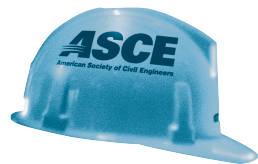


Locations and Accommodations:

*rate subject to cut-off dates and apply only the day before and the days of the seminar, with check-out on the last day of the seminar.

**Scottsdale, AZ /
January 24-25, 2005**
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Analysis, Presentation and Adjudication of Entitlement for Differing Site Condition Claims

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Locations: Please check one

- Scottsdale, AZ / January 24-25, 2005

Fees: Please check one

- Members \$935
- Non-Members \$1,135

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NEW SEMINAR

Analysis, Presentation and Adjudication of Entitlement for Differing Site Condition Claims

Find the fast track to resolving (and avoiding) geotechnical differing site condition claims, set the rules, outline the process, resolve entitlement separate from quantum

Scottsdale, AZ / January 24-25, 2005

"You have managed to condense many years of hard experience... and to present the information in an even-handed manner. Both contractors and owners can benefit....."

"As the employee of an owner, I found new insights into the claims process, and especially appreciated your description of the techniques for evaluating changed conditions claims. Your graphical presentations are very helpful and convincing." -RET, Owner

"Although we are extremely pleased with the contents... and the services provided... (we) would prefer to remain an anonymous fan." -An Attorney

"Informative and helpful in the presentation and analysis of differing site condition claims. Recommended for all construction people." -FR, Owner

"...will do a lot towards reducing the number of disputes, arising from differing site condition claims. A thorough understanding by both sides of Dr. Tarkoy's six commandments, while not necessarily effect the number of differing site condition claims, will certainly result in better understanding of the claims and promote expeditious and equitable settlement of same." -PMS, Contractor

"We were properly impressed with his economical and incisive presentation, and with his 3-D colored graphics which interpreted data at a glance and carried tremendous visual impact." -HTY, Contractor

This is an ASCE Continuing Education Course, NOT JUNK MAIL. If you don't need CEU's pass this on to someone who does.



**1.4
CEUs**

Analysis, Presentation and Adjudication of Entitlement for Differing Site Condition Claims

Purpose and Background

The purpose of the DSC clause was to reduce the contingencies included in construction estimates while protecting the contractor if encountered conditions differed from those indicated or anticipated. The simple concept has resulted in anguish, adversary relationships, and litigation. If the concepts are simple, why is resolution so arduous?

This seminar will provide a better understanding of the elements of a claim, comprehensive analysis of elements associated with DSC claims, and examples of record keeping necessary for adequate evidence. Participants will learn to present and review DSC claims. The seminar will provide the underlying philosophical insight into the intent of the law and obligations of the various parties involved.

There are two steps necessary to ensure recovery for a DSC claim, namely the demonstration of entitlement and presentation of the quantum (impact). There is an overwhelming concentration on development of the quantum (\$) while spending little time or effort in developing the basic hurdle of the merit or entitlement. Since the quantum is largely a mathematical exercise, easier to follow, allows for less ambiguity, it is consequently more easily resolved.

Since the behavior of anticipated geotechnical conditions are largely left to the contractor to interpret, the differences between what is considered reasonable and subsequently encountered, are more likely to result in a conflict. Furthermore, the interaction of geotechnical characteristics with construction equipment and methods are not easily accepted, defined, or demonstrable. Differences in conditions and their impact on construction performance are tricky to present effectively so that all parties agree to the underlying facts and interpretation.

The lack of standard technical practices or the nonexistence of clear guidelines shifts the process into the legal arena. In spite of standards, presumably defined by the law, resolution or acceptance of the merits or entitlement, tend to be more contentious. The technical elements necessary for the establishment, approval, and acceptance of a bona-fide DSC claim have not been defined as a common language and in adequate detail to guide the parties toward agreement.

The seminar and workshop is non-partisan and designed to provide professional development to owners, geotechnical and design engineers, contractors, sub-contractors, attorneys, arbitrators, mediators, disputes review board members.

Who Should Attend?

- Engineers - Design, Geotechnical, Technicians, Construction Inspectors.
- Contractors - Estimators, Project Managers, Office and Claims Engineers.
- Owners - Project Managers, Claim Engineers, Legal Department
- Geologists - Exploration & Engineering Geologists
- Attorneys / Arbitrators
- Disputes Review Board Members

Seminar Benefits

Turn a normally ambiguous, adversary, frustrating, and time consuming process into a standard procedure. Learn the "six commandments"...

- Avoid differing site condition (DSC) claims,

- Learn how to effectively prepare, evaluate, and adjudicate DSC claims,
- Find out how actual case DSC claims have been resolved,
- Get practical, "hands-on" experience in determining, developing, supporting, fulfilling conditions, and presenting your own claim,
- Get practical, "hands-on", experience in the critical and verifiably review, evaluation and judgment on a submitted DSC claim,
- Resolve entitlement based on technical merits,
- Save your organization frustration, time, and costs,
- Analyze geotechnical case studies of DSC claims and,
- Take a look at DSC claims from the owner's, engineer's, and contractor's perspective.

Actual case history examples of DSC claims that have been resolved, including details and illustrations of:

- Differences in conditions and construction performance
- Cause and effect relationships between differences of conditions and performance
- Impact on construction performance
- Fulfilling contract requirements for claims
- Claims presented to arbitration, State Superior Court, Federal Claims, Court, and the Board of Contract Appeals
- Practical "hands-on" experience in developing the presentation and analysis

Seminar Instructor

PETER J. TARKOY, PH.D., P.G., M.ASCE, M.AEG, M.BTS, panelist for the American Arbitration Association is a Geotechnical and Construction Consultant in heavy and underground construction. He has had comprehensive roles on major projects.... WMATA, Washington, DC; Strawberry-Aqueduct, Utah; TARP, Chicago; Milwaukee Metro Sewerage Scheme; North Branch Interceptor Sewer, NYC; Rochester Combined Sewer Overflow Project; Rogers Pass Rail-road Tunnel; Paute Hydroelectric Project, Ecuador; Los Rosales Water Supply Project, Colombia; Lesotho Highlands Water Scheme; Kemano Completion Project; Boston Harbor Cleanup Project; Taipei-Ilan Expressway. In the early 1970s, he developed a simple method for predicting TBM performance and has since been instrumental in the introduction of tunnel boring in New York, Washington (DC), Hong Kong, and Taiwan.

He has been engaged by WMATA, the US Bureau of Reclamation, the US Army Corps of Engineers, and the US Department of Justice as an independent reviewer of DSC claims presented by contractors on numerous projects. He has served owners, engineers, contractors, and attorneys as an expert witness on the subject of site exploration practices, interpretation of anticipated geotechnical conditions, development of anticipated construction performance, encountered conditions and performance, TBM performance, tunneling, micro-tunneling, pipe-jacking, dredging, trenching, and pile socket drilling projects. He has also served as an arbitrator and disputes review board member.

Dr. Tarkoy was nominated "Man of the Year", cited by the Publishers and Editors of Engineering News-Record as one of those who made marks in 1984 "for resolving changed-conditions disputes out of court with computerized geological records." Techniques developed by Dr. Tarkoy for analyzing DSC claims has saved his clients of an average of \$10-20 million/year.

Dr. Tarkoy has taught courses in engineering geology, tunnel construction, tunnel boring, differing site conditions, and computer courses at Boston University, Cornell University and the University of Wisconsin. He has presented compre-

SUMMARY OUTLINE

Technical/Quantitative Elements of Differing Site Condition

Owner's / Engineer's Perspective

Exploration / Site Investigation / Geotechnical Interpretation
Design / Construction Considerations
Contract Documents / Pre-Bid Geology

Contractor's Perspective

Exploration / Site Investigation / Geotechnical Interpretation
Selection of Construction Methods & Equipment
Average / Most Adverse Conditions
Information used by the Contractor to Prepare an Estimate
What ? / How much ? / Where ? / When ?
Documentation of Assumptions

Privileges & Responsibilities

Starting on the Right Foot
Project Documentation (Encountered Conditions / Performance)
Record Keeping
How to Avoid Spurious Claims

How to Avoid Adversary Differing Site Condition Claims

Identifying Differing Site Conditions

What is different? (Conditions / Performance)
Are they related?
What is the impact?

Fulfilling the Requirements of Differing Site Condition Claim

Difference in Conditions (Reasonable Anticipated vs. Agreeable Encountered)
Difference in Performance (Reasonable Anticipated vs. Agreeable Encountered)
Cause and Effect Relationships
Impact
Fulfillment of Contract Conditions
No Other Cause

Case Histories

Presentation of Case Histories
Preparation of an Actual Differing Site Condition Claim
Analysis of an Actual Differing Site Condition Claim
Approval / Disapproval of an Actual Differing Site Condition Claim



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