

Professional Liability and the Pitfalls of Missing Licensure

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Abstract: This presentation will acquaint attendees with the various forms of professional registration for individuals and firms that impact whether a consultant can legally provide services.

If not appropriately licensed, is the consultant's insurance (which he assured would protect my company) valid and in force on my project?



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The scope includes discussion of environmental professional licensure in various states and an overview of the protections afforded through insurance and adjudication of complaints in licensure

The presentation concludes that if your consultant or contractor is licensed properly you have a distinct advantage if a claim should develop. A simple review checklist and access to registration information in the states in which you operate can help.



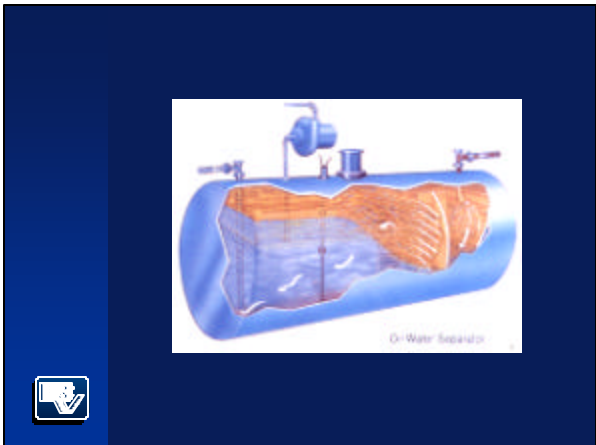
Professional Liability and the Pitfalls of Missing Licensure

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- Contracts
- Professional and General Liability Insurance
 - Void contracts
 - Illegal acts
 - Practice area uninsured
- Business and Professional Registration
 - Agency-required certification for submittal
 - Taxes



Foreign Corporations

- Transacting business
- Carrying on business
- Engaging in business
- A substantial portion of its business
 - < 2 % of gross revenues
 - advertising and selling
- Required to qualify to do that type of business in that State
- Subject to taxation in that State
- Subject to service of process and suit in that State



UST Professionals (LSP, CP, etc.) Geologists Engineers Practice of Law



Practice of Law

- Representing another in court
- preparing documents for legal proceedings
- holding oneself out to be a lawyer
- threatening to file suit on behalf of another
- rendering legal advice
- selecting, preparing, and advising on documents affecting legal rights of others
- negotiating settlements



Any person practices ... as a professional engineer who renders or offers to render or holds himself or herself out as willing or able to render any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems



"Practice of geology" means: (1) The performing of professional services such as consultation, investigation, evaluation, planning or mapping, or inspection, or the responsible, supervision thereof, in connection with the treatment of the earth and its origin and history, in general; the investigation of the earth's constituent rocks, minerals, solids, fluids including surface and underground waters, gases including surface and underground waters, gases and other materials; and the study of the natural agents, forces and processes which cause changes in the earth;



(2) the teaching of geology by a licensed professional geologist in a college or university offering an approved geology curriculum of four years or more by a person who meets the qualifications for education and experience prescribed by section 5 and amendments thereto; or



(3) representation in connection with contracts entered into between clients and others and the preparation and certification of geological information in reports and on maps insofar as it involves safeguarding life, health or property.



UST Professionals and other State-specific certifications for specific environmental tasks



Summary

- Appropriate contract language
- Insurance certificates
- Verify business and professional registrations and representations for the firm and applicable staff (if key to project)
- Seek legal counsel where appropriate
- Avoid unauthorized professional practice



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