

## **SOME SPECIFIC CASES INVOLVING FAILURE ANALYSIS, EXPERT WITNESS, TESTIMONY, AND EXPERT CONSULTANT SERVICES**

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### **Custer v. Stoops**

Private Domestic Water Well in Easement Proposed for Development with Roadway that Would Adversely Impact Well and Cause Potential Contamination. Sebastopol, CA

Ethan A. Glaubiger, attorney at law, 50 Santa Rosa Ave., 5<sup>th</sup> Floor, Santa Rosa, CA 95404, 707-578-4505 and State Farm Insurance Co.

Litigation support for case involving a proposed road re-alignment that will encroach on a domestic water well owned by Custer & Zola. Property is located at 4996 Maddocks Road, Sebastopol in a water scarce area. Owner litigated against developer to prevent the well from being bridged over and increasing risk of contamination and disruption of water supply.

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### **Monterey County Housing Authority v. EMCON, Inc., et al.**

Low Income Housing Site Impacted by Hazardous Materials, Non-disclosure and Improper Site Remediation, Salinas, CA

Cheryl Ontiveros, Attorney at Law, 109 Central Ave., Salinas, CA 93901, 408-424-6500

Technical and historical review of historic landfill operations and closure and post-closure reports, subsurface investigation and laboratory analysis of soils, fills; installation of monitoring wells and sampling and analysis of ground water, evaluation of chemical analytical reports, evaluation of various corrective actions plans, cost estimating, consultation and bid solicitations from remedial contractors, litigation support and expert testimony.

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### **(Art Narvez) Schooners Landing v Mendocino**

Private Recreation Facility on State Highway 1 and downslope from County Road Damaged by landslide, Albion and Little River Roads, Albion, CA

Robert MacKay, attorney at law, Novato (415-898-1224)

Litigation support for case involving improper repair of road road failure and drainage

diversions by Mendocino County Department of Public Works. Owner litigated against County to recover damaged due to landslide / debris avalanche

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**Emery v. Texaco / Shell, et al.**

Contamination of Ground Water Beneath Commercial Property,  
Incline Village, NV

Steve E. Wentzel, Attorney at Law, 6121 Lakeside Drive, Suite 250, Reno, NV, 89511,  
702-827-2720

Mr. Seeley conducted investigation to demonstrate that Texaco ha not completed site cleanup and that plaintiff's property was still contaminated. Worked with attorney to have Nevada Department of Environmental Protection re-open case and cause Texaco to continue with clean up. Reviewed Shells' consultants' proposed remedial and investigation plans, gave deposition to Texaco's attorney, provided expert consultation for technical matters. Ongoing technical review of Shell's investigations / remediation plans.

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**Crocker Creek Dam Failure Arbitration**

Investigation of Failed Concrete Dam and Resulting Sediment Deposition and Flooding  
in the down Stream Reach, Sonoma County, CA

William K. Bissel, Dillingham & Murphy, 225 Bush Street, 6 Th Floor, San Francisco,  
CA, 94104-4207, 415-397-2700

Mr. Seeley was charged with inspecting the failed dam, downstream channel, up stream erosion control measures, and evaluating capacity of the stream for design of channel improvements, review of technical data on basin geology, soils and erosion potential, including historic erosion evaluation. Consulted with public agencies, and downstream property owner's engineer. Mr. Seeley provided recommendations for the channel remediation and provided opinions as to the potential for future sedimentation of the stream and potential future flooding of the down stream reach in the absence of the dam.

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**Sethy v. CSAA**

Foundation Settlement Case, Residence at Zapotech Drive, Fremont, CA

Stephen S. Harper, Knox, Rickson Attorneys at Law, 1999 Harrison Street, Suite 1700,  
Oakland, CA 94612, 510-446-1940, with T.L. Adams & Associates Engineers, 3563

Investment Blvd, Suite 5, Hayward, CA 94545, 510-785-0403

Reviewed previous geotechnical engineering reports dating back to 1975, reviewed pre-development historic stereo-paired air photos and published geologic maps; made site reconnaissance, consulted with project engineer and reviewed historic storm records of rainfall and storm duration to determine cause of distress to residence. Provided expert opinion as to cause.

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### **Confidential Client**

Fuel Hydrocarbon Contamination at Bulk Fuel Terminal, 691 Lincoln Ave.,  
Napa, CA

Scott Kirk, Attorney at Law, Rivken, Radler & Kremer, 100 B Street,  
Santa Rosa, CA, 707 -525-5400

Case involves independent sampling of 15 monitoring and vapor extraction wells at a bulk fuel terminal adjacent to a gas station where existing hydrocarbon contamination of the soils and ground water were exacerbated by a fuel spill that occurred during fueling operations at the bulk terminal. Other aspects of the case involve a remedial VE system that did not perform as proposed. Sampling was conducted in conjunction with the defendant's expert who collected split samples at the time of our sample collection.

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### **Multi Party Groundwater Contamination Litigation**

Shopping Center, Concord, CA

Justice Walter Capaccioli, JAMSIEN DISPUTE, 2 Embarcadero Center, Suite 110, San Francisco, CA 94111 , 415-982-5267

Science panelist for private civil trial involving contamination of soil and ground water resulting from leaking UST's, sumps, spills of petroleum hydrocarbons and chlorinated solvents from multiple sources and owners at a commercial center in Contra Costa County, CA. Evaluated expert testimony from plaintiff and defendants experts and consulted with other science panelist and judge. Formed opinions as to facts of case and presented written report of findings as to sources, cause and impacts of the contamination.

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### **Joffe v. Commercial America**

Flooding, Slope Stability and Collapse of Factory, Tijuana, B.C. Mexico

Maurice Wainer:, Snipper, Wainer & Markoff, 2029 Century Park East, Suite 1690, Los Angeles, CA, 310-557-1905

For this case Mr. Seeley provided evaluation of damage to a recently constructed manufacturing facility caused by flooding that triggered a slope failure and subsequent partial collapse of a hillside factory building. Scope entailed site geologic reconnaissance, review of construction drawings, interview and consultation with owner and his geotechnical engineer, review of engineers investigative report, review of insurance policy and formulation of professional opinion as to cause of damage.

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**Watkins v. Volktrans et al.**

Chlorinated Solvent Contamination Case 6005 Gravenstein Highway, Sebastopol, CA

Alan Mayer, Green, Mayer, Picchi & Bloom, 55 Shaver Street, Suite 300, San Rafael, CA 94901, 415-457-4080

Through borings, monitoring wells and back hoe excavations documented soil contamination in area of transmission rebuilding facility . Conducted site remediation through over excavation and on-site bio-enhanced land farming methods. Documented sources of contamination and provided expert testimony as to source and cause.

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**Lombard Investments v. Town of San Anselmo**

Storm Drain Discharge as Cause of Debris Avalanche, San Anselmo, Marin County, CA

Albert Bianchi and Paul Smith: Bianchi, Engle, Keegin & Talkington, 1000 Fourth Street, Suite 600, San Rafael, CA, 415- 456-4000

Mr. Seeley was named as expert in this case and provided evaluation of up gradient drainage and discharge onto an unnamed seasonal creek, assessment of landsliding and debris avalanche and implications of the Town's previous requirement to mitigate the pre-existing drainage problem. Scope of work included evaluation of the Town Engineer's hydrology evaluation to determine if there was sufficient data to support drainage discharge as the cause, data review, historic air photo analysis and site geologic mapping of drainages and landslides. Prepared report of findings. Case is still in the process of being arbitrated.

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**Confidential Plaintiff v. Martinson, Chevron USA, et al.**

Howard's U-Pump Chevron Station, 8222 Skyway, Paradise, CA

Dan Blackstock, attorney at Law, 1440 Lincoln Ave., Oroville, CA 95969, 916-534-7144, and BDI Environmental, 129 Carlos St., Suite 2, San Rafael, CA, 415-507-0117

Technical review / project management oversight for UST removals & over excavation remediation, & monitoring well installation and sampling. Also coordinated with RWQCB, Butte County Health Department, and Butte Air Quality Management District regulators. Assist in preparation of Work Plan and Corrective Action Report for interim & long term ground water pump and treat system using submersible water pumps and air blowers, treating the water and vapors with activated carbon canisters, reviewing the quarterly monitoring and performance reports for the activated carbon treatment system and the ground water and vapor treatment systems. Providing expert witness services for defense in litigation by the owner of down gradient property owner, and testified in court on behalf of defendant Martinson, (owner of contract Chevron Station).

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### **Sorgen v. Town of Fairfax**

Olema Creek Flooding / Removal of Existing Dam, Fairfax, Marin County, CA

Albert Bianchi and Daniel Harris: Bianchi, Engle, Keegin & Talkington, 1000 Fourth Street, Suite 600, San Rafael, CA, 415-456-4000

Mr . Seeley was named as expert in this case and provided evaluation of up and down gradient alteration of drainage and discharge onto Olema Creek, assessment of stream bank erosion and flooding implications of the Town of Fairfax's requirement for Sorgen to remove a pre-existing dam. Creek has had a history of flooding and our scope of work included evaluation of the Town Engineers hydrology evaluation to determine if there was sufficient data to support requirement for removing dam. Evaluation also focused on recent up gradient developments that might aggravate the flooding. Case is still in the process of being arbitrated.

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### **Sunrise Handy Mart, Inc. v. Various Contractors & Consultants**

Floating Product Investigation and Recovery Porterville, CA

Paul Sundberg, Roy F. Weston, Inc. 83 W. March Lane, Suite 12, Stockton, CA 95207, 209-476-1635, and Landels, Ripley & Diamond, attorneys at law, San Francisco, CA

Field investigation and review of previous consultants' reports and failed attempts to remove floating gasoline (up to 3 foot thick layer) on shallow ground water resulting from a major UST and piping leak. Evaluated and sampled 12 existing monitoring and extraction wells as well as a non operational pump and treat system installed by Ground

Water Technology, Inc. Evaluated aquifer characteristics and alternative pump systems. Selected low flow selective extraction pumps and installed pump and conducted field calibration. Initiated operation of the pump-air stripping and carbon polishing of the effluent water. Also provided expert testimony and related services to the owners attorney.

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**Solis v. Ansley et al. Land Contamination Case**

Devaluation of Property due to Prior Landfill Use, Crystal View Estates, El Dorado County, CA

John McBride, Wylie, McBride, Jesinger, Sure & Platten, 101 Park Center Plaza, Suite 900, San Jose, CA 95113, 408-2979172

Case involved previous contamination of site by land filling and burn dump operations and non disclosure of site history by seller. Conducted review of site closure file, and previous consultant report to relator and buyer, conducted independent investigation, soil sampling and laboratory analysis and provided expert testimony.

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**Hallgren v. Meyn et al.**

Petroleum Hydrocarbon Fuel Contamination of Soil and Surface Drainage due to Defective AST Construction, 6015 Grove Street, Sonoma, CA

Samuel L. Holmes, Attorney at Law, 3917 Happy Valley Road, Lafayette, CA 510-299-8909

Data review and independent subsurface exploration of surface and vadose zone soils, and groundwater, developed laboratory analytical program including bio-assay analysis, and well monitoring. Verified cause of the failure of the AST fuel oil system and determined the extent of the soil and surface water impacts, and developed remedial measures. Gave deposition and provided expert consulting for trial preparation.

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**Mackey v. Hopkins**

Drainage Diversion and Slope Stability , Kent Woodlands, Marin County, CA

Albert Bianchi, Bianchi, Engle, Keegin & Talkington, 1000 Fourth Street, Suite 600, San Rafael, CA, 415-456-4000

Mr. Seeley provided evaluation of alteration of drainage and discharge onto downstream property , assessment of slope stability implications to down slope residence and a

previous landslide, consultation with defendants engineering expert and review of proposed mitigation plans. Services also included, site meetings with plaintiffs's engineer and attorney and court appointed arbitrator, formulation of alternative mitigation and consultation with arbitrator, and expert testimony. Case is in arbitration.

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**O'Rourke v. Oak Tree Farm, Currin Development, et al.**

Potential Earth Movement Impacts to Adjacent O'Rourke Property , Pleasanton, CA

Eric A. Newsom, Shapiro Buchman, LLP, 1331 North California Street, Suite 320, Walnut Creek, CA, 94596, 925-988-4988, representing the Q'Rourkes

Conducted geologic review and inspection of hillside residential property adjacent to the Calaveras fault zone and the up slope area where the defendant proposed a large hillside development. Reviewed and evaluated developer's geotechnical investigations and the Draft EIR for the project, with special focus on the Proposed stabilization of landslides up slope from clients' property and proposed drainage mitigation. Provided expert opinion as to the potential impacts of the proposed development and the planned up slope stabilization and drainage improvements.

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**Montgomery v. The Home Indemnity, et al.**

Earthquake Induced Damage and Earth Movement, Adams Road Property, Los Gatos, CA

Otto Becker, Thornton, Taylor, Downs & Becker, 505 Sansome Street, Suite 800, San Francisco, CA, 94111, 415-421-8890, representing the Home Insurance Company

Conducted inspection of hillside residential property damage resulting form 1989 Loma Prieta Earthquake, made leveling survey, mapped distribution of hillside cracking caused by earth quake, and prepared report. Subsequently provided litigation support in defense of Home Insurance through review of depositions of plaintiffs experts depositions, technical data, site re-inspection. Gave deposition and provided expert testimony during arbitration as to cause of damage and provided supporting data.

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**Cedars Development Foundation v. Burton**

Landslide at North Grove Hill Drive, San Anselmo, CA

Todd C. Hedin, Nelson, Boyd, MacDonald, Mitchell, Mason & Hedin, 1000 Fourth Street, Suite 375, San Rafael, CA, 94901, 415-453-0534 for Fireman's Fund

Conducted initial inspection of landslide for Fireman's Fund, then, subsequent to repair work provided expert services for cost recovery litigation through review of City records, investigation and engineering reports of other consultants, historic air photo analysis of per-development conditions, site inspection and provided expert testimony.

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**Middleton et al. V. Farmers Insurance Group**

Earth Movement Damage, Blandon Road Property, Oakland, CA

Ann M. Elston, Lossing & Elston, 100 First Street, 25th Floor, San Francisco, CA  
94105,415-882-4050

Conducted initial site assessment of reported damages in 1983 for Farmers Insurance. Then acted as expert witness for defense on litigation. Reviewed site geology and pre existing conditions, building codes, historic rainfall records and relationship to damaging earth movement, historic seismic events in local area, gave declaration to court and deposition, consultation with attorney in technical matters for defense.

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**Zupetz v. Coldwell Banker and Libby v. Sherbondy**

Residence Destroyed by Landslide at Lawrence Road, Danville, CA

George V. Spanos, Spanos And Wassell, 1511 Treat Blvd, Walnut Creek, CA 94598,  
510-932-8400

Mr. Seeley conducted initial inspection of landslide above Zupetz's newly constructed residence at base of hill in Danville. Report predicted continued rapid growth of slide. Residence was soon thereafter destroyed by landslide. Litigation resulted against relator for no-disclosure of prior conditions and against developer and prior land owner. Subsequent investigation by Mr. Seeley discovered there was a previous land slide and a non-engineered and non-permitted repair. Excavation for building pad at base of prior slide repair, grading of road above slide, unsuitable geologic conditions and high rainfall during winter of 1983 all contributed to failure, however, earthwork construction practices were the proximate cause. Mr. Seeley provided expert testimony and consultation which resulted in an arbitrated settlement.

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**Estes et al., v. Lieb et al.**

Residence Destroyed by Landslide at Rosemont Court, San Anselmo, CA

Robert Farrell, Kinder & Wuerfel, 555 Montgomery Street, 9 th Floor,  
San Francisco, CA 94111, 415-398-1551; for Fireman's Fund Insurance Company.

Mr. Seeley served as an Expert Witness and presented professional opinions as to the cause of earth movement and land sliding, and remedial repairs. Failure involved a rapidly moving debris avalanche type landslide caused by placement of fill behind un-engineered retaining walls on up slope properties, poor site drainage and modifications to up slope conditions. Researched site history , provided expert consultation to plaintiff's attorney and gave deposition. Provided information for settlement, and reviewed engineering designs for mitigation.

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**Fang v. Fire Insurance Exchange, et al.**

Property Damaged by Landslide and Relationship to Fire, Lafayette, CA

Ann M. Elston, Lossing & Elston, 100 First Street, 25th Floor , San Francisco, CA  
94105, 415-882-4050

This case started as a forensic investigation for State Farm Insurance Co. In 1986 when I investigated the cause of a slope failure below a hill side residence on the north side of Highway 24 in Lafayette. It was alleged the cause was a fire started accidentally by the down slope property owner. Investigation determined preexisting slope failures and reactivation due to high rain fall and road way construction in base of older unstable area. In litigation provided expert consulting services, historic air photo exhibits, study of relationship of fire to landslides, deposition and expert testimony to demonstrate fire was not the cause.