



State of New Jersey
SITE REMEDIATION PROFESSIONAL LICENSING BOARD

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February 9, 2021

Board Determination and Offer of Settlement

By Certified and Regular Mail

Pearse Mackle
T and M Associates
40 Monmouth Park Highway, Suite 2
West Long Branch, NJ 07764

RE: In the matter of Pearse Mackle, LSRP 573655
SRPL Board Complaint 011-2020

Dear Mr. Mackle:

This letter is to advise you that in the process of conducting your audit the Audit Committee of the New Jersey Site Remediation Professional Licensing Board found that you failed to make notifications as required by N.J.A.C. 7:26I-6.8(c). This provision requires LSRPs to notify the person responsible for conducting the remediation and the Department of Environmental Protection (“Department”) in writing when in the LSRP’s professional judgment based on site history any one or more applicable mandatory or expedited site-specific timeframes referenced in N.J.A.C. 7:26C-3 is unlikely to be met.

Board Determination

The Board has determined that you violated N.J.A.C. 7:26I-6.8(c) in six instances in which you failed to submit notifications to the Department for missed mandatory timeframes. The Board has summarized each missed timeframe that occurred after the date of December 1, 2018 for which you made no notification to the Department in Exhibit A, attached to this letter.

Penalties

The Board finds that each of the violations presented in Exhibit 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 in the amount of \$250.00 for each violation

listed in Exhibit A, for a total civil administrative penalty of \$1,500.00. The Board's intended assessment is in accordance with the aforementioned guidance, which permits considering mitigating factors for calculating the amount of an administrative penalty.

In addition, the Board finds that the high number of violations of N.J.A.C. 7:26I-6.8(c) indicates that you failed to exercise reasonable care and diligence in carrying out your responsibilities as an LSRP, and therefore finds you also violated N.J.A.C. 7:26I-6.3(d). The Board finds that the violation of N.J.A.C. 7:26I-6.3(d) 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 in the amount of \$1,250.00.

The total assessed penalty for the violations is \$2,750.00.

Offer of Settlement

As a result of the foregoing, the Board will pursue formal disciplinary proceedings against you for the violations enumerated in Exhibit A 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 \$2,200.00, which is 80% of the civil administrative penalty of \$2,750.00 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. 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-five (35) days following your receipt of this Board Determination and Offer of Settlement. 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 document. 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 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,

A handwritten signature in black ink, appearing to read "Mark J. Pedersen", followed by a long horizontal line extending to the right.

Mark J. Pedersen, Chairperson
Site Remediation Professional Licensing Board

Enc: Acknowledgement
Exhibit A

ACKNOWLEDGEMENT and ACCEPTANCE OF BOARD OFFER OF SETTLEMENT

I, Pearse Mackle, hereby acknowledge that I have reviewed the attached February 9, 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 February 9, 2021 Board Determination and Offer of Settlement pursuant to the following terms:

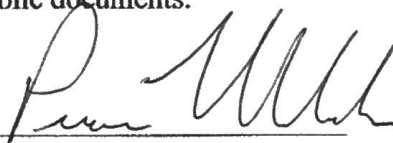
Immediate payment of a civil administrative penalty of \$2,200.00.

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: _____

2/22/21



Pearse Mackle, LSRP 573655

EXHIBIT A

LSRP Pearse Mackle violated N.J.A.C. 7:26I-6.8(c) by failing to notify the Department of Environmental Protection in writing when mandatory timeframes referenced in N.J.A.C. 7:26C-3 that occurred after December 1, 2018 were not met. In each of the following cases there is no record of notification to the Department of this missed timeframe:

1. PI 601077 – Remedial Investigation Report Mandatory Timeframe due date February 6, 2020
2. PI 024363 – Remedial Action Report Mandatory Timeframe due date February 28, 2020
3. PI 025264 – Remedial Action Report Mandatory Timeframe due date May 6, 2019
4. PI 743092 – Receptor Evaluation and Site Investigation Report Mandatory Timeframe due date November 10, 2019
5. PI 031783 – Remedial Action Report Mandatory Timeframe due date May 6, 2019
6. PI 005428 – Remedial Action Report Mandatory Timeframe due date May 6, 2019