

December 20, 2010

Happy Holidays

By Chris Diaz, P.E.

Principal, Diaz Yourman & Associates



As we are in the midst of the holiday season, now is a time for reflection on what we have to be grateful for. After family and friends, I am especially grateful for the opportunity to work in the geotechnical profession. I am always amazed at the way our profession comes together for common goals. Through my involvement over the years with CalGeo, and

as the newest member to the CalGeo Board of Directors, I have had the opportunity to see competing firms collaborate for our common good. This is witnessed in the benefits that CalGeo provides for our member firms. Over the years, my firm and I have benefited from CalGeo's loss prevention seminars, regional meetings and conferences. For example, the beginning of my education in prevailing wage law began with presentations during CalGeo conferences. Our next annual conference, to be held April 14-16 at the Claremont Hotel in Berkeley, will be full of similar educational opportunities, including having Dr. Esmael Adibi of Chapman University give us his insightful, and (hopefully) cautiously optimistic, economic forecast. I will be there. Will you?

On the communications front, our e.Geo continues to evolve and improve. This month we're introducing a new regular column called **Counsel's Corner: Self Defense for a Litigious World** by Niv V. Davidovich, Esq. We'll also soon be adding an additional regular column on BPELSG licensing issues and reminders we all must be aware of.

As a personal note, I have had the opportunity to be the CalGeo liaison to the Cal Poly CalGeo Student Chapter. Seeing the future of our industry in these students and helping in their professional development is priceless. Without CalGeo, I would not have this opportunity.

Once again, Happy Holidays, and may this season fill you with peace, gratitude and contentment.



Chris Diaz, P.E.

Principal, Diaz Yourman & Associates

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Time to Register for the Loss Prevention Seminars

Coming in January & February 2011

As promised, registration packets for both the Southern and Northern California Loss Prevention Seminars have been mailed to our member firms. You will also find this information available on the [CalGeo website](#).

Southern California

Saturday, January 22, 2011

Embassy Suites in Santa Ana

7:30 am to 3 pm

[Click here to register for Southern California](#)

Northern California

Saturday, February 5, 2011

Courtyard by Marriott in Fairfield

7:30 am to 3 pm

[Click here to register for Northern California](#)

CalGeo is responding to the training needs of their members and affiliates by once again offering reduced registration fees. The fee for a CalGeo member is \$50 and the fee for a non-member is \$100. Also note, if your company belongs to our Safety Group through State Compensation Insurance Fund, you may attend this seminar FREE, but you must call the office at (530) 344-0644 to make the reservation by the deadline date.

Seminar registration fees include all seminar presentations, breakfast, lunch and refreshment breaks, a seminar notebook, and a Certificate of Attendance for each attendee with CEU or PDH credits.

The deadline for registering and returning these forms for both the Southern and Northern California seminars is Monday, January 10, 2011.

We hope to see you there!

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2011 Annual Conference - "Engineering the Future"

Keynote Speaker Announced



Dr. T. Leslie Youd, Professor Emeritus of the Department of Civil and Environmental Engineering at BYU, will keynote the 2011 CalGeo Annual Conference in Berkeley. Professor Youd's keynote address will review issues associated with the controversial EERI Monograph MNO 12: Soil Liquefaction During Earthquakes, which has been the subject of considerable discussion and debate within the geotechnical and earthquake engineering community since its publication in September 2008.

Look for more details on the 2011 Annual Conference in the coming months.

About Our Speaker

Professor Youd recently served on EERI's Ad Hoc Committee of Soil Liquefaction to provide EERI's Board of Directors with advice regarding technical and monograph presentation issues associated with MNO 12. He is uniquely qualified to review the technical issues at the heart of the debate and to discuss the process that is currently underway to broaden the discussion and resolution of liquefaction issues affecting the geotechnical earthquake engineering community.

Professor Youd is a leading international expert researcher on soil liquefaction and ground failure. He received a bachelor's degree in civil engineering from BYU in 1964, a Ph.D. in civil engineering from Iowa State University in 1967 and performed post doctoral studies in soil mechanics and engineering at Imperial College of Science and Technology in London. Professor Youd has authored more than 150 publications, is an Honorary Member of both the American Society of Civil Engineers and the Earthquake Engineering Research Institute (EERI), and in 2005 was named to the National Academy of Engineering. He was honored with ASCE's 2002 H. Bolton Seed Medal, the Utah Engineering Educator of the Year, the U.S. Department of the Interior's Superior Performance Award, and BYU's Karl G. Maeser Research and Creative Arts Award.

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Counsel's Corner

Self Defense for a Litigious World

By Niv V. Davidovich, Esq.

Associate, Manning & Marder, Kass, Ellrod, Ramirez, LLP

As an engineer, you have a simple goal: produce the highest quality design for the lowest cost possible while staying in budget. However, the various industries to which you provide services are fraught with legal peril, especially for geotechnical engineers who are far more susceptible to the elements than their counterparts in other engineering disciplines. Whether it's landslides, earthquakes, torrential rain or just plain bad luck, geotechnical engineers are always at risk of an expensive, time-consuming lawsuit.

"Well," you might be saying, "That's why I pay through the roof for E&O insurance; I don't have to worry about it." You're right, in part. Your errors and omissions (E&O) insurance is your saving grace and it is important to keep it current and your deductible low. But remember your TIME has value as well. In future editions of this column, I plan to provide you with simple, easy-to-follow instructions on how to protect yourself without high attorney costs. Just to be clear, some of you may require limited legal advice, as every situation is different. However, much of the information and suggestions I plan to share are things ONLY you can do on your own, and therefore, require nothing but a few minutes and some changes to office policies.

You can expect to see articles such as:

1. **How to preemptively limit liability** - Notices, letters, contract clauses and even e-mails that, when implemented and made company policy, can be crucial and beneficial in limiting or even negating liability in potential litigation.
2. **How to document your file properly for potential litigation**- Detailed suggestions and practices that will produce the documentary evidence in litigation, which makes settlement or dismissal faster and cheaper.
3. **Rules on the standard of care within an industry** - Is performing "to code" enough? What standards and performance does the law expect? What are the differences in standard of care between different cities and counties in California? How do you decide the standard of care before a job begins? This is a fundamental primer on negligence theory as applied to design engineers.
4. **Importance of "general notes"** - Learn to use often ignored, vital language in plans and drawings to limit and spread responsibility.
5. **Indemnity, defense and attorneys' fees** - How the commonly overlooked "boilerplate" language in most agreements can help you sink or swim in a potential lawsuit.

I look forward to sharing my legal insights with CalGeo members. I hope you find them useful, and, if you have any questions or our article sparks your curiosity, our phone lines are always open.

Niv V. Davidovich is an associate at Manning & Marder, Kass, Ellrod, Ramirez, LLP, a law firm with offices in Los Angeles, Irvine, San Diego, San Francisco and Phoenix. Mr. Davidovich holds a BS in Electrical Engineering

from USC, and specializes in the defense and counseling of architects and engineers in the construction industry throughout California. You can read more about Mr. Davidovich at: www.mmker.com or contact him directly at (213) 553-2486, (310) 877-2834 or nvd@mmker.com.

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CalGeo Meets with Colorado Association of Geotechnical Engineers (CAGE)

By John Hoobs, C.E.G.

Principal, Geocon Incorporated

CalGeo board members John Hoobs and Amer Hussain attended a Colorado Association of Geotechnical Engineers (CAGE) board meeting in Denver on December 2nd. CAGE is a relatively new organization that is looking to model the success CalGeo has achieved over the past 40 years. The purpose of the meeting was to provide input to the CAGE board of directors based on our experience.

CAGE was formed in 1995 by a group of geotechnical engineers and geologists to collaborate on similar business and technical issues, and to create an organization that can serve the geotechnical group practicing in the state. Colorado does not have GE or CEG registration. CAGE is an individual member group that serves roughly 200 engineers and geologists, predominately in the front ranges where most of the population exists. It has monthly technical meetings and an annual technical conference that addresses the current state of the practice. In addition, CAGE is actively working with state and local agencies to establish the Standard of Care for the geotechnical industry. CAGE is interested in advancing its organization by reaching more professionals in the industry and by interfacing with various public utility companies and municipalities. Two CAGE board members attended our annual conference in San Diego in 2010 and hope to attend our 2011 conference in Berkeley. We hope to continue our relationship with this group, as we have identified many common areas of practice between our organizations that will benefit our members.

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Legislative Update

2011-2012 Session

By Michael W. Laney, P.E., G.E.

Vice President/Senior Geotechnical Engineer, Earth Systems Southwest

On January 3, 2011, the newly elected California State Legislature will reconvene for the 2011-2012 session. Bills are already being submitted for review, and we're working for our members to identify any legislation that may impact the profession.

CalGeo is also proactively communicating with the Enforcement Department of the Board for Professional Engineers and Land Surveyors (BPELS), and will be providing articles in future e.Geo editions informing our members of little-known (but potentially pesky) rules and regulations that fall under the Professional Engineers Act (PEA). We are also currently discussing potential avenues that CalGeo can pursue to get Section 6770 (a) (3) changed to raise the limit for reporting a judgment, arbitration award or settlement in a lawsuit to BPELS from \$50,000 to a more reasonable level. As most of you are aware, being sued does not infer a professional was negligent or did not perform to the standard of care on a project, and settlements over \$50,000 are very common. More to come in future editions.

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Technical Corner

UCLA Student Chapter

By David T. Hamilton M.S., P.E., G.E.

President & Principal Engineer, Hamilton & Associates, Inc.



The **UCLA CalGeo Student Chapter** recently hosted a Geotechnical Drilling and Cone Penetration Testing field demonstration and tour of the UCLA/Caltrans full-scale pile loading test site in Los Angeles. The student chapter invited two CalGeo member firms, Gregg Drilling and Testing of Signal Hill and Hamilton & Associates, Inc. of Torrance, to participate. Gregg Drilling demonstrated the operation of a large truck-mounted hollow-stem auger drill rig and CPT testing. Hamilton & Associates demonstrated the operation of a small hollow-stem auger drill rig, and geotechnical sampling and field logging techniques. Additionally, the students toured the research site used for investigating the lateral performance of full-scale cast-in-drilled-hole (CIDH) shafts, where several shafts of varying diameter, head condition and group configuration have been tested.

CalGeo would like to congratulate UCLA Student Chapter President Cale Crawford and his student chapter officers and members for their hard work and continued success.

CalGeo partnered with Cal Poly Pomona in 2007 and UCLA and Fresno State in 2009 to form the first CalGeo student chapters. Working in coordination with CalGeo's student outreach liaisons, engineering students host talks and site tours to advance their understanding of the industry and learn key skills to prepare them for entry into the consulting engineering profession. CalGeo continues to work to expand the number of student chapters statewide. If your firm would like to participate or sponsor a student field trip or presentation, please contact CalGeo Student Outreach Chair Hannes Richter at hrichter@stonemiller.com.

Putting Your Policy to Work: Your Core Responsibilities

Courtesy of the California State Compensation Insurance Fund

By law you must follow certain procedures for (1) notifying your employees about workers' compensation and (2) responding to workplace injuries. If you need any of the forms listed here or have any questions about your compliance, contact our Customer Service Center at (877) 405-4545.

Required Employee Notices

These notices tell employees about their workers' compensation rights and how to get medical treatment for workplace injuries. If you fail to follow these notification mandates, you could be subject to state-imposed fines. Also, State Fund could lose medical control of a claim, which may result in higher claims costs.

Post the Notice to Employees posting notice (form 13708) and the State Fund Medical Provider Network (MPN) (form 13176) brochure conspicuously in the work area (and post Spanish form 13709 if you have Spanish-speaking employees).

Provide the New Employee's Guide to Workers' Compensation (form 13286) brochure and the MPN Implementation Notice (form 3841) letter to all new employees when you hire them. You must also provide the MPN Implementation Notice to all employees before you implement the MPN in your workplace and provide the State Fund MPN brochure to any employee who reports a work-related injury.

When an Injury Occurs

Make sure your injured employee receives medical treatment.

Give your injured employee the DWC-1 claim form (form 3301) and the MPN brochure (form 13176).

Report the injury promptly to the State Fund Claims Reporting Center at (888) 222-3211. We will help you complete the required Employer's First Report of Injury (form 3067).

What You Need to Know About Reporting a Claim

As soon as you are aware of a possible work-related injury or illness, you should take action to make sure your employee receives appropriate medical treatment and report the claim to your insurance carrier. By law, you must file a claim for every occupational injury or illness, with one exception: When the incident does not cause the employee to miss work for a full day or shift beyond the date of injury or illness, and also does not require treatment beyond the legal definition of first aid.

Reporting and Validating the Claim

You should report the injury without delay. The State Fund Claims Reporting Center is available 24/7 at (888) 222-3211. Timely reporting helps control claims costs while ensuring your employee gets prompt treatment. The legal deadline for providing your employee with the official DWC-1 claim form is within one working day of receiving notice or knowledge of the injury. You also need to file the Employer's Report of Occupational Injury or Illness (form 3067) within five days of receiving notice or knowledge.

Reporting a claim is not an admission of liability. State Fund reserves the right to accept or deny the claim, even if the injured employee is already receiving authorized medical treatment. A key legal standard in validating the claim is whether evidence shows that the injury or illness arose out of and in the course of employment.

Can the Treatment Be First Aid?

When treatment for a minor injury meets specific standards, it may be classified as "first aid," which means you do not need to report it as a claim (or have it count as a claim on your loss record).

You may not designate a workplace injury as first aid-and you must report a claim-if either of the following occurs:

Medical care goes beyond a one-time treatment and follow-up visit.

The injury causes an employee to lose any time from work beyond his or her shift.

Our Holiday Best to All!



With the holiday season upon us, we at CalGeo find ourselves reflecting on the past year and on all of our professional business partnerships. We value our relationships with you and look forward to working with you in the years to come. CalGeo extends our sincerest wishes to you for a happy holiday season and a New Year filled with peace and prosperity.