



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

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PROFESSIONAL CONDUCT COMMITTEE

Minutes of Meeting on February 26, 2014
[Approved on March 20, 2014]

Prepared by: Lynn P. Read

Meeting Location: Massachusetts Department of Environmental Protection (MassDEP)
Central Region
627 Main Street
Worcester, MA

List of Documents Used at the Meeting:

1. Agenda
 2. Draft Minutes of Meeting on January 16, 2014
 3. Active Case List
 4. Redacted Complaint 13C-03, Answer (Affidavit, Chronology, and Rebuttal) of first Respondent, and Answer of Respondent LSP#2
- 1. Call to Order:** Benjamin Ericson called the meeting to order at approximately 2:10 p.m. Also present were David Austin, Gail Batchelder, Kathleen Campbell, John Guswa, Farooq Siddique, and James Smith. Kirk Franklin, Debra Listernick, and Robert Rein were absent. Staff members present were Beverly Coles-Roby and Lynn Read. Also present were Rebecca Woolley, Environmental Analyst with the Bureau of Waste Site Cleanup in MassDEP's Central Region; Wendy Rundle, Executive Director of the LSP Association (LSPA); and Wesley Stimpson of WES Associates.

Announcements: There were no announcements.

2. **Minutes of Meeting Held on January 16, 2014:** The draft minutes of the meeting held on January 16, 2014, were discussed and **approved unanimously as written.**
3. **Old Business**

Status of Complaint Review Teams & Active Case Table

At Mr. Ericson's request, each Complaint Review Team (CRT) reported on progress made since the January meeting. Members asked about the Committee's request at the meeting on January 16, 2014, that the Board's precedent be reviewed to determine whether case number

13C-02 should receive a new docket number or should use 12C-02. Ms. Coles-Roby said this was a case of first impression.

Case Management System

Mr. Ericson said that in the January meeting, the Committee agreed to review the progress of their cases in light of the time standards proposed in Ms. Coles-Roby's memorandum.

Members said the Committee agreed the time standards were a good idea if the Board has full staff support, which it does not have currently. Members discussed that it was a good idea for the Board to hold itself accountable, and working first on older cases will help the Committee apply time standards to newer cases. **Ms. Coles-Roby said she would submit a proposal to the Committee for a vote at the next meeting.**

4. New Business

A. Complaint No. 13C-03

This complaint was filed by a private party, an owner of a residence where a release of oil was discovered when the underground storage tank was removed. The complaint alleges that the first LSP for the site ("LSP") reported the release to MassDEP without permission of the homeowner, and failed to notify the homeowner in writing of the duty to report the release. It also alleges that site conditions did not need to be reported, and the LSP proposed more extensive remediation than conditions warranted and in doing so, preyed upon the homeowner. A second LSP is named in the complaint ("LSP #2"), who reviewed the LSP's plans for the site on behalf of the homeowner's insurer. The complaint alleges that LSP #2 negligently failed to recognize that site conditions did not warrant the remedy proposed by the LSP, and LSP #2 approved insurance coverage that restricted and compromised regulatory compliance. After discussion of the complaint and the responses of the LSP and LSP #2, **a motion was made and seconded to appoint a screening team to review the complaint, the answers, and all attachments, and report back to the Committee. The motion passed unanimously. Ms. Campbell and Mr. Smith volunteered to serve on the screening team with Ms. Read, pending a check for any reasons for recusal. Dr. Batchelder requested that an experienced member of the Board serve on the screening team, and she offered to serve on the Screening Team.**

6. Future Meetings

The Committee is scheduled to meet on March 20, 2014 at the Western Regional Office of MassDEP in Springfield, Massachusetts.

7. Adjournment: The meeting was adjourned at approximately 3:15 p.m.