



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

**MINUTES**  
**of**  
**BOARD MEETING**  
**Held on August 15, 2018**  
[Approved: September 19, 2018]

Meeting Location: Massachusetts Department of Environmental Protection  
Northeast Regional Office  
205B Lowell Street  
Wilmington, MA 01887

Prepared by: L. Williamson

**List of Documents Used at the Meeting:**

1. Agenda
  2. Draft Minutes of Meeting held on June 20, 2018
  3. Renewal Dockets #1 and #2
  4. LSP Board Budget Summary
  5. Public Body Checklist for Posting a Meeting Notice
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1. **Call to Order:** Maria Pinaud called the meeting to order at approximately 1:10 p.m. Also present were David Austin, Gail Batchelder, Kathleen Campbell, Kirk Franklin, Debra Listernick, Gregg McBride, Marc Richards, Farooq Siddique, and James Smith. No Board members were absent. Staff members present were Beverly Coles-Roby and Lori Williamson. Also present were Wendy Rundle, Executive Director of the LSP Association (LSPA); and Wesley Stimpson.
  2. **Announcements:** No announcements were made.
  3. **Agenda:** The Board members agreed to follow the draft agenda.
  4. **Minutes of Meeting Held on June 20, 2018:** The members present reviewed the draft minutes of the meeting of the Board held on June 20, 2018. **A motion was made and seconded to approve the June 20, 2018 minutes as written. The motion passed unanimously. Ms. Listernick, Dr. Batchelder, and Mr. Siddique abstained from voting.**
  5. **A. Decisions Regarding Licensing of Applicants:** The staff presented the following Application Docket:

ID #	Applicant Name/Company Name	ARP #	REC.
5782	Kevin D. Paradise/Lightship Engineering Inc.	298	T

Ms. Coles-Roby reported that the panel tabled their review of Mr. Paradise’s application until additional information can be obtained. She stated that the panel had questions about the applicant’s letters of reference. The panel determined the applicant was otherwise qualified. She stated that each panel member noted that the references were almost identical in terms of language and font. Ms. Coles-Roby stated that the panel would like to set up a conference call with the applicant in order to ask some specific questions regarding the references. Ms. Rundle asked why the panel would be contacting the applicant as opposed to the references. Ms. Coles-Roby responded that the regulations, 309 CMR 3.03(4), allow the Board to interview applicants; however, there is nothing in the regulations that says the Board can call the references. Mr. McBride asked if the references were all from the same company. Mr. Richards responded that three were coworkers and one was a client. He stated that panel was concerned that if the applicant did not follow the terms of the reference process, it may reflect on moral character. Ms. Pinaud stated that it is possible that the applicant was asked by the references to provide a summary of his accomplishments, and that is the reason they all contain similar language. Ms. Coles-Roby stated that she will be contacting the applicant to arrange a conference call with the panel members.

**B. Renewal Dockets:** The staff presented the following License Renewal Dockets:

**Renewal Docket #1**

**Renewal Date: July 30, 2018**

**New Renewal Date: July 30, 2021**

Has completed all requirements for renewal:

	LSP #	First	Middle	Last
1	6581	James	R	Ash
2	1987	Matthew	M	Smith
3	9814	Eric	D	Henry
4	7155	Thomas	J	Fennick
5	6176	George	E	Campbell
6	8270	Joseph	D	Roman
7	8882	Robert	D	Lucci
8	4381	William	J	Burns
9	2858	Stephan	H	Landry
10	1796	Kelly	J	McQueeney
11	8513	Amy	E	Walkey
12	7839	Robert	E	Smith
13	4130	John	A	Chambers

	<b>LSP #</b>	<b>First</b>	<b>Middle</b>	<b>Last</b>
14	3546	Matthew	G	Wagner
15	3210	Christen	M	Sardano
16	7770	Kurt		Klages
17	6389	Sean	F	Healey
18	3188	Joseph	G	Lombardo, Jr.
19	3659	Katherine	L	Dilawari
20	7736	Charles	P	Young
21	6928	Matthew	A	Oliveira

**A motion was made and seconded to renew the licenses of the LSPs on Renewal Docket #1 for the three-year period ending on the date indicated. The motion was approved unanimously.**

**Renewal Docket #2**  
**Renewal Date: July 30, 2018**  
**New Renewal Date: October 28, 2018**  
 Have requested a 90-day extension:

	<b>LSP #</b>	<b>First</b>	<b>Middle</b>	<b>Last</b>
1	2365	Todd	D	Kirton
2	6297	Eric	M	Axelrod
3	9020	Neil	R	Schofield
4	8467	Kelly	M	Hansel

**A motion was made and seconded to grant the LSPs on Renewal Docket #2 a 90-day extension. The motion was approved unanimously.**

**6. Other Licensing-Related Matters:**

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

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

<b>LSP Number</b>	<b>License Status Date</b>	<b>License Status</b>	<b>Last Name</b>	<b>First Name</b>
9070	January 30, 2017	Inactive	Kemper	Timothy
9830	March 1, 2017	Inactive	Gates	Richard
5019	December 4, 2017	Inactive	Rein	Robert

**C. Total Number of Active LSPs:** As reported in the Agenda, the total number of Active

LSPs was 503 as of August 6, 2018.

7. **Examinations:**

- A. Dates of Next Exam:** Ms. Coles-Roby stated that the exam will be offered in late November or early December 2018. She stated the staff will set specific dates within the next month or so.
- B. Exam Challenge:** Ms. Coles-Roby reported that the exam challenge subcommittee reviewed the most recent exam challenge and agreed with the technical expert's recommendation to deny the challenge.

8. **Continuing Education Committee Report:**

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

1. Waterloo Hydrogeologic: Applied Groundwater Modeling Using MODFLOW Flex (21 Technical credits, June 6-8, 2018, Royersford, PA).  
Committee Recommendation: **Approve**
2. AEHS Foundation: 34<sup>th</sup> Annual International Conference on Soils, Sediments, Water, & Energy (1 Technical credit per hour for workshops and ½ Technical credit per hour for conference, October 15-18, 2018, Amherst, MA).  
Committee Recommendation: **Approve, with the exception of Workshop 9**
3. NEWMOA: Data Collection & Interpretation: State of Practice & Lessons Learned (6 Technical credits, September 26, 2018, Lebanon, NH, September 27, 2018, Westford, MA, September 28, 2018, Danielson, CT).  
Committee Recommendation: **Approve**
4. LSPA: Treatability Testing for Remedial Design (1 Technical credit, November 13, 2018, Westborough, MA).  
Committee Recommendation: **Approve**
5. LSPA: Rapid Design and Analysis of Groundwater Remediation Systems (8 Technical credits, date and location to be determined)(Course No. 1560)  
Committee Recommendation: **Re-approve**

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

9. **Professional Conduct Committee:** The Board agreed to forego a Professional Conduct Committee report because all the Board members present at this meeting were also present at the meeting of the Professional Conduct Committee held earlier in the day.

10. **Other Business**

A. **Website Update:** Ms. Coles-Roby stated that the searchable database on the website is still posing a problem. She stated that the database was set up with Massachusetts as the default state, which is an issue for LSPs who are located in other states. Ms. Coles-Roby reported that she has been receiving two or three calls a month on the matter and has been working with EEA, through DEP, to resolve the issue. She stated if the slot was left blank, people could pull up the correct state. Ms. Listernick suggested adding a note on the website that indicates the state refers to the LSP's business address as opposed to the state of the license. Ms. Rundle stated that contributing to the problem is that the state is the first box, and LSP name is the last. She suggested putting the name field at the top of the page and not including state as an option. Ms. Coles-Roby stated that she will continue to work on the issue, and asked that any questions or concerns on the matter be forwarded to her.

B. **Personnel, Budget, and Fees:** Ms. Coles-Roby reported that the General Counsel position was posted on July 31, 2018 and closes today, August 15, 2018. She stated that thirty-four individuals have submitted applications.

C. **Online Fee Payments:** Ms. Coles-Roby stated that she was informed last week that the online payments will not begin in August, as initially expected. She stated that the issue pertains to the fact that Board is under EEA and not part of DEP. For this reason, DEP is now saying it is not sure the Board can be included in the program. Ms. Coles-Roby reported the Board's fees brought in \$143,298 for the Commonwealth in 2017. She stated she is working to get the issue resolved.

D. **Statewide Agency Records Retention:** Ms. Coles-Roby reported she had a meeting with MassDEP's Chief of Staff, Brian Ferrarese, on August 9, 2018 regarding records retention. She stated DEP is giving up the 7<sup>th</sup> floor of the Boston office, so the remaining floors need to get rid of some of the paper files to accommodate the relocation of the individuals from that floor. She stated DEP is implementing an agency-wide program to get rid of old records. She stated the options include off-site storage or destruction of the records. Mr. McBride asked what kind of records would be included. Ms. Coles-Roby responded that certificates, applications, renewals, etc. would be included. She stated that a records retention schedule has been set by the state which specifies how long a particular record must be maintained. She stated that there is a Records Conservation Board which meets the first Wednesday of every month and if you want to destroy a record, you have to submit a form to the Board, and they issue an approval letter. Ms. Coles-Roby stated DEP is in the process of hiring a records coordinator who will oversee the process and institute a plan for digitizing the records. She stated the Board has a number of records that have been scanned, which the staff will be requesting be destroyed. The staff will also begin going through

existing files. She stated the deadline for phase 1 of the project is October 1, 2018.

- E. Status of Board Member Replacements by Governor:** Ms. Pinaud stated that she and Ms. Coles-Roby have been trying to get a status update, but have not heard back. Ms. Listernick stated that she went to the Boards and Commissions website and was able to print out the Board members' term expiration dates.
- F. 309 CMR 8.00 Administrative Penalty Regulations Proposed Amendments:** Ms. Pinaud stated that a meeting was held earlier in the day and a significant amount of progress was made. Ms. Coles-Roby stated that she will have an updated redline strikeout version for next month's meeting.
- G. 309 CMR 2.02 Definitions- Relevant Professional Experience:** Ms. Coles-Roby stated that Mr. McBride had requested a discussion on RPE be added to the Agenda several months ago. She stated that she thought discussion should begin with the Advisory Committee's 1992 Report that incorporated their ideas and suggestions for the program. Regarding RPE, the Committee Report states: "First, the Subcommittee believes that Relevant Experience – prior work experience "in responsible charge" of hazardous waste site assessments, containments, or removals- is the single most important requirement for receiving a license. Such Relevant Experience indicates that a person has grappled with the technical problems and challenges of the field, and is committed to this profession. The Subcommittee believes strongly that Relevant Experience should include at least some experience at disposal sites where subsurface investigation has occurred. The applicant need not have been responsible for conducting the subsurface investigation; the Subcommittee's intent is to exclude from licensure individuals whose experience is limited exclusively to "walkovers", because that kind of work does not provide suitable experience. Second, the Subcommittee believes that applicants should have had an additional amount of professional experience to demonstrate maturity and good judgment. LSPs must not only apply technical skills at sites, but must also use, interpret, and correctly apply the Rules of Professional Conduct." Dr. Batchelder stated that the original Board wrote the regulations but the Advisory Committee set the stage for the Board. She suggested the next step be reviewing the minutes from the original Board to determine if any of their opinions differed from those of the Committee.

Ms. Coles-Roby stated that the Board also has the Joseph Dayall case to refer to, in which the Court upheld the Board's decision that the applicant did not have the RPE that was required. Dr. Batchelder stated that the Dayall case set a standard for the Board. Ms. Coles-Roby stated the Board denied Mr. Dayall's application because, according to the Final Decision, he was a paralegal who "analyzed data, reviewed reports, made recommendations on scopes of work, and evaluated and edited draft reports and scopes of work prior to submission to DEP. He did not bear all or a significant portion of the responsibility for the overall conduct of the investigation or the risk assessment."

Ms. Coles-Roby stated the Board next needs to go through a letter submitted to the

Board in August 2013 by Mr. Stimpson. Ms. Coles-Roby asked Mr. Stimpson to summarize his letter. Mr. Stimpson stated he questioned whether an individual the Board approved to sit for the exam possessed the required RPE. He felt the person did not demonstrate experience coordinating and executing work in the field. Mr. Stimpson stated the person had all the experience that Mr. Dayall had, and in his opinion did not demonstrate active versus passive experience. Mr. McBride asked if Mr. Stimpson had personal knowledge of the individual's work experience. Mr. Stimpson confirmed he did. Dr. Batchelder stated that a small portion of the Board at the time recused themselves from the vote, including her and Mr. Siddique. Ms. Coles-Roby stated that she will include Mr. Stimpson's letter in the next packet, along with the Dayall decision. Mr. Smith asked what the ultimate goal was. Ms. Coles-Roby responded that revising the regulations so RPE is clearly defined. Ms. Pinaud stated it will give the Board a benchmark in reviewing applications. The Board agreed it would also be beneficial to create a checklist for reviewing applications to ensure the Board's decisions are not arbitrary and capricious.

**H. Open Meeting Law:** Ms. Coles-Roby stated that Mr. McBride had asked if it was possible to start all the meetings at the same time in order to avoid delays between meetings. She stated that she contacted Carrie Benedon, Director of the Division of Open Government, to inquire about the possibility of listing all meetings as starting at 12:30 p.m. Ms. Coles-Roby stated that Ms. Benedon did not see a problem with this, but did request a copy of the Board's typical Secretary of State notice. Ms. Benedon informed Ms. Coles-Roby that some changes were needed, including additional details on Course Approval Requests and the disciplinary cases. Ms. Coles-Roby stated that the changes were incorporated into this month's materials. She stated that all meetings were listed as starting at 12:30 p.m., and a note was included at the bottom of the page stating "Meetings will proceed in the order listed and times are approximate". Ms. Listernick asked what the staff is advising individuals who are interested in attending only one of the meetings. Ms. Coles-Roby stated that when she receives a call from an individual interested in attending a meeting, she walks the person through the Secretary of State's notice on the website, and ensures they are aware that starting times are approximate.

11. **Future Meetings:** The Board's next meeting will be on September 19, 2018, in the Western Regional Office of MassDEP in Springfield.
12. **Adjournment:** A motion was made and seconded to adjourn, and by unanimous vote, the Board meeting was adjourned at approximately 2:17 p.m.