



APEGA RECOMMENDED ORDER TO THE DISCIPLINE COMMITTEE

IN THE MATTER OF THE *ENGINEERING,
AND GEOSCIENCE PROFESSIONS ACT*

AND

IN THE MATTER OF THE CONDUCT OF

[REDACTED]

[REDACTED]

[REDACTED]

And

[REDACTED]

Registrant Nos. [REDACTED]

[REDACTED]

[REDACTED]

Permit No. [REDACTED]

IC File: 23-10

APEGA RECOMMENDED ORDER TO THE DISCIPLINE COMMITTEE

In the Matter of the *Engineering and Geoscience
Professions Act*

AND

In the Matter of the Conduct of

[REDACTED]

[REDACTED]

[REDACTED]

And

[REDACTED]

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has investigated the conduct of [REDACTED] P.Eng., [REDACTED] P.Geol., [REDACTED] P.Geol., (the Registrants) and [REDACTED] (the Permit Holder) with respect to a complaint initiated by [REDACTED] (the Complainant).

A. Complaint

The Complainant filed a complaint alleging the Registrants and Permit Holder engaged in unprofessional conduct and/or unskilled practice as defined at section 44(1) of the *Engineering and Geoscience Professions Act*, RSA 2000, c E-11 (EGP Act) with respect to engineering and geoscience work completed relative to an enhanced oil recovery technique called a waterflood, which formed the basis for an application submitted to the Manitoba Petroleum Branch in 2015.

The Investigative Committee's investigation focused on the following allegation:

Whether the Registrants and/or the Permit Holder engaged in unprofessional conduct and/or unskilled practice relative to a waterflood application submitted to the Manitoba Petroleum Branch in 2015.

B. Agreed Statement of Facts

(i) Background:

1. Registrant [REDACTED] has been registered with APEGA since 2004. Registrant [REDACTED] has been registered with APEGA since 2008. Registrant [REDACTED] has been registered with APEGA since 2006. [REDACTED] Limited has been an APEGA permit holder since 2003.
2. The Complainant's mother's land is situated in the southwest corner of Manitoba and is situated above an oil reservoir referred to by the Manitoba government and the oil and gas industry as the Daly Field. The Complainant's mother, who passed away in 2018, was a mineral rights owner and had been receiving oil royalties pursuant to primary oil recovery methods occurring on her land and adjacent lands.
3. As primary oil recovery rates were declining in the Daly Field and other fields in Manitoba, oil and gas companies began to deploy a secondary oil recovery method or enhanced oil recovery method called waterflooding.
4. In 2014, the Complainant's mother, and other land/mineral owners, were approached by a representative of the Permit Holder, an area landman, to determine their interest in signing a unit agreement leading to a process called unitization.
5. The 'Oil in Manitoba, Manitoba Energy and Mines' publication, describes unitization as:

"Several operators may produce oil from a reservoir extending over several thousand hectares. With a number of operators working in an oil pool, production and decline rates may vary. Unnecessary production facilities may have to be built and operated individually."

"Unitization permits efficient operation of a pool and maximum oil recovery. The first major unitization was introduced to Manitoba in 1962, permitting operation of the Virden area pools as single properties rather than numerous smaller individual properties. Under this system the majority of operating companies and their royalty owners agree to operate their area of a pool as a single property, unit, and share in the unit's total production. Each share is based on a formula agreed to by the majority of the participants at the time of unitization."

"Consolidating operations into a single unit reduces the total number of wells and other production facilities to a more practical number. The advantage of this is clear – individual producers reduce their overall operating costs and maximum economic recovery of oil reservoirs is achieved. Interest owners in the field may also work out an agreement to introduce a pressure maintenance scheme."

"When an agreement is reached, The Oil and Natural Gas Conservation Board must approve the unitization scheme. If a majority of the participating parties agree to unitization, the Board may issue a unitization order."

6. In 2015, the Complainant's mother and other adjacent land /mineral owner, agreed to the Permit Holder's unitization proposal and signed unit agreements.
7. Following the Complainant's mother's death in 2018, the Complainant began reviewing the unit agreement signed by his mother. In 2022, the Complainant initiated a civil lawsuit against the Permit Holder relative to the unitization proposal and application. This lawsuit is ongoing.
8. In 2023, the Complainant filed a complaint with APEGA alleging that the Permit Holder's unitization application contained "numerous technical mistakes, mathematical errors, fabricated data, and fraudulent misrepresentation."
9. An Investigation Panel determined that there was insufficient evidence relative to the Complainant's primary concerns with the unitization application as noted above, to warrant referring the allegations to the Discipline Committee for a formal hearing. Accordingly, the Panel recommended that the Investigative Committee support its recommendation to terminate the original allegation for insufficient evidence.
10. The Investigation Panel also determined that there was sufficient evidence of unprofessional conduct relative to two sub-allegations stemming from its greater investigation into the Complainant's concerns--this is detailed below.
11. The Registrants and the Permit Holder have cooperated with the investigation.

(ii) Facts Relating to the Allegation:

Whether the Registrants and/or the Permit Holder engaged in unprofessional conduct and/or unskilled practice relative to a waterflood application submitted to the Manitoba Petroleum Branch in 2015.

Sub-allegation A:

Lack of authentication and validation of professional work products:

12. Registrant [REDACTED] a professional geoscientist and consultant to the Permit Holder, did not authenticate any of her professional work products (PWPs) submitted to the Permit Holder. These PWPs consisted of maps and Isopach maps.
13. Registrant [REDACTED] also did not place her APEGA Permit to Practice number, issued to her consulting company, onto any of her PWPs.
14. Registrant [REDACTED] a professional geoscientist employed by the Permit Holder, did not authenticate any of her PWPs, which consisted of maps.

15. Registrant [REDACTED] a professional engineer employed by the Permit Holder, did not authenticate any of his PWPs which consisted of two waterflood applications.
16. Registrant [REDACTED] also did not place the Permit Holder's APEGA Permit to Practice number onto any of his PWPs.

Sub-allegation B:

Lack of a Professional Practice Management Plan (PPMP):

17. This sub-allegation was not identified by the Complainant, but rather came to the Panel's attention through its request to the Permit Holder to provide a copy of their PPMP for the years 2014 to 2023.
18. The Permit Holder has been an APEGA Permit Holder since 2005. However, it did not have a PPMP in place until 2019. The Permit Holder did have in place an internal code of conduct which stated in part, that:

"This Code is in addition to any code of conduct to which the employee may be subject as a result of the employee's registration with or membership in a professional or industry regulatory or governing authority or organization."

"Employees will carry out their job responsibilities to the best of their ability in a professional manner. Employees shall accept supervisory direction and maintain the required quality and quantity of work."
19. The Permit Holder's internal code of conduct did not contain any reference to authentication and validation procedures for the company.
20. The Permit Holder's annual code of conduct certification required of employees did not meet the requirements of an APEGA Professional Practice Management Plan.
21. Since at least 2005, the Permit Holder has annually renewed its Permit to Practice. Pursuant to each of those permit renewals, the Permit Holder was formally advised by way of a letter from APEGA that the Permit Holder is "to ensure that the Practice of the Professions within the organization is managed by a written Professional Practice Management Plan."

C. Conduct by the Registrants and the Permit Holder

22. The Registrants and the Permit Holder freely and voluntarily admits that at all relevant times the Registrants and Permit Holder were registered with APE GA and were thus bound by the EGP Act and the APE GA Code of Ethics
23. The Registrants and the Permit Holder acknowledge and admit that the conduct described in the allegation amounts to unprofessional conduct as defined in section 44(1) of the EGP Act

Section 44(1) Any conduct of a professional member, licensee, permit holder, certificate holder or member-in-training that in the opinion of the Discipline committee or the Appeal Board,

- a) is detrimental to the best interests of the public,*
- b) contravenes a code of ethics of the profession as established under the regulations,*
- c) harms or tends to harm the standing of the profession generally,*
- d) displays a lack of knowledge of or lack of skill or judgement in the practice of the profession, or*
- e) displays a lack of knowledge of or lack of skill or judgement in the carrying out of any duty or obligation undertaken in the practice of the profession*

whether or not that conduct is disgraceful or dishonorable, constitutes either unskilled practice of the profession or unprofessional conduct, whichever the Discipline Committee or the Appeal Board finds.

24. The Registrants and the Permit Holder acknowledge that the conduct described above is conduct that is detrimental to the best interests of the public and contravenes the code of ethics of the profession.

25. The Registrants and the Permit Holder admit that their conduct was also contrary to Rule of Conduct 4 of the APEGA Code of Ethics, which states:

- 4. Professional engineers and geoscientists shall comply with applicable statutes, regulations and bylaws in their professional practices.*

The Registrants' conduct:

26. The Registrants admit that their conduct was also contrary to:

Section 78(2) of the EGP Act which states:

"A permit holder shall affix its permit number on documents or records in accordance with the regulations."

Section 49 of the EGP Act General Regulation which states:

"When the practice of engineering or geoscience is carried on by a partnership, corporation or other entity pursuant to a permit under section 48, all final plans, specifications, reports or documents of a professional nature must

- (a) be signed by and be stamped or sealed with the stamp or seal of
 - (i) the professional member or licensee who prepared them or under whose supervision and control they were prepared, or
 - (ii) in the case of plans, specifications, reports or documents that were prepared by others, the professional member or licensee who thoroughly reviewed and accepted professional responsibility for them, and
- (b) show the permit number issued to the partnership, corporation or other entity under section 48."

APEGA's Practice Standard for *Authenticating Professional Documents*, January, 2013, which states.

Section 1:

"Essentially, Alberta law requires every professional member who performs a task that is within the practice of engineering or geoscience to authenticate (stamp, sign and date) all final documents prepared or reviewed by the member as part of that task before the documents are issued. The requirement applies equally to an employee working for an employer or to a consultant working for a client. The stamp and signature signify that a licensed professional member of APEGA has accepted responsibility for the engineering or geoscience work represented in the authenticated document "

Section 3.2:

"The Regulations also require that when a permit holder is carrying on the practice of engineering or geoscience, professional documents shall also show the permit number issued by the Association to the permit holder, section 49 "

"The permit number should appear in the proximity of the professional members stamp. For example, it may be part

of a title block on a drawing, map or cross-section. The significance of the number should be obvious. Someone unfamiliar with the professions would not necessarily interpret 'P1234', by itself, as a permit number. The number should be accompanied by words such as 'APEGA Permit' or 'APEGA Permit to Practice.' No signature is required to accompany the permit number."

"Where two or more permit holders produce different components of the same document, all permit numbers shall appear on the document." [Bold emphasis added.]

"The presence of a permit number indicates that the permit holder is registered and entitled to engage in the practice of engineering or geoscience."

Section 3.4:

"Design notes, calculations or geoscience interpretations, e.g., cross-sections, stratigraphic interpretations, etc., are usually considered to be the property of the professional member for his or her own use if the design notes, calculations or interpretations are issued to another person, are there in accordance with the scope of the project or by agreement, the cover, title or signature sheet shall be authenticated in a manner that clearly indicates acceptance of professional responsibility for the notes or calculations without needing to authenticate each page. Design notes and calculations should be prepared in a format which records the names of the responsible professional members, designers and checkers and the dates on which their work was performed. Calculations and design notes that are kept as part of the member's work file for his or her reference do not need to be authenticated;"

"Geoscience documents requiring authentication, examples:

"Final reports, of any kind or length, based on geoscience judgment, documenting recommendations, opinions, evaluations, certifications, condition assessments, analysis or verification;"

"Final maps that represent geoscience interpretation such as, but not limited to, isopach / isocore maps, pour volume estimate maps, structure contour maps, stratigraphic interpretations, surficial geology maps, bedrock maps and resource or reserve distribution maps of any kind including derived information, e.g., structural depth equivalent, predicted porosity, lithology, etc. Maps shall be individually authenticated if they are not part of a bound report;"

"Final drilling programs / prognosis or completion plans, including assessment of potential lost

circulation zones, high pressure zones, high acid content, etc.;

"Seismic programs including changes to such programs, field survey design documents, design assumptions, data processing parameters;"

"Manuals based on engineering or geoscience work prepared for direction and guidance of others shall be authenticated using the same principles of quality control and professional responsibility as apply to other professional documents."

The Permit Holder's conduct:

27. The Permit Holder admits that their conduct was also contrary to:

a. Section 48(1)(d) of the EGP Act General Regulation which states:

"The Council may issue to a partnership, corporation or other entity a permit to practice engineering or geoscience in its own name if...the professional member or licensee certifies to the satisfaction of the Council that the partnership, corporation or other entity has in place and will follow a professional management plan that is appropriate to its professional practice."

b. The APEGA Guideline for *Professional Practice*, January 2013. which states in part:

"Development and implementation of a PPMP is an effective way to address quality management issues. A PPMP is a written description of corporate policies, procedures and systems used to ensure that appropriate standards of practice are maintained. The Regulations require that each permit holder 'has in place and will follow a practice management plan that is appropriate to its professional practice.' As a minimum, a PPMP should address the following items:

- Ethical standards – ensuring that professional practice is carried out in accordance with the Code of Ethics;
- Professional responsibility – ensuring that the work is carried out by appropriately qualified professionals. This would include items such as establishing clear lines of professional responsibility, assignments of appropriately skilled staff and continuing competence of professionals.
- Quality assurance – ensuring that appropriate technical standards are maintained. This would include items appropriate and applicable to the specific practice of the organization, items which might be addressed include definition of project scope and objectives, conceptual review of designs, calculations, drawings and reports.

management of design changes, and field and shop reviews during construction;

- Records management and document control – ensuring that appropriate and sufficient records are kept and available;
- Communication and control – Policies that ensure that the PPMP is understood and followed throughout the organization.”

“PPMPs will vary considerably in complexity, degree of detail and specific content depending on the size and nature of the professional practice. Consulting and operating companies will have very different needs. The PPMP should address the specific needs of the organization and be as simple or complex as the organization requires.”

“A PPMP need not duplicate existing documentation. Supporting and / or more detailed documentation may be incorporated by reference and need not be rewritten or summarized for inclusion in the PPMP.”

D. Recommended Orders

28. On the recommendation of the Investigative Committee, and by agreement of the Registrants and Permit Holder, and following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:
- a. The Registrants and Permit Holder shall be reprimanded for their conduct and this Order shall serve as the reprimand.
 - b. The Registrants shall each pay a fine in the amount of \$500.00, and the Permit Holder shall pay a fine in the amount of \$1000.00. The fine is a debt owing to APEGA and shall be paid within six (6) months of being notified that the Recommended Order has been approved by the Discipline Committee Case Manager.
 - c. The Registrants and the Permit Holder’s Chief Operating Officer or designated senior officer shall provide written confirmation to the Discipline Manager within six months of being notified that the Recommended Order has been approved by the Discipline Committee Case Manager, that they have:
 - i. Reviewed the EGP Act and EGP General Regulation section referring to the authentication and validation of professional work products, and will comply with the requirements therein;

- ii. Reviewed the following APEGA publications:

Professional Practice Standard, *Authenticating Professional Work Products*, January 2022;

Professional Practice Standard, *Professional Practice Management Plan*, November 2022 (Permit Holder requirement only).

And that the Registrants and Permit Holder will comply with the requirements therein.

- d. If there are extenuating circumstances, the Registrants and/or Permit Holder may apply in writing to the Discipline Manager for an extension prior to the deadlines noted above. The approval for extending a deadline is at the discretion of the Discipline Manager. If such an application is made, the Registrants and/or Permit Holder shall provide the Discipline Manager the reason for the request, a proposal to vary the deadline, and any other documentation requested by the Discipline Manager.
- e. If the Registrants and/or the Permit Holder fail to provide the Discipline Manager with proof that they have completed the requirements noted above within the timelines specified or any extended timeline granted, the Registrants and/or the Permit Holder shall be suspended from the practice of engineering for a minimum of 30 days. If the non-monetary requirements are not completed within 6 months of the suspension date, the Registrants and /or the Permit Holder shall be cancelled. In the event the Registrant(s) and/or the Permit Holder is cancelled they will be bound by APEGA's reinstatement policy.
- f. This matter and its outcome will be published by APEGA as deemed appropriate and such publication will not name the Registrants and Permit Holder.

Although the Investigative Committee, the Registrants, and the Permit Holder understand and acknowledge that APEGA's usual policy is to publish Recommended Discipline Orders in a manner that identifies Registrants and Permit Holders by name, the parties understand that the decision to publish with or without names is discretionary. The parties submit that publication without names is appropriate given the facts in this case, namely, the admission by the Registrants and Permit Holder of unprofessional conduct, the safety of the public was not at issue, and the Permit Holder has held a valid PPMP since 2019.

I, [REDACTED] P.Eng, [REDACTED] P.Geol., [REDACTED] P.Geol., and [REDACTED] [REDACTED] acknowledge that before signing this Recommended Order, we have consulted with legal counsel regarding our rights or that we are aware of our rights to consult legal counsel and that we hereby expressly waive our right to do so. We confirm that we agree to the facts as set out above in this Recommended Order and the admissions set out in Section B and C, and that we agree with the Orders in Section D that are jointly proposed.

Further to the above, we acknowledge that we have reviewed APEGA's *Good Standing Policy*. We understand that we will not be considered to be 'in good standing' until we have fully complied with the Orders set out above.

Further to the above, we acknowledge that a copy of this Order and our identities shall be provided to the APEGA Practice Review Board.

IN WITNESS WHEREOF the undersigned Registrants and Permit Holder agree with the Agreed Statement of Facts and Acknowledgment of Unprofessional Conduct in its entirety.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Dr. Gerry Langille, P.Ge.

Signed with ConSignO Cloud (2024/09/18)
Verify with veriflo.com or Adobe Reader.

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Gerry Langille, P.Ge. (Panel Chair)
APEGA Investigative Committee

APEGA Discipline Committee

Approved this 8th day of October, 2024.

Brent Laing

Signed with ConSignO Cloud (2024/10/08)
Verify with veriflo.com or Adobe Reader.

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By: _____

Case Manager