

NEW JERSEY SITE REMEDIATION PROFESSIONAL LICENSING BOARD

FINAL

**February 4, 2020 Meeting Minutes**

5:00 p.m., Hyatt Regency, New Brunswick, New Jersey

**Board Members:**

***Present***

Jorge Berkowitz  
Phil Brilliant  
Lawra Dodge  
Joann Held  
Jeffrey Hoffman  
Christopher Motta  
Mark Pedersen  
Kathi Stetser  
Peter Strom  
Ira Whitman

***Absent***

None

***Others Present***

Board Executive Director Janine MacGregor  
Board Staff Dana Haymes  
DAG Nielsen Lewis

***Proceedings***

- Meeting called to Order at 5:02 PM by Chairperson Mark Pedersen
- Mark Pedersen read the Statement of Adequate Public Notice of the meeting required by the Open Public Meetings Act.
- Roll Call:
  - Jorge Berkowitz - present
  - Phil Brilliant - present
  - Lawra Dodge - present

Joann Held - present  
Jeffrey Hoffman - present  
Christopher Motta - present  
Mark Pedersen - present  
Kathi Stetser - present  
Peter Strom - present  
Ira Whitman - present

A quorum of the Board was in attendance.

- **Approval of the Board Meeting Minutes**

- Motion by Mark Pedersen to approve the January 6, 2020 Board Meeting Minutes.

Joann Held seconded the motion.

Roll Call Vote:

Jorge Berkowitz - Yes  
Phil Brilliant - Yes  
Lawra Dodge - Yes  
Joann Held - Yes  
Jeffrey Hoffman - Yes  
Christopher Motta - Yes  
Kathi Stetser - Yes  
Peter Strom - Yes  
Ira Whitman - Yes  
Mark Pedersen - Yes

The motion was carried.

- Motion by Mark Pedersen to approve the January 6, 2020 Board Meeting Minutes of the closed session.

Jorge Berkowitz seconded the motion.

Roll Call Vote:

Jorge Berkowitz - Yes  
Phil Brilliant - Yes  
Lawra Dodge - Yes  
Joann Held - Yes  
Jeffrey Hoffman - Yes  
Christopher Motta - Yes  
Kathi Stetser - Yes  
Peter Strom - Yes

Ira Whitman - Yes  
Mark Pedersen - Yes

The motion was carried.

- **Chairperson's Report**

Mark Pedersen thanks the LSRPA for extending the invitation to the Board to appear and conduct its monthly meeting at the New Jersey Site Remediation Conference.

Mark Pedersen presented some of the successes of LSRPs, and accomplishments of the Board. Since the inception of the program, LSRPs have closed nearly 10,000 cases and issued over 14,000 RAOs. There are now approximately 13,500 active cases and of those, approximately 10,000 are overseen by LSRPs. LSRPs have submitted over 60,000 key documents, with over 7,000 submitted in 2019 alone. These statistics show that LSRPs are working very hard to close cases, including complex cases. The Board recognizes that LSRPs are doing an amazing job, but the work is not done.

The Department is working with LSRPs to process permits. Revisions to the Remedial Action Permit program will be part of the Department rulemaking which is underway at this time. The Department intends to incorporate measures to speed up the permitting process.

Mark Pedersen noted that the Board Members contribute approximately 40 hours a month to their Board work. They are very dedicated to the Board and put a lot of effort into their roles as Board Members. Since the inception of the Board, Board Members have conducted over 420 audits, approved over 530 courses for continuing education credits, received and investigated 74 complaints and made 60 decisions. Of those decisions, 28 were findings of violation, 21 were findings of no violation, and 11 were complaints that were dismissed or withdrawn.

Board Members were key stakeholders in the development of SRRA 2.0, bringing and explaining issues to Senator Smith. In response to changes instituted by SRRA 2.0, the Board will be revising the Board Rules. Joann Held is serving as the Chairperson of the Rules Committee. The Rules Committee has held a broad stakeholder meeting and will hold additional stakeholder meetings as needed.

Last spring, Board staff along with DAG Neilsen Lewis and Board Members Ira Whitman, Joann Held and Lawra Dodge developed and presented a continuing education program in ethics for LSRPs. The Board is currently evaluating conducting this course again.

Mark Pedersen noted that an issue that the Board is addressing head-on are notifications that LSRPs are required to make when mandatory time frames are unlikely to be met. Mandatory time frames were instituted to compel parties to advance cleanups in the state. If LSRPs determine that a mandatory time frame will not be attained, they must notify responsible parties and the Department. The Board issued multiple listservs to put LSRPs on notice that

they must make the notifications required by the Board Rules. Some LSRPs have been the subject of complaints due to their failure to make the required notifications.

Currently the Board is administering the 10<sup>th</sup> licensing examination in April 2020. The Board is randomly selecting 5-6 LSRPs to be audited each month and is diligently working to complete the audit process as quickly as possible. The goal is to reduce the lag time to 3 months.

As a final note, Mark Pedersen would like to remind all LSRPs that documenting your work and your decisions is crucial. Make sure your file supports your decisions. Decisions will stand the test of time, if documented. Thank you for all your efforts to protect the citizens and environment of New Jersey.

- **Executive Director's Report**

Janine MacGregor noted that the Board is currently completing May 2019 audits, so the Board has about a nine-month lag right now. The Board is working toward narrowing the lag time to three months.

### *Committee Reports*

- **Continuing Education Committee**

Motion by Lawra Dodge to approve the following CEC applications.

Christopher Motta seconded the motion.

	TITLE	PROVIDER	DATE	CECs	PROPOSED COURSE #
1	LSRPA Regulatory Roundtable – Receptor Evaluations	LSRPA	May 9, 2020	1 Technical and 1 Regulatory	2020-012
2	Remediation Workshops – Emerging Contaminants	Environmental Workshops	February 18, 19, 20, 2020	4 Technical	2020-013
3	Fractured Bedrock Characterization, Design and Injection	AST Environmental	April 22, 2020, April 23, 2020, May 13, 2020, May 14, 2020	4 Technical	2020-014
4	Remediation Workshops – Vapor Intrusion	Environmental Workshops	April 23, 2019	4 Technical	2020-015
5	Remediation Workshops – Waste Water	Environmental Workshops	October 31, 2019	4 Technical	2020-016
6	LSRPA Regulatory Roundtable – Child Care Facilities	LSRPA	March 17, 2020	1 Technical and 1 Regulatory	2020-017

7	NYCBP and BCONE Redevelopment Roundtable	NYCBP and BCONE	March 2020	1 Regulatory	2020-018
8	Focused Remediation Seminar 2020	Focused Remediation Seminars	April 16, 2020	4.5 Technical	2020-019
9	BCONE Regulatory Roundtables	BCONE	February 25, 2020	2 Regulatory	2020-020
10	BCONE Regulatory Roundtables	BCONE	May 20, 2020	2 Regulatory	2020-021
11	BCONE Regulatory Roundtables	BCONE	August 12, 2020	2 Regulatory	2020-022
12	BCONE Regulatory Roundtables	BCONE	November 10, 2020	2 Regulatory	2020-023

Roll Call Vote:

Jorge Berkowitz - Yes to all  
 Phil Brilliant - Yes to all  
 Lawra Dodge - Yes to all  
 Joann Held - Yes to all  
 Jeffrey Hoffman - Yes to all  
 Christopher Motta - Yes to all  
 Kathi Stetser - Yes to all  
 Peter Strom - Yes to all  
 Ira Whitman - Yes to all  
 Mark Pedersen - Yes to all

The motion was carried with respect to all applications.

- **Professional Conduct Committee – Phil Brilliant**

Phil Brilliant added to Mark Pedersen's comments that the Audit Committee and Professional Conduct Committee are working together to pursue complaints if LSRPs fail to make notifications for missing mandatory deadlines and also for issuing RAOs prior to fees being paid. LSRPs need to pay attention to these details.

- **Audit Committee – Jorge Berkowitz**

Jorge Berkowitz reported that 6 LSRPs were selected for audit in February 2020.

- The Audit Committee has completed audits of the following LSRPs, with no additional action required:

- Gary Weissberger, #746717, selected March 4, 2019
- Karyn Lacey, #591401, selected March 4, 2019
- Kevin Toth, #575603, selected March 4, 2019
- Martha Mackie, #573646, selected April 1, 2019
- John Bolan, #577508, selected April 1, 2019
- Gregory Casabona, #581320, selected April 1, 2019
- William Schnitzerling, #587821, selected April 1, 2019
- Mark Pietrucha, #573898, selected April 1, 2019
- Jeffrey McCurdy, #747352, selected May 6, 2019
- Jonathan Dean, #748558, selected May 6, 2019
- Julian Davies, #574051, selected May 6, 2019

- **Finance Committee – Christopher Motta**

Christopher Motta presented a summary of the Fiscal Year 2020 Budget, including plan and actuals.

- **Licensure – Kathi Stetser**

Kathi Stetser reported that the LSRP licensure examination will be April 22, 2020. There are 72 applications being reviewed which will be completed by the end of the month, and the candidates will be notified.

- **Outreach Committee – Peter Strom**

No report.

- **Rules Committee – Joann Held**

Joann Held reported that the Rules Committee has been meeting twice per month to review the rules. The Committee is currently meeting with Committee chairs to identify revisions needed due to changes adopted pursuant to SRRA 2.0, incorporating clarifications where needed to make the rules clearer, and updating the rules to reflect current practices or changes that should be implemented to improve the Board's practices.

The Committee has been working through a long list of potential revisions and will be asking the Board for input. The Committee is interested in meeting with any outside group that would like to talk to the Committee. The Committee will be meeting with the LSRPA in March. The Committee is also looking to meet with representatives of the business and environmental community. If anyone knows of anyone who would like to meet with the Committee, please contact the Board as we value all input.

The Rules Committee has been considering adding a definition of "independent professional judgment". This definition was not included in SRRA 2.0, so the Committee thinks such a definition should be included in the Board Rules. The Committee has developed a definition

that seems to be consistent with the statement of interpretation which is currently posted on the Board website. The Committee would like to present this draft definition to the Board and stakeholders to get fresh input.

"Independent professional judgment" means the application of the specialized knowledge, skill, education, training and experience of an LSRP to the facts, data, reports, site history, and other information regarding a site to make informed remediation decisions that comply with all applicable statutes, regulations, and requirements of the New Jersey Department of Environmental Protection (Department) and the Board. It is based on the LSRP's own expertise and decision-making, even when information from other environmental professionals, experts, Department staff, clients or their agents, or persons responsible for conducting remediation has been considered.

Ira Whitman commented that the key to this definition is that independent professional judgment is based on the LSRP's own expertise and decision making. He does not like reference to others in the last statement, so will present a revised statement to the Rules Committee.

Kathi Stetser questioned whether this definition should be included in the Board Rules at all, since there is a statement on it. She does not think the definition should limit the flexibility that an LSRP has to exercise appropriate independent professional judgment.

Mark Pedersen considers it important to explain what independent professional judgement is as opposed to professional judgment. He recommends that the last sentence be revised as well.

Joann Held notes that while not in the definition, LSRPs must document their independent professional judgment, particularly how decisions are made and the data they are based on, as well as the reasoning behind them.

- **Ongoing Business**

Phil Brilliant noted that during the Board meetings there are usually executive sessions. At this time there are 10 Board Members, which means the Board is short 3 Board Members. As Board Members have served long past their appointed terms, some may be thinking of being relieved of their Board responsibilities. He thinks it is important that LSRPs request that the Department Chief of Staff work on the appointment of new Board Members. It is fantastic group of people on the Board.

- **New Business**

None

- **Next Board Meeting**

- Motion by Mark Pedersen to cancel the February 18, 2020 meeting.

Motion seconded by Ira Whitman.

All present voted yes.

The motion was carried.

The next Board Meeting will be March 2, 2020 at 4:00 pm in the DEP Public Hearing Room, Trenton, NJ.

- **Public Comments**

Rodger Ferguson, Holland Township. On behalf of the LSRPA he thanks the Board for holding the February public meeting at the LSRPA conference. He will send the Board a copy of the LSRPA's position on independent professional judgment. The LSRPA opposes including such a definition in the Board Rules, as it is unprecedented and more confusing than helpful. Moreover, Section 14c of the SRRA provides the framework for LSRP decision making and no other profession defines "professional judgment" by statute or rule.

David Morris, LSRPA. Are there any Board decisions on complaints that have been made but not yet posted on the Board Website? Answer is just one.

Caryn Barnes, LSRPA. Thank you to the Board on behalf of the LSRPA. The members of the LSRPA appreciate that the Board listens to the LSRPA and engages in thoughtful discussions. The LSRPA also appreciates the time that the Board Members dedicate to the Board.

The Meeting adjourned at 6:11 PM.