

**IN THE MATTER OF THE ENGINEERS AND GEOSCIENTISTS ACT
R.S.B.C., 1996, c. 116, as amended**

- and -

IN THE MATTER OF JERRY RAYMOND LAY, P.ENG.

CONSENT ORDER

Dated for reference October 31, 2009.

WHEREAS Jerry Raymond Lay, P.Eng. ("Jerry Lay") was served with a Notice of Inquiry, dated November 15, 2006, that contained the following allegation:

AND TAKE NOTICE that the allegations against you are that, contrary to Sections 33(1)(b) and 33(1)(c) of the Act, you have contravened this Act and Paragraph 1 of the Code of Ethics and have demonstrated incompetence or unprofessional conduct. Particulars of the allegations are set out in numbered paragraphs below.

1. That between September 2005 and August, 2006, you completed a design for a residential sewerage system constructed on a lot, having a municipal address of [REDACTED] British Columbia and did issue for delivery to the authority having jurisdiction ("Interior Health") a Sewerage System Letter of Certification in circumstances where, contrary to Sections 8 and 9 of the Sewerage System Regulation (the "Regulation") pursuant to the Health Act, R.S.B.C. 1996, C. 179:
 - (a) The original filing with Interior Health contained incorrect information regarding the total living area of the residence and the lot size upon which the residence was situated;
 - (b) The design flow rate calculated by you for the sewerage system at 300 gallons per day was below the requirements of 457.5 gallons per day pursuant to the Standard Practice Manual issued by the Ministry of Health Services for the Government of British Columbia on June 7, 2005 (the "Manual"), Table 4-1;
 - (c) The septic tank size of 1,000 gallons was inadequate and required a minimum tank capacity of 1,350 gallons per Table 8-1 of the Manual;
 - (d) The seepage bed size was inadequate pursuant to Table 5-3 and section 12.1.3 of the Manual for the soil percolation rate and design flow rate calculated by you;

- (e) *The seepage bed width exceeded that permitted by section 12.1.4 of the Manual;*
 - (f) *The original design drawings and subsequent as built drawings of the sewerage system were incomplete and of a quality beneath the standards expected of a professional engineer;*
 - (g) *You wrongfully misrepresented to Interior Health that you had consulted with the Manual in respect of an as built design that was clearly in violation of, and constructed without regard to the requirements of the Manual; and*
 - (h) *You failed to provide Interior Health and the owner with the requisite documentation, in particular the Letter of Certification and maintenance plan, within 30 days as required by the Regulation.*
2. *That between August 2005 and August 2006, you did file with Interior Health numerous Records of Sewerage Systems ("Record") that you represented had been designed by you in accordance with standard practice upon consultation with the Manual that:*
- (a) *Failed to provide for an adequate septic tank capacity as required by Table 8-1 to the Manual based upon the disclosed information within the Record; and*
 - (b) *Included design drawings of the sewerage system that were not to scale, incomplete, hand drawn, and of a quality beneath the standard expected of a professional engineer.*
3. *That upon completion of the construction of numerous sewerage systems for which you had caused a Record to be filed with Interior Health, you failed contrary to the Regulations to file with Interior Health:*
- (a) *A Letter of Certification with the requisite information, as set forth in Sub - Section 9 (b) to the Regulation; and*
 - (b) *A plan of the as built sewerage system with a copy of the maintenance plan provided to the owner of the sewerage system, as set forth in Sub - Section 9 (c) to the Regulation.*
4. *The aforesaid sewerage systems referred to in Paragraphs 2 and 3 above, as referenced pursuant to the Interior Health file and/or folio designation, include:*
- (a) *Folio 20-22-722-00080.000, dated July 12, 2006;*
 - (b) *Folio 19-23-331-09275.050, dated April 21, 2006;*

- (c) *File F22 – 2006: Folio 20-323-00793-200, dated March 13, 2006;*
- (d) *File F16 – 2006: Folio 30-732-00933-555, dated March 8, 2006;*
- (e) *Folio 19-23-331-01754.030, dated February 27, 2006;*
- (f) *File F12 – 2006: Folio 323-00668-058, dated February 15, 2006;*
- (g) *File F9 – 2006 (kennel): Folio 20-304-01583, dated February 15, 2006*
- (h) *File F10 – 2006 (house): Folio 20-304-01583, dated February 15, 2006*
- (i) *File F75 – 2005: Folio 20-789-09336.025, dated December 18, 2005;*
- (j) *Folio 19-23-331-02031-012, dated December 12, 2005;*
- (k) *File F55 – 2005: Folio 20-202-00377.000, dated October 28, 2005;*
- (l) *File F39 – 2005: Folio 20-304-015868.115, dated September 21, 2005; and*
- (m) *File F20 – 2005: Folio 14895-570, dated August 10, 2005.*

5. *That on or about March 13, 2006 you did cause to be filed with Interior Health a Record in respect of two properties in which you wrongfully submitted identical soil test pit findings for the two properties. The Records were assigned by Interior Health the following file and folio reference numbers:*

- (a) *File F21 – 2006: Folio 20-323-000501-000, dated March 13, 2006; and*
- (b) *File F22 – 2006: Folio 20-323-00793-200, dated March 13, 2006.*

AND WHEREAS Jerry Lay entered into an agreement with The Association of Professional Engineers and Geoscientists of the Province of British Columbia (the "Association") dated September 17, 2007 (the "Determination and Order") whereby he admitted the allegations in the Notice of Inquiry dated July 18, 2007 and agreed to certain penalties.

AND WHEREAS Jerry Lay has completed most of the terms of the Determination and Order.

AND WHEREAS the enforceability of the Determination and Order has been challenged in other proceedings.

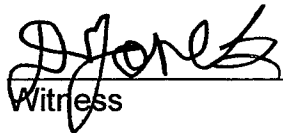
AND WHEREAS the Association and Jerry Lay wish to give legal effect to the

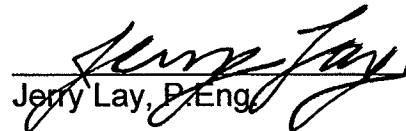
reprimand and the remaining penalty terms in the Determination and Order.

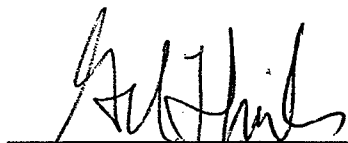

THEREFORE by consent, this Order is hereby made, pursuant to the Engineers and Geoscientists Act, R.S.B.C. 1996, c. 116 as amended ("Act"), specifically s. 32.1.


1. Jerry Lay admits the allegations of unprofessional conduct set out in the Notice of Inquiry.
2. Jerry Lay's penalty for this unprofessional conduct is as follows:
 - a) Jerry Lay is reprimanded;
 - b) Jerry Lay will not undertake any new wastewater treatment and disposal systems work until the conditions established in paragraphs (c) or (d) below of this Consent Order are satisfied;
 - c) Jerry Lay will at any time be at liberty to apply to the Association to lift the practice restrictions set out in paragraph (b) above of this Consent Order upon his providing to the Association proof that he has successfully completed further training and education in wastewater treatment and disposal systems that is acceptable to the Registrar of the Association;
 - d) Subject to approval by the appropriate authorities and compliance with the applicable rules, Jerry Lay will at any time be permitted to apply for registration as a Registered On-Site Wastewater Practitioner.

This Consent Order is approved and accepted by Jerry Lay and a member of the Discipline Committee this 22nd day of October, 2009.


Witness


Jerry Lay, P.Eng.


Witness



Roy Wares, P.Eng.
Chair, Discipline Committee