

SUMMARY OF SRPL BOARD COMPLAINT #002-2011

LSRP

Dudley Warner, License # 511054

Nature of Complaint

In May 2011, a private party filed a complaint with the Board alleging that the LSRP failed to properly manage hazardous waste from a site.

Synopsis

The Board's investigation revealed the following information:

- During the remediation of a contaminated site, hazardous waste was removed from the site and transported to a municipal landfill that was not licensed to receive hazardous waste. The waste was ultimately removed and transported to a hazardous waste disposal facility.
- The clean-up was managed under a complex series of relationships involving numerous parties which included the generator, construction contractor, environmental subcontractor and the LSRP who served as the LSRP of record for the site.
- The LSRP of record failed to ensure that those who were contractually responsible for disposing of the material were aware that the soil contained high concentrations of lead.
- As a result of the LSRP's failure to ensure that the contaminated soil was managed and disposed of in accordance with all applicable rules and regulations regarding the proper disposal of hazardous waste, hazardous material was delivered to a non-hazardous disposal facility.

Board's Decision

The LSRP claimed that under his contract terms, he was not responsible for waste characterization. He asserts that under his contract, he was only responsible for the collection of waste samples, receiving the results from the analytical laboratory and forwarding the results to the construction contractor. The Board disagreed with the LSRP concluding that regardless of any contract terms or contractual relationship, an LSRP of record in every instance must hold protection of public health and the environment as his or her highest priority. An LSRP of record cannot contract away his or her responsibility to protect public health and the environment.

The Board concluded that the LSRP failed to ensure that the contaminated soil was managed and disposed of in accordance with all applicable rules and regulations regarding the proper disposal of hazardous waste. Accordingly, the Board issued a Notice of Reprimand and a \$500 penalty against the LSRP for violating sections 16 a. and b. of the Site Remediation Reform Act Code of Conduct (N.J.S.A. 58:10C-16), which requires every LSRP to hold the protection of public health and the environment as his or her highest priority, and to exercise reasonable care and diligence in the practice of site remediation.

Every LSRP has a right to request a hearing within 35 days of receipt of a disciplinary order. On January 12, 2012, the LSRP filed a timely request for an adjudicatory hearing before the Office of Administrative Law. The LSRP entered into a settlement agreement with the Board on October 2, 2012.