



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: 609-292-1250 – Fax: 609-777-1914
www.nj.gov/lsrpboard

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

Board Members

Mark J. Pedersen, *Chairperson*
Joann Held, *Vice-Chairperson*
Jorge Berkowitz
Philip Brilliant
Lawra Dodge
Jeffrey Hoffman
Christopher Motta
Kathi Stetser
Peter Strom
Ira Whitman

May 8, 2019

Board Determination and Offer of Settlement

By Certified and Regular Mail

William Dougherty
GES, Inc.
1599 Route 34
Wall, NJ 07727

RE: In the matter of LSRP William Dougherty, LSRP #573981
SRPL Board Complaint 007-2017

Dear Mr. Dougherty:

This letter is to advise you that the New Jersey Site Remediation Professional Licensing Board (“Board”) has reviewed information concerning your professional conduct in connection with the above captioned matter.

You were hired to conduct remediation at the Michael’s Service Station Site (AKA Exxon Service Station #3-5160) which is located at 468 Teaneck Road, Teaneck, Bergen County, New Jersey. The New Jersey Department of Environmental Protection (“Department”) has identified the contaminated site as Program Interest Number 007093.

As part of the remediation, on or about December 5, 2014, you submitted to the Department an application for a Remedial Action Permit for ground water, a Remedial Action Report, and a Remedial Action Report Form. The Remedial Action Report stated: “Based on the laboratory analytical data, ground water has been horizontally delineated. Due to low ground water concentrations and lack of sensitive receptors, no vertical delineation is required. Ground water analytical results from all monitoring wells show that ground water has been remediated to concentrations meeting the requirements for the Remedial Action Permit (RAP).” In Section G of the Remedial Action Report Form, you responded “no” to the question “has the remediation varied from the Technical Rules.”

Upon review of the available information, the Board has determined that you are in violation of N.J.S.A. 58:10C-14.c.(2) and (3) of the Site Remediation Reform Act because in declining to

delineate the vertical extent of ground water contamination you did not apply the technical standards for site remediation adopted by the Department or the available and appropriate technical guidelines concerning site remediation issued by the Department. Furthermore, you did you provide a written rationale or justification for your deviation from guidance; and you did not document your decision to vary from the technical requirements, as required by N.J.A.C. 7:26E-1.5(b) and N.J.A.C. 7:26E-1.7. The Board has assessed a civil administrative penalty of \$500.00 against you pursuant to N.J.S.A. 58:10C-17.f. Specifically:

By not delineating the vertical extent of ground water, you did not follow the Technical Requirements for Site Remediation, N.J.A.C. 7:26E-4.3(a) and the "Ground Water Technical Guidance: Site Investigation, Remedial Investigation, Remedial Action Performance Monitoring" dated April 3, 2012 as required by N.J.S.A. 58:10C-14.c.(2) and (3). You were therefore required to submit appropriate documentation to justify a variance, as required by N.J.A.C. 7:26E-1.5(b) and N.J.A.C. 7:26E-1.7. The explanation you provided for not conducting vertical delineation of the ground water, as quoted above, is not sufficient to meet the requirements for a variance.

As a result of the foregoing, the Board intends to pursue formal disciplinary proceedings against you for the above referenced violations and penalty assessments. Notwithstanding that decision, the Board has determined that it will first offer you an opportunity to settle this matter in order to avoid continuation of these proceedings if you consent to the following terms:

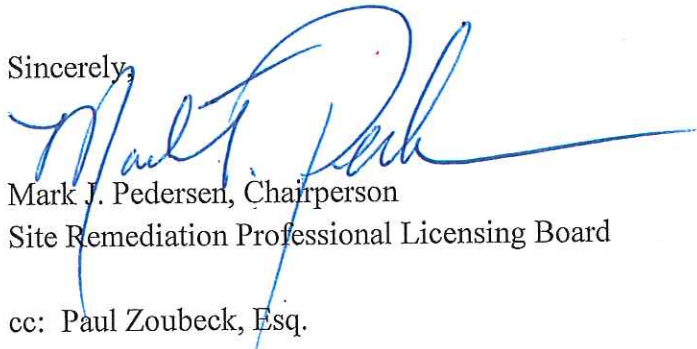
Agree to pay a civil administrative penalty in the amount of \$400.00, which is 80% of the assessed civil administrative penalty of \$500.00 for a first violation of "low" conduct and "low" severity as evaluated pursuant to the Board's "Guidance to Determine Conduct and Severity of a Violation when Assessing Civil Administrative Penalties." Payment should be by certified check or money order payable to "Treasurer, State of New Jersey."

If you 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 and you will be afforded an opportunity to request a hearing regarding this matter before the Office of Administrative Law. 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.

If you elect to settle this matter, you must sign the attached Acknowledgement and return it to the Board within thirty-five (35) days following your receipt of this letter. Here, and throughout this document, the beginning date to calculate this 35-day time period is the date of delivery as indicated on the return receipt of this letter. If the Board receives no response from you within thirty-five (35) 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 letter or the Acknowledgement, you may contact Executive Director Janine MacGregor at 609-984-3424 or seek the advice of your legal counsel. Please note that this letter and Acknowledgement are public documents.

Sincerely,



Mark J. Pedersen, Chairperson
Site Remediation Professional Licensing Board

cc: Paul Zoubeck, Esq.

ACKNOWLEDGEMENT

I, William Dougherty, LSRP, hereby acknowledge that I have reviewed the attached May 8, 2019 letter and the settlement offer of the Board set forth therein ("Letter").


I acknowledge the conduct which has been charged. I accept the settlement offer of the Board and agree to the following to settle the matters addressed in the Letter:

Immediate payment of a civil administrative penalty of \$400.00.

I am aware that by signing this Acknowledgement I am waiving any rights I may have to an administrative hearing in this matter. I am aware that the findings of the Board in connection with this matter are a matter of public record and that this Letter and this Acknowledgement are public documents.

Dated: _____

9/20/19



William Dougherty, LSRP #573981