



ENGINEERS &
GEOSCIENTISTS
BRITISH COLUMBIA

IN THE MATTER OF THE *PROFESSIONAL GOVERNANCE ACT*, S.B.C. 2018, c. 47

and

IN THE MATTER OF ROBERT (“ROY”) KEERY, P.Eng.

ENGINEERS AND GEOSCIENTISTS BC FILE NO. T20-005

CONSENT ORDER

Background

1. On February 5, 2021, the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c. 116 (the “*EGA*”) was repealed and replaced by the *Professional Governance Act*, S.B.C. 2018, c. 47 (the “*PGA*”).
2. On February 28, 2022, the Association of Professional Engineers and Geoscientists of the Province of British Columbia, doing business as Engineers and Geoscientists BC, issued a Citation to Robert (“Roy”) Keery, P.Eng., pursuant to s. 66(1)(d) of the *PGA*.
3. Engineers and Geoscientists BC and Mr. Keery wish to resolve the matter by way of a Consent Order pursuant to section 73(2) of the *PGA*.

Admissions

4. Mr. Keery admits that he demonstrated unprofessional conduct by:
 - a. Failing to design a sewerage system (the “Sewerage System”) at a residential property in Prince George, BC (the “Property”) in or around November 2017 in a manner consistent with the Sewerage System Practice

Manual version 3 (the “SPM”); and/or a specified alternative standard practice by, among other things:

- i. Failing to specify the location of percolation test pits on any document or site plan for the Sewerage System, as required by section II- 3.3.3 of the SPM;
 - ii. Failing to utilize a hydraulic loading rate that was consistent with and appropriate for the percolation rate articulated in the 2017 Soil Report, which was prepared for the Sewerage System;
 - iii. Failing to use two hydraulic loading rates in the design of the Sewerage System, as required by section II- 5.5.3 of the SPM;
 - iv. Failing to select a septic tank in accordance with the requirements of Table II-32 of the SPM, for the daily design flow of 1950 litres per day called for in the design of the Sewerage System; and
 - v. Failing to space the infiltrator chambers a minimum of 1.8 metres from center, as required by Table II-37 of the SPM;
- b. Failing to provide adequate direct supervision in regard to the design and/or installation of the Sewerage System;
 - c. Failing to conduct adequate field reviews in regard to the design and/or installation of the Sewerage System;
 - d. Failing to create or maintain adequate project documentation in regard to the design and/or installation of the Sewerage System;
 - e. Creating a potential risk to public health by failing to abide by the SPM in regard to the engineering work on the Property;
 - f. Failing to comply with subsection 8 of the *Sewerage System Regulations*, B.C. Reg. 326/2004 (the “SSR”) by signing and sealing a Record of Sewerage System form, dated November 24, 2017, affirming that the plans and specifications attached therein were consistent with standard practice when he knew or ought to have known that the plans and specifications were not consistent with standard practice;
 - g. Failing to comply with subsection 9 of the SSR by signing and sealing a Letter of Certification, bearing a project completion date of December 20, 2017, affirming that the Sewerage System had been constructed in accordance with standard practice when he knew or ought to have known that the Sewerage System had not been constructed in accordance with standard practice.

5. The conduct set out above at paragraphs 4 (a), (b), (c), (e), (f) and (g) is contrary to Principle 1 of the Engineers and Geoscientists BC Code of Ethics (the “Code of Ethics”), as it stood at the time, which required that members and licensees hold paramount the safety, health and welfare of the public, the protection of the environment and promote health and safety within the workplace.
6. The conduct set out about at paragraphs 4 (f) and (g) is contrary to Principle 3 of the Code of Ethics, as it stood at the time, which required that members and licensees provide an opinion on a professional subject only when it is founded upon adequate knowledge and honest conviction.
7. The conduct set out above at paragraphs 4 (c) and (d) is contrary to section 14(b) of the Engineers and Geoscientists BC Bylaws, as it stood at the time, which required that members and licensees establish and maintain documented quality management processes for their practices, including, at a minimum:
 - (1) retention of complete project documentation which may include, but is not limited to, correspondence, investigations, surveys, reports, data, background information, assessments, designs, specifications, field reviews, testing information, quality assurance documentation, and other engineering and geoscience documents for a period of 10 years;
 - [(2) deleted]
 - (3) documented field reviews by, or under the direct supervision of, members or licensees, of their domestic projects during implementation or construction.

Disposition

8. By consent, this Order is made pursuant to section 73(2) of the *PGA*.
9. Mr. Keery’s registration with Engineers and Geoscientists BC is suspended for a period of two months commencing on December 1, 2022 (the “Suspension”).
10. During the period from the date of this Consent Order to December 1, 2022, Mr. Keery will:
 - a. make reasonable arrangements for the orderly transfer of his ongoing professional engineering project files to other professional engineers; and,
 - b. limit his practice to those project files that he is currently engaged on and not take any new project files or other engineering work.

11. Effective immediately, the following conditions are imposed on Mr. Keery's registration:
- a. Mr. Keery agrees that he will be restricted from practising in the area of wastewater sewerage systems. Specifically, Mr. Keery will not act as an authorized person pursuant to the SSR and the SPM, or conduct any engineering work related to sewerage systems;
 - b. If Mr. Keery wishes to practice in the area of wastewater sewerage systems following execution of the Consent Order, Mr. Keery will successfully complete one of the following two courses at his own expense, and notify Engineers and Geoscientists BC once completed:
 - i. "ROWP Planner" course provided by the BC OnSite Sewage Association
or
 - ii. "Onsite Wastewater Practitioner Training Program Phase I" course provided by WCOMWMA Onsite Wastewater Management of BC.
 - c. In addition to paragraph 11(b), if Mr. Keery wishes to practice in the area of wastewater sewerage systems following the execution of the Consent Order, the following conditions are imposed:
 - i. All such work must be reviewed by a peer reviewer secured by Mr. Keery and approved in writing by the Registrar of Engineers and Geoscientists BC (the "Registrar");
 - ii. The peer review referred to above in paragraph 11(c)(i) must continue for a minimum of twenty-four months from the date the peer reviewer is approved by the Registrar, or the completion of twelve wastewater sewerage systems, whichever comes later (the "Peer Review Period");
 - iii. Following the Peer Review Period, Mr. Keery will obtain an opinion from the approved peer reviewer that he is competent to perform wastewater sewerage system designs and provide that opinion to the Registrar;
 - iv. Following the Peer Review Period, if the opinion of the approved peer reviewer is that Mr. Keery requires further peer review, the Peer Review Period shall continue for additional six-month periods, or the completion of two wastewater sewerage system designs, whichever comes later; and
 - v. The costs of the peer reviewer, if any, shall be borne by Mr. Keery; and

- vi. Six months after the completion of the peer review, Mr. Keery will commence a Practice Review at his own cost, the precise timing of which will be determined by the Practice Review Committee.
12. Mr. Keery will complete the Professional Engineering and Geoscience Practice in BC Online Seminar at his own expense, by no later than two months from the date of this Consent Order.
13. Mr. Keery will complete the Authentication of Documents (formerly "Use of Seal") online course, by no later than two months from the date of this Consent Order.
14. Mr. Keery will pay \$8000.00 towards the legal and investigative costs of Engineers and Geoscientists BC within thirty days of the date of this Consent Order.
15. In the event that Mr. Keery fails to comply with any of the terms of this Consent Order, his registration with Engineers and Geoscientists BC will be suspended until every default has been remedied in accordance with the terms of this Consent Order.

Consequences of the Consent Order

16. The full text or a summary of this Consent Order will be published by Engineers and Geoscientists BC in print and electronic publications including on Engineers and Geoscientists BC's website.
17. This Consent Order has the same force and effect as an Order made under section 75 of the *PGA*.
18. Mr. Keery agrees that he has received independent legal advice regarding this Consent Order and that Engineers and Geoscientists BC has given him the time necessary to obtain independent legal advice.

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19. Mr. Keery and Engineers and Geoscientists BC agree that this Consent Order may be executed in counterparts and delivered as an electronic document.

This Consent Order is approved and accepted by Mr. Keery and the members of the Discipline Resolution Panel this 4 day of November, 2022.

<original signed by>

Robert ("Roy") Keery, P.Eng.

Richard Oszurt

Name of Witness

<original signed by>

Signature of Witness

<original signed by>

Jurgen Franke, P.Eng.
Member, Discipline Resolution Panel

<original signed by>

Reshmeena Lalani, CPA, CA
Member, Discipline Resolution Panel

<original signed by>

Thomas Morrison, P.Eng.
Member, Discipline Resolution Panel