



Daniel Titus
HRP Associates
999 Oronoque Lane
Stratford, CT 06614

RE: *Letter of Reprimand – License No. 458, Complaint No. 11-103*

Dear Mr. Titus:

The above-referenced complaint was referred to the State Board of Examiners of Environmental Professionals (“the Board”) by the Remediation Division of the Department of Energy and Environmental Protection’s (“DEEPs”) Bureau of Water Protection and Land Reuse. The Complaint, issued by DEEP for the property located at 500 Bic Drive, Milford (“the Site”), alleges that you had not characterized the site in accordance with prevailing standards and guidelines at the time you signed the Phase II Subsurface Investigation Scope of Study and Standard Operating Procedures document, Phase II Subsurface Investigation Report, Phase III Scope of Study and Quality Assurance Project Plan Report, and Phase III Subsurface Investigation Report and Remedial Feasibility for Soil.

In accordance with the terms of the Consent Order for Complaint No. 11-103, which was authorized by the Board and issued by the Commissioner of Energy and Environmental Protection, you are hereby reprimanded for the insufficient site characterization you performed at the site.

It is with our sincerest hope that the additional three (3) courses and the peer review required by the Consent Order will enhance your abilities and ensure that the services you render in the future will be to the highest professional standards of this profession.

Dated this 18 day of August, 2015.


for Robert J. Klee
Commissioner

Copy to file



STATE OF CONNECTICUT
Board of Examiners of Environmental Professionals

Board Members:
Denise Ruzicka, PE, Chairman
John Adams, LEP
Christopher Buchholz
Robert F. Good, Jr., LEP
Stephen Holtman PE, LEP
Jeffrey Loureiro, PE, LEP
Kelly Meloy, LEP
Elsie Patton
Alisa Phillips-Griggs
Robert S. Potterton, Jr., LEP
Carol Violette, PhD, CHMM

COMPLAINT NO. 11-103

STATE BOARD OF EXAMINERS
OF ENVIRONMENTAL PROFESSIONALS

v.

DANIEL TITUS, LEP

CONSENT ORDER

With the agreement of Daniel Titus, LEP (hereinafter "Respondent") and the State Board of Examiners of Environmental Professionals;

A. The State Board of Examiners of Environmental Professionals (hereinafter "LEP Board") finds that:

1. The Respondent is the holder of Environmental Professional License #458.
2. The Respondent signed the Phase II Subsurface Investigation Scope of Study and Standard Operating Procedures document, Phase II Subsurface Investigation Report, Phase III Scope of Study and Quality Assurance Project Plan Report, and Phase III Subsurface Investigation Report and Remedial Feasibility for Soil for an establishment known as BIC Consumer Products located at 500 Bic Drive in Milford, Connecticut ("the Site").
3. The Remediation Division of the Connecticut Department of Energy and Environmental Protection ("DEEP"), Bureau of Water Protection and Land Reuse, reviewed reports prepared by Respondent.

4. A DEEP complaint dated May 17, 2012 concerning Respondent's investigation of the Site was referred to the LEP Board.

5. By letter dated December 21, 2012, the LEP Board Administrator gave notice to the Respondent that in accordance with Conn. Gen. Stat. § 4-182(c) he would be provided with an opportunity to show that he was in compliance with all statutes and regulations concerning his LEP license.

6. On April 17, 2014, an informal Compliance Meeting was conducted. Present at the meeting were the Respondent, Jeffrey Loureiro and Robert Potterton, Jr., LEP members of the LEP Board who were designated by the LEP Board to investigate the Complaint made by the DEEP, David H. Wrinn, Assistant Attorney General, Kim Maiorano, the LEP Board Administrator, Attorney Douglas Cohen and paralegal Carlene Mercier of Brown Rudnick LLP, Robin Fox and Howard Hurd of HRP Associates, and Frederick Johnson of GEI Consultants.

7. By letter dated February 11, 2015 (a copy of which letter is attached hereto as Exhibit 1), the LEP Board Administrator informed the Respondent that the investigating members had determined that he had failed to show compliance with certain regulatory requirements associated with his LEP license, and which alleged violations are enumerated as follows:

a. Respondent failed to comply with RCSA § 22a-133v-6(c)(1), by failing to act with reasonable care and diligence, and by failing to apply the knowledge and skill of a licensee in good standing practicing in the applicable field at the time such services were performed.

b. Respondent failed to comply with RCSA § 22a-133v-6(d)(1) by failing to hold paramount the health, safety and welfare of the public and environment.

c. Respondent failed to comply with RCSA § 22a-133v-6(d)(2)(A) by failing to exercise professional judgment.

d. Respondent failed to comply with RCSA § 22a-133v-6(d)(2)(C) by failing to make good faith and reasonable efforts to identify and obtain relevant data and other information evidencing conditions at the Site.

8. Respondent denies all of the alleged violations contained in paragraph 7.

B. Therefore, in accordance with Conn. Gen. Stat. § 22a-133v(g), the LEP Board shall authorize the Commissioner of Energy and Environmental Protection to:

1. Issue a letter of reprimand to the Respondent concerning his alleged failure to comply with the above-cited regulatory and statutory provisions. A copy of said letter of reprimand shall be placed in Respondent's license file maintained by the LEP Board.

2. Order that for ten (10) years from the entry of this Consent Order and for each parcel at which the Respondent provides professional services pertaining to verifications issued by Respondent during that period, Respondent shall have his work peer reviewed by an independent LEP prior to the issuance of a verification. The Respondent shall notify the LEP Board Administrator in writing the location of each parcel at which his professional services pertaining to a verification are provided and the name and license number of each independent LEP who performs the peer review for each such parcel during this time period. Such independent LEP shall not be a current or previous co-worker in Respondent's firm.

3. Order the Respondent within two (2) years of the entry of this Consent Order, to take a total of three (3) courses for Continuing Education Credits (CECs). One course shall be devoted to the subject of assessing and remediating DNAPL releases, once course shall be devoted to the subject of ethics, and one course shall be devoted to the subject of site characterization in accordance with prevailing standards and guidelines. These courses shall have a minimum of four (4) contact hours each and they shall be pre-approved by the LEP Board Administrator. Respondent shall file with the LEP Board Administrator information describing

the content of the courses proposed to be taken and, subsequently, proof of attendance at said courses. Such courses and credits shall be in addition to and shall not be counted toward compliance with the twenty four (24) CECs required during the biennial period which runs from July 1, 2015 through June 30, 2017, or any future biennial period.

Dated this 11th day of August, 2015



Daniel Titus
Respondent

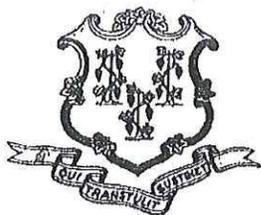
The State Board of Examiners
of Environmental Professionals

By: 
Denise Ruzicka
Its' Chairperson

ENTERED AS AN ORDER OF THE COMMISSIONER

Dated this 18 day of August, 2015


for Robert J. Klee
Commissioner of Energy and Environmental Protection



STATE OF CONNECTICUT
Board of Examiners of Environmental Professionals

Board Members:
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John Adams, LEP
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Jeffrey Loureiro, PE, LEP
Kelly Meloy, LEP
Elsie Patton
Alisa Phillips-Griggs
Robert S. Potterton, Jr., LEP
Carol Violette, PhD, CHMM

February 11, 2015

Mr. Daniel Titus
HRP Associates
999 Oronoque Lane
Stratford, CT 06614

RE: Connecticut Licensed Environmental Professional Complaint No. 11-103

Dear Mr. Titus:

In response to a complaint filed by the CT Department of Energy and Environmental Protection ("CTDEEP") to the State Board of Examiners of Environmental Professionals ("LEP Board") and in accordance with CT General Statutes ("CGS") section 4-182(c), a compliance meeting was held on April 17, 2014. Present at the compliance meeting were you, Howard Hurd and Robin Fox of HRP Associates, Inc.; Douglas Cohen, the attorney representing you in this matter and Carlene Mercier, both of Brown Rudnick, LLP; Jeffrey Loureiro, LEP and Robert Potterton, LEP, members of the LEP Board who were designated by the Board to investigate Complaint No. 11-103; Kim Maiorano, LEP Board Administrator; Frederick Johnson, GEI Consultants, Inc.; and Assistant Attorney General David Wrinn.

Based on a review of the Phase II Subsurface Investigation Scope of Study and Standard Operating Procedures (revised April, 2005), Phase II Subsurface Investigation Report (December, 2005), and Phase III Subsurface Investigation Report and Remedial Feasibility for Soil (January 15, 2008), the Phase III Scope of Study and Quality Assurance Project Plan (revised July 30, 2007), additional documents associated with investigations at the former BIC Consumer Products manufacturing operations at 500 BIC Drive in Milford, Connecticut ("BIC") provided to the CTDEEP, the compliance meeting, and subsequent review of the additional information provided to the LEP Board investigators, as well as subsequent data you provided to the investigating LEP Board members at the compliance meeting, it has been determined that you have failed to show compliance with RCSA sections 22a-133v-6(c)(1), 22a-133v-6(d)(1), 22a-133v-6(d)(2)(A), and section 22a-133v-6(d)(2)(C).

These violations are, in part, the result of the following:

- 1) The Phase II study conducted at BIC did not adequately investigate the identified areas of concern ("AOCs") to determine if releases had occurred. Specifically, halogenated volatile organic compounds ("HVOCs") such as tetrachloroethene, known to have been used in quantity at the site, are classified as dense non-aqueous phase liquids ("DNAPLs"). The nature of DNAPL transport in the environment is such that multiple lines of evidence are typically required in order to conclude that a release of HVOCs has or has not occurred. The Phase II investigations performed at the site were insufficient to provide the data necessary to make a release determination.
- 2) A number of the conclusions in the Phase II report were premature, inappropriate and based upon insufficient data. For example, although reference was made in the Phase II Scope of Study to the inappropriateness of using Phase II data to determine Connecticut Remediation Standard Regulation ("RSR") compliance, a direct comparison of individual soil sample concentrations to the RSR criteria is made in Section 10.3 of the Phase II report. This is contrary to the proper application of the RSRs, which under most circumstances, as well as in this case, is only appropriate following three dimensional delineation of a release area using a statistically valid number of samples. These same limited soil sample data were then used to determine the potential for the presence of DNAPL in soil at the site, again an exercise which cannot be properly conducted until three dimensional release characterization has been completed. Subsequently, despite the limited soil and groundwater quality data available, the Phase II report concludes that "BIC is not the source of the area-wide Milford ground water contamination plume". To make such a determination prior to conducting a Phase III study shows either a basic misunderstanding of the site assessment process or poor professional judgment.
- 3) The Phase III Scope of Study and Quality Assurance Project Plan (Revised July 30, 2007) specified that soil samples would be screened in the field with a photoionization detector ("PID") to assist in choosing samples for laboratory analysis. Review of the boring logs presented in the Phase III Subsurface Investigation and Remedial Feasibility for Soil report (January 15, 2008) clearly indicate that the PID was not functioning during the installation of numerous soil borings. Without field screening as specified in the Scope of Study, a critical step in determining which samples to submit for laboratory analysis, and therefore whether a release of HVOCs had occurred at an AOC, is missing.

In addition, the Phase III report (Section 6.1) indicates that the PID was used on all samples collected during the field investigations to help select soil samples for laboratory analysis, which was clearly not the case. Many of these same borings only penetrated to a depth of 4-feet below grade when typical practice in DNAPL investigations dictates that borings in unconsolidated materials be drilled to either refusal or the first saturated confining layer. Therefore, the Phase III investigations were insufficient to determine the degree and extent of releases detected at the BIC site.

- 4) Based upon a review of the various documents, the Phase III investigations were insufficient to determine the degree and extent of releases detected at the BIC site, and they suggest, moreover, that the purpose of the investigation that you performed was not fully and completely to delineate and evaluate all release areas at the site in accordance with prevailing standards and guidelines, and with the RSRs. Any such purpose not consistent with a thorough and complete evaluation of the site in question would be contrary to the exercise of such independence as is required of an LEP in the exercise of his/her licensure obligations.

Because of your failure to show compliance with the above referenced regulatory requirements, Complaint No. 11-103 will be referred to the LEP Board for further action. Should you or your attorney wish to discuss this matter further, please contact Assistant Attorney General David Wrinn at (860) 808-5250.

Sincerely,



Kim/Maiorano
Board Administrator

Sent Certified Mail
Return Receipt Requested

cc: David Wrinn, AAG
Robert Potterton, LEP
Jeffrey Loureiro, LEP
Douglas Cohen, Esq.