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October 22, 2004

James Patton, CEG, Esq.
23120 Dart Drive
Tehachapi, CA 93561

Dear Mr. Patton:

RE: ANALYSIS OF SLOPE STABILITY, FACTOR OF SAFTY DETERMINATIONS
BY ENGINEERING GEOLOGISTS

This letter is in response to your letters of August 6th and 27th, 2004, to the Board for Professional Engineers and Land Surveyors (BPELS) and the Board for Geologists and Geophysicists (BGG), respectively. By way of introduction, I serve as legal counsel for both BPELS and BGG and am responding to your inquires directed to both licensing boards "whether the performance of a quantitative slope stability analysis resulting in a numeric factor of safety" by a registered certified engineering geologist without violation of the Business and Professions Code.

In general, both licensed civil engineers and registered geologists may perform a quantitative slope stability analysis resulting in a numeric factor of safety. Each professional who performs such an analysis are required to do so accurately and competently when preparing site geologic characterization reports. State and local jurisdictional standards, such as the Santa Barbara County Planning and Development program requirements, help establish criteria for professional qualifications of determination of license types qualified to supply specific types of slope analysis (and/or factor of safety determinations); both license types are typically expected to identify geologic hazards such as unstable slopes. To the extent that professional services overlap between both licensed occupations, such services may be rendered by either licensed professional. (See *Lehman v. Dalis* (1953) 119 Cal.App.2d 152, 259 P.2d 727.)

Consequently, in most circumstances, the performance of a quantitative slope stability analysis resulting in a numeric factor of safety is within the scope of practice of both registered geologists and licensed civil engineers. In any event, both BPELS and BGG evaluate scope of practice issues on a case-by-case basis according to the unique facts of each circumstance.

If you have any additional questions or comments, please feel free to contact me.

Sincerely,

DOREATHEA JOHNSON
Deputy Director
Legal Affairs

By Gary Duke
Staff Counsel

cc: Deputy Attorney General Marc Greenbaum, Department of Justice