

SO YOU THINK YOU'RE AN EXPERT ?



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THE REALM WHERE ENGINEERS AND ATTORNEYS COMINGLE AND COLLIDE

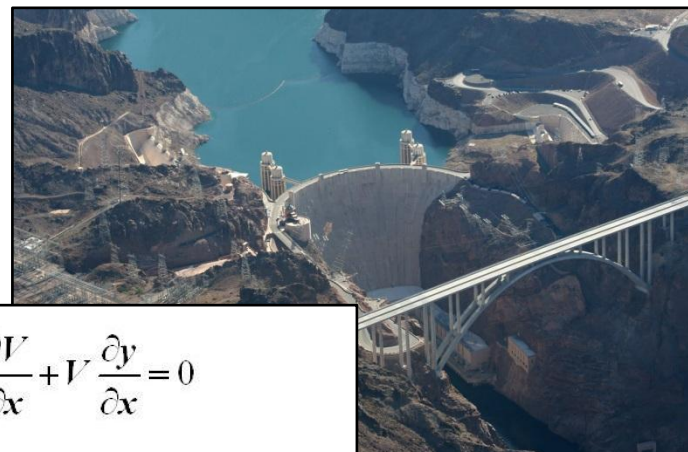
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March 9, 2017

Knight E/A, Inc. – Springfield, IL
Livingston Law – Fairview Heights, IL

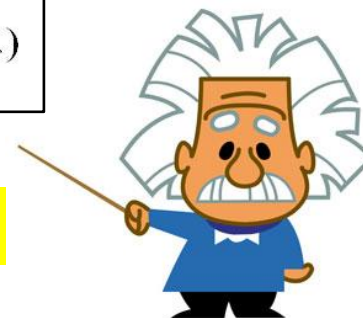
SO YOU THINK YOU'RE AN EXPERT* ?



$$\frac{\partial y}{\partial t} + D_n \frac{\partial V}{\partial x} + V \frac{\partial y}{\partial x} = 0$$

$$\frac{\partial V}{\partial t} + V \frac{\partial V}{\partial x} + g \frac{\partial y}{\partial x} = g(S_o - S_f)$$

*DON'T WE ALL?



FOCUS: WATER RESOURCES EXPERTS

- AN EXPERT'S ROLE – THE 5 W'S
- THE ATTORNEY RELATIONSHIP
- LITIGATION PROCESS
- CASE STUDIES



FIVE QUESTIONS WITH MANY ANSWERS

WHY.....IS AN EXPERT NEEDED?

WHO..... IS AN EXPERT?

....SUPREME COURT RULE 201

WHAT....ATTRIBUTES MAKE A GOOD EXPERT?

....SERVICES WILL BE RENDERED?

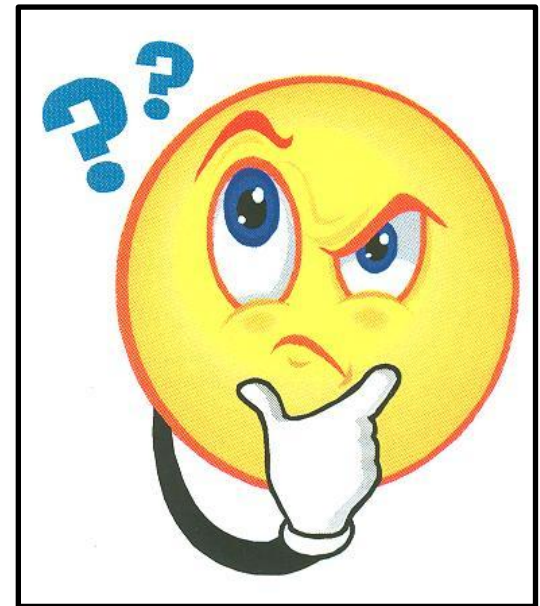
....CAN YOU EXPECT?

....OUTCOME IS LIKELY?

WHERE....WILL EXPERT SERVICES BE APPLIED?

WHEN....WILL YOU BE CALLED UPON TO BE AN EXPERT?

....YOU ARE CALLED TO BE AN EXPERT!



THE CALCULUS OF PROJECT ENGINEERING

**ENGINEERED
PROJECT**

**BUILT AND OPERATES
WITHOUT INCIDENT**

**STRUCTURAL
FAILURE**

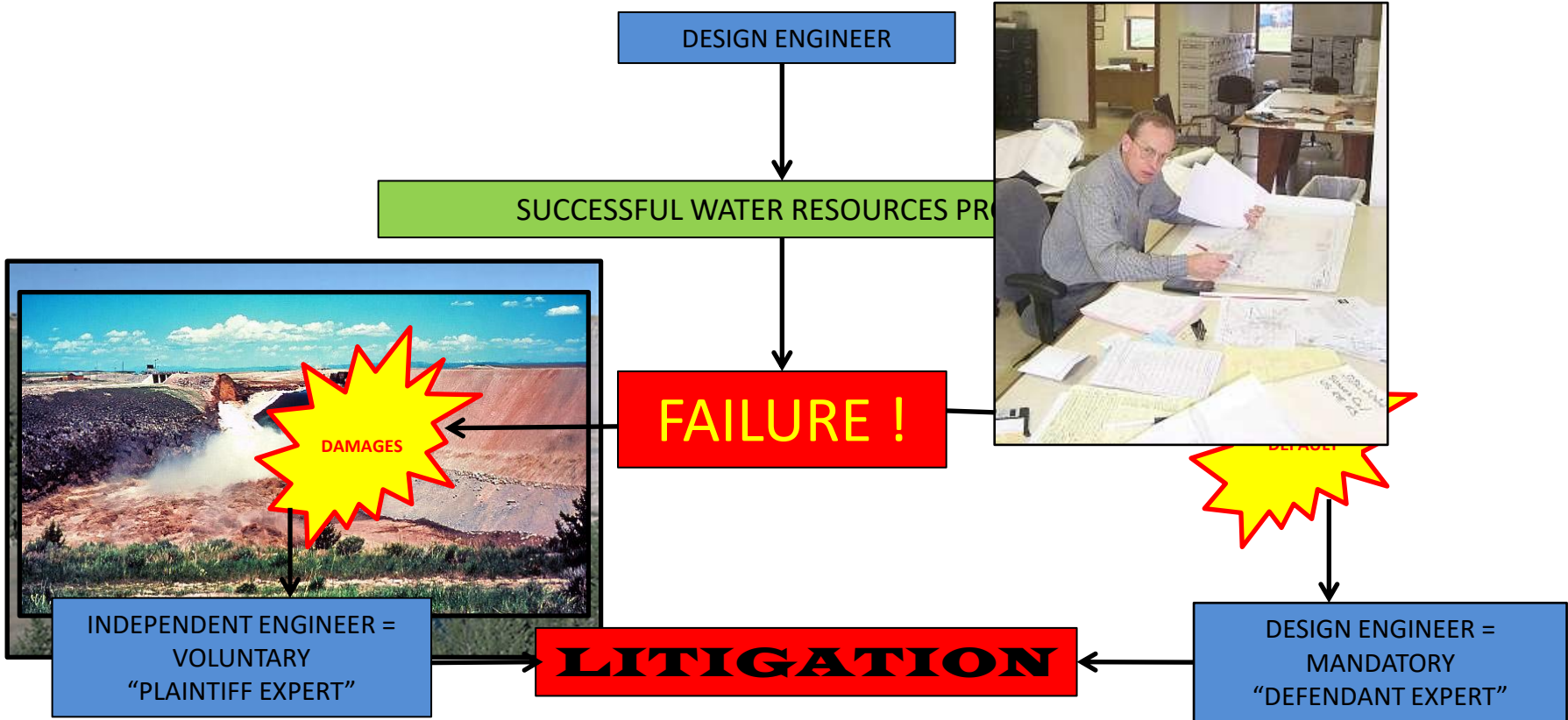
**OPERATIONAL
FAILURE**

PERCEIVED FAILURE !

**4 OUTCOMES...3 ARE
BAD !**

LITIGATION

AN EXPERTS ROLE: WHO IS AN EXPERT?

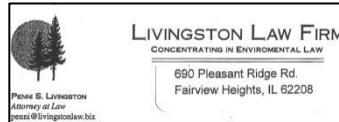


AN EXPERTS ROLE: WHAT ATTRIBUTES MAKE A GOOD EXPERT

ATTRIBUTES OF AN EXPERT

- TECHNICALLY COMPETENT IN FIELD OF EXPERTISE
- EXPERIENCED
- UNIQUELY QUALIFIED
- BASIC UNDERSTANDING OF DRAINAGE LAW
- BASIC UNDERSTANDING OF LEGAL PROCESSES
- ABILITY TO SIMPLIFY COMPLEX ISSUES
- CALM SPIRIT





AN EXPERTS ROLE: WHAT SERVICES WILL BE RENDERED

PLAINTIFF EXPERT SERVICES*

- Review existing data
- Advise legal counsel/client
- Prepare and obtain approval for scope
- Complete inspection & field work, if applicable
- Prepare independent analysis
- Provide written opinion, report or affidavit
- Expert testimony

* Be careful!

DEFENDANT EXPERT SERVICES

- Review original design documentation
- Coordinate with client/management
- Advise legal counsel/insurance company
- Review plaintiff expert opinion
- Provide opinion, report or affidavit
- Expert testimony

SUPREME COURT RULE 201

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PLAINTIFF EXPERT SERVICES

- DO IT RIGHT FROM THE BEGINNING
- You get “the call”
 - Do not commit via phone or discussion
 - Representation by counsel is often not sufficient to make decision; **“if it ain’t right don’t bite!”**
 - Get paid to perform preliminary evaluation; i.e. retainer
 - Make decision for involvement based on your evaluation



AN EXPERTS ROLE: WHAT CAN YOU EXPECT?

EXPECT THE UNEXPECTED

- HIRED GUN STIGMA
- OPPOSING COUNSEL BELIEVES YOUR LYING
- YOUR CLIENT THINKS YOUR LYING
- YOU ARE OVERPAID!
- HUGE DELAYS
- APPEALS, APPEALS, APPEALS
- CHANGE IN JUDGES
- SLEEPING JURISTS
- EVERYONE THINKS ST. VENANT WAS THE POPE'S ADVISOR

THE LEGAL SYSTEM IS NOT:

- LOGICAL
- EXPEDIENT
- EFFICIENT
- PREDICTABLE
- ABSOLUTE



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RESULTS OF YOUR EXPERT SERVICES

PLAINTIFF EXPERT

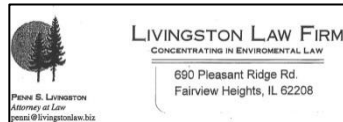
- INJUNCTIVE RELIEF
- REMUNERATION FOR DAMAGES
- ADDITIONAL SERVICES CONTRACT



DEFENDANT EXPERT

- VERIFICATION OF DESIGN
- INTACT FIRM REPUTATION
- IF ERROR DISCOVERED –
RESOLUTION TO MITIGATE
DAMAGES

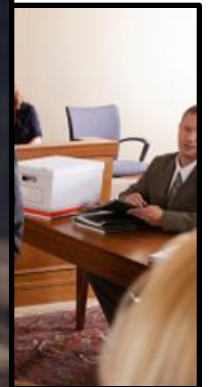




**AN EXPERTS ROLE:
WHERE WILL YOUR SERVICES BE
APPLIED?**

EXPERT SERVICES KNOW NO BOUNDARIES

- OFFICE
- FIELD (inspections by judges !)
- HEARINGS
- DEPOSITIONS
- MEDIATION
- COURTROOM



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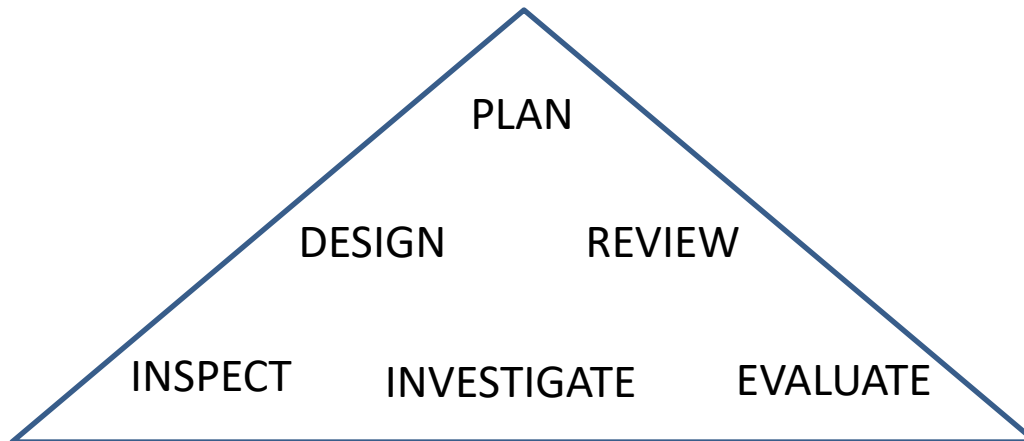
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**AN EXPERTS ROLE:
WHEN WILL YOU BE CALLED UPON
TO BE AN EXPERT?**

GET READY TO BE A EXPERT

DO YOU.....?



THEN SOONER OR LATER YOU WILL
“KNOW”



“LITIGATE”

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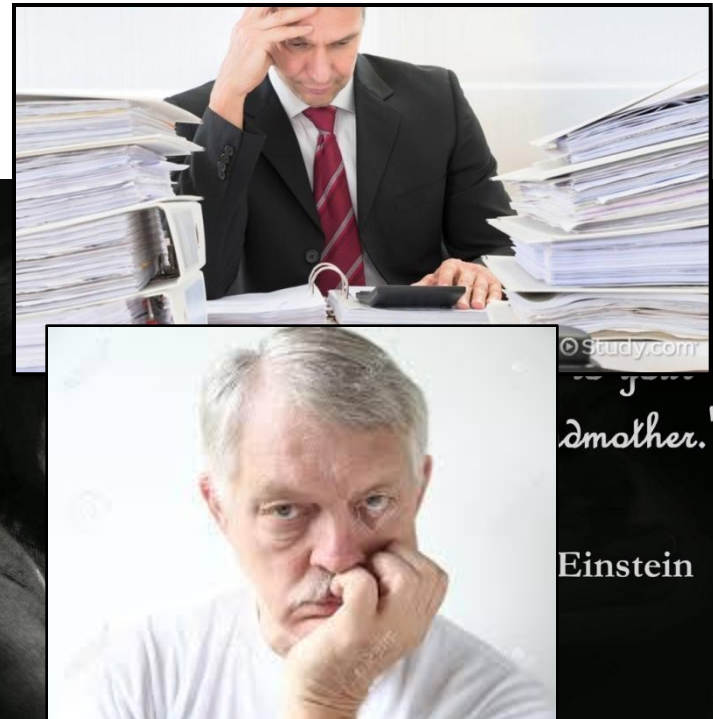
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SO YOU THINK YOU'RE AN EXPERT ?

AN EXPERTS ROLE: WHEN YOU ARE CALLED TO BE AN EXPERT

TIPS FOR TESTIMONY

- PREPARE, PREPARE, PREPARE !
- KNOW YOUR MATERIAL
- DON'T RAMBLE – BE DIRECT
- BE SIMPLE
- DON'T BE ARGUMENTATIVE
- ASK QUESTIONS FOR CLARIFICATION
- DON'T OFFER ANYTHING UNNECESSARY

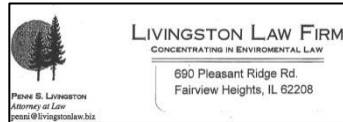


INTERACTION WITH LEGAL COUNSEL

- TEACH
- DEMONSTRATE
- ARGUE !
- CRITIQUE
- STRATEGIZE
- PRACTICE
- LEGAL MOTIONS
- OPINE.....THAT'S WHAT YOU GET PAID TO DO !

Think
like an
ENGINEER





LITIGATION PROCESS

THE PROCEDURES.....

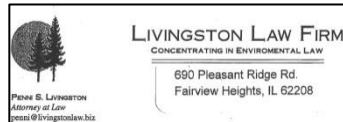


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LITIGATION PROCESS

THE PROCESS....

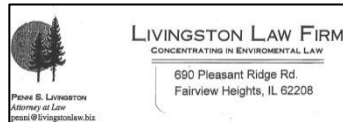


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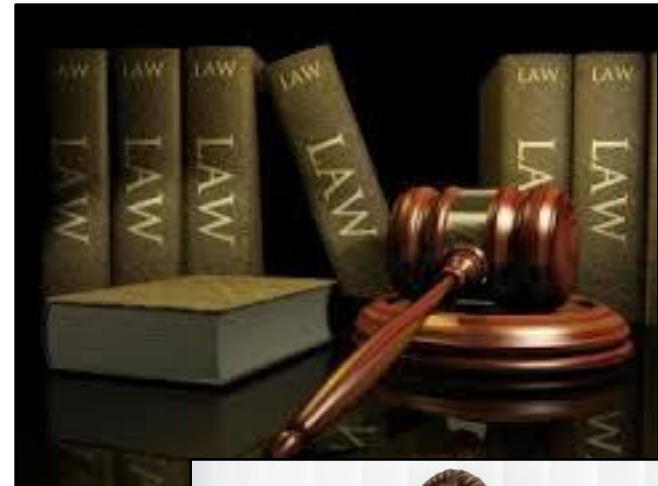
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SO YOU THINK YOU'RE AN EXPERT ?



CASE STUDIES

- STORMWATER
- DAM SAFETY
- LEVEES
- EROSION AND SEDIMENTATION



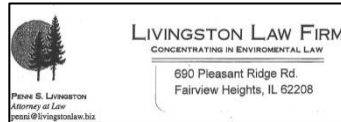
The names of the parties have been excluded

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CASE STUDIES

STORMWATER

Case: Private Citizen vs. Engineering Firm

Position: Plaintiff's Expert

Opinion:
Offsite Drainage Design Inadequate

Result: On appeal requesting proper design

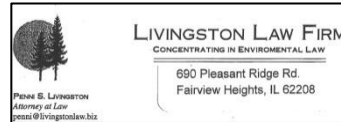


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CASE STUDIES

STORMWATER

Case: Private Citizen vs. Municipality

Position: Plaintiff's Expert

Opinion:

Detention Design doesn't meet Ordinance
Stormwater Connection Exacerbates Flooding
Downstream Private Citizen Floods

Result: On appeal requesting proper design



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DAM SAFETY

Case: Parents of drown children vs. Lake Owners Association

Position: Plaintiff's Expert

Opinion:

Lack of adequate restriction to dangerous areas

No warning signs of dangerous conditions

No lifesaving equipment on site

Result: \$31 million award to Plaintiff



LEVEES

Case: Levee District vs. Private Levee Owners

Position: Plaintiff's Expert

Opinion:

Private Levee is Illegal

2D Model Demonstrates Impacts

Increased WSE Caused Failure

Result: Injunctive Relief Awarded – Levee Removal
\$1.6 million in Damages is pending



EROSION AND SEDIMENTATION

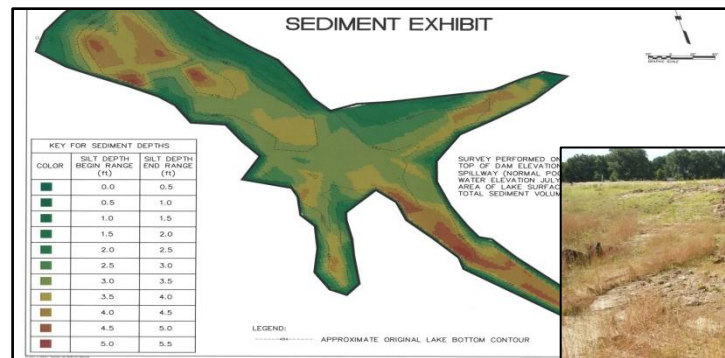
Case: Private Owner vs. Developer

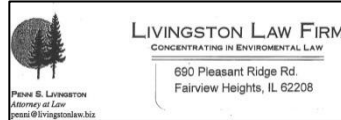
Position: Plaintiff's Expert

Opinion:

Development Activity Caused
Owners Lake Filled with Sediment

Result: \$1.6 million in damages awarded
Client Dredged and Restored Lake





CASE STUDIES

EROSION AND SEDIMENTATION

Case: Private Owner vs. Developer

Position: Plaintiff's Expert

Opinion:
Development Activity Caused
Owners Lake to Fill with Sediment

Result: \$300,000 in Damages Awarded
Proper Erosion and Sedimentation
Techniques Constructed



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SO YOU THINK YOU'RE AN EXPERT ?

CROSS EXAMINATION TIME

