



State of New Jersey
SITE REMEDIATION PROFESSIONAL LICENSING BOARD

401 East State Street
P.O. Box 420 – Mail Code 401-06
Trenton, NJ 08625-0420
Tel: 609-984-3424 – Fax: 609-777-1914
www.nj.gov/lrspboard

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June 10, 2021

Board Determination and Offer of Settlement

By Certified and Regular Mail

Mark Annis
Anco Environmental Services, Inc.
1 Russo Place
Berkeley Heights, NJ 07922

RE: In the matter of Mark Annis, LSRP License #668727
SRPL Board Complaint 004-2020

Dear Mr. Annis:

This letter is to advise you that the New Jersey Site Remediation Professional Licensing Board (“Board”) has reviewed information concerning your conduct in connection with Complaint 004-2020, based on the remediation work you conducted at PI 782328.

Board Determination

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

1. 7:26I-6.5 (a) 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 as found on the Department website at www.nj.gov/dep/srp/srra/forms no later than 15 days after:

1. The person responsible for conducting the remediation retains the LSRP...

In conducting remediation for PI 782328 you discovered a 550-gallon underground gasoline tank in July 2017 and were directed by the Complainant to remediate the tank, but you did not submit a notification of retention until June 27, 2018. You should have known that the remediation of the 550-gallon underground gasoline tank required an LSRP even though it was a farm/residential tank, and you should have submitted a notice of retention as soon as you were hired to remediate the 550-gallon underground gasoline tank.

2. 7:26I-6.3 (a) Professional competency

(a) An LSRP shall know and apply the applicable statutes, rules, regulations, and appropriate technical guidance concerning the remediation of contaminated sites including, but not limited to, the remediation requirements set forth at N.J.S.A. 58:10C-14.c: ...

8. Any other applicable standards, rules, or regulations adopted pursuant to law.

On June 15, 2018, you submitted to the UHOT program a Remedial Action Report (“RAR”) for removal of the 550-gallon underground gasoline tank. You were incorrect in submitting this RAR to the Underground Heating Oil Tank (“UHOT”) program because the 550-gallon underground gasoline tank was not an unregulated heating oil tank. On June 20, 2018, NJDEP personnel notified you that the RAR was inappropriately submitted to the UHOT program, and that the remediation had to be conducted through the LSRP program. You should have been aware that the remediation was required to be conducted through the LSRP program. Your erroneous understanding and application of the UHOT Rules and Administrative Requirements for the Remediation of Contaminated Sites resulted in a delay in the remediation of the site and excess costs for the Complainant.

3. 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.

A Response Action Outcome (“RAO”) dated June 29, 2018 and signed by you was provided by the Complainant to the Board during its investigation of the remediation work you conducted. You had no knowledge of this RAO and did not have it in your file, nor was it ever submitted to the NJDEP. This document was issued 18 months prior to an RAO issued and signed by you and dated December 31, 2019. Since you claim to have no knowledge of the earlier RAO, you failed to demonstrate reasonable care and diligence.

Penalties

For violation of N.J.A.C. 7:26I-6.5(a) the Board assesses the violation as medium conduct because it was not intentional, and low severity as this action did not impact public health or the environment. The assessed penalty is \$1,250.00 which is the midpoint of the range of \$500.00 to \$2,000.00 for a medium-low penalty.

For violation of N.J.A.C. 7:26I-6.3(a)8 the Board assesses the violation as medium conduct because it was not intentional, and low severity as this action did not impact public health or the environment. The assessed penalty is \$2,000.00 which is above the midpoint of the range of \$500.00 to \$2,000.00 for a medium-low penalty. The penalty is assessed above the midpoint of the range due the aggravating factors of extraordinary costs to the Complainant and direct impact to the sale of the property due to delays caused by your actions.

For violation of N.J.A.C. 7:26I-6.3(d) the Board assesses the violation as medium conduct because it was not intentional, and medium severity as this action potentially impacted the environment. The assessed penalty is \$5,000.00. The penalty is assessed above the midpoint of the range of \$1,000.00 to \$5,000.00 for a medium-medium violation due to the aggravating factors of you having no knowledge of the RAO issued in June 2018 which indicates that it was either issued by your office without your knowledge or you did not keep a record of it.

Total Penalty is \$8,250.00.

Offer of Settlement

As a result of the foregoing, the Board will pursue formal disciplinary proceedings against you for the above referenced violations to assess the above referenced penalties for these violations. Notwithstanding this decision, the Board has determined that it will first offer you an opportunity to settle these violations before instituting formal disciplinary proceedings if you consent to the following terms:

Agree to pay a civil administrative penalty in the amount of \$6,600.00, which is 80% of the civil administrative penalty of \$8,250.00 the Board intends to assess in formal disciplinary proceedings. Payment should be by certified check or money order payable to "Treasurer, State of New Jersey," and mailed to Janine MacGregor, Executive Director at the address above.

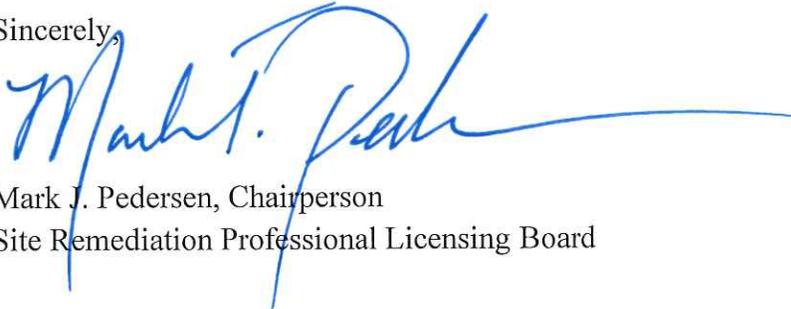
If we are unwilling or unable to settle this matter, the Board will pursue formal disciplinary proceedings for these violations pursuant to N.J.S.A. 58:10C-17.f. to assess the above referenced penalties and you will be afforded an opportunity to request a hearing regarding this matter at that time. In that event, the Board, pursuant to N.J.S.A. 58:10C-17.f., may also enter an order assessing and requiring you to pay the costs for the investigation which led to the establishment of the violations, and its costs for successfully enforcing its penalty action against you. In addition, pursuant to N.J.S.A. 58:10C-17.e., any person who violates the Site Remediation Reform Act or any rule, regulation or order of the Board, or who fails to pay a civil administrative penalty assessed by the Board, shall be subject, upon order of the Superior Court, to pay a civil penalty of not more than \$10,000.00 for the first violation and not more than \$20,000.00 for every subsequent

violation. The Board reserves its right to amend its findings and conclusions based on further review or investigation if this matter is not settled.

If you elect to settle this matter, you must sign the attached Acknowledgement and Acceptance of Board Offer of Settlement and return it along with payment to the Board within thirty (30) days following your receipt of this Board Determination and Offer of Settlement. Here, and throughout this document, the beginning date to calculate this 30-day time period is the date of delivery as indicated on the return receipt of this document. If the Board receives no response from you within thirty (30) days, the Board's settlement offer shall be considered withdrawn and the Board will pursue formal disciplinary proceedings.

Should you have any questions concerning this Board Determination and Offer of Settlement or the Acknowledgement and Acceptance of Board Offer of Settlement, you may contact Executive Director Janine MacGregor at 609-984-3424 or SRPLBoardContact@dep.nj.gov or seek the advice of your legal counsel. This Board Determination and Offer of Settlement does not constitute a formal enforcement order, a final agency action or a final legal determination that may be appealed or contested. Please note that the Board Determination and Offer of Settlement and this Acknowledgement and Acceptance of Board Offer of Settlement are public documents.

Sincerely,



Mark J. Pedersen, Chairperson
Site Remediation Professional Licensing Board

Enc: Acknowledgement

ACKNOWLEDGEMENT and ACCEPTANCE OF BOARD OFFER OF SETTLEMENT

I, Mark Annis, hereby acknowledge that I have reviewed the attached June 10, 2021 Board Determination and Offer of Settlement and the settlement offer of the Board set forth therein.

I acknowledge the conduct which has been charged. I accept the settlement offer of the Board and agree to the following to settle the violations addressed in the June 10, 2021 Board Determination and Offer of Settlement pursuant to the following terms:

Immediate payment of a civil administrative penalty of \$6,600.00.

I acknowledge that if I fail to perform any of the foregoing settlement terms the Board may terminate or enforce this settlement agreement upon 30 days prior written notice to me.

I am aware that by signing this Acknowledgement and Acceptance of Board Offer of Settlement I have entered into a binding settlement agreement and I am waiving any rights I may have to an administrative hearing for the matters addressed in the Board Determination and Offer of Settlement and this Acknowledgement and Acceptance of Board Offer of Settlement. I am aware that the findings of the Board in connection with this matter are a matter of public record and that this Board Determination and Offer of Settlement and this Acknowledgement and Acceptance of Board Offer of Settlement are public documents.

Dated: 7/14/2021 
Mark Annis, LSRP License #668727



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July 14, 2021

PHILIP D. MURPHY
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Board Members

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Ira Whitman

Mark Annis
Anco Environmental Services, Inc.
1 Russo Place
Berkeley Heights, NJ 07922

RE: In the matter of Mark Annis, LSRP 668727
SRPL Board Complaint 004-2020

Dear Mr. Annis:

This letter is to advise you that the Professional Conduct Committee of the Site Remediation Professional Licensing Board has considered your request to pay the amount \$6,600.00 in settlement of Complaint 004-2020 in six installments of \$1,100.00 each, due to the Board on July 15, 2021, August 15, 2021, September 15, 2021, October 15, 2021, November 15, 2021 and December 15, 2021.

The Committee agrees with your request and requests that you sign and return the acknowledgement below. Contact me if you have any questions or concerns. Thank you for your cooperation.

Sincerely,

Janine MacGregor (electronically signed)

Janine MacGregor, Executive Director
Site Remediation Professional Licensing Board

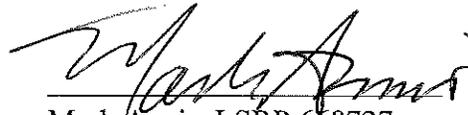
Enc: Acknowledgement

ACKNOWLEDGEMENT

I, Mark Annis, hereby acknowledge that I agree to submit payment to the Site Remediation Professional Licensing Board in settlement of Complaint 004-2020, pursuant to the Settlement Agreement which I signed on _____, in six installments of \$1,100.00 each due to the Board on July 15, 2021, August 15, 2021, September 15, 2021, October 15, 2021, November 15, 2021, and December 15, 2021.

Dated: _____

7/19/21


Mark Annis, LSRP 668727