

FILED 6/8/11 (Date)

BEFORE THE IOWA ENGINEERING AND LAND SURVEYING
EXAMINING BOARD

Board / Commission

Signature, Executive Officer

IN THE MATTER OF:)

Kirk D. Eschliman, LS)
LS #09961)

RESPONDENT)

CASE NO. 10-44

COMBINED STATEMENT OF CHARGES
AND CONSENT ORDER

A. Statement of Charges

1. The Iowa Engineering and Land Surveying Examining Board ("Board") has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 542B (2011).

2. Respondent is a licensed professional land surveyor in Iowa. He was issued LS license number 09961 on June 17, 1982. Respondent's land surveyor license is in active status and is scheduled to expire on December 31, 2011.

3. The Board received a complaint in October 2010 alleging that Respondent engaged in the practice of professional engineering when he prepared a drainage report in August 2010.

4. The Board submitted the complaint to peer review. The peer reviewer concluded that Respondent practiced professional engineering, as defined in Iowa Code section 542B.2(8), without proper licensure in violation of Iowa Code sections 542B.1 and 542B.27(1)(a). The peer reviewer concluded the technical calculations performed were beyond the education and training associated with the practice of land surveying, as defined in Iowa Code section 542B.2(5). The peer review also concluded Respondent performed outside the area of his competence as required by 193C IAC 8.2(2).

5. Respondent is charged with practicing professional engineering without proper licensure and outside his technical competence in violation of Iowa Code sections 542B.1, 542B.15, and 542B.21(2), and 193 IAC 8.2(2).

6. Rather than proceed to hearing, Respondent agrees to fully resolve this disputed matter through the following Consent Order.

B. Settlement Agreement and Consent Order

7. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order. This Consent Order constitutes discipline against the Respondent, and is the final agency order in the contested case, pursuant to Iowa

Code section 17A.10 and 193 Iowa Administrative Code 7.4.

8. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.

9. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations.

10. This Combined Statement of Charges and Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2011).

11. Failure to comply with the provisions of this Order shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2011). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

12. This Order is subject to approval of the Board: (a) If the Board fails to approve this Order, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter. (b) If the Board approves this Order, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Reprimand. Respondent is reprimanded for engaging in the practice of professional engineering without proper licensure.

B. Civil Penalty. Respondent shall pay a civil penalty of \$1,000 to the Board office no later than 30 days after the date this Consent Order is signed by all parties.

C. Future Compliance. Respondent shall in the future adhere to all statutes and administrative rules in the practice of land surveying and shall, in particular, refrain from practicing professional engineering.

AGREED AND ACCEPTED:

[Redacted Signature]

Date 06/30/2011

Kirk D. Eschliman, LS Respondent

The Iowa Engineering and Land Surveying Examining Board

[Redacted Signature]

Date 07/07/11

By: Marlee Walton, PE, PLS, Chair

DATE OF ISSUANCE 6/8/11