

NEW JERSEY SITE REMEDIATION PROFESSIONAL LICENSING BOARD

FINAL

January 7, 2019 Meeting Minutes

4:00 p.m., Public Hearing Room, DEP, Trenton

Board Members:

Present

Jorge Berkowitz
Phil Brilliant
Lawra Dodge
Joann Held
Jeffrey Hoffman
Kathi Stetser (departed at 6:00)
Peter Strom
Ira Whitman

Absent

Christopher Motta
Mark Pedersen

Others Present:

Board Executive Director Janine MacGregor
Board Staff Dana Haymes
DAG Nielsen Lewis

Proceedings:

- Meeting called to Order at 4:03 PM by Vice-Chairperson Joann Held
- Joann Held read the Statement of Adequate Public Notice of the meeting required by the Open Public Meetings Act.
- Roll Call:
 - Jorge Berkowitz - present
 - Phil Brilliant - present
 - Lawra Dodge - present
 - Joann Held - present

Jeffrey Hoffman - present
Christopher Motta - absent
Mark Pedersen - absent
Kathi Stetser - present
Peter Strom - present
Ira Whitman - present

A quorum of the Board was in attendance.

- Motion by Jeff Hoffman to approve the December 3, 2018 Board Meeting Minutes.

Motion seconded by Ira Whitman.

DAG Nielsen Lewis suggested amending the minutes to add “and” after “\$7,000.00.”

Roll Call Vote:

Jorge Berkowitz - yes
Phil Brilliant - yes
Lawra Dodge - yes
Joann Held - yes
Jeffrey Hoffman - yes
Christopher Motta - absent
Mark Pedersen - absent
Kathi Stetser - yes
Peter Strom - yes
Connie Tsentas - yes
Ira Whitman - yes

The motion as amended was carried.

- **Chairperson’s Report**

Joann Held reported that Connie Tsentas has retired from the Board as of December 31, 2018. She thanks him for his work in helping to build the Board from scratch, as one of the original members. The Board is grateful for all the good conversations he has raised to the Board. Phil Brilliant, Jorge Berkowitz, Ira Whitman and Lawra Dodge all added their positive comments about Connie’s contributions to the Board. Connie Tsentas noted that it has been an honor and privilege to serve with all the Board Members. Joann Held provided Connie Tsentas with cake and a plaque commemorating his service.

- **Executive Director’s Report**

Janine MacGregor reported that per Senator Smith’s request, the Department has compiled a list of items for which there is consensus between the Department and Stakeholders, and a few Board issues were included. By January 15, 2019, the Senator wants a list of all non-consensus items. In response to this request, Janine MacGregor will reformat the Board’s approved SRRA 2.0 recommendations and send them to the Senator, who has scheduled another meeting between the Department and Stakeholders to which Janine MacGregor has been invited.

Committee Reports:

- **Continuing Education Committee – Lawra Dodge**

Motion by Lawra Dodge to approve the application from two LSRPs seeking activity credit for the presentation “The NJSLSRP Program: Woodbridge Township Redevelopment” for 1.5 Technical CECs for each LSRP.

Motion seconded by Ira Whitman.

Roll Call Vote:

- Jorge Berkowitz - yes
- Phil Brilliant - yes
- Lawra Dodge - yes
- Joann Held - yes
- Jeffrey Hoffman - yes
- Christopher Motta - absent
- Mark Pedersen - absent
- Kathi Stetser - yes
- Peter Strom - yes
- Ira Whitman - yes

The motion was carried.

Motion by Lawra Dodge to approve 10 applications for Continuing Education Credit, as follows:

	TITLE	PROVIDER	DATE	CECs	PROPOSED COURSE #
1	In Situ Thermal Remediation and PFAS Treatment	Society of American Military Engineers – NJ Post and AEG	11/8/18	1 Technical	001-2019
2	Regulatory and Guidance Update	SRWMP Training Committee	12/12/18	1.5 Technical and 1.5 Regulatory	002-2019

3	Digital Signature and Seals for Site Plans	Rutgers NJAES OCPE	12/19/18	3 Technical and 1.5 Regulatory	-
4	Remediation Waste – Is It RCRA Regulated?	NJDEP	10/10/18	2.5 Technical and 2 Regulatory	003-2019
5	Technical Writing	GZA GeoEnvironmental, Inc.	11/5/18	2.5 Technical and 2.5 Regulatory	004-2019
6	May 2019 Regulatory Roundtable – Construction Dewatering	LSRPA	5/21/19	2 Regulatory	005-2019
7	Opportunity Zones – Unlocking the Potential for Brownfields	BCONE and Rutgers NJAES OCPE	TBD	1 Technical and 1 Regulatory	006-2019
8	Geostatistics in Environmental Applications	GZA GeoEnvironmental, Inc.	12/5/18	1.5 Technical	007-2019
9	Using Sesoil	GZA GeoEnvironmental, Inc.	12/5/18	1.5 Technical	008-2019
10	All NFAs are not Created Equal	GZA GeoEnvironmental, Inc.	12/5/18	1 Regulatory	009-2019

Motion seconded by Ira Whitman.

Roll Call Vote:

- Jorge Berkowitz - yes with respect to all, except abstain with respect to #3
- Phil Brilliant - yes with respect to all
- Lawra Dodge - yes with respect to all
- Joann Held - yes with respect to all
- Jeffrey Hoffman - yes with respect to all
- Christopher Motta - absent
- Mark Pedersen - absent
- Kathi Stetser - yes with respect to all
- Peter Strom - yes with respect to all, except recused with respect to #3 and #7
- Ira Whitman - yes with respect to all

The motion was carried with respect to all applications except #3. Lawra Dodge will bring the motion with respect to #3 to a future meeting.

- **Professional Conduct Committee – Phil Brilliant**
Phil Brilliant reported that the Committee is redesigning how the outcomes of complaints will be reported on the Board website.

Phil Brilliant provided a response to Ira Whitman's request at the December meeting for statistics on complaints and outcomes:

Total Complaints: 61 received to date.

Of those, 18 were Dismissed, 12 were found to be No Violations, 11 were found to be Violations, 20 are Pending.

For this report, Complaints were only counted as "Violations" if the file is closed.

Complaints counted as "Pending" include complaints the Board has voted on, but for which settlement negotiations are still ongoing.

Complaints from 2011, 2012 and 2013 counted as "Dismissals" include some complaints for which there were findings of "No Violation," as the Board did not distinguish "Dismissals" from "No Violations" until 2014.

Of the 61 complaints, 30 complaints were filed by DEP, 24 complaints were filed by private individuals, and 7 complaints were filed by the Board, including audit referrals. There were 4 complaints in 2018. The greatest number of complaints, 12, was received in the year 2015.

Motion by Phil Brilliant to adopt a resolution to enter closed session to discuss Complaints 004-2015 and 010-2017.

Motion seconded by Jeff Hoffman.

All present voted yes. The motion was carried.

Open session resumed at 5:45 PM.

Motion by Joann Held, in the matter of Complaint 004-2015, to find the subject of Complaint 004-2015 in violation of N.J.S.A. 58:10C-16.b. for not exercising reasonable care and diligence and to assess a penalty in the amount of \$7,000.00, and to authorize the Professional Conduct Committee to offer settlement under the Chairperson's signature based on the Board's preliminary determination, and to authorize the Chairperson to sign a notice of disciplinary complaint if a settlement is not reached.

Roll Call Vote:

Jorge Berkowitz	- yes
Phil Brilliant	- recused
Lawra Dodge	- yes
Joann Held	- yes
Jeffrey Hoffman	- yes
Christopher Motta	- absent
Mark Pedersen	- absent
Kathi Stetser	- yes
Peter Strom	- yes
Ira Whitman	- yes

The motion was carried.

- **Audit Committee – Jorge Berkowitz**

Jorge Berkowitz reported that six LSRPs have been selected for audit this month and the LSRPs and Audit Review Teams will be notified.

Audit Review Teams have reported the following audits as complete:

LSRP NAME	LSRP LICENSE	Date of Audit Selection
Andrew Robinson	573644	July 31, 2017
Charles Stebbins	575616	July 31, 2017
Andrew Drotleff	586489	June 4, 2018
Thomas Buggiey	580659	June 4, 2018
Blake Thompson	591656	June 4, 2018
James Snook	586414	June 4, 2018

- **Finance Committee – Christopher Motta**

No Report.

- **Licensure – Kathi Stetser**

Janine MacGregor reported that there are currently 262 invoices for annual license fees outstanding.

Jorge Berkowitz requested that the issue of the amount of the annual license fee be put on a future agenda.

Janine MacGregor reported that 29 of the 43 new LSRPs have paid their annual license fees. Once they have paid, they are sent an email with their new license number and told they may begin practicing as LSRPs, and that their welcome package is forthcoming.

- **Outreach Committee – Peter Strom**

No Report.

- **Rules Committee – Joann Held**

No report.

- **Ongoing Business:**

Janine MacGregor recapped that Board Members were requested to comment on “bb” to N.J.S.A. 58:10C-16. A group of Board Members met to discuss proposed revisions.

Motion by Ira Whitman to accept Section 16.bb. as follows:

“Except as provided in N.J.S.A. 58:10C-1.3.d., a licensed site remediation professional shall not supervise, perform, engage or participate in remediation as defined in N.J.S.A. 58:10C-2 unless (1) the licensed site remediation professional has been retained by a person responsible for conducting the remediation as a licensed site remediation professional and the Department has been notified of such retention; or (2) the remediation is being managed, supervised or performed by another licensed site remediation professional retained by a person responsible for conducting the remediation, and the Department has been notified of the latter licensed site remediation professional’s retention.”

Motion seconded by Phil Brilliant.

Kathi Stetser departed at 6:00.

Roll Call Vote:

Jorge Berkowitz	- yes
Phil Brilliant	- yes
Lawra Dodge	- yes
Joann Held	- yes
Jeffrey Hoffman	- yes
Christopher Motta	- absent
Mark Pedersen	- absent
Kathi Stetser	- absent
Peter Strom	- yes
Ira Whitman	- yes

The motion was carried.

Janine MacGregor reported that last month, George Tyler made comments regarding Complaint 001-2016 after the Board vote, requesting that the Board reconsider its decision. Janine MacGregor reported that there is a high bar for reconsidering final Board decisions. She replied to Mr. Tyler in an email, noting that the Board does not reconsider determinations based on requests from the subject of the complaint or his attorney. She did confirm with Mr. Tyler that the Board did consider the information that Mr. Tyler referred to, as that information had already been included in the response to the complaint. The subject of the complaint has been sent an offer of settlement.

- **New Business:**

Janine MacGregor reported that the LSRPA has requested a Board Member to present at its annual meeting on January 29, 2019, particularly a Board Member that has not previously presented.

Motion by Joann Held to authorize Ira Whitman to represent the Board at the LSRPA annual meeting.

Motion seconded by Lawra Dodge.

All present voted yes. The motion was carried.

Janine MacGregor reported that the LSRPA would like to invite the Board to participate in the celebration of the 10th year of SRRA and the LSRP program.

- **Next Board Meeting**

Motion by Joann Held to cancel the Board Meeting previously scheduled for January 22, 2019.

Motion seconded by Jeff Hoffman.

All present voted yes.

The motion was carried.

The next Board Meeting is February 4, 2019.

- **Public Comments:**

Mark Pietrucha, LSRPA. Regarding the comments made by Rodger Ferguson on behalf of the LSRPA at the last Board Meeting, the LSRPA requested the bifurcation between the role of the Board overseeing LSRPs, and the role of the Department overseeing persons responsible for conducting remediation is more carefully stated in the way violations are worded. Janine MacGregor stated that SRRA and the Board rules require an LSRP to apply all rules related to remediation and looks at the conduct of the LSRP in application of those rules, and agreed that the violations must be worded carefully.

Motion by Ira Whitman to adjourn the meeting.

Motion seconded by Jorge Berkowitz.

All present voted yes.

The motion was carried. Meeting adjourned at 6:25 PM.