

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

- and -

IN THE MATTER OF MERVYN F. MILLIGAN, P.ENG.

CONSENT ORDER

Dated for reference December 31, 2009.

WHEREAS Mervyn F. Milligan, P.Eng. ("Mervyn Milligan") was served with a Notice of Inquiry dated November 13, 2009 pursuant to section 32 of the *Engineers and Geoscientists Act*. R.S.B.C. 1996, c. 116 as amended ("Act") that contained the following allegations:

AND TAKE NOTICE that the allegations against you are that:

1. *Contrary to the Act, you have demonstrated unprofessional conduct by your design of a sewerage system for a property on [REDACTED], B.C., ("Project"), in that, the design of the Project was not in accordance with the Ministry of Health's publication Sewerage System Standard Practice Manual ("SPM") or the Sewerage System Regulation (326/2004) in one or more of the following areas:*

(a) lack of a site plan showing system layout, dimensions and setbacks;

(b) septic tank material is not specified;

(c) depiction of two incompatible methods for distribution; and

(d) the vertical separation diagram does not indicate burial depth, trench depth, size of gravel, depth of gravel below and above pipes, landscape fabric of alternative and quality or depth of imported soil.

2. *Contrary to the Act, you have demonstrated unprofessional conduct by not filing with the Interior Health authority, contrary to the Sewerage System Regulation, a signed and sealed Record of Sewerage System, a site investigation record, location and description of horizontal setbacks, vertical separation, sizing and specifications of the Subsurface Wastewater Infiltration System or drain field;*

3. Contrary to the Act, you have demonstrated unprofessional conduct by permitting the property owners, who are not Authorized Persons, to construct the sewerage system not under your direct supervision;

4. Contrary to the Act, you have demonstrated unprofessional conduct by providing a letter dated October 18, 2007 to the Interior Health authority that in your opinion the Project had been constructed properly when you had not supervised construction, had not been present for construction, had not received a report from an Authorized Person that they had constructed the Project, and had based your letter upon photographs provided to you by the property owners which indicated that construction was not in accordance with your design; and

5. Contrary to the Act, you have breach the bylaws of the Association by not conducting field reviews of the Project during construction.

AND WHEREAS the Association of Professional Engineers and Geoscientists of British Columbia ("Association") and Mervyn Milligan wish to resolve this matter by consent in order to avoid the need for a disciplinary inquiry.

THEREFORE by consent, this Order is hereby made, pursuant to the Act, specifically s. 32.1.

- 1. Mervyn Milligan admits the unprofessional conduct alleged in the Notice of Inquiry**
- 2. Mervyn Milligan's penalty for this unprofessional conduct is as follows:**
 - a) Mervyn Milligan is hereby reprimanded;**
 - b) Mervyn Milligan shall pay the Association's legal costs, including disbursements and taxes, in this matter to the reference date of this Consent Order, up to a maximum of \$5,000.00. Such costs will be payable within 90 days of the reference date of this Consent Order;**
 - c) Mervyn Milligan will not undertake any new wastewater treatment and disposal systems services until the conditions set out in paragraphs (e) or (f) below of this Consent Order are satisfied;**
 - d) Mervyn Milligan will, within 30 days of the reference date of this Consent Order, transfer all his existing wastewater treatment and disposal projects to another professional engineer approved in writing and in advance by the Registrar of the Association;**
 - e) Mervyn Milligan will at any time be at liberty to apply to the Association's Discipline Committee to lift the practice restrictions set out in paragraph (c) above of this Consent Order upon his providing to the Discipline Committee**

proof that he has successfully completed further training and education in wastewater treatment and disposal systems that is acceptable to the Discipline Committee;

- f) Subject to approval by the appropriate authorities and compliance with the applicable rules, Mervyn Milligan will be at liberty to apply for registration as a Registered On-Site Wastewater Practitioner at any time; and
- g) If Mervyn Milligan fails to comply with conditions set out in paragraphs (b) or (d) above of this Consent Order, his membership in the Association will be suspended until he has complied with all conditions of this Consent Order.

3. This Consent Order has the same force and effect as an Order made under section 33(2) of the Act and may be dealt with under section 34 of the Act if conditions in the Consent Order are not met.

This Consent Order is approved and accepted by Mervyn Milligan and a member of the Discipline Committee this 10 day of DEC., 2009.

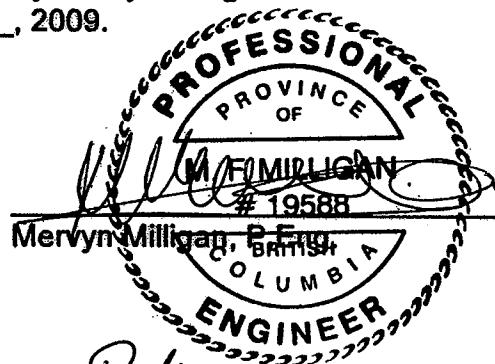
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BEVELLEY MITOVIC
COMPLIANCE OFFICER
APECBC



Mervyn Milligan, P.Eng.

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Roy Wares, P.Eng.
Chair, Discipline Committee