

**SUGDEN, McFEE & ROOS LLP**  
**BARRISTERS & SOLICITORS**

---

RICHARD R. SUGDEN, Q.C.(2009)

ROBIN N. MCFEE, Q.C.\*  
PATRICK F. LEWIS \*  
ERRIN A. POYNER  
JESSIE I. MEIKLE-KAHS  
ELIZABETH J. ALLAN  
JENNIFER C. CROSMAN

JEAN P. WHITTOW, Q.C.\*  
ASSOCIATE COUNSEL

ALBERT M. ROOS, Q.C.\*  
MICHAEL D. SHIRREFF  
ALLISON E. JACKSON  
MIRIAM ISMAN  
MAYA O. OLLEK

\*DENOTES LAW CORPORATION

THE LANDING  
700 - 375 WATER STREET  
VANCOUVER, BRITISH COLUMBIA  
CANADA V6B 5C6

TELEPHONE 604-687-7700  
FAX 604-687-5596

File No. A-5582-18  
Email: [jwhittow@smrlaw.ca](mailto:jwhittow@smrlaw.ca)

January 21, 2019

**BY EMAIL**

Gudmundseth Mickelson LLP  
Barristers and Solicitors  
2525 – 1075 West Georgia Street  
Vancouver BC V6E 3C9

Attention: Andrew Gay, Q.C.

McCarthy Tetrault LLP  
Barristers and Solicitors  
Suite 2400 – 745 Thurlow Street  
Vancouver BC V6E 0C5

Attention: Nicholas R. Hughes

Dear Sirs:

**Re: Engineers & Geoscientists of the Province of BC re: Stephen Rice, P. Eng**

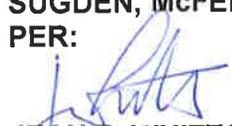
I am writing as counsel for the discipline hearing committee (the "Panel") on this matter.

The Panel has considered Mr. Gay's letter of January 9, 2019 indicating that Mr. Rice sought an adjournment as his counsel was not available on the March dates which had been originally scheduled for the hearing. The Panel has as well considered your subsequent advice regarding new dates.

The Panel grants the adjournment to the new dates requested; that is, June 17 to 26, 2019.

Yours truly,

**SUGDEN, McFEE & ROOS LLP**  
**PER:**

  
**JEAN P. WHITTOW, Q.C.**  
JPW/gm

c: EGBC  
Panel

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

**and**

**IN THE MATTER OF STEPHEN RICE, P.ENG.**

**NOTICE OF INQUIRY**

TO: Stephen Rice, P.Eng.  
c/o McCarthy Tétrault LLP  
Suite 2400, 745 Thurlow Street  
Vancouver, BC V6E 0C5  
Attn: Nicholas Hughes

**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 4010 Regent Street, in the City of Burnaby, in the Province of British Columbia from March 18<sup>th</sup> to 22<sup>nd</sup>, 2019 and March 25<sup>th</sup> to 26<sup>th</sup>, 2019 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 from January 2013 to February 2014, when, as the most senior engineer at AMEC Foster Wheeler (“AMEC”) working on the Mount Polley Tailings Storage Facility (the “TSF”), you allowed Laura Fidel, P.Eng. (“Ms. Fidel”), a relatively junior engineer with little experience with embankment design, who had never previously acted as the Engineer of Record (“EOR”) on a project, to act as the EOR for the TSF.
2. Having allowed an engineer with insufficient expertise and experience to act as the EOR for the TSF, you demonstrated unprofessional conduct by:
  - a. failing to ensure that a geotechnical engineer or engineers with appropriate experience and knowledge of the design of the embankments visited the site on a regular basis to observe the TSF for potential indicators of safety or stability issues, including bulging, cracking, sloughing, seepage, shrinking or absent beaches, impoundment water levels including a risk of water overtopping, and generally to check that the embankments were functioning as intended and in a safe condition; and

- b. failing to ensure that field inspectors and personnel conducting construction monitoring at the TSF embankments were appropriately experienced and trained, and failing to ensure that either you or the EOR warned Mount Polley Mining Corporation (“MPMC”) that they were not appropriately experienced and trained.
3. You demonstrated unprofessional conduct when you accepted professional responsibility as the review engineer for the Stage 9 Design of the TSF embankments in circumstances where you were not qualified by training or experience to adequately fulfil that role, and in particular had insufficient expertise with the design of rockfill tailings embankments on soil foundations necessary to assess or critique the elements of the Stage 9 design or the assumptions underpinning it.
4. You demonstrated unprofessional conduct or negligence by failing to properly fulfill the role of a review engineer, particulars of which are:
  - a. relying upon the fact that Todd Martin, P.Eng., P.Geo., was the design engineer for the embankment raises as a basis to conduct a superficial review of the Stage 9 Design;
  - b. failing to acquire sufficient knowledge of the design and site conditions, including the foundation conditions, to be able to critically analyze the Stage 9 design;
  - c. signing the Stage 9 design as reviewer when your review was not founded upon adequate knowledge of the Stage 9 design and stability analysis; and
  - d. failing to question the Stage 9 perimeter embankment design slope of 1.3H:1V, which was unusually steep for rockfill tailings embankments on a soil foundation built by the centreline method with a relatively narrow crest, particularly when you knew or ought to have known that there was significant uncertainty as to the foundation conditions.
5. You failed to document your review of the Stage 9 Design and stability analysis, contrary to section 14(b)(2) of the Bylaws of the Association.
6. You demonstrated unprofessional conduct or negligence from in or about February 2014 to August 2014 when, after Ms. Fidel ceased to be the EOR and you were the senior-most engineer at AMEC responsible for the engineering work at the TSF, you:

- a. failed to appoint a new EOR, or designate any engineer who would have the responsibility to observe and monitor the TSF embankments to ensure they were working as intended and remained in a safe condition;
  - b. never visited the TSF yourself;
  - c. failed to ensure that a geotechnical engineer or engineers with appropriate experience and knowledge of the design of the embankments was conducting observation and monitoring of the embankments, including by regularly visiting the site to observe the TSF for potential indicators of safety or stability issues;
  - d. failed to ensure that you, or another engineer with appropriate experience, received regular updates on the volume and level of water in the TSF impoundment and the status of the beaches within the TSF; and
  - e. failed to ensure that the implications, both in terms of embankment stability and consequences if failure occurred, of any changes in the matters referred to in paragraph (d) were assessed.
7. You demonstrated unprofessional conduct or negligence from March 2014 to August 2014 when you became aware of an excavation at the toe of the perimeter embankment of the TSF that had remained unfilled for a number of months and you did not take steps to:
- a. 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; and
  - b. determine whether the excavation should be filled as soon as possible and if so to see that this was done.
8. The conduct set out above at paragraphs 1 to 7 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.
9. The conduct set out above at paragraph 3 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.
10. The conduct set out above at paragraph 4(c) 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.

**AND FURTHER TAKE NOTICE** that you, Stephen Rice, 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 13<sup>th</sup> day of September, 2018.

The Discipline Committee of Engineers and  
Geoscientists British Columbia



---

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