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14 April 2011

Site Remediation Professional Licensing Board  
c/o New Jersey Department of Environmental Protection/Site Remediation Program  
Office of the Assistant Commissioner for Site Remediation  
Post Office Box 420; Mail code 401-06  
401 East State Street  
Trenton, New Jersey 08625-0420  
Attn: Audit Committee

**Re: LSRPA Comments: Draft Audit Process and LSRP Audit Questionnaire**

Dear Site Remediation Professional Licensing Board:

I have reviewed the proposed questionnaire and the LSRPA's written comments. I agree with the points made by the LSRPA, particularly regarding the sequence of rules promulgation vs. the audit against those rules, and would add a couple of insights.

It strikes me that the entire LSRPA process is excessively oriented toward centralized command and control and that carries over into the questionnaire. As a Licensed Professional Engineer since 1979, I have conducted my business within the confines of the rules of the State Board and have watched as the state board has prosecuted individuals for the unlicensed practice of engineering or for unethical behaviors. I have submitted literally hundreds of documents to all manner of government agencies. The DEP's LSRP process is the most bureaucratic I have ever encountered. Loss of license, fines, and requirements for retraining should be sufficient deterrents against unethical or illegal practice. The tort system should be sufficient deterrent against violating good engineering or environmental practice.

The bulk of the questionnaire strikes me as a silly attempt to fill the paper with requests for meaningless information. Does the board seriously think that an unethical practitioner will self-incriminate by indicating a positive response to a question that is likely to result in board action? A more meaningful audit would be to simply ask for a list of documents and RAO's submitted and ask the DEP if there were any problems with the submissions. If the board felt that the problems raised by the Department were significant it could ask the licensee for an explanation. The board might also ascertain if the individual was licensed for the entire time of his practice and explain any gaps. An inquiry into the licensee's insurance by requiring a certificate of insurance to be filed annually with the board would also serve as a proper monitoring and audit tool. The Board might randomly sample the licensee's clients to determine if they are aware of any ethical or legal malfeasance.

The board should not duplicate the Department's review of submissions and it should not be in the position of passing judgment on the quality of an individual's work product; the Department can and will do that and there should be some give and take between the LSRPs and the DEP as the program evolves. Honest and professional disagreements regarding environmental remediation should not result in a board action unless they are proven to be willful disregard of the regulations. A missing or otherwise erroneous form should be handled by the Department with an email or a phone call and should not rise to the level of an audit item with the Board. If the Department finds that it is receiving poor quality work or work that violates regulations, they should refer that licensee to the board for an audit. Agencies and individuals who feel that an LSRP has violated the standards of practice should be able to access and file a complaint form online as they can with the Board of Professional Engineers and Land Surveyors. The complaint should trigger an audit.

The form prepared by the licensee should have the following questions:

1. Licensee information e.g. name, address, contact information and license number.
2. A certification that the licensee's registration has been in continuous effect since the last audit. If not, explain. An example might be the temporary lapse of licensure due to serious illness during which time the licensee did not practice.
3. Certification in the form of certificates of insurance from an insurance broker, not the licensee, demonstrating continuous compliance with insurance requirements.
4. A list of active and completed projects and documents submitted to the Department.
5. Contact information for the clients for each of the projects listed.
6. The usual certifications and attestations as to the truthfulness of the information submitted.

The audit should be brief and geared only toward revealing lapses in the legal and ethical requirements of practice that warrant further board investigation and action.

Very Truly Yours,

Eastern Environmental Engineering Services, Inc.  
Gregory A. Brown, P.E., P.P., L.S.R.P., President