

NEW JERSEY SITE REMEDIATION PROFESSIONAL LICENSING BOARD

FINAL

November 1, 2021 Meeting Minutes

4:00 PM

Meeting held via Microsoft Teams

Until further notice, the open public meetings of the Board will be held via Microsoft Teams.

To participate by phone, use the following:

Toll free number: 1-(856) 338-7074 and Conference ID: 906475949

Or connect via the link on the Board Website www.nj.gov/l srpboard

Board Members:

Present

Jorge Berkowitz
Phil Brilliant
Lawra Dodge
Joann Held
Jeffrey Hoffman
Mark Pedersen
Michael Renzulli
Peter Strom
Ira Whitman

Absent

Kathi Stetser

Others Present

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

Members of the Public that were present:

Bill Hose, Timothy Mangold, Rayna Laiosa, Marlene Lindhardt, Rebecca Hollender, William Call, Randy Shuler, Mark Pietrucha, Charles Stebbins, Candace Baker

Proceedings

- Meeting called to Order at 4:04 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
 Mark Pedersen - Present
 Michael Renzulli - Present
 Kathi Stetser - Absent
 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 October 18, 2021 Board Meeting Minutes.

Motion seconded by Joann Held.

Roll Call Vote:

Jorge Berkowitz - Yes
 Phil Brilliant - Yes
 Lawra Dodge - Yes
 Joann Held - Yes
 Jeffrey Hoffman - Yes
 Michael Renzulli - Yes
 Kathi Stetser - Absent
 Peter Strom - Yes
 Ira Whitman - Abstain due to absence
 Mark Pedersen - Yes

The Motion to approve the minutes was carried.

- **Chairperson’s Report**

Mark Pedersen noted that a listserv was sent by the Department on October 26, 2021 and some recipients felt the tone of the listserv was strong. The reason the listserv was sent was because the Department noticed that there was an increase in submittal of Remedial Action Reports and Remedial Action Permit applications with gross deficiencies, including reports and applications submitted with no delineation, or with free product that was not addressed. The Department wants LSRPs to understand that the Department will no longer handle these types of submissions with a case management approach. The Department does not want these documents submitted, and if they are submitted they must be withdrawn. If a timeframe cannot be met, the LSRP must request an extension, or discuss an Administrative Consent Order with the Department, but should not submit grossly deficient documents in an attempt to meet the timeframe.

Jorge Berkowitz commented that the listserv impugns the entire LSRP community and harms the public trust in LSRPs. He is disappointed in the tone of the listserv.

- **Executive Director’s Report**

Janine MacGregor reported that there is an addition to the agenda under Professional Conduct Committee. The Board will discuss one additional Complaint 004-2018. It is anticipated that formal action will be taken by the Board. Phil Brilliant is recused from this matter.

Committee Reports

- **Audit Committee – Jorge Berkowitz**

Janine MacGregor reported that six new LSRPs were selected for audit for November 2021.

- **Continuing Education – Lawra Dodge**

Lawra Dodge reported that the following Continuing Education Programs have been approved by the Continuing Education Committee to be offered both in-person and via AVLF:

TITLE	PROVIDER	DATE	CECs	PROPOSED COURSE #
2021 Fall Winter Focused Remediation Seminars	Provectus Environmental	Sept 23, Oct 7, Oct 21, Nov 10, Dec 7, 2021	2.5 Technical	2021-146
EPH in Soil Technical Guidance Training	CPES	November 10, 2021	1 Regulatory and 2 Technical	2021-147

LSRP Ethics	LSRPA	TBD	3 Ethics and 1 Regulatory	Modification to previously approved course 2021-053
UHOT System Remediation Rules	CPES	November 10, 2021	3 Regulatory	2021-148

• **Ad Hoc Discharge Notification Committee – Phil Brilliant**

Phil Brilliant reported that the Ad Hoc Discharge Notification Committee has issued its final report to the Board, which was distributed to the Board Committee with the agenda for today’s meeting. There is a small update to this report – the Committee did not have an official meeting with or receive advice from Deputies Attorney General.

The Committee has reached consensus on the following points:

- The Committee agrees that on behalf of and along with the Person Responsible for Conducting Remediation, the LSRP is responsible to “certify that the work was performed, the licensed site remediation professional managed, supervised, or performed the work that is the basis of the submission, and that the work and the submitted documents are consistent with all applicable remediation requirements adopted by the department” (N.J.S.A. 58:10C-14.a.). LSRPs will be held to the highest of standards, and each LSRP shall consider their professional obligations in accordance with the Rules of Professional Conduct as stated in the Board Rules when retained to perform remediation in the State of New Jersey.
- The Committee agrees that an LSRP has an obligation to report a previously unreported discharge to the Person Responsible for Conducting Remediation and the Department, as per SRRA (N.J.S.A. 58:10C-16.j.) and the Board Rules (N.J.A.C. 7:26I-6.9), when in their independent professional judgment a discharge has resulted in an immediate environmental concern.
- The Committee agrees that an LSRP has an obligation to report a previously unreported discharge to the Person Responsible for Conducting Remediation and the Department, as per SRRA (N.J.S.A. 58:10C-16.k.) and the Board Rules (N.J.A.C. 7:26I-6.10), when he or she is retained to perform remediation at a site or any portion of a site.

While the Committee agrees on these three statements, it has not reached agreement as to its original charge, and suggests that clarity is needed as to whether a preliminary assessment and/or site investigation conducted by an LSRP for a prospective purchaser for the purpose of due diligence or all appropriate inquiry (AAI) is included in the definition of remediation as stated in SRRA 2.0. This definition is provided herein:

“Remediation” or “remediate” means all actions to investigate, clean up, or respond to any known, suspected, or threatened discharge of contaminants, including the preliminary assessment, site investigation, remedial investigation, and remedial action, or any portion

thereof, provided, however, that “remediation” or “remediate” shall not include the payment of compensation for damage to, or loss of, natural resources.

The Committee recommends that the Board request from the Department clarification in guidance or the relevant rules regarding when and if a preliminary assessment and site investigation conducted for the purposes of due diligence or all appropriate inquiry is or is not remediation in New Jersey. The Board requests this clarification to assist the regulated community and LSRPs in interpreting their responsibilities, and to assist the Board in complaints related to the matter.

Motion by Phil Brilliant to approve the Ad Hoc Discharge Notification Committee Final Report to the Board dated November 1, 2021 with modification as discussed.

Motion seconded by Mark Pedersen.

Roll Call Vote:

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

The Motion was carried.

Phil Brilliant stated that completes the report and the work of the Committee.

Mark Pedersen stated that the Committee is hereby disbanded.

- **Finance Committee – Michael Renzulli**

No report.

- **Licensure Committee – Kathi Stetser**

Janine MacGregor reported that Dana Haymes, Victoria Glean and Janine MacGregor have been working with Department staff to improve the LSRP Renewal Application, and Version 1.7 has been posted on the Board website. The Board will accept Version 1.6 through the end of 2021, but submission of Version 1.7 is preferred, and only Version 1.7 will be accepted beginning January 1, 2022.

- **Outreach Committee – Peter Strom**

No report.

Phil Brilliant commented that in the future, when a listserv is planned regarding LSRPs, that the Outreach Committee should be allowed to review it first.

- **Rules Committee – Joann Held**

Joann Held reported that the Committee made some more revisions to the proposed amendments to the Board Rules, including the following:

Modification to the definition of “Alternative Verifiable Learning Format.” AVLF courses are ones in which an attendee can’t interact with other attendees or the instructors. The general format does allow interaction, even if it is via remote viewing.

In Subchapter 2 – Licensure, some wording has been modified to correspond with language in the SRRA.

In Subchapter 3 – Fees, the references to baseline fees beginning in 2015 have been deleted.

In Subchapter 4 – Continuing Education, some wording has been modified to clarify how the discretionary nine continuing education credits may be distributed.

In Subchapter 6 – Rules of Professional Conduct, Section 6.8(a) regarding independent professional judgement, the punctuation of the statements was modified.

The Rules Committee will meet again on November 4 and will meet with the DAGs on November 16, 2021.

At the moment, the Committee is still planning to hold a vote at the December 6, 2021 Board Meeting to refer the proposed amendments for legal review.

- **Professional Conduct Committee – Phil Brilliant**

Motion by Phil Brilliant to enter closed session to discuss Complaints 007-2021, 013-2021 and 004-2018

Motion seconded by Mark Pedersen.

All present voted yes.

The Motion was carried.

Open session resumed at 5:30 PM

- Motion by Phil Brilliant, in the matter of Complaint 007-2021, to find the subject of the complaint in violation of N.J.A.C. 7:26I-6.8(c), and to notify the subject through correspondence under signature of the Board chairperson of the Board’s intent to assess a penalty of \$250.00 through a formal disciplinary action unless settlement is reached, and to authorize the Settlement Team to negotiate a settlement within the parameters discussed in closed session, and if no settlement is reached to proceed with formal disciplinary action.

Motion seconded by Joann Held.

Roll Call Vote:

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

The Motion was carried.

- Motion by Phil Brilliant to dismiss Complaint 013-2021 without investigation as the facts stated in the complaint do not allege a violation of the Site Remediation Reform Act or any rule, regulation, or order adopted or issued pursuant thereto over which the Board has jurisdiction.

Motion seconded by Mark Pedersen.

Roll Call Vote:

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

The Motion was carried.

- Motion by Joann Held, in the matter of Complaint 004-2018, to modify the terms of the Board Determination and Offer of Settlement within the parameters discussed in closed session, to transmit the offer under signature of the Board Chairperson, and if no settlement is reached to proceed with formal disciplinary action.

Motion seconded by Jeff Hoffman.

Roll Call Vote:

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

The Motion was carried.

Phil Brilliant reported that the LSRP that is the subject of Complaint 007-2021 is Joseph Galley, 586399.

- **Ongoing Business**

None

- **New Business**

Lawra Dodge asked the status of the pending new appointments of Board Members. Mark Pedersen reported that this is checked on a bi-weekly basis.

Jorge Berkowitz asked whether Senator Smith has ever been asked to attend a Board Meeting. Mark Pedersen stated that he has not extended an invitation, but will if Board Members would like to. Phil Brilliant commented that it may be more convenient for the Senator to attend a meeting that is held via Teams. Lawra Dodge agreed it was a good idea. Peter Strom noted that Chris Motta did previously extend an invitation to the Senator.

Joann Held and Phil Brilliant noted that today is the 11th anniversary of the first meeting of the Board.

- **Next Board Meeting**

Motion by Joann Held to cancel the November 15, 2021 meeting of the Board.

Motion seconded by Phil Brilliant.

All present voted yes.

The Motion was carried.

The next Board Meeting will be December 6, 2021.

- **Public Comments**

William Call noted that he has asked Janine MacGregor to provide information on the number of LSRPs that are active, inactive and expired. Dana Haymes suggested he review the Board website, where this information is listed. Janine MacGregor asked Mr. Call to contact her if he cannot obtain the information he needs from the Board website.

Candace Baker asked about AVL F changes. She applauds the change to allow more courses to be taken via AVL F.

The Meeting adjourned at 5:47 pm.