

## COMPLAINTS COMMITTEE: VOLUNTARY UNDERTAKING UNDER SUBSECTION 24(2)(C) OF THE PROFESSIONAL ENGINEERS ACT

In the matter of a complaint regarding the actions and conduct of a member of the Association of Professional Engineers of Ontario.

### BACKGROUND

1. The complaint relates to the member's actions and conduct in relation to the expansion of waterworks for a town in Saskatchewan (the town).
2. At all material times, the member held a licence to practise professional engineering with both the Association of Professional Engineers and Geoscientists of Saskatchewan (APEGS) and Professional Engineers Ontario (PEO).
3. In or about 2012, the town sought to expand its waterworks to accommodate projected future growth.
4. The town engaged the services of a Saskatoon-based engineering firm, and the member became the consulting engineer in charge of the project.
5. Construction commenced without a permit, and the majority of work was completed before a permit was acquired.
6. Water was pumped through the town's altered waterworks using the newly installed equipment without proper disinfection.
7. Any known or anticipated upset condition, bypass condition or event at or affecting the waterworks that could adversely affect the quality of water was not immediately reported to the Water Security Agency.
8. A Precautionary Drinking Water Advisory was issued due to the unknown water quality in the town's distribution system that may have resulted from the new waterworks reservoir and related equipment construction.
9. E. coli was later detected in a point-of-use water sample, and an Emergency Boil Water Order was issued.
10. The Water Security Agency initiated an investigation, and as a part of their investigation, interviewed the member. The member replied "no" when asked if the reservoirs had been installed, if the filters had been installed, and whether any piping or valving had been installed.
11. The member told town representatives and persons involved with the project not to talk

to anyone from the government during the Water Security Agency's investigation, but to contact him instead.

12. On April 25, 2014, a complaint was filed with the Association of Professional Engineers and Geoscientists of Saskatchewan.
13. On November 4, 2017, the member pleaded guilty to two counts of professional misconduct under the *Geoscience Professions Act of Saskatchewan* before a panel of the Discipline Committee of the Association of Professional Engineers and Geoscientists of Saskatchewan (APEGS). The penalty imposed after joint submissions included: a suspension for one year, successful completion of the Law & Ethics seminar and the Professional Practice Exam, publication of the decision without names, and costs to a maximum of \$25,000, of which 50 per cent was to be paid by the member. The panel's decision noted that the member acknowledged that he is retiring and not intending to practise in the future.

### THE COMPLAINT

14. The complaint raised issues concerning the actions and conduct of the member with regards to the delivery of water without proper disinfection or notice, misinforming the Water Security Agency about the construction of the waterworks and impeding the investigation by the Water Security Agency.
15. The Complaints Committee (committee) received a response to the complaint from the member, which included a number of explanations and clarifications relating to the member's actions, knowledge and scope of work on the project.
16. The member stated that he had retired, and he had let his Ontario licence lapse and did not intend to renew it.

### THE CONSIDERATION OF THE COMPLAINTS COMMITTEE

17. The committee considered the complaint on September 11, 2019, and November 20, 2019. The committee considered the response received and carefully considered the issues raised in this matter. The committee considered whether a referral to the Discipline Committee was warranted in all the circumstances and whether it was in the interest of the public and the profession to proceed with the matter.
18. The committee considered that the member had retired and indicated that he did not intend to continue to practise. The member had no prior disciplinary history. The conduct underlying the complaint was the subject of a discipline hearing in the Province of Saskatchewan before APEGS. The committee noted that the member had co-operated throughout that process, acknowledged responsibility and pleaded guilty. A penalty was imposed

after a joint submission, and the member indicated that he was retired and did not intend to resume practice. As part of the penalty, the panel's decision was published in Saskatchewan without reference to names.

19. The committee decided that if the issues raised by the complaint were addressed through a voluntary undertaking, as well as the publication of a summary of this matter, that the public interest issues raised by the complaint would be addressed.
20. The committee decided that the member should be given the opportunity to provide a voluntary undertaking that would include that:
  - a. The member would voluntarily tender the resignation of both himself and his firm;
  - b. The member would voluntarily surrender to PEO his licence certificate, seal and the certificate of authorization for his firm;
  - c. The member would voluntarily commit to never apply for licensure in Ontario again; and
  - d. The member would voluntarily agree that a summary of this matter and the voluntary undertaking would be published in the Gazette without reference to names.

#### **VOLUNTARY UNDERTAKING**

The member voluntarily agreed to undertake all the actions listed above and subsequently provided all requested documentation and completed all required actions as outlined above.

The voluntary undertakings described above were accepted by the committee as a dispositive measure, and pursuant to its powers under section 24(2)(c) of the *Professional Engineers Act*, the committee decided that this matter would not be referred to the Discipline Committee.