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September 8, 2017

Mr. Mark J. Pedersen
Chairman
New Jersey Site Remediation Professional Licensing Board
c/o New Jersey Department of Environmental Protection
Site Remediation and Waste Management Program
401 East State Street
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Re: Audit Procedures

Dear Mr. Pedersen:

During the August 7, 2017 Site Remediation Professional Licensing Board (SRPLB) meeting, at which you were not present, the chairperson of the Audit Committee, Dr. Jorge Berkowitz, discussed two proposed changes to the committee's procedures. The first change, which will be implemented immediately, was that the current audit process would be streamlined such that the Audit Review Team and SRPLB staff will only review 25 LSRP submissions for each audited Licensed Site Remediation Professional (LSRP) selected for an audit, and that these would be focused on the most recent submissions. The Licensed Site Remediation Professional Association (LSRPA) supports this revision to the audit process in the interest of expediting the extremely lengthy process being experienced by our membership. The LSRPA also supports that the number of documents could be limited to fewer than 25 if the LSRP had been audited previously and if he/she has submitted fewer than 25 documents since that previous audit.

It is the second point brought up by Dr. Berkowitz that has caused significant concern amongst LSRPA members: the audit selection procedure would be modified (as stated in the agenda) "...to include a mixture of LSRPs picked randomly, and also identified on a non-random basis (i.e., numerous deficiencies in submissions, etc.)." The LSRPA participates in quarterly meetings with New Jersey Department of Environmental Protection (NJDEP) Bureau of Inspection and Review (BIR). During these meetings, the LSRPA works cooperatively with BIR to identify and address issues encountered by both BIR and the practicing LSRPs. There are issues that rise to the surface because of the frequency they are encountered, and it is our mutual goal to educate both the NJDEP and the LSRP community. We have been repeatedly told that there is not a written list of LSRPs who are perceived to require repeated instruction, are deficient in their understanding of the regulations/guidance, or otherwise may have submitted deficient documents. The existence of such a list, whether written or unwritten, would be an unacceptable bias to the NJDEP's review or the SRPLB's process.

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Furthermore, it is NJDEP BIR's responsibility, through the document inspection and review process to identify deficiencies in the performance of the remediation. It is the SRPLB's responsibility, through their audit process, to audit the performance of an LSRP to determine compliance with the Site Remediation Reform Act and any rule, regulation or order adopted or issued pursuant thereto. In fact, the Board's own rules emphasize the bifurcation of these responsibilities as outlined in N.J.A.C. 7:26I-5(b) as follows.

The Board's auditing of the submissions and conduct of LSRPs is separate and distinct from the Department's inspection and review of documents and information submitted by an LSRP and review of the performance of a remediation pursuant to N.J.S.A. 58:10C-21.

While the Site Remediation Reform Act (See N.J.S.A. 58:10C-24 and 25) and the SRPLB Regulations (See N.J.A.C. 7:26-5.3) do not specify the manner in which individual LSRPs are selected for audits, the LSRPA is gravely concerned that the selection of LSRPs based upon an unsubstantiated list of deficient submissions would result in a similarly unacceptable bias to the Board's audit of LSRPs. Dr. Berkowitz himself stated that he was concerned that a new audit selection process would be perceived as capricious, and the LSRPA concurs with this statement.

We would appreciate the opportunity to address the SRPLB prior to action being taken on this matter during the September 11, 2017 meeting.

Thank you for your attention to this matter.

Sincerely yours,


John J. Oberer, LSRP
President