

SRPL BOARD COMPLAINT NO. 009-2016

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 Reform Act (N.J.S.A. 58:10C-1 et seq.) alleged in the complaint and referenced below.

ISSUES

This complaint was brought by a former employee of a utility company, who was a project manager of environmental projects (“Complainant”). The complaint was brought against an LSRP, who was retained as the LSRP for a utility company site that was undergoing remediation. A Classification Exception Area had been established on part of the Site.

The Complainant alleged that by email dated September 19, 2016, he notified the LSRP that a discharge occurred on the Site on August 5, 2016 when ground water seepage from a linear construction project taking place within the Classification Exception Area was discharged to a storm sewer. The Complainant alleged that because the LSRP did not report the discharge, he violated N.J.S.A. 58:10C-16.k.

INVESTIGATION

Board staff and the Complaint Review Team interviewed the Complainant, the LSRP that was the subject of the complaint, and additional fact witnesses that were named by the Complainant and LSRP to gain a knowledge of what took place at the Site. The Board staff and Complaint Review Team also reviewed emails and documents produced by the parties and witnesses.

FINDINGS

The Board concluded that in the case of 009-2016, there was not sufficient evidence to support a finding of a violation. N.J.S.A. 58:10C-16.k. requires an LSRP to report a discharge that he has “specific knowledge” of. In order for an LSRP to have specific knowledge of a discharge, he needs to have at least minimal evidence or confirmation that the discharge took place.

In this case, the LSRP was not notified of the alleged discharge until approximately six weeks after it was said to have occurred, so there was no direct evidence remaining by the time the LSRP was notified. The LSRP discussed the alleged discharge with personnel who were on the site at the time, including witnesses interviewed by Board

staff and the Complaint Review Team, but they did not corroborate that a discharge took place.

The Board found that the LSRP made a reasonable and appropriate effort to try to confirm whether or not a discharge in fact took place, but there was not sufficient evidence of a discharge to justify a finding that the LSRP had “specific knowledge” of a discharge. Since the LSRP did not have “specific knowledge” of a discharge, he was not required to report it to the Department, and did not violate N.J.S.A. 58:10C-16.k.