



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

MINUTES
of
BOARD MEETING
Held on May 16, 2018
[Approved: June 20, 2018]

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 April 26, 2018
 3. Renewal Dockets #1, #2, and #3
1. **Call to Order:** Maria Pinaud called the meeting to order at approximately 2:30 p.m. Also present were David Austin, Gail Batchelder, Kathleen Campbell, Debra Listernick, Gregg McBride, Marc Richards, Farooq Siddique, and James Smith. Board member Kirk Franklin was absent. Staff members present were Beverly Coles-Roby and Lori Williamson. Also present was Wendy Rundle, Executive Director of the LSP Association.
 2. **Announcements:** Ms. Coles-Roby stated that the Relevant Professional Experience discussion will be on the June meeting's Agenda. She stated that she did not have a chance to inquire about the status of Board member replacements, but will have an update for the June meeting. She announced that the search for the General Counsel position has been re-opened.
 3. **Agenda:** The Board members agreed to follow the draft Agenda.
 4. **Minutes of Meeting Held on April 26, 2018:** The members present reviewed the draft minutes of the meeting of the Board held on April 26, 2018. **A motion was made and seconded to approve the April 26, 2018 minutes as written. The motion passed unanimously. Mr. Richards abstained from voting.**
 5. **Decisions Regarding Licensing of Applicants:**
 - A. **Application Review Panel Recommendations:** The staff presented the following Application Docket:

ID #	Applicant Name/Company Name	ARP #	REC.
9292	Jeffrey S. Day/Whitestone Associates, Inc.	296	A

Ms. Coles-Roby reported that the panel thought Mr. Day’s application demonstrated substantial experience with waste site cleanup and he should be approved to sit for the exam. Ms. Listernick commented that she wondered why he had not applied before now. Ms. Pinaud noted that the applicant had thirty years of experience and is a Professional Geologist and a Connecticut LEP. **A motion was made and seconded to accept the recommendation from Application Review Panel #296 that the application submitted by Jeffrey S. Day be approved and that he be found eligible to take the exam. The motion was approved unanimously.**

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

Renewal Docket #1

Renewal Date: April 30, 2018

New Renewal Date: April 30, 2021

Has completed all requirements for renewal:

	LSP #	First	Middle	Last
1	7716	Richard	K	Quateman
2	8110	Felix	A	Perriello
3	6301	Charles	M	Castelluccio
4	3427	Donald		Maggioli
5	9126	Timothy	F	Keane
6	8815	Kenneth	J	Gendron
7	1957	Walter	B	Hermenau
8	9844	Neal	M	Drawas

Renewal Docket #2

Renewal Date: January 30, 2018

New Renewal Date: January 30, 2021

Completed requirements within 90-day extension:

	LSP #	First	Middle	Last
1	7609	Janice	K	Derby
2	1978	David	G	Billo

Renewal Docket #3

Old Renewal Date: April 30, 2017

New Renewal Date: April 30, 2021

License expired on April 30, 2017, for not submitting renewal documents.

Individual has completed renewal requirements within

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

	LSP #	First	Middle	Last
1	4839	Catherine	L	Eby

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

6. Other Licensing-Related Matters:

A. New Panel Assignments and Scheduling: The following Board members were assigned to Application Review Panel #297: Mr. Smith, Ms. Pinaud, and Ms. Campbell.

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

C. 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
9070	January 30, 2017	Inactive	Kemper	Timothy
9830	March 1, 2017	Inactive	Gates	Richard
5019	December 4, 2017	Inactive	Rein	Robert

D. Total Number of Active LSPs: As reported in the Agenda, the total number of Active LSPs was 503 as of May 7, 2018. Ms. Coles-Roby stated that as of yesterday, three individuals still have not paid their annual fees.

7. Examination Report: Ms. Coles-Roby reported that Exam 100.2 was administered to five individuals on May 9, 2018, and one person achieved a passing score. She stated she requested the statistics for the exam, and was told that nine people have taken 100.2 and two people have passed. She stated that of the five people who took the exam on May 9, 2018, all but one were repeat test takers.

8. 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. VSP Training LLC: *Visual Sample Plan (VSP) Online Training* (32 Technical credits, online course).
Committee Recommendation: **Approve with stipulation that the final exam be required**
2. Rutgers: *Forensic Geochemical Age Dating and Environmental Litigation* (6 Technical credits, July 26, 2018, Somerset, NJ).
Committee Recommendation: **Approve for 5 Technical credits**
3. LSPA: *Per- and Polyfluoroalkyl Substances (PFAS) Remediation* (4 Regulatory credits, date and location to be determined).
Committee Recommendation: **Approve for 4 Technical credits**

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

9. **Professional Conduct Committee:** Mr. Smith reported that the Professional Conduct Committee met earlier in the day and heard oral argument from the LSP in case 05C-07. The Committee also voted to deny the Request for Reconsideration from Complainant #2 in case 17C-05.
10. **Other Business:**

A. Public Records Requests: Ms. Coles-Roby stated that the Board received two public records requests since the last meeting. She stated that a paralegal requested the files of two LSPs. She stated that the documents were redacted, sent out, and the data subjects were notified. She stated she also provided the data subjects with copies of the documents that were sent to the requestor. Ms. Listernick asked what documents were included in the files besides the Applications. Ms. Coles-Roby stated the files include documents such as License Renewal Applications, fee letters, notifications of changes of address, etc. Dr. Batchelder asked if complaints were included in the files. Ms. Coles-Roby responded that if a complaint is under investigation or disciplinary proceedings are pending the information is not public. She stated the second public records request was made by a freelance journalist and pertained to Complaint 17C-05. She stated the requestor asked for any and all meeting minutes and communications between the Board, the staff, and the LSP in Complaint 17C-05. She stated that all documents have been turned over and the data subject was notified. Ms. Coles-Roby reminded the Board that any emails sent to or from Board members that concern Board business are considered public records. Mr. Richards asked how electronic pdfs are handled to ensure they cannot be unlocked and the redactions removed. Ms. Coles-Roby responded that documents redacted for public records requests are done by hand

and scanned.

- B. 309 CMR 9.00 Inactive Status- Proposed Amendments:** Ms. Coles-Roby reported that a subset of the Board met earlier in the day to begin reviewing proposed revisions to 309 CMR 9.00. She stated she will prepare an updated redline strikeout document for the next meeting. She stated that the next section to be addressed will be 309 CMR 8.00.
- C. Strategic Plan- Fiscal Year 2018-2019:** Ms. Coles-Roby stated that finishing the regulation revisions should be a priority for fiscal year 2018-2019.
- D. LSPA Query- 309 CMR 4.03(14):** The Board members stated that the documents for this Agenda item were not included in their packets. Ms. Rundle stated that the LSPA's Loss Prevention Committee identified concerns with a Q&A that was included in the February edition of the LSP Board's monthly Bulletin. She stated that the question pertained to an LSP's obligations to clients with respect to a proposed scope of services or contract, pursuant to 309 CMR 4.03(14). Ms. Rundle stated the answer included non-regulatory language, including LSPs should "fully describe all material facts, applicable statutes..." She stated the Committee felt this language was all-encompassing and would be impossible to meet. The Committee would like to know how LSPs should be interpreting these Q&A's, if they should be considered guidance, and if anyone is ever going to be held to these standards. Mr. McBride asked where the Q&A's come from. Ms. Coles-Roby stated that the staff prepares them based on phone call inquiries that have been received. Ms. Coles-Roby apologized that the letter was not included with the meeting materials. She stated that in order for the Board to have sufficient time to review the letter, she will forward it to the Board members and will make sure it is included on the June meeting's Agenda.

- 11. Future Meetings:** The Board's next meeting will be on June 20, 2018, in the Southeast Regional Office of MassDEP in Lakeville.

Mr. Austin inquired about the Board member replacements. Ms. Coles-Roby responded that she reported at the beginning of the meeting that she had not had time this month to obtain any information. Ms. Pinaud stated that MassDEP has a new Chief of Staff, and she will follow up with him. She stated the process is such that the Chief of Staff communicates directly with the Secretariat.

Ms. Rundle asked what the Board's voting process is when an LSP presents oral argument in the public portion of a meeting. Ms. Coles-Roby responded that all Board deliberations are done in quasi-judicial session. Ms. Rundle asked if there was a timeframe. Ms. Pinaud stated that she expects that the Board will begin discussions in the quasi-judicial session that follows today's Board meeting.

- 12. Adjournment:** A motion was made and seconded to adjourn, and by unanimous vote, the Board meeting was adjourned at approximately 3:06 p.m.