



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/lsrpboard

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

Board Members

Mark J. Pedersen, *Chairperson*
Joann Held, *Vice-Chairperson*
Philip Brilliant
Lawra Dodge
Jeffrey Hoffman
Michael Renzulli
Kathi Stetser
Peter Strom
Ira Whitman

February 9, 2022

Board Determination and Offer of Settlement

By Email

James P. Mack
James P. Mack, LLC
25 Starview Drive
Hillsborough, NJ 08844

RE: In the matter of LSRP James P. Mack, LSRP #576435
SRPL Board Complaint 010-2019

Dear Mr. Mack:

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 Complaint 010-2019, initiated by the New Jersey Department of Environmental Protection based on the remediation work you conducted at PI 000620.

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(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...

The Board’s finding of violation is based on the following facts:

There was inconsistency between the Case Inventory Document and the Remedial Investigation Report with respect to Ground Water delineation as described in Paragraph 1c of the Complaint.

There was incomplete ownership history provided in the Preliminary Assessment/Site Investigation/Remedial Investigation/Remedial Action Report as described in Paragraph 4 of the Complaint.

Information in the Case Inventory Document was incorrect and inaccurate as described in Paragraph 5 of the Complaint.

Inconsistent information was provided regarding the presence of DNAPL on the site as described in Paragraph 8 of the Complaint.

2. Violation of N.J.A.C. 7:26I-6.3(d): An LSRP shall exercise reasonable care and diligence, and 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 following facts:

Inconsistent information between the Case Inventory Document and the Remedial Investigation Report with respect to Ground Water delineation as described in Paragraph 1a of the Complaint.

Inconsistent information between the Case Inventory Document and the Classification Exception Area Fact Sheet with respect to Ground Water delineation as described in Paragraph 1b of the Complaint.

Inconsistent information between the Remedial Investigation Report E-Submittal Summary and the Remedial Investigation Report with respect to the Vapor Intrusion Investigation as described in Paragraph 2 of the Complaint.

Inconsistent information between the Remedial Investigation Report E-Submittal Summary and the Remedial Investigation Report with respect to the Ecological Evaluation as described in Paragraph 3 of the Complaint.

3. Violation of N.J.A.C. 7:26I-6.25(a) for submitting a Remedial Action Outcome when there were outstanding fees, as described in Paragraph 7 of the Complaint.

Penalties

The Board finds that the violation of N.J.A.C. 7:26I-6.3(a) and violation of N.J.A.C. 7:26I-6.3(d) are each a first violation of "Medium" conduct and "Medium" severity, and that the violation of N.J.A.C. 7:26I-6.25(a) is a first violation of "Medium" 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,” and intends to assess a civil administrative penalty of \$3,000.00 for the first violation, \$3,000.00 for the second violation, and \$1,250.00 for the third violation, totaling \$7,500.00.

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 \$5,800.00. Payment should be by certified check or money order payable to “Treasurer, State of New Jersey,” and mailed to Dana Haymes at the address above.

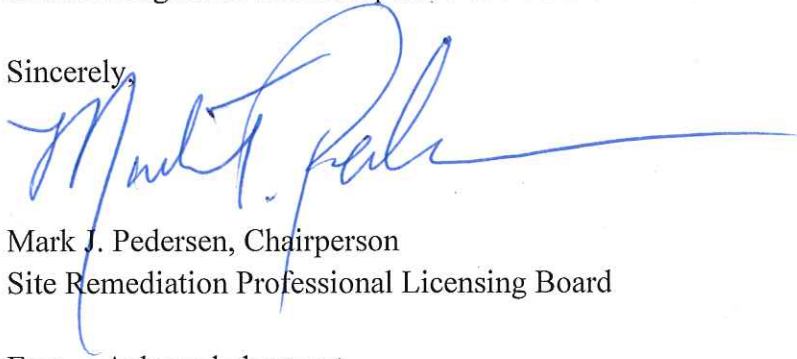
If we are unwilling or unable to settle this matter, the Board will pursue formal disciplinary proceedings for these violations pursuant to N.J.S.A. 58:10C-17.f. to assess the above referenced penalties and you will be afforded an opportunity to request a hearing regarding this matter at that time. In 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 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 Dana Haymes 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,

A handwritten signature in blue ink, appearing to read "Mark J. Pedersen", with a long horizontal flourish extending to the right.

Mark J. Pedersen, Chairperson
Site Remediation Professional Licensing Board

Enc: Acknowledgement

ACKNOWLEDGEMENT and ACCEPTANCE OF BOARD OFFER OF SETTLEMENT

I, James Mack, hereby acknowledge that I have reviewed the attached February 9, 2022 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 February 9, 2022 Board Determination and Offer of Settlement pursuant to the following terms:

Immediate payment of a civil administrative penalty of \$5,800.00.

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: _____

3/14/2022

James Mack
James Mack, LSRP #576435