

SUMMARY OF SRPLB COMPLAINT No. 001-2011

Nature of Complaint

In March 2011, a homeowner filed a complaint with the Board alleging that the LSRP who was also a subsurface evaluator, charged excessive fees and failed to exercise reasonable care in the disposal of waste oil sludge from an underground heating oil storage tank.

Synopsis

The Board's investigation revealed the following information:

- The LSRP in his work proposal to the homeowner stated that the DEP is no longer issuing a No Further Action Letter for underground storage tank removal, and that a Licensed Site Remediation Professional is needed to issue a Remedial Action Outcome letter for the work.
- The LSRP indicated that the bags of waste oil sludge that were removed from the homeowner's property were disposed of at a landfill via a broker as part of a combined larger shipment. The LSRP submitted a disposal invoice and a non-hazardous waste manifest in support of this statement.
- The LSRP provided a receipt from an oil recovery company for the pump-out of the tank from the homeowner's property.
- Following the removal of the tank by the LSRP, the homeowner sought the services of another subsurface evaluator to complete the remediation at his property.

Board's Decision

The Board decided to dismiss the complaint; however a warning letter was issued to the LSRP.

Specifically, the Board declined to make a determination about the reasonableness of the fees charged by the LSRP, noting that the Site Remediation Reform Act at N.J.S.A. 58:10C-1 et seq. does not authorize the Board to regulate the fees charged by LSRPs.

In its review of the documents provided, the Board found no basis to dispute the LSRP's statement that the waste oil sludge was disposed of properly as part of a larger combined shipment.

The Board found that the statements in the LSRP's work proposal to the homeowner were incorrect. The Board's warning letter to the LSRP noted that pursuant to the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS) Rules at N.J.A.C. 7:26C-1.4, homeowners with underground heating oil tanks are exempt from the requirements to retain an LSRP. A No Further Action letter, not a Response Action Outcome is issued in these instances. The LSRP was directed to immediately correct the erroneous statements in all of his remediation proposals and advertising materials.