



State of New Jersey

SITE REMEDIATION PROFESSIONAL LICENSING BOARD

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Tel: 609-984-3424 – Fax: 609-777-1914
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March 9, 2022

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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Board Determination and Offer of Settlement

By Email

David Pry
35 Charissa Court
Hewitt, NJ 07421

RE: In the matter of LSRP David Pry, LSRP #573686
SRPL Board Complaint 009-2017

Dear Mr. Pry:

This letter is to advise you that the New Jersey Site Remediation Professional Licensing Board (“Board”) has reviewed information concerning your professional conduct in connection with Complaint 009-2017, initiated by the New Jersey Department of Environmental Protection based on the remediation work you conducted at PI G000000471.

Board Determination

The Board has determined that you violated the following provisions of the Site Remediation Professional Licensing Board Rules:

1. Violation of N.J.A.C. 7:26I-6.7(a): An LSRP may complete any phase of remediation based on remediation work performed under the supervision of another site remediation professional, licensed or not, provided that the LSRP:
 1. Reviews all available documentation on which her or she relies;
 2. Conducts a site visit to observe current conditions and to verify the status of as much of the work previously performed as is reasonably observable; and
 3. Concludes, in the exercise of his or her independent professional judgment, that there is sufficient information upon which to complete any additional phase of remediation and prepare workplans and reports related thereto.

The Board's finding of violation is based on the fact that you did not review the reports that you submitted, which is evidenced by the fact that you relied on the Remedial Action Report ("RAR") dated February 2006 which specifically states that it does not address ground water. Without providing documentation that ground water investigation and remediation had been conducted, and without conducting any independent ground water investigation or remediation, you sought a Remedial Action Permit ("RAP") for ground water. This is a violation of the requirement to review all available documentation on which an LSRP relies, and to conclude, in the exercise of independent professional judgment, that there is sufficient information to complete remediation.

2. Violation of N.J.A.C. 7:26I-6.3(a): An LSRP shall know and apply the applicable statutes, rules, regulations, and appropriate technical guidance concerning the remediation of contaminated sites including, but not limited to, the remediation requirements set forth at N.J.S.A. 58:10C-14.c...

The Board's finding of violation is based on the fact that you violated multiple provisions of the Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C) and Technical Requirements for Site Remediation (N.J.A.C. 7:26E) by submitting deficient documents. The deficiencies are enumerated in the attached table.

3. Violation of N.J.A.C. 7:26I-6.3(d): An LSRP shall exercise reasonable care and diligence, and shall apply the knowledge and skill ordinarily exercised by LSRPs in good standing practicing in the State at the time the services are performed.

The Board's finding of violation is based on the fact that you submitted RAP applications without obtaining or providing data or reports that supported the applications, and by submitting applications with multiple deficiencies as enumerated in the attached table.

4. Violation of N.J.A.C. 7:26I-6.8(d): An LSRP shall make a good faith and reasonable effort to identify and obtain the relevant and material facts, data, reports, and other information evidencing conditions at a contaminated site for which he or she is responsible that are in the possession of the owner of the property, the Department, or that are otherwise available, and identify and obtain whatever additional data and other information as the LSRP deems necessary.

The Board's finding of violation is based on the fact that you did not make a good faith and reasonable effort to identify and obtain information evidencing conditions at the contaminated site. At the time you submitted the RAP applications, you had not made an Open Public Records Act ("OPRA") request to obtain documentation of the extensive remedial history at the site, and you did not make such request until approximately one year after your submissions.

Penalties

The Board finds that each of the above violations are a first violation of "Medium" conduct and "Medium" severity as evaluated pursuant to the Board's "Guidance to Determine Conduct and Severity of a Violation when Assessing Civil Administrative Penalties," and intends to assess a civil administrative penalty of \$3,000.00 for each of the violations, totaling \$12,000.00.

Offer of Settlement

As a result of the foregoing, the Board will pursue formal disciplinary proceedings against you for the above referenced violations to assess the above referenced penalties for these violations. Notwithstanding this decision, the Board has determined that it will first offer you an opportunity to settle these violations before instituting formal disciplinary proceedings if you consent to the following terms:

Agree to pay a civil administrative penalty in the amount of \$9,600.00. Payment should be by certified check or money order payable to "Treasurer, State of New Jersey," and mailed to Dana Haymes at the address above.

If we are unwilling or unable to settle this matter, the Board will pursue formal disciplinary proceedings for these violations pursuant to N.J.S.A. 58:10C-17.f. to assess the above referenced penalties and you will be afforded an opportunity to request a hearing regarding this matter at that time. In that event, the Board, pursuant to N.J.S.A. 58:10C-17.f., may also enter an order assessing and requiring you to pay the costs for the investigation which led to the establishment of the violations, and its costs for successfully enforcing its penalty action against you. In addition, pursuant to N.J.S.A. 58:10C-17.e., any person who violates the Site Remediation Reform Act or any rule, regulation or order of the Board, or who fails to pay a civil administrative penalty assessed by the Board, shall be subject, upon order of the Superior Court, to pay a civil penalty of not more than \$10,000.00 for the first violation and not more than \$20,000.00 for every subsequent violation. The Board reserves its right to amend its findings and conclusions based on further review or investigation if this matter is not settled.

If you elect to settle this matter, you must sign the attached Acknowledgement and Acceptance of Board Offer of Settlement and return it along with payment to the Board within thirty (30) days following your receipt of this Board Determination and Offer of Settlement. Here, and throughout this document, the beginning date to calculate this 30-day time period is the date of delivery of this document. If the Board receives no response from you within thirty (30) days, the Board's settlement offer shall be considered withdrawn and the Board will pursue formal disciplinary proceedings.

Should you have any questions concerning this Board Determination and Offer of Settlement or the Acknowledgement and Acceptance of Board Offer of Settlement, you may contact Dana Haymes at 609-984-3424 or SRPLBoardContact@dep.nj.gov or seek the advice of your legal counsel. This Board Determination and Offer of Settlement does not constitute a formal enforcement order, a final agency action or a final legal determination that may be appealed or contested. Please note that the Board Determination and Offer of Settlement and this Acknowledgement and Acceptance of Board Offer of Settlement are public documents.

Sincerely,



Mark J. Pedersen, Chairperson
Site Remediation Professional Licensing Board

Cc: Albert Telsey

Enc: Acknowledgement
Table of Administrative and Technical Issues

ACKNOWLEDGEMENT and ACCEPTANCE OF BOARD OFFER OF SETTLEMENT

I, David Pry, hereby acknowledge that I have reviewed the attached March 9, 2022 Board Determination and Offer of Settlement and the settlement offer of the Board set forth therein.

I acknowledge the conduct which has been charged. I accept the settlement offer of the Board and agree to the following to settle the violations addressed in the March 9, 2022 Board Determination and Offer of Settlement pursuant to the following terms:

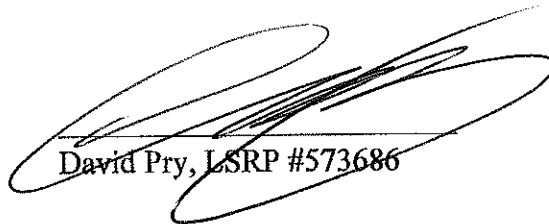
Immediate payment of a civil administrative penalty of \$9,600.00.

I acknowledge that if I fail to perform any of the foregoing settlement terms the Board may terminate or enforce this settlement agreement upon 30 days prior written notice to me.

I am aware that by signing this Acknowledgement and Acceptance of Board Offer of Settlement I have entered into a binding settlement agreement and I am waiving any rights I may have to an administrative hearing for the matters addressed in the Board Determination and Offer of Settlement and this Acknowledgement and Acceptance of Board Offer of Settlement. I am aware that the findings of the Board in connection with this matter are a matter of public record and that this Board Determination and Offer of Settlement and this Acknowledgement and Acceptance of Board Offer of Settlement are public documents.

Dated:

3/14/22



David Pry, LSRP #573686

TABLE OF ADMINISTRATIVE AND TECHNICAL ISSUES

Citation	Complaint Allegation	Violation
N.J.A.C. 7:26C-7.5(c)3.i	The LSRP did not submit a complete Remedial Action Report that demonstrated monitored natural attenuation was an effective remedial action for the Site.	The Remedial Action Report that the LSRP submitted was dated 2006 and did not address ground water at all. Section 2.6.2 of the Remedial Action Report states "Ground water is not an element of the ACO or this RAR."
N.J.A.C. 7:26C-7.5(c)2	The LSRP did not submit a complete Classification Exception Area/Well Restriction Area ("CEA/WRA") Fact Sheet Form for the ground water CEA included in the permit application.	The Form submitted was missing a narrative description of the CEA (Section B2), Horizontal Extent of CEA (Section B2), the entire third page of the form, a Site Location Map (Section B4), CEA Map (Section B4), and Cross Section Figures (Section B4). The Form stated that the vertical depth of the CEA was 2.5 ft bgs, but did not explain how this depth was calculated.
N.J.A.C. 7:26C-7.5(c)4	The LSRP did not submit a ground water monitoring plan and schedule to monitor the characteristics and movement of contaminated ground water, to calibrate the model used to estimate the eventual extent of contaminated ground water, and to assess the effectiveness of the monitored natural attenuation remedy, including a downgradient sentinel well, and any other additional monitoring wells necessary to document natural attenuation processes.	The Remedial Investigation Report and Remedial Action Report submitted with the RAP application did not contain this information, and the LSRP did not prepare or submit these required elements of the application.
N.J.A.C. 7:26E-1.14	The LSRP did not submit a complete Receptor Evaluation for ground water.	The Receptor Evaluation submitted in April 2016 did not include the results of the well search (Section D4). The Receptor Evaluation gave the date of February 14, 2006 for the date that laboratory data was available and confirmed contamination above the Ground Water Remediation Standards, but there was no laboratory data of ground water from February 2006 presented.
N.J.A.C. 7:26E-3.9	The LSRP claimed that ground water contamination was migrating onto the	The LSRP did not conduct the investigation required by N.J.A.C.

	Site from an off-site source (RIR Form Section F).	7:26E-3.9, including completion of a preliminary assessment to identify whether there was an on-site source.
	The RAP application for ground water did not indicate that the Site was within a Tier I Wellhead Protection Area (Section J).	The CRT questioned the LSRP as to whether he knew the Site was within a Tier I Wellhead Protection Area. He stated that he did not know.
N.J.A.C. 7:26C-7.5(b)6	The RAP application for soil did not provide any information regarding financial assurance (Section G).	The LSRP left this entire section of the application blank.
	The RAP application for soil did not include a copy of the deed notice stamped "filed" by the county. (See first page – Recorded by Signature, Officer of County Recording Office is blank).	The CRT was able to obtain a copy of the deed, instrument number 257142 which indicates recording by the County Clerk, on October 24, 2006 from the County website.
N.J.A.C. 7:26C-7.5(b)	The RAP application for soil did not provide the date the Engineering Control was installed, the area of the engineering control, the thickness or units of the engineering control, or the contaminant concentrations or depths (Section H).	The LSRP provided no explanation as to why this information was omitted from the RAP application.