senate Environmental Committee on March 26, 2001.

Administration

No report.

Examinations

No report.

Education

BM Vernick informed BM Frantz that after checking the correct terminology of the names of individual industrial arts courses, he will forward a draft copy of the Board's position opposing the exclusion of high school level industrial art classes for credit towards graduation to the New Jersey Department of Education.

Regulations

No report.

Finance

No report.

Special Committee Reports

Newsletter

BM Raimondi informed the Board that the summer/fall 2001 edition of the Board's newsletter has been mailed to all licensees and that the 4th edition is currently being drafted. In this edition, an update to the Disciplinary Actions section will include a statement involving Harry J. Duckinfield, PLS, (GS22711). In the previous newsletter it stated that Mr. Duckinfield was assessed a civil penalty of \$1,000. On July 13, 2001 the Board issued a Amended Final Order of Discipline thereby vacating the Final Order of Discipline issued on November 2, 2000.

In addition, the Board unanimously voted to send upcoming newsletters to the universities and libraries of New Jersey.

Applications: Revisions PE/LS and Design Experience

Due to BM Bogart's absence, this item will be carried to the next Public Session Meeting.

Joint Committee

No report. VP Patel mentioned that the next scheduled meeting of the Joint Committee of registered architects and professional engineers will be held in October 2001.

Website

The Board noted that the deadline dates for the acceptance of applications in the Board office for the April and October 2002 examinations, needs to be updated to accurately reflect the proper dates.

Certificate of Authorization

While there was not a formal report on this subject, the status of the proposed regulations was tabled. Specifically, the regulation requiring the Certificate of Authorization (C/A) number to be included within the title block.

DAG Bradford suggested that a memorandum be sent to regulatory analyst Stacy Mola requesting an update on this regulation and the others.

Once the regulation requiring a C/A number in the title block is adopted, the Board requested that a letter be sent to all companies having a C/A, to all municipal engineers, and to the engineering societies advising them of the new requirement. In addition, the Board requested that a special notice be posted on its Website of any new regulations adopted as law.

BM Raimondi suggested that the C/A number be included on the letterhead of engineering and or land surveying companies. After discussing this matter the Board concluded that while this is a good idea, they recognize that any amendments to the regulations will further delay their adoption. This subject will be addressed in the future.

The Board recommended that the C/A Committee be deleted from the agenda as a subcommittee and replaced with a 2003 Northeast Zone Meeting agenda item in its place.

Committee chair Frantz circulated a copy of a advertisement from a company by the name of Robson Lapina. After a brief discussion the Board directed that the Staff send a letter of inquiry to this company to determine their corporate structure and if they are in compliance with the C/A requirements.

2003 Northeast Zone Meeting

BM Raimondi informed the Board that the 2003 Northeast Zone Meeting will be a joint meeting between the northeast zone and the central zone, and will be held in Orlando, Florida on April 3-5, 2003. The Board will still act as the host state of the northeast zone. While NCEES will handle the bulk of the preparation work involved, the Board will still need to facilitate the event.

REPORT OF BOARD PRESIDENT

Report of the Annual NCEES Conference

President Kelly stated that BMs Patel, Raimondi, ED Russo and himself attended the NCEES Annual Conference held in Littlerock, Arkansas in August 2001. ED Russo reported that there were several distinct topics discussed at that meeting that the Board should explore. First, the need to reach-out to undergraduate students and encourage them to become licensed. The first step in this process would be to have undergraduate students apply and sit for the Fundamentals of Engineering examination. Another topic involved moving the examination date of the Fundamentals of Engineering examination to not conflict with undergraduate final examinations. Past studies indicate that if both examinations are scheduled near each other students place a far greater emphasis on preparing for undergraduate exams rather than the FE. The strategy is to push up the FE examination date to not conflict with the scheduling of final examinations.

The issue of mobility of licensure was also discussed at the conference. It seems that these licensees are not treated any differently or given a higher priority than new applicants. Recommendations from the Board suggested that some board members handle comity applications only and others just new applications. A motion was made by BM Cassera and seconded by BM Faraldi to return an application within 3 weeks of receipt by a Board member. Furthermore, as a rule of thumb, an applicant can be told to expect a Board response within 45 days of receipt of his application in the Board office. The staff will contact those Board members from whom a application is not received back within one month.

Another item discussed at the NCEES Conference was the use of calculators by examinees. Currently, examinees can utilize almost any type of machine they bring with them. NCEES is considering loaning standardized calculators to all examinees to eliminate any unfair advantage by those examinees having more powerful machines. A fee of approximately \$15.00 would apply for borrowing a calculator.

Currently, NCEES uses an evaluation system by ECEI, which is associated with the Accreditation Board of Engineering and Technology (ABET). The Board has not recognized this evaluation service in the past, but BM Patel indicated that a representative from ECEI has offered to speak to the Board in the hopes of it accepting their service over Educational Credential Evaluators, Inc. (ECE). William Mandeville will schedule ECEI at an upcoming Board meeting.

The Board appointed BM Raj to the Educational Committee. He will work along with Joseph Grabowy on this committee and both will serve as liaisons to the universities in New Jersey.

EXAM SITE LOCATIONS

BM Vernick stated that BM Faraldi, ED Russo, Joseph Grabowy and himself toured Rowan University to serve as a possible examination site for the April 2002 examinations. BM Vernick said that accessibility to the site, parking, lunch accommodations and security were top concerns and were all found to be acceptable. While the main ballroom where the examinations will be offered is still under construction, it is expected to be completed in December 2001. The main ballroom is located in the student center and will offer more than adequate lighting, heating and air conditioning and seating capabilities. On a motion by BM Vernick, seconded by BM Faraldi, the Board unanimously voted to select Rowan University as a site location for the April 2002 examination. In the event the main ballroom is not completed in time for the April 2002 examinations, the Rowan gymnasium will be utilized as the backup location.

PCS will be notified to contact Rowan regarding use of their site. ED Russo informed the Board that the agreement between PCS and NJIT has been executed and NJIT will be the northern location for the October 2001 examination. The West Trenton location will continue to serve as an examination site.

REPORT OF THE EXECUTIVE DIRECTOR

General Report

ED Russo informed the Board that Ms. Diane Dorland, Dean of Rowan University, has applied for licensure & may

become the first dean to be issued a New Jersey professional engineers license. ED Russo would like to invite Dean Dorland to the upcoming Certificate Awards Ceremony in October 2001 to speak and to be awarded her license, (assuming a successful and timely review of her application). The Board approved this decision.

ED Russo informed the Board that there was a request to include Environmental Engineering as an examination discipline. On a motion by VP Patel, seconded by BM Vernick, the Board agreed to add an examination in Environmental Engineering as a separate engineering discipline. This now brings to seven the number of engineering testing disciplines offered in this State.

ED Russo indicated that the 4 year contract with Professional Credential Services, (PCS) previously approved by the Board needs to be readjusted into two separate contracts. One contract will include the October 2001 examination. The second multi-year contract will be effective with the April 2002 examinations and will allow PCS to schedule all applicants and collect all examination fees. On a motion by BM Patel and seconded by BM Vernick, the Board voted to accept the second revised contract. The scheduling fees charged by PCS will be periodically monitored.

ED Russo stated that the Colonial States Awards of Land Surveyor Registration will be held on October 5-6, 2001. BMs Raimondi and Faraldi will contact ED Russo regarding there possible attendance.

Incoming Correspondence

John C. Richardson, Jr., PLS/ Boswell Engineering

RE: Issue Regarding Planning & Engineering

(June 29, 2001)

Mr. Richardson writes in reference to the requirements of a ALTA/ACSM land title survey. The Board concluded that he is able to do the survey for the client, but must follow the statutes and regulations of the Board. Any requested information outside the professional reporting requirements of his surveyor's license should be so noted on the plat.

BMs Raimondi and Faraldi will draft a response to Mr. Richardson and a separate letter to ALTA/ACSM advising them to inform people that a surveyor may complete functions involving zoning codes only if it is permitted by the regulations of their licensing state.

Renee P. Clark, Newsletter Coordinator, Law & Public Safety

(August 14, 2001)

RE: Disciplinary Actions

This correspondence was noted for the record. The Board directed that a memorandum be sent to Ms. Clark to determine the duration of any disciplinary action postings on the Division's Website.

Doug Cleary/ Rowan University

RE: Available Speaker at Rowan University

Mr. Cleary requested a Board member to speak at Rowan University on various topics. The Board elected BM Vernick to appear on September 10, 2001. Robert Campanelli, Ethics Officer, approved his appearance.

Michael R. Fink, PE, Team Chair/ Accreditation Board of Engineering and Technology (ABET)

(July 25, 2001)

RE: Accreditation of Fairleigh Dickinson University

ABET has extended an invitation to the Board for a representative of the Board to participate in the accreditation process of Fairleigh Dickinson University, NJIT, Princeton University and Middlesex County College. The Board nominated BM Raj who will attend Fairleigh Dickinson University, Teaneck, NJ on October 21 - 23, 2001.

Sally Wingo/ Maryland State Board of PE

(July 5, 2001)

RE: Land Surveying Limited Licenses

After reviewing this letter the Board will advise Ms. Wingo that the application process to issue a temporary permit license requires the same amount of time as applying for a PE license by comity. The Board will also indicate that New Jersey does not offer any form of a limited or temporary license that would allow out-of-state licenses to sign and seal work for a specified duration of time.

**Thomas D. Cappetti, Sr., Chief of Survey/ Richard A. Alaimo Assoc.
(July 16, 2001)**

RE: Map Filing Law "Minor Subdivisions"

In his letter Mr. Cappetti posed several questions regarding the review of subdivision plans. The Board requested that a response be sent to Mr. Cappetti indicating the following: If a map is filed it must comply with the "map filing law". If a map is not filed it must meet local laws. In addition, "outside tract line monuments" must comply with N.J.A.C. 13:40-5.1 regarding the preparation of land surveys. Finally, the outside tract line is the original tract lines before the subdivision.

The Board also directed that a letter be sent to Mr. Cappetti to cease and desist from using the term "surveyor" or "surveying" or any of its derivatives, in or on Richard A. Alaimo Associates advertisements stationery and/or letterhead, business cards etc. in job titles, or in any other manner until such time you are licensed as a professional land surveyor in this State.

**Robert M. Mailer, PE, President/ HACBM
(July 10, 2001)**

RE: Professional Services

Mr. Mailer is seeking information on foreign companies offering and/or performing engineering/land surveying services in this State. The Board directed that a response be sent to Mr. Mailer indicating the need for a Certificate of Authorization if a company (excluding a professional service corporation established pursuant to the "Professional Service Corporation Act) offers and/or provides professional engineering and/or land surveying services in this State.

**David W. Johnston, PE, Ph.D., Professor & Associate Head Chair/
ASCE Construction Engineering Education Committee/ North Carolina State University
(July 6, 2001)**

**RE: Request for Support of Proposal to Implement Principles & Practices
Examination in Construction Engineering Specialty**

This correspondence was noted for the record.

**Joseph A. Donato, Jr., PP, PLS/ Garden State Land Surveying Alliance, Inc.
(July 30, 2001)**

RE: Board "Newsletter"

In his letter Mr. Donato offered ways the Board's Newsletter could better educate its licensees and the public. The Board directed that a response be sent to Mr. Donato thanking him for his suggestions.

**John Q. Adams III, Director of Professional Engineer/
Land Surveyor Examination Development/ NCEES
(July 23, 2001)**

RE: National Principles & Practices of Engineering Pass Rates

This correspondence was noted for the record.

**Peggy Sell
(May 21, 2001)**

RE: Structural/Civil/Architectural/CAD Services from India

This correspondence was noted for the record.

**Robert J. Simoneau, Ph.D., PE,
Director School of Engineering & Engineering Technology,
Engineering Accreditation Commission
(August 20, 2001)**

RE: Board Observer for October 21-24, 2001 Visit to NJIT

This correspondence was noted for the record.

**Dr. Michael A. Robinson,
Accreditation Board for Engineering and Technology, Inc.
(August 20, 2001)**

RE: Board Observer for November 4-6, 2001 Visit to Middlesex County College

This correspondence was noted for the record.

PCS Contract

ED Russo informed the Board that he did not sign the PCS contract because there was not a letter of intent executed between PCS & NJIT. He announced that NJIT has since faxed a signed agreement with PCS. A meeting with Deputy Director Anthony Miragliotta prompted the suggestion of having PCS collect all scheduling fees and distributing of all materials. For this reason, a second contract was created. The first contract will be valid for the October 2001 examination only and the second contract will commence with the April 2002 examination. This revised contract will be similar to the first but unlike the first will also include the responsibility of PCS to collect and distribute all examination scheduling fees and materials.

On a motion by VP Patel, seconded by BM Vernick, the Board unanimously voted to approve the second contract. The Board will monitor the scheduling fees charged by PCS.

Proposed Meeting Dates for 2002

Included in today's agenda packet was the proposed meeting dates for 2002 for the Board's review.

In addition, the NJ Professional Land Surveyors Society extended an invitation to their annual conference in Atlantic City in February 2002. The Board declined the invitation due to a lack of substantial items on the agenda. In an effort to promote a greater willingness to work together, President Kelly extended an invitation to both the PE & PLS Societies to attend the Board's future meetings, and encouraged Board members to attend meetings of the two Societies.

Certificate of Authorization Report - June 2001

This report was noted for the record.

Applications Received/ Verifications Processed - June 2001

This report was noted for the record.

Licensee Total Report by Month

This report was noted for the record.

Licensing Statistics as of June 30, 2001 & July 31, 2001

This report was noted for the record.

DISCUSSION ITEMS

Gary McKnight (Approval of Ethics Course)

Mr. McKnight submitted three engineering ethics courses offered by the Murdough Center for Engineering Professionalism, Texas Tech University, for the Board's review and evaluation. On a motion by BM Marshal, seconded by BM Vernick, the Board approved that he take the course "Intermediate Studies in Engineering Ethics."

Proposed Readoption of N.J.A.C. 19:61 et seq

This correspondence which proposed a readoption of ethical standards was published in the July 2, 2001 edition of the New Jersey Register and was noted for the record.

Proposed Amendments to N.J.A.C. 13:40-1.1, 1.2, 1.3, 5.1, 11.3 & 11.8

The Board reviewed these amendments and, on a motion by BM Faraldi, seconded by BM Raj, the Board unanimously voted to approve these amendments and indicated that they are acceptable for publication.

APPLICATION - FULL BOARD REVIEW

Jitendra Hirani - #51993

The references that were submitted on behalf of Mr. Hirani indicated that these individuals did not supervise his work, although two of the references were from professional engineers. Mr. Hirani had 5 years of acceptable experience from his first engagement and was self employed in his second engagement.

On a motion by BM Marshal, seconded by Raimondi, the Board voted to approve this application.

George R. Davis - #51891

After reviewing Mr. Davis's updated Detailed Statement of Experience, the Board on a motion by VP Patel, seconded by BM Faraldi, approved this comity application.

Robert C. Urich - #52057

This application was previously reviewed with the Board requesting an additional reference from a PE supervisor, which was submitted. The reference, which was a previous employer, was insufficient.

Based on the information presented and on a motion by BM Vernick, seconded by BM Faraldi, the Board unanimously voted to deny this application on the basis that Mr. Urich needs to validate 4 years of experience, acceptable to the Board, under the regular and effect supervision of a professional engineer.

Andrew Braum - #52075

The Board made its re-review of this application. It had originally requested Mr. Braum to submit an additional reference from a non-relative, since he works in a family owned company.

On a motion by VP Patel, seconded by BM Marshal, the Board unanimously voted to deny this application. The Board is requesting that Mr. Braum submit an updated detailed statement of experience form once he has gained 4 years of acceptable experience under the regular and effective supervision of a licensed professional engineer.

Matthew Brueshaber - #52252

The Board re-review this comity application. Previously it had requested Mr. Brueshaber to submit proof of 4 years of engineering experience, of which 2 years was in original engineering design.

On a motion by VP Patel, seconded by BM Marshal, the Board unanimously voted to deny this application indicating that the applicant needs to submit an additional reference from a supervising professional engineer.

APPROVAL/ DENIAL OF APPLICATIONS FOR LICENSURE - JULY 12, 2001

The Board reviewed the July 12, 2001 Examination/Comity Applications Report and voted to approve 20 exam and 59 comity applications, and to deny 4 exam and 15 comity applications (list attached).

On a motion by BM Frantz, seconded by BM Raimondi, the Board unanimously voted to accept the July 12, 2001 list of approved/denied applications for licensure.

MOVE TO EXECUTIVE SESSION

On a motion by BM Frantz, seconded by BM Marshal, the Board unanimously voted to enter into Executive Session to complete the agenda.

RETURN TO PUBLIC SESSION

On a motion contained within the Executive Session minutes, the Board unanimously approved to return to Public Session for the purpose of discussing the licensing of Professional Engineers as Home Inspectors.

HOME INSPECTION LICENSING

Deputy Director Anthony Miragliotta discussed with the Board the current status of the licensing of Professional Engineers as Home Inspectors. He is of the opinion that regulations need to be written which would define the qualifications needed to be satisfied by professional engineers (PEs) desiring to become home inspectors. Only when regulations are in place to objectively determine a PE's competency pertaining to their training, education and experience can a determination be made by the Board as to satisfying this minimum threshold.

BM Patel stated that this effort would not be an efficient use of the Board's time since it would take more time developing regulations than its worth based upon the small number of PEs expected to pursue home inspector licensure.

BM Faraldi advocated the development of a Board policy on the qualifications necessary for PEs to become home inspectors. He went on to say that Board policy has worked previously on other subject matters and will work again in this instance.

Deputy Director Anthony Miragliotta stated that the 1968 "Administrative Procedure Act" (Act) requires that licensing qualifications must be specified by licensing Boards and that the Board will need to promulgate regulations to fulfill the requirements of the Act.

BP Kelly requested a copy of the Act and supporting case law for the Board's review and further discussion. He indicated he would like to coordinate with the Board of Architects to have parallel regulations on this subject.

ADJOURNMENT

On a motion by BM Frantz, seconded by BM Raj, the Board unanimously voted to adjourn at 2:45 pm.

Approved by:

James D. Kelly
President

Arthur Russo
Executive Director

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Modified March 2002