



COMMONWEALTH OF MASSACHUSETTS
Board of Registration
of
Hazardous Waste Site Cleanup Professionals

MINUTES
of
BOARD MEETING
Held on February 19, 2015
[Approved: March 19, 2015]

Meeting Location: Massachusetts Department of Environmental Protection
Central Regional Office
8 New Bond Street
Worcester, MA 01606

Prepared by: L. Williamson

List of Documents Used at the Meeting:

1. Agenda
 2. Draft Minutes of Meeting held on January 15, 2015
 3. Renewal Dockets #1, #2, #3, #4, and #5
 4. List of Action Items for LSP Board
 5. Adjudicatory Hearing Request, dated January 29, 2015
 6. Public Records Request Letter, dated January 27, 2015
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1. **Call to Order:** Benjamin Ericson called the meeting to order at approximately 1:52 p.m. Also present were Kathleen Campbell, James Smith, Robert Rein, John Guswa, Farooq Siddique, Debra Listerneck, Gail Batchelder, and Kirk Franklin. Board member David Austin was absent. Staff members present were Beverly Coles-Roby and Lori Williamson. Also present were Wendy Rundle, Executive Director of the LSP Association (LSPA), Wesley Stimpson of WES Associates, and Kevin O'Reilly of the LSPA Regulations Committee.
 2. **Announcements:** No announcements were made.
 3. **Agenda:** The Board members agreed to follow the draft agenda, with the addition of a discussion regarding LSPA's March 19, 2015 members meeting.
 4. **Minutes of Meeting Held on January 15, 2015:** The members present reviewed the draft minutes of the meeting of the Board held on January 15, 2015. **A motion was made and seconded to approve the January 15, 2015 minutes as written. The motion passed unanimously.**
 5. **Regulations Committee Reports:** Ms. Coles-Roby reported that she will assist the Regulations subcommittees to resume in full force once the Exam Committee is finished

with the new exam. She stated that she would still like to have a regulatory revisions package ready for 2016.

Ms. Campbell provided an update on the progress of the Continuing Education subcommittee. She reported that she and Dr. Guswa have been working with volunteers from the LSPA to draft proposed changes to the Continuing Education regulations. Some of the suggested changes included streamlining the types of required credits to DEP and non-DEP, reducing the number of credits required for each renewal period, and the use of alternative learning formats. Ms. Campbell reported that Wendy Rundle was drafting suggestions for streamlining course approval requests, which would eliminate many of the upfront issues. Dr. Guswa reported that the consensus among the LSP community is that obtaining 16 continuing education credits per year is burdensome, and recommendations have been made to reduce that number to 12 credits per year. He reported that the committee also discussed potential changes to the process for documenting achievement of continuing education requirements, including auditing only a certain percentage of license renewals instead of conducting a detailed review of all. Dr. Guswa offered the Pennsylvania Board of Professional Engineers as an example, which only requires a certification that continuing education requirements have been met for license renewal. Ms. Coles-Roby stated that the LSP Board staff should be involved in these discussions. Mr. Ericson agreed that the staff would need to look into some of these suggestions to determine if they would even be feasible. Dr. Guswa stated that there was also a lot of discussion on the topic of other means for earning continuing education credits such as serving on a committee, teaching a course, writing an article, etc. Dr. Batchelder added that other professional licenses do allow for that. Mr. Ericson commented on the subjective nature of awarding credit for such activities and the amount of effort needed to determine what would or would not qualify. The Board members discussed the reasoning for the 48 credits per renewal period requirement. Dr. Batchelder stated that it was likely because the LSP profession was new and the individuals applying for licenses were coming from a variety of disciplines and backgrounds. She also stated that, at the time, no other jurisdictions existed to look to for examples of continuing education requirements.

6. **A-B. Decisions Regarding Licensing of Applicants:** The staff presented the following Application Docket:

| ID # | Applicant Name/Company Name | ARP # | REC. |
|-------------|---|--------------|-------------|
| 9552 | Robert S. Rego/Prime Engineering, Inc. | 266 | A |
| 6809 | Neal W. Kelly/Fay, Spofford & Thorndike | 266 | A |

Mr. Ericson asked the ARP to briefly describe the reasons for their recommendations. Ms. Coles-Roby stated that both applicants were described by the panel as having a wealth of experience. Ms. Listernick reported that Mr. Rego had eighteen years of relevant professional experience in site assessment, remediation, and risk characterization. Mr. Smith reported that Mr. Kelly easily exceeded that relevant professional experience and total professional experience requirements. **A motion was made and seconded to accept the recommendation from**

Application Review Panel #266 that Robert S. Rego and Neal W. Kelly be approved and that they be found eligible to take the exam. The motion was approved unanimously.

7. License Renewal Applications:

A. Renewal Dockets: The staff presented the following License Renewal Dockets:

Renewal Docket #1
Renewal Date: January 30, 2015
New Renewal Date: January 30, 2018
 Have completed all requirements for renewal:

| | LSP # | First | Middle | Last |
|----|--------------|--------------|---------------|------------------|
| 1 | 4279 | Kevin | D | Trainer |
| 2 | 8188 | Jarrold | P | Yoder |
| 3 | 6696 | Craig | R | Ellis |
| 4 | 4003 | Stefan | C | Sokol |
| 5 | 1978 | David | G | Billo |
| 6 | 7669 | Donna | H | Pallister |
| 7 | 4832 | Timothy | J | Warr |
| 8 | 4442 | Joseph | | Schmidl |
| 9 | 9755 | Paul | E | Feshbach-Meriney |
| 10 | 4270 | Paul | C | Hunt, Jr. |
| 11 | 2509 | Amy | A | Roth |
| 12 | 7416 | James | B | Connolly |

Renewal Docket #2
Renewal Date: October 30, 2014
New Renewal Date: October 30, 2017
 Completed requirements within 90-day extension:

| | LSP # | First | Middle | Last |
|---|--------------|--------------|---------------|-------------|
| 1 | 7713 | Brian | G | Snow |
| 2 | 8881 | Eric | D | Simpson |

Renewal Docket #3
Old Renewal Date: April 30, 2014
New Renewal Date: April 30, 2017
 License expired on April 30, 2014, for lack of credits.
 Individual has completed renewal requirements within

1-year deadline and is now eligible for active status:

| | LSP # | First | Middle | Last |
|---|-------|--------|--------|-------|
| 1 | 7609 | Janice | K | Derby |

Renewal Docket #4

Old Renewal Date: July 30, 2014

New Renewal Date: July 30, 2017

License expired on July 30, 2014, for lack of credits.
Individual has completed renewal requirements within
1-year deadline and is now eligible for active status:

| | LSP # | First | Middle | Last |
|---|-------|-------|--------|-------------|
| 1 | 8316 | Mark | A | Worthington |

Motions were made and seconded to renew the licenses of the LSPs on Renewal Dockets #1, #2, #3, and #4 for the three-year periods ending on the dates indicated. The motions were approved unanimously.

Renewal Docket #5

Renewal Date: January 30, 2015

New Renewal Date: April 29, 2015

Have requested a 90-day extension:

| | LSP # | First | Middle | Last |
|---|-------|----------|--------|----------|
| 1 | 2075 | Timothy | F | Condon |
| 2 | 9867 | Stephen | S | Parker |
| 3 | 5427 | Raimundo | J | Matos |
| 4 | 8542 | James | W | Stolecki |

A motion was made and seconded to grant the LSPs on Renewal Docket #5 a 90-day extension. The motion was approved unanimously.

B. Renewal Date 309 CMR 3.06(4)(a): Ms. Coles-Roby posed a question to the Board regarding computation of time for a particular license renewal application. The Board members confirmed that the individual, who completed his requirements within his 90-day extension period, should have a new renewal date of 3 years from the previous renewal date.

C. Other Renewal-related Matters: The staff reported that there were no other renewal-related matters.

8. Other Licensing-Related Matters:

A. New Panel Assignments and Scheduling: The following Board members were assigned to Application Review Panel #267 and #268: Mr. Siddique, Mr. Franklin, and Dr. Batchelder.

B. Request for Adjudicatory Hearing: The Board members discussed a request by Ms. Jayne F. Knott for an adjudicatory hearing regarding the decision of Application Review Panel #264. Ms. Coles-Roby stated that the panel, consisting of Mr. Ericson, Mr. Rein, and Mr. Austin, had determined that they needed additional information, as well as new references, prior to making a decision on the application. They had observed that a number of the projects listed in the application were broken up into multiple phases and were not stand alone projects. The panel also noted that the applicant did not appear to be the principal decision maker on at least one of the positions listed. The applicant also did not provide a certified copy of her transcript; only a letter stating that she had attended the university. Mr. Rein commented that a transcript is beneficial because it allows the panel to review the courses the applicant took. He stated that the panel did not feel comfortable approving Ms. Knott's application because the references were weak, a transcript was not provided, and small projects were broken up into phases. Mr. Ericson added that by recommending the tabling of her application and requesting additional information, the panel was attempting to give Ms. Knott a chance to clarify some of the concerns. Mr. Ericson questioned whether it was acceptable to break a small project into multiple phases. Dr. Guswa stated that it would be acceptable for a very large project that went on for many years, but not for a small project. Dr. Batchelder stated that Ms. Knott should submit the information requested by the panel and the panel could conduct a second review of her application in conjunction with any new information. Mr. Ericson suggested that a response letter be prepared that states that the Board is willing to review a supplemental application, and would encourage submission of additional projects and references. He suggested that the panel members provide language for the letter to Ms. Coles-Roby. Ms. Coles-Roby stated she would draft the letter to Ms. Knott, incorporating the panel's comments and would provide it the Board members for review at the next meeting.

Ms. Listernick requested that in future cases, a copy of the Board's denial letter be provided with the adjudicatory hearing request letter for the Board members to review.

C. Appeals Status Report: There were no pending appeals of any denials by the Board of license applications.

D. Inactive Status Report: The staff reported that the following LSPs are currently on Inactive Status:

| LSP Number | License Status Date | License Status | Last Name | First Name |
|------------|---------------------|----------------|-----------|------------|
| 2349 | January 30, 2014 | Inactive | Howell | Deborah |
| 9099 | January 30, 2016 | Inactive | Egan | David |
| 9921 | September 1, 2016 | Inactive | DelMarco | David |

Dr. Batchelder noted an error in the License Status Date column and requested that the dates be confirmed.

D. Total Number of Active LSPs: As reported in the Agenda, the total number of Active LSPs was 543 as of February 12, 2015.

9. Examinations:

A. Dates of Next Exam: To be determined.

B. Exam Committee: Ms. Coles-Roby reported that the psychometrician has begun a preliminary review of the 352 items on the new exam, and has already found a few issues that need to be addressed. The psychometrician and his assistant are reviewing the questions for distracters and bad stems. These items are currently being flagged only, not changed. Ms. Coles-Roby also report that the psychometrician has developed software that will enable the committee members to take the exam on their own time and at their own pace. Dr. Guswa asked if Ms. Coles-Roby could ask the psychometrician if the committee members are actually supposed to take the entire exam, and if so, what the reasoning behind this is. Dr. Batchelder stated that she was of the opinion that the committee members would only review the questions and rate them for difficulty, not actually take the exam. Ms. Coles-Roby stated that she would contact the psychometrician and provide the committee member with his response. She will also send an email to committee members requesting dates for availability to meet the first or second week of March.

C. Exam Challenges: Dr. Guswa reported that he has created a matrix for all outstanding exam challenges that includes John Fitzgerald's and his recommendations. Mr. Siddique will add his recommendations into the matrix, and any disagreements will be brought before the Exam Committee.

10. Continuing Education Committee Report:

A-B. Report on Course and Conference Approval Requests: Mr. Siddique reported that the Committee met earlier in the day and made the following course recommendations to the Board:

1. MassDEP: *The Vapor Intrusion Issue and What We Have Learned: an Updated Perspective on Investigating the Pathway, Sampling Techniques and Effective Mitigation Measures* (4 DEP Regulatory credits and 4 Technical credits April 2015 and Fall 2015, locations to be determined).

Committee Recommendation: **Approve**

2. LSPA: *Ground Water to Surface Water Transitions- A Short Course for LSPs* (6 Technical credits, late spring 2015, Tufts University, Medford, MA).

Committee Recommendation: **Approve**

3. LSPA: Surveying for Environmental Professionals (6 Technical credits, late spring 2015, location to be determined).
Committee Recommendation: **Approve**
4. RemTEC: RemTEC Summit 2015 (½ Technical credit per hour of attendance, March 2-4, 2015, Westminster, CO).
Committee Recommendation: **Approve**

Course Approval Request by LSP:

5. University of Connecticut: Field Methods in Hydrogeology (12 Technical credits, January – May 2013, Storrs, CT).
Committee Recommendation: **Approve and note on the Approved Course List that the approval applies only to this specific offering of the course.**

A motion was made and seconded to accept the Continuing Education Committee's recommendations. The motion passed unanimously.

Other Business: None.

11. **Professional Conduct Committee:** The Board agreed to forego a Professional Conduct Committee report because there were no items to be voted on.

Ms. Coles-Roby initiated a discussion on the preparation of press releases. She stated that, historically, the Chair of the Professional Conduct Committee had provided a quote for the press release. She noted that the same quote had been used multiple times for different cases over the years. She suggested that a member of the CRT be quoted in the press release instead of the Chair, as that individual would have a greater understanding of the details of the investigation. Dr. Batchelder stated that the CRT reviews the draft press release, but because they are acting as the investigators and are recused from voting, they cannot speak for the Board and, therefore, would not be able to provide a quote. Ms. Coles-Roby stated that she will draft a press release for Complaint 10C-01 and provide it to the Board for review. She stated that all press releases are also reviewed by DEP's press office prior to publication.

12. **Personnel, Budget, and Fees:** Ms. Coles-Roby reported that a hiring freeze remains in place, and no additional staff can be hired at this time.
13. **Status of Board Member Replacements by Governor:** Ms. Coles-Roby reported that she and Mr. Ericson conducted one interview last month for the open Board position, and will be interviewing two or three more candidates in March.
14. **Website Update:** Ms. Coles-Roby reported that the Board is moving closer to online registration, application, and payment services. She stated that she received notification

that the Secretariat has contracted with a vendor, and the agencies are being divided into two rounds for upgrades. The first round is scheduled to be completed by June 30, 2015 and the second round is scheduled to be completed by December 30, 2015. She has not received confirmation yet on which of the two rounds the Board will be in.

15. Other Business:

- A. Legislative Matter:** Mr. Ericson reported that the response letter has been finalized and is ready to be sent out, but he would first like to personally contact Senator Rush to discuss the letter prior to him receiving it in the mail. Ms. Coles-Roby indicated that she would like these issues to be addressed in a timelier manner. She recommended the creation of a subcommittee to conduct a preliminary review of any legislative issues that are raised. The Board agreed that a legislative subcommittee would be beneficial. Ms. Campbell and Mr. Franklin volunteered to serve on the subcommittee.
- B. Action Items List:** The Board members reviewed the Action Items List. Mr. Ericson reported that Denial of Request for Consideration Letter for 13C-03 had been finalized and issued.
- C. Public Records Request:** Ms. Coles-Roby provided an update on the public records request received by the Board in December 2014, which requested copies of all complaints that had been dismissed by the Board. She reported that she received a response letter from the requestor, Mr. Wyman, on January 27, 2015. She reported that the requested files have been compiled but still need to be redacted. In addition, letters need to be sent to the complainants and any witnesses named in each of the cases. She also reported that she had a conversation with Ms. Rundle regarding the request. Ms. Rundle stated that she contacted Ms. Coles-Roby and Mr. Ericson to explain that this public records request was not originated by the LSPA and the requestor is not acting on behalf of the LSPA. She indicated that Mr. Wyman is the chair of the LSPA Loss Prevention Committee, and the Committee has been interested in obtaining information on dismissed cases for a long time. She stated that the requestor had applied for funding from an LSPA grant after the public records request letter was sent to the Board. The grant committee decided that if the information could be obtained, the grant would fund up to \$1,000 of the cost. Dr. Guswa stated that he was a member of the LSPA Loss Prevention Committee and the committee regularly reviews MassDEP's Notices of Audit Findings to identify common violations. He stated that the committee thought it would be useful to do the same with dismissed complaints. Dr. Guswa asked if the LSPA could go about obtaining this information in another way. Ms. Coles-Roby stated that the public records request was filed by an individual, not the committee, and the Board must abide by the public records law in responding to the request. Ms. Listernick suggested that the Board's response to the letter include details of what is involved in getting the information ready for review. Mr. Siddique stated that the Board should be able to provide an estimate of the time and cost associated with completing the task. Ms. Coles-Roby agreed, but indicated that because each complaint is different and the information that needs to be redacted on each will vary, it is difficult to provide an approximation. She also stated that the Board needs to allow each case's

data subjects sufficient time to respond. Dr. Batchelder recommended that the Board's response letter also cite the regulations that require that the information be redacted and that data subjects be notified.

Ms. Coles-Roby stated that the requestor had also filed an Open Meeting Law request, asking for a copy of the draft minutes from the January Board Meeting. She stated that she received the request on February 12, 2015 and the draft minutes were provided to him on February 13, 2015.

Ms. Coles-Roby reported that the Board had also received a new public records request, and she has responded to the individual within the ten day deadline. She stated that this new request pertains to the applications of two LSPs. These applications had been acknowledged publically at a previous Board Meeting as having been well written, and both individuals have since passed the LSP exam. She stated that there will be an enormous amount of information that will need to be redacted including personal information pertaining to the two applicants, and possibly some project information. All individuals named in the application will also need to be notified. The Board questioned whether the individual will be charged a fee for the documents. Ms. Coles-Roby indicated that she has the discretion to waive fees partially or fully and is encouraged to do so by the Secretary of State. In the past, she has taken into consideration the requestor's ability to pay, if the requestor is a nonprofit, and the purpose of the request if it is provided.

16. **LSPA March Members Meeting:** Mr. Ericson reported that Ms. Rundle would like to speak to the Board about the LSPA's March 12, 2015 members meeting, which is scheduled to include a discussion of Board-related topics. Ms. Rundle stated that Michelle O'Brien, an attorney with the LSPA, is organizing the meeting and is extending an invitation to Board members and staff to speak at the meeting. She indicated that a presentation made by the Board could involve topics such as an update on who is on the Board and the seats they hold, what the complaint process entails, and statistics on current and/or historic cases. Ms. Rundle stated that LSPA was hoping that a Board member or two and Ms. Coles-Roby might be interested in discussing their personal experiences in serving as members of a CRT. Ms. Rundle indicated that the program could be up to an hour and the LSPA could assist in putting together some slides for a presentation. Mr. Ericson indicated that he liked the idea of the Board doing outreach, but due to the short notice it would be difficult for Board members and staff to prepare for a presentation. Several Board members indicated they would like to participate in a presentation but would not be available on that date. The Board members asked Ms. Rundle if the LSPA would be willing to consider moving the presentation to a later membership meeting so that the Board would have sufficient time to prepare a presentation.
17. **Next Meeting:** The next meeting is scheduled for March 19, 2015 at MassDEP's Northeast Regional Office.
18. **Adjournment:** A motion was made and seconded to adjourn, and by unanimous vote, the Board meeting was adjourned at approximately 4:35 p.m.