

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor



New Jersey Site Remediation Professional Licensing Board

P.O. Box 420 – Mail Code 401-04

401 East State Street, Trenton, NJ 08625-0420

Tel: 609-984-3424

srplboardcontact@dep.nj.gov

www.nj.gov/lrspboard

Board Members

Joann Held, Vice-Chairperson
Philip Brilliant
Michele Christina
Lawra Dodge
Steven Domber
Michael Renzulli
Charles Stebbins
Kathi Stetser
Peter Strom
Ira Whitman

December 16, 2024

David Pry
35 Charissa Court
Hewitt, NJ 07421

RE: Notice of Civil Administrative Penalty Assessment and License Suspension and
Offer of Settlement
David Pry, LSRP License 573686

Dear Mr. Pry:

This Notice of Civil Administrative Penalty Assessment and License Suspension and Offer of Settlement is to advise you that the New Jersey Site Remediation Professional Licensing Board (“Board”) has conducted an investigation in response to a complaint by the Professional Conduct Committee of the Board, and has reviewed information concerning your activities as a Licensed Site Remediation Professional (“LSRP”).

The Board has concluded that your conduct in remediating the site designated as PI 008324, and known as Ed Carney Ford, Inc. in East Hanover Township, New Jersey (the “Site”) demonstrates numerous violations of the Site Remediation Professional Licensing Board Rules, N.J.A.C. 7:26I.

Board Determination

The Board has determined that you violated the following provisions of the Site Remediation Professional Licensing Board Rules:

1. Violation of N.J.A.C. 7:26I-6.3(d) Professional Competency

(d) An LSRP shall exercise reasonable care and diligence, and shall apply the knowledge and skill ordinarily exercised by LSRPs in good standing practicing in the State at the time the services are performed.

The Board's finding of violation is based on the fact that you did not review the sampling results when the 550-gallon Waste Oil Underground Storage Tank was removed from the Site in May 2018. As the LSRP retained for the Site, you were required to perform the remediation or manage, supervise and periodically review and evaluate the remediation performed by others. To fulfill this requirement you were required, at a minimum, to review the sampling results collected by a consulting firm when removing the Underground Storage Tank at the Site in May 2018. You informed the Complaint Review Team that you did not review the sampling results and were not aware of the results. The Board finds this to be a Category II violation, with a base penalty amount of \$1,500.00. The Board is doubling this penalty, as you were previously found in violation of this provision in Complaint 009-2017, for a total of \$3,000.00.

2. Violation of N.J.A.C. 7:26I-6.5 Notification of retention and release

(a) An LSRP retained by a person responsible for conducting the remediation shall submit an LSRP Notification of Retention or Dismissal through the Online Business Portal at <https://www.nj.gov/dep/online> no later than 15 days after:

1. The person responsible for conducting the remediation retains the LSRP; and
2. The person responsible for conducting the remediation releases the LSRP from responsibility for remediation, if the release occurs prior to issuance of the RAO.

The Board's finding of violation is based on the fact that you stated that you were retained as the LSRP for the Site in May 2018 and admitted that although you intended to submit a notification of retention you neglected to do so. The Board finds this to be a Category I violation, with a base penalty amount of \$500.00.

3. Violation of N.J.A.C. 7:26I-6.10 Responsibility to report a discharge

(a) If an LSRP retained to perform remediation at a site or any portion of a site obtains specific knowledge that a previously unreported discharge, other than of historic fill, has occurred at any location on the site, the LSRP shall:

1. Immediately notify the person responsible for conducting the remediation of the discharge and of that person's duty to notify the Department of the discharge;
2. Immediately notify the Department of the discharge by calling the Department's telephone hotline at 1-877-WARNDEP; and
3. Immediately notify any other LSRP that is working on the contaminated site of the discharge.

The Board's finding of violation is based on the fact that you were responsible for reporting the discharge indicated by the finding of 666 mg/kg Total EPH in the soil sample collected in May 2018 following the removal of the 550-gallon Waste Oil Underground Storage Tank from the site. Had you reviewed the sampling results, you would have had knowledge of the discharge and been required to report it. The Board finds this to be a Category III violation, with a base penalty amount of \$4,500.00. However, the Board considers there to be aggravating factors warranting the increase of the penalty. Specifically, you knowingly acted contrary to N.J.A.C. 7:26I-6.10. You were aware that the consulting firm was removing the 550-Gallon Waste Oil Underground Storage Tank and collecting soil samples, but you did not request that they provide you with the sampling results for your review. Had you reviewed the results, you would have been aware that EPH was found in the soil, which indicated a discharge you were required to report to the Department of Environmental Protection and the person responsible for conducting remediation. Therefore, the Board increased the penalty amount to \$7,000.00.

4. Violation of N.J.A.C. 7:26I-6.24 Certification

(a) An LSRP shall not certify any document submitted to the Department, unless the LSRP makes a good faith and reasonable effort to determine that the information in the submission is true, accurate, and complete, and has:

1. Managed, supervised, or performed the work that is the basis of the submission;
2. Periodically reviewed and evaluated the work performed by other persons that forms the basis for the information in the submission; or
3. Completed the work of another site remediation professional, licensed or not, and has concluded such work is reliable, pursuant to N.J.A.C. 7:26I-6.7.

The Board's finding of violation is based on the fact that you certified the Notice of Intent to remove the 550-gallon Waste Oil Underground Storage Tank on May 16, 2018 but did not manage, supervise or perform the Underground Storage Tank removal or any other remediation work including investigation of the Site, nor did you review or evaluate the work of the consulting firm that removed the Underground Storage Tank and collected samples. You admitted to the Board's Complaint Review Team that you never saw the soil sampling results collected in May 2018, so you were not aware that there was a finding of 666 mg/kg Total EPH in a soil sample, which you consequently never reported as a discharge. The Board finds this to be a Category III Violation, which has a base penalty of \$4,500.00. However, the Board considers there to be aggravating factors warranting the increase of the penalty. Specifically, you knowingly certified the Notice of Intent to remove the 550-Gallon Waste Oil Underground Storage Tank but took no action to manage, supervise or perform the remediation work conducted by the consulting firm when removing the Underground Storage Tank or collecting soil samples, nor did you periodically review or evaluate their work. The role of an LSRP is not to rubber-stamp the work of others. It is inappropriate for an LSRP to certify work performed by others without having any involvement in that work at all. Simply relying on others to bring problems or issues to your attention is

insufficient to fulfill the requirements of N.J.A.C. 7:26I-6.24. Therefore, the Board increased the penalty amount to \$7,000.00.

Penalties

The Board assessed the violations in severity by evaluating each in accordance with the Board's document "Using Categories of Misconduct and Applying Board Discretion to Assess a Civil Administrative Penalty When Finding a Violation." The total administrative penalty assessed by the Board is \$17,500.00. In addition, the Board has determined that your LSRP license shall be suspended for a period of 12 months. The suspension is justified because you have been found in violation of the SRPL Board Rules in three separate complaints (Complaints 005-2016, 009-2017, 003-2019) in addition to the present complaint, which is more than any other LSRP. In addition, you presently have 217 active cases, which is significantly more than any other practicing LSRP. The number of active cases, combined with the number of complaints, indicates that you are not carrying out your responsibilities as an LSRP with the care and attention necessary to protect public health and safety and the environment. The Board is therefore suspending your license in order to compel you to examine your practices and modify your work methods to ensure that you are only retained on cases in which you are actively involved as the LSRP.

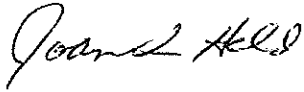
Offer of Settlement

The Board has determined that it will offer you the opportunity to settle this civil administrative penalty. If you agree to settle the penalties for the violations listed above, you must, within 35 days after receipt of this Notice, sign the attached certification and pay a civil administrative penalty in the amount of \$14,000.00, which is 80% of the assessed civil administrative penalty of \$17,500.00, and agree to the 12 month suspension of your LSRP license. Here, and throughout this document, the beginning date to calculate the 35-day time period is the date of delivery by email.

If you do not wish to settle the penalties for the violations, you may request an administrative hearing by providing the Board, within 35 days after receipt of this Notice, with all the information specified in the "Administrative Hearing Request Checklist" available on the Board website at SRPLB Hearing Request Checklist. You should be aware that a hearing will subject you to the possibility of civil administrative penalties in an amount greater than offered in this letter. Additionally, you may be required to pay costs, including the costs for the Board investigation of this matter and the costs of preparing and successfully enforcing the civil administrative penalties, pursuant to N.J.S.A. 58:10C-17.f.(3). If the Board receives a request for a hearing within 35 days after your receipt of this Notice of Civil Administrative Penalty Assessment, this Notice shall become a final order when you receive a notice of the denial of the request, or, if the Board grants the hearing request, when you withdraw the request or abandon the hearing, or, if the hearing is conducted, when you receive a final decision from the Board in this matter.

If the Board does not receive your response agreeing to settlement and your payment of the settlement penalty amount, or requesting a hearing, within 35 days after your receipt of this Notice, this Notice shall become a final order upon the 36th day following your receipt, and the full penalty shall be due and owing, and the suspension period shall begin immediately.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joann Held".

Joann Held, Vice-Chairperson
New Jersey Site Remediation Professional Licensing Board

Enclosures: Certification

CERTIFICATION

I, LSRP David Pry, License No. 573686, hereby acknowledge that I have received the Board's Notice of Civil Administrative Penalty Assessment and License Suspension December 16, 2024 regarding violations of N.J.A.C. 7:26I. I have elected to respond as indicated by checking one of the following options:

 I agree to pay a civil administrative penalty in the amount of \$14,000.00 in settlement of the violations by sending a check made payable to "Treasurer, State of New Jersey" to the New Jersey Site Remediation Professional Licensing Board within 35 days after my receipt of the Notice of Civil Administrative Penalty Assessment and License Suspension dated December 16, 2024. I agree to begin the 12-month period of suspension on January 1, 2025, which will conclude on December 31, 2025. I am aware that the action taken against me by the Board is a matter of public record, and that the Board's letter and this certification are public documents.

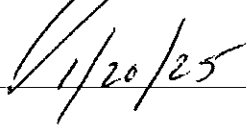
 X I request an administrative hearing to contest the SRPL Board's allegations in the Notice of Civil Administrative Penalty Assessment and License Suspension dated December 16, 2024 by providing the SRPL Board with all the information specified in the "Administrative Hearing Request Checklist" available on the Board website at SRPLB Hearing Request Checklist within 35 days after my receipt of the SRPL Board's Notice.

BY:



LSRP David Pry

DATE:



1/20/25