STATE OF CONNECTICUT

Board of Examiners of Environmental Professionals

NOTICE OF COMPLIANCE

May 1, 2018

Howard S. Hurd
HRP Associates, Inc.
197 Scott Swamp Road
Farmington, CT 06032

RE: Complaint #11-102

Dear Mr. Hurd:

I am writing with regard to complaint #11-102 and the subsequent consent order entered as an order of the Commissioner on August 18, 2015. The Consent Order was entered into by the State Board of Examiners of Environmental Professionals (more commonly known as the Licensed Environmental Professional ("LEP") Board) and you, the Respondent, as a result of complaint #11-102 and your failure to demonstrate compliance with applicable statutes and regulations.

The Consent Order required you to obtain two (2) courses for continuing education credit that were in addition to the twenty four (24) continuing education credits required to maintain your license. The Consent Order Required one course be devoted to the assessment and remediation of DNAPL releases and one course be devoted to site characterization. On October 7, 2015 you submitted documentation that you had completed four (4) credits attending *"The Vapor Intrusion Issue and What We Have Learned..."* course number CTLEP-399, and on November 2, 2016 you submitted documentation that you had completed four (4) credits attending *"In-Situ Thermal Remediation at the SRSNE Superfund Site"* CTLEP-425.

A review of the LEP Board's records indicates that you have complied with the August 18, 2015 Consent Order upon completion of the above referenced courses. This letter serves to acknowledge full compliance with the LEP Board's Consent Order for Complaint No. 11-102.

Please contact me at (860) 424-3788 should you have any questions.

Sincerely,

Kim Maiorano

Kim Maiorano
LEP Board Administrator
Board of Examiners of Environmental Professionals

Connecticut Department of
ENERGY &
ENVIRONMENTAL
PROTECTION

79 Elm Street • Hartford, CT 06106-5127 www.ct.gov/deep Affirmative Action/Equal Opportunity Employer

Howard Hurd
HRP Associates
197 Scott Swamp Road
Farmington, CT 06032

RE: ***Letter of Reprimand – License No. 155, Complaint No. 11-102***

Dear Mr. Hurd:

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 I, Phase II Scope of Study and Phase II Report.

In accordance with the terms of the Consent Order for Complaint No. 11-102, 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 two (2) courses 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

COMPLAINT NO. 11-102

STATE BOARD OF EXAMINERS
OF ENVIRONMENTAL PROFESSIONALS

v.

HOWARD HURD, LEP

CONSENT ORDER

With the agreement of Howard Hurd, 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 #155.

2. The Respondent signed the Phase I Report, Phase II Scope of Study and the Phase II Report 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. On March 15, 2012, the DEEP referred a complaint concerning Respondent's investigation of the Site 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 Daniel Titus 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), failed to act with reasonable care and diligence, and failed 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) concerning 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 the Respondent within two (2) years of the entry of this Consent Order, to take a total of two (2) courses for Continuing Education Credits (CECs). One course shall be devoted to the subject of assessing and remediating DNAPL releases, 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.

(next page)

Dated this 11, day of Aug, 2015.

Howard Hurd
Respondent

The State Board of Examiners
of Environmental Professionals

By: Denise Ruzicka
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

EXHIBIT I

STATE OF CONNECTICUT

Board of Examiners of Environmental Professionals

February 11, 2015

Mr. Howard Hurd
HRP Associates
197 Scott Swamp Road
Farmington, CT 06032

RE: Connecticut Licensed Environmental Professional Complaint No. 11-102

Dear Mr. Hurd:

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, Daniel Titus 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. 11-102; Kim Maiorano, LEP Board Administrator; Frederick Johnson of GEI Consultants, Inc. and Assistant Attorney General David Wrinn.

Based upon a review of the Phase I Environmental Site Assessment Report (April 27, 2004), Phase II Subsurface Investigation Scope of Study and Standard Operating Procedures (revised April, 2005), Phase II Subsurface Investigation Report (December, 2005), additional submittals provided to the CTDEEP associated with investigations at the former BIC Consumer Products manufacturing operations at 500 BIC Drive in Milford, Connecticut ("BIC"), the compliance meeting, and subsequent review of the additional information that you provided to the investigating LEP Board members, 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 I investigation failed to identify all potential areas of concern ("AOCs") at the site. The potential for releases of halogenated volatile organic compounds ("HVOCs") at the facility associated with pre-BIC operations (various Norden entities from 1953 to 1961), as well as the long history (pre-RCRA) of widespread and large scale VOC use by BIC, was not adequately addressed in the Phase I investigation..

2) The Phase II study conducted at BIC did not adequately investigate the identified 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.

3) 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.

Because of your failure to show compliance with the above referenced regulatory requirements, Complaint No. 11-102 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.