

Commissioner Bob Martin  
New Jersey Department of Environmental Protection  
401 E. State St.  
7th Floor, East Wing  
P.O. Box 402  
Trenton, NJ

May 9, 2011

Dear Commissioner Martin,

On behalf of the following environmental nonprofit organizations Edison Wetlands Association (EWA), New Jersey Sierra Club, New Jersey Public Employees for Environmental Responsibility, Essex/Passaic Greens, NY/NJ Baykeeper, the Raritan Riverkeeper, Long Branch Concerned Citizens Coalition, and Lawrence Brook Watershed Partnership (LBWP), we have grave concerns with the New Jersey Department of Environmental Protection's (NJDEP) proposed Licensed Site Remediation Program (LSRP) auditing process and composition of the board. We respectfully ask that you take our concerns into consideration.

We believe the proposed LSRP audit process represents a major conflict of interest. As a result, the process is creating a situation in which public policy decisions are influenced by the official's financial interests. The board is composed almost entirely of those who either own or are principal employees of large and small remediation companies whose financial bottom lines are directly affected by any decisions made by the LSRP board including the audit process.

As such, we propose six solutions to correct the shortcomings:

1. A more efficient auditing process is needed. We ask that the auditing be performed by an independent auditor, who is not affiliated with the NJDEP or the LSRP program. This process should undergo thorough auditing and meet the auditing standards of the Government Accountability Office.
2. A system of checks and balances between the NJDEP and the LSRPs will ensure that audit results are being filed honestly. One way to do this is by creating a system of on-site audits monitored by NJDEP that would verify questionnaire responses. This would include NJDEP performing physical site inspections to audit the work performed by the LSRP, not just a paper process. There should be randomized sampling, quality assurance/quality control and laboratory audits to verify the LSRP work.
3. The lack of public involvement and transparency with the current process can be overcome by establishing a user-friendly website where the public can file complaints against potential threats to human health and the environment resulting from a specific LSRP remediation. Then the names and numbers of LSRPs under "disciplinary

review” can be accessible to the public through the website, easing the problem of transparency. One successful model that can easily be replicated is the “Confidential Crime Tip Reporting Form” on the U.S. Attorney General’s website. At a recent LSRP board meeting, this subject was discussed. Yet, the board’s opinion was that it is not their responsibility to make it easy for members of the public to file complaints. This mentality reinforces the lack of transparency and fundamental problems that exists in the very heart of the LSRP board members.

4. The disciplinary process is ineffective currently, and substantially weaker than every other government disciplinary process. Currently, an LSRP that is audited receives a “satisfactory finding”, is then removed for three years from the list of LSRPs to be audited. Instead, they should be entered back into the pool, and have the possibility that they may be audited again at anytime, in keeping with every other government auditing process. Allowing the LSRPs to be exempt from the audits gives them a window of unfettered action for three years that is absolutely unacceptable. In addition, any LSRP caught falsifying documents or other major violations must be removed immediately with no grace period, no appeal, and the NJDEP must permanently remove them from the program. Major violations need major ramifications if this process is to have any semblance of effectiveness.
5. Those on the Board should be subject to the requirements and standards of the NJDEP. They are to comply with a strict code of conduct established by statute and regulation and ensure the remediations are protective of human health, safety, and environment. They should be subject to random screening and if caught in violation of a regulation they must immediately be removed from the board as well as from the LSRP as a whole. There should be an independent review committee comprised of NJDEP employees and representatives from the Attorney General’s office to solely screen those who serve on the Board. The individual LSRPs should also be audited yearly while serving on the LSRP Board.
6. All NJDEP Environmental Justice sites and sites where the human health and ecological impact is significant should not be delegated to the LSRPs. NJDEP has already made a verbal commitment that environmental justice sites will not become LSRP sites, but this must be substantiated. This is our most significant concern, since it would undermine many years of effective remedial planning and actions with the relationships built on trust that have developed between the NJDEP and those impacted, underprivileged communities.

We thank you in advance for taking our concerns into consideration. A lot of unanswered questions remain about the program as a whole, and every day individual LSRPs are signing off on projects without knowing the liabilities and auditing process.

Please let us know if you have any questions regarding our suggestions. Robert Spiegel of EWA will serve as the point of contact and can be reached at 732-321-1300 or by email at [rspiegel@edisonwetlands.org](mailto:rspiegel@edisonwetlands.org).

Respectfully,

Robert Spiegel  
Executive Director  
Edison Wetlands Association

Jeff Tittel  
Director  
New Jersey Sierra Club

Ted Glick  
Coordinator  
Essex/Passaic Greens

Debbie Mans  
Executive Director  
NY/NJ Baykeeper

Bill Schultz  
Raritan Riverkeeper

Alan S. Godber  
President, Board of Trustees  
Lawrence Brook Watershed Partnership (LBWP)

Avery Grant  
President  
Long Branch Concerned Citizens Coalition

Bill Wolfe  
Director  
Public Employees for Environmental Responsibility

CC:

LSRP Board  
Governor Christie  
Senator Lautenberg  
Senator Menendez  
Congressman Pallone