



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

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**PROFESSIONAL CONDUCT COMMITTEE**

Minutes of Meeting on March 21, 2017

Approved on April 19, 2017

**Prepared by:** Beverly Coles-Roby

**Meeting Location:**

**MassDEP Boston  
One Winter Street  
Boston, MA 02108**

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

1. Agenda
2. Draft Minutes of Meeting on January 18, 2017
3. Active Case List

**1. Call to Order:** Co-chairperson James N. Smith called the meeting to order at approximately 1:11 p.m. The Board members in attendance were Maria Pinaud, David Austin, Dr. Gail Batchelder, Kirk Franklin, and Debra Listernick. Member Farooq Siddique was absent. Board member Kathleen Campbell arrived 1:33 p.m. Staff members present were Beverly Coles-Roby and Lori Williamson. Wendy Rundle, Executive Director of the LSP Association ("LSPA"), Wes Stimpson of WES Associates, Mike Toomey, and Lisa Alexander of MassDEP were also present.

**2. Previous Minutes:** The draft minutes of the meeting held on January 18, 2017, were approved as written.

**3. Old Business:**

**4. Status of Complaint Review Teams and Active Case Table**

At Mr. Smith's request, the Complaint Review Teams ("CRT") reported on progress made since the January 18, 2017 meeting. Ms. Coles-Roby gave the reports on the status of each case as reflected in the Active Discipline Case List.

Ms. Coles-Roby explained that in 05C-07, the case would be discussed in Quasi-Judicial Session at the conclusion of today's Board meeting.

Ms. Coles-Roby also reported that the LSP's brief is due on March 31, 2017, which will be followed by filing a Reply Brief on behalf of the Board by April 14, 2017. She also informed the Committee that the board had incurred charges for transcription of the trial transcript in the amount of almost \$800.00.

She reiterated that the status of 10C-01 remains unchanged as set out in the Active Discipline Case List, with a date for finalization set by the Massachusetts Superior Court of April 16, 2018. Ms. Rundle asked who would replace the retired Board members in 10C-01 and 11C-04. Ms. Coles-Roby indicated that the CRT s both cases have fulfilled their responsibilities. In 10C-01, the Board is represented by the Massachusetts Attorney General's Office and the next procedural steps in 11C-04 will be undertaken by non-recused Board members.

Ms. Coles-Roby informed the Committee that the CRT will present the remainder of its report on 11C-04 and a vote will be taken on further prosecution during today's Quasi-Judicial Session.

In the matter of 12C-01, Ms. Coles-Roby once again reminded the committee that this is the same LSP as in 05C-07. She indicated that the CRT is currently reviewing documents and will schedule a CRT conference call within the next month.

The CRT in 16C-01 is reviewing documents forwarded by Ms. Williamson. Ms. Coles-Roby indicated that the CRT will hold a second conference call on May 2, 2017.

Ms. Coles-Roby stated that in 17C-01 Ms. Williamson had received and docketed the LSP's response to the complaint. Ms. Listernick indicated that her review focused on the LSP and what he/she did. Mr. Austin said the complaint was very poorly written. The LSP did not follow the regulations which were vague, he said. Mr. Austin also thought that the LSP did a good job of responding. Mr. Smith said that the thrust of the complaint appeared to be what the tank company did. Dr. Batchelder told the Committee that the crux of the matter is whether within the jurisdiction of the Board is this a fee dispute? Ms. Pinaud thought that the Committee should look at the submittals. Dr. Batchelder said that the questions are: "Do the allegations rise to the level of Board action?" "Do we need more facts?" The Committee just cannot choose who to believe, she added. Mr. Austin indicated that it is easy to see where the fee dispute is. He thought that the IRA Plan and subsequent Status Report should be reviewed, even if the complaint is written poorly. Dr. Batchelder said that you cannot base dismissal of a complaint on the fact that it is poorly written. Mr. Smith inquired whether the tank removal company holding itself out to be a LSP should be investigated. Dr. Batchelder felt that these issues should be examined separately. Mr. Stimpson added that the tank removal company issue is contained in the complaint. Dr. Batchelder believed that the Committee should only examine the LSPs' work. Mr. Austin asked whether the Attorney General Office's review of the matter was enough. Ms. Listernick responded that it was not because they examined the case possibly eight years ago. Ms. Campbell said that she thought a Screening Team was warranted in this case. Accordingly, the Committee voted to recommend that a Screening Team of Kathleen Campbell, Maria Pinaud and Beverly Coles-Roby be established.

## **5. New Business:**

No new business was discussed.

## **6. Future Meetings: April 19, 2017—MassDEP CERO.**

**7. Adjournment:** The meeting was adjourned at approximately 1:36 p.m.