

SRPL Board Complaint No. 007-2015

DISPOSITION

On October 17, 2016, the Site Remediation Professional Licensing Board (“Board”) voted to accept the recommendation of the Professional Conduct Committee to not initiate a new complaint to continue the investigation of Complaint 007-2015, after the Complainant withdrew the complaint.

On April 3, 2017, the Board adopted a new flow chart which sets forth the procedures for investigating complaints. In accordance with the new procedures, complaint investigations, once commenced, will continue to conclusion even if a Complainant withdraws a complaint.

Although the Board will not revisit its determination with respect to Complaint 007-2015, the Board notes that in the future it will continue to investigate a complaint even if a Complainant withdraws the complaint after the investigation has commenced.

COMPLAINT ISSUES

Complaint 007-2015 was received by the Board on July 30, 2015. The complaint was directed against an LSRP. The complaint alleges that the LSRP failed to identify areas of dumping on a site and improperly issued a Preliminary Assessment (“PA”) and Site Investigation (“SI”) and entire site Remedial Action Outcome (“RAO”) that did not include the areas of dumping as areas of concern.

INVESTIGATION

This complaint was brought by the owner of a site against the LSRP that issued an entire site RAO for the previous site owner. The complaint alleges that the LSRP issued an RAO that stated the site was clean even though there was evidence of past dumping that the LSRP never identified or investigated. A representative of the New Jersey Department of Environmental Protection (“Department”) inspected the site and found there was evidence of dumping. The Department directed the LSRP to withdraw the PA and RAO, which he promptly did.

The Complaint Review Team interviewed the Subject of the complaint and the Department representative that had inspected the site. The Complaint Review Team was in the midst of conducting the investigation of the complaint, when on August 9, 2016, the Board received a letter from the attorney for the Complainant stating that the Complainant wished to withdraw the complaint. Based on the finding of the investigation up to that point, the Complaint Review Team determined that there was

not sufficient evidence to find that the LSRP deliberately excluded material dumped on the site as an Area of Concern or was negligent in identifying material dumped on the site. Consequently, the Complaint Review Team recommended that this complaint be concluded by the withdrawal, and that the Professional Conduct Committee not continue this investigation by filing a new complaint against the LSRP. The Professional Conduct Committee agreed and made the same recommendation to the Board.

DETERMINATION OF THE BOARD

Following receipt of the withdrawal of the complaint by the Complainant, the Board considered the option of initiating a new complaint in order to continue the investigation. However, on October 17, 2016, based upon the recommendation of the Professional Conduct Committee, consistent with the preliminary findings of the Complaint Review Team, the Board approved a motion to terminate the investigation in light of the withdrawal of this complaint. At the time of this decision, the Complaint Review Team represented to the Board that in the course of their investigation to date, they had not found facts that indicated that the Subject of the complaint had violated the Site Remediation Reform Act.