

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-1 et seq.) alleged in the complaint and referenced below.

ISSUE

The subject of the complaint is an LSRP (hereinafter referred to as “Subject LSRP”) hired by a Property Owner to remediate the Property Owner’s large industrial site. This complaint was brought by a tenant on the site that the Subject LSRP is remediating. The Complainant operates a package distribution facility that includes a vehicle maintenance area.

The Complainant alleged that the Subject LSRP violated N.J.A.C. 7:26I-6.3(a), (b) and (d) and N.J.A.C. 7:26I-6.8(a), (d) and (e) because he attributed ground water contamination to the vehicle maintenance area that the Complainant is operating on the property. The Complainant disputes that the vehicle maintenance area is a source of contamination.

The core of the complaint is that in the preparation of a Remedial Investigation Report 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 Remedial Investigation Report.

The Subject LSRP addressed each of the allegations of the complaint in his response.

INVESTIGATION and ANALYSIS

The Professional Conduct Committee of the Board appointed a Complaint Review Team to investigate the allegations and response. The Complaint Review Team reviewed the complaint and the Subject LSRP’s response and developed a list of specific questions for the Complainant and the Subject LSRP regarding facts set forth in the complaint and response, particularly regarding how each party analyzed the data and used the data to support their positions. The questions were sent to each party in August 2020. The Subject LSRP responded to the questions promptly. The Complainant acknowledged receipt of the questions and promised a response, but never did provide a response or otherwise acknowledge or respond to further emails or phone calls from the Complaint Review Team.

FINDINGS

Based on review of the complaint, the Subject LSRP's response to the complaint, the Remedial Investigation Report submitted to the Department, and the Subject LSRP's response to the Complaint Review Team's questions, the Complaint Review Team concluded that the Subject LSRP had sufficient information to justify his analysis and independent professional judgment in the preparation of the Remedial Investigation Report. Consequently, the Complaint Review Team recommended that the Board find no violation in this matter. The Professional Conduct Committee and the Board agreed that 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 Remedial Investigation Report.

The Board notes that it has come to no decision with respect to whether the LSRP's conclusions are technically correct regarding his position that the vehicle maintenance area is a potential source of the shallow ground water contamination on the site. The Board's only determination is with respect to the Subject LSRP's conduct, and in that matter finds no violation of the Site Remediation Professional Licensing Board Rules in the conduct of the Subject LSRP in preparing and submitting the Remedial Investigation Report.