



State of New Jersey

SITE REMEDIATION PROFESSIONAL LICENSING BOARD

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Trenton, NJ 08625-0420
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April 13, 2022

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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Board Determination and Offer of Settlement

By Email

Robert Koto
98 West Newell Avenue
Rutherford, NJ 07070

RE: In the matter of LSRP Robert Koto, LSRP # 586789 (expired)
SRPL Board Complaint 013-2020

Dear Mr. Koto:

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 013-2020, initiated by the New Jersey Department of Environmental Protection based on the remediation work you conducted at PI 020790.

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 fact that you claimed that contamination on-site was attributable to an off-site source but did not conduct an off-site source investigation pursuant to N.J.A.C. 7:26E-3.9 to support that claim.

2. Violation of N.J.A.C. 7:26I-6.3(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.

The Board's finding of violation is based on the fact that you submitted a Remedial Action Permit application without obtaining or providing data or reports that demonstrated that monitored natural attenuation was an effective remedy.

Penalties

In consideration of the fact that your LSRP license expired in October 2021, the Board has decided not to assess monetary penalties for the above violations or pursue investigation of Allegations 2, 3, and 4¹ of the Complaint provided you agree to the offer of settlement below.

Offer of Settlement

The Board has determined that it will offer you an opportunity to settle these violations before instituting formal disciplinary proceedings if you consent to the following terms:

Agree to not apply to renew your license prior to October 2022 (1 year past the license expiration date) or apply for a new license.

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. 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

¹ Allegation 1: Failure to conduct an off-site source investigation for soil or ground water contamination as required by N.J.A.C. 7:26E-3.9; Allegation 2: Failure to conduct a remedial investigation of ground water as required by N.J.A.C. 7:26E-4.3; Allegation 3: Failure to conduct an ecological evaluation as required by N.J.A.C. 7:26E-1.16 and N.J.A.C. 7:26E-4.8; Allegation 4: Failure to delineate the horizontal and vertical extent of all ground water contamination at the site as required by N.J.A.C. 7:26E-4.3(a)4; Allegation 5: Failure to submit an RAR that demonstrates that Monitored Natural Attenuation is an effective ground water remedial action for the site and submission of a Ground Water Monitoring Plan that does not have a proper sentinel well as required by N.J.A.C. 7:26C-7.5(c)3i and (c)4.

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 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,



Mark J. Pedersen, Chairperson
Site Remediation Professional Licensing Board

Cc: Ryder Ulon, Esq.

Enc: Acknowledgement

ACKNOWLEDGEMENT and ACCEPTANCE OF BOARD OFFER OF SETTLEMENT

I, Robert Koto, hereby acknowledge that I have reviewed the attached April 13, 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 April 13, 2022 Board Determination and Offer of Settlement pursuant to the following terms:

I agree to not apply to renew my LSRP license prior to October 2022 (1 year after license expiration date) or to apply for a new LSRP license.

I acknowledge that if I fail to abide by 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: _____

4/15/2022



Robert Koto, LSRP #586789 (expired)