



ENGINEERS &
GEOLOGICISTS
BRITISH COLUMBIA

Dated August 5, 2020

In the matter of Laura Fidel, P.Eng.

Notice of Revised Schedule

Additional days have been scheduled for the disciplinary inquiry originally scheduled for July 6 – 17, 2020. The Panel of the Discipline Committee have advised this matter will reconvene on September 28 – 29, 2020 for the purpose of hearing closing arguments.

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

and

IN THE MATTER OF LAURA FIDEL, P.ENG.

NOTICE OF INQUIRY

TO: Laura Fidel, P.Eng.
c/o Twinning, Short & Haakonson Law Corporation
Suite 1510, 1050 West Pender Street
Vancouver, BC V6E 3S7
Attention: Steven Haakonson

TAKE NOTICE that a Panel of the Discipline Committee of the Association of Professional Engineers and Geoscientists of the Province of British Columbia (the "Association"), doing business as Engineers and Geoscientists BC, will meet at Charest Reporting, 16th Floor – 885 West Georgia Street, in the City of Vancouver, in the Province of British Columbia on July 6 - 10 and July 13 - 17, 2020 at the hour of 9:30 a.m. for the purpose of taking evidence or otherwise causing an inquiry to be made with respect to the allegations herein pursuant to the *Engineers and Geoscientists Act*, R.S.B.C. 1996, Chapter 116 (the "Act").

AND TAKE NOTICE that the allegations against you are that:

1. You demonstrated unprofessional conduct in or about January 2013 when you undertook and accepted responsibility for the role of Engineer of Record ("EOR") for the Mount Polley Tailings Storage Facility (the "TSF"), and advised Mount Polley Mining Corporation ("MPMC") that you were accepting this responsibility, in circumstances where you were not qualified by training or experience to fulfil that professional assignment.
2. You demonstrated unprofessional conduct in or around March and April 2013 when you accepted professional responsibility for the Stage 9 design of the TSF embankments and the accompanying stability analyses by sealing the Stage 9 2013 Construction Monitoring Manual and the Stage 9 design drawings, in circumstances where you were not qualified by training or experience to accept that responsibility.
3. You demonstrated unprofessional conduct in or around March and April 2013 by affixing your seal to the Stage 9 2013 Construction Monitoring Manual and the Stage 9 design drawings, in circumstances where the Stage

9 design of the TSF embankments was not prepared by you or under your direct supervision, and in circumstances where another engineer was most directly responsible for preparing the Stage 9 design.

4. You demonstrated unprofessional conduct or negligence when, having accepted the responsibility of EOR and Project Manager in connection with the Stage 9 raise of the TSF embankments, you failed to ensure that there was sufficient observation and monitoring of the TSF embankments while you were EOR, or to warn MPMC of the need for better observation and monitoring, particularly in view of the fact that the embankments were built to a slope of 1.3H:1V which was unusually steep for rockfill tailings embankments on soil foundations built by the centreline method with a relatively narrow crest, including by:
 - a. failing to visit the site and observe the embankments more than once in a thirteen month period from January 2013 to February 2014;
 - b. failing to ensure that a geotechnical engineer or engineers with appropriate experience and knowledge of the design of the embankments visited the site to observe the TSF embankments for changed loading conditions, for potential indicators of safety or stability issues including bulging, cracking, sloughing, seepage, shrinking or absent beaches, impoundment water levels including for risk of water overtopping, and generally to ensure that the embankments were functioning as intended and in a safe condition;
 - c. failing to ensure that you were receiving regular updates on the volume and elevation of water in the TSF impoundment and the status of the beaches within the TSF;
 - d. failing to ensure that the implications, both in terms of stability and consequences if failure occurred, of any changes in the matters referred to in paragraph (c) was assessed;
 - e. failing to ensure that a geotechnical engineer with appropriate experience and knowledge of the design oversaw the construction of the Stage 9 raise of the TSF embankments by regularly attending at the site during construction and monitoring construction methods;
 - f. failing to advise and warn MPMC that students should not be used as Field Inspectors, including in relation to construction monitoring, as they would have too little experience and training to fulfil the role of a Field Inspector; and

- g. failing to request and review reports of seepage monitoring which may provide evidence of a potential unsafe condition with the embankments such as piping.
5. You demonstrated unprofessional conduct or negligence when you signed and sealed the Stage 8/8A As-Built Report in which you made the statement that the raise of the embankment was “judged to have been carried out in conformity with design intent”, when in fact the Stage 8/8A raise was constructed at a steeper slope and with a wider crest than was designed, something which, as EOR, you should have known.
6. You demonstrated unprofessional conduct or negligence when in the Fall of 2013 you became aware of an unfilled excavation at the toe of the perimeter embankment of the TSF, and as EOR and Project Manager you did not take steps at any time prior to commencing a leave from work in February 2014:
 - a. to have an appropriately qualified geotechnical engineer assess the excavation to determine what impact, if any, the excavation would have on the stability of the embankment if it was left unfilled;
 - b. to determine the extent and purpose of the excavation or who had authorized it; and
 - c. to notify MPMC that the excavation was not in conformity with the Stage 9 Design.
7. The conduct set out above at paragraphs 1 to 6 is contrary to Principle 1 of the Association’s *Code of Ethics* which requires that all members and licensees shall hold paramount the safety, health and welfare of the public, the protection of the environment and promote health and safety within the workplace.
8. The conduct set out above at paragraphs 1 and 2 is contrary to Principle 2 of the Association’s *Code of Ethics* which requires that all members and licensees shall undertake and accept responsibility for professional assignments only when qualified by training or experience.
9. The conduct set out above at paragraphs 2 and 3 is contrary to Principle 3 of the Association’s *Code of Ethics* which requires that all members and licensees shall provide an opinion on a professional subject only when it is founded upon adequate knowledge and honest conviction.

10. The conduct set out above at paragraphs 2 and 3 is contrary to s. 20(9) of the *Act* which provides that a member or licensee receiving a seal or stamp under this section must use it, with signature and date, to seal or stamp estimates, specifications, reports, documents, plans or things that have been prepared and delivered by the member or licensee in the member's or licensee's professional capacity or that have been prepared and delivered under the member's or licensee's direct supervision.

AND FURTHER TAKE NOTICE that you, Laura Fidel, P. Eng., have the right, at your own expense, to be represented by counsel at the inquiry by the Panel of the Discipline Committee and you or your counsel shall have the full right to cross-examine all witnesses called and to call evidence in defence and reply in answer to the allegation.

AND FURTHER TAKE NOTICE that in the event of your non-attendance at the inquiry, the Panel of the Discipline Committee may, upon proof of service of this Notice of Inquiry upon you, proceed with the taking of evidence or otherwise ascertaining the facts concerning the allegation, despite your absence, and may make its findings on the facts and its decision without further notice to you.

DATED this 26th day of February 2020.

The Discipline Committee of Engineers and
Geoscientists British Columbia

<original signed by>

Per: Paul Adams, P.Eng., FEC
Chair, Discipline Committee