

DISPOSITION

Based on its investigation and findings, the Site Remediation Professional Licensing Board (“Board”) voted to resolve the complaint with a finding that the subject of the complaint did not violate the provisions of the Site Remediation Professional Licensing Board Rules (N.J.A.C. 7:26I) alleged in the complaint and referenced below.

ISSUE

The subject of the complaint is an LSRP (hereinafter referred to as “Subject LSRP”) hired by the Property Owner to remediate the Property Owner’s large industrial site. The Complainant is the sole tenant on the site that the Subject LSRP is remediating. The Complainant alleged the Subject LSRP violated N.J.A.C. 7:26I-6.3(a), (b) and (d); N.J.A.C. 7:26I-6.8(a), (d) and (e), and N.J.A.C. 7:19(c) because the Subject LSRP inappropriately concluded the vehicle maintenance area that the Complainant operates on the property is a source of ground water contamination. The core of the complaint is that in the preparation of a Remedial Investigation Report (“RIR”) the Subject LSRP repeatedly failed to:

1. Identify and evaluate key available data;
2. Obtain necessary additional data;
3. Identify factors considered and how those factors influenced his decisions and actions;
and
4. Fully document this information in the RIR.

The Complainant provided several well-organized tables each of which addressed a topic in the RIR (see list below). In each table the Complainant outlined how the Subject LSRP failed to conduct one or more of the activities numbered 1-4 above, along with an accounting of the information that the Complainant believes the Subject LSRP failed to consider.

1. Table 1 - CFC 113 Data and Evaluation
2. Table 2 – Geology/Lithology
3. Table 3 – VMA Drain Line Pressure Tests
4. Table 4 – VMA Aqueous and Ground Water Samples
5. Table 5 – CSIA Data Analyses
6. Table 6 – NJDEP Technical Consultation
7. Table 7 – Conceptual Site Model

The Subject LSRP responded with equally well-organized tables that addressed each of the allegations of the complaint. The Subject LSRP also informed the Complaint Review Team that

the RIR indicates that the Complainant, as tenant on the site, is responsible for shallow ground water contamination beneath the vehicle maintenance area.

INVESTIGATION

The Board's Complaint Review Team ("CRT") reviewed the Complainant's seven topics of concern and the Subject LSRP's responses to each. The CRT also prepared questions which it presented to the Complainant and Subject LSRP. The Subject LSRP responded to the CRT's questions, but the Complainant did not. The CRT also reviewed the documents the Subject LSRP submitted to the Department, including:

Initial Receptor Evaluation – Review Completed 6/5/12

Remedial Action Workplan – Review Completed 5/18/20

Remedial Investigation Report (AOC) – Review pending since 5/7/19 – Department Database notes that a Preliminary Assessment is required prior to submittal of the Remedial Action Report which is due 5/6/24.

Based on the information available to the CRT, the CRT concluded that the Subject LSRP had sufficient information on hand to justify his decisions and conclusions presented in the RIR. In the opinion of the CRT, the Subject LSRP adequately investigated the site, collected sufficient data, analyzed the data using independent professional judgment, and documented the basis for his conclusions in the RIR. Therefore, the CRT recommended a finding of "no violation" to the Board.

FINDINGS

The Board determined that the Subject LSRP did not violate the Site Remediation Professional Licensing Board Rules in conducting remediation at this site. The Board does not agree with, or dispute, the findings of the Subject LSRP with respect to the origin of ground water contamination at the site. However, it is not necessary to be in agreement with the Subject LSRP to find that the Subject LSRP conducted the remediation in accordance with applicable rules and guidance. Therefore, the Board found "no violation."