



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

Minutes of Meeting on April 17, 2013

Approved on June 20, 2013

**Prepared by:** Lynn P. Read

**Meeting Location:** Massachusetts Department of Environmental Protection, Central Regional Office, Worcester, MA

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

1. Agenda
  2. Draft Minutes of Meeting on February 5, 2013
  3. Active Case List
  4. Complaint 13C-01 and LSP Response (both redacted)
  5. Letter dated March 25, 2013 to Board with attached materials related to Complaint No. 13C-01 (redacted)
  6. Proposed changes to Draft Minutes of Meeting on February 5, 2013, by Allen Wyman
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1. **Call to Order:** Kirk Franklin called the meeting to order at approximately 1:31 p.m. Also present were Gail Batchelder, Benjamin Ericson, John Guswa, Debra Listernick, Robert Luhrs, Kelley Race, and Farooq Siddique. Board member Deborah Farnsworth was absent. Staff members present were Beverly Coles-Roby, Lynn Read, and Allen Wyman. Also present were Larry Feldman of GZA GeoEnvironmental, Inc.; Wendy Rundle, Executive Director of the Licensed Site Professional Association (LSPA); Wes Stimpson of the LSPA; and attorney Joseph Wadland.
  2. **Announcements:** There were no announcements.
  3. **Previous Minutes:** The draft minutes of the meeting held on February 5, 2013 were approved with edits.
  4. **Old Business**
    - A. **Status of Complaint Review Teams**

At Mr. Franklin's request, each Complaint Review Team (CRT) reported on progress made since the February meeting.

In Complaint No. 05C-07, Ms. Coles-Roby said the LSP brought a motion for oral argument on his/her Objections to the Recommended Decision, and she recommended that the Board hold a quasi-judicial session to consider the motion. After discussion, the members present decided to address the motion in a quasi-judicial session, for which Ms. Read, as prosecuting counsel, and Ms. Coles-Roby, as Executive Director and senior counsel on the case, would not be present.

**5. New Business**

Complaint No. 13C-01: The members present discussed whether the Board should postpone its consideration of the complaint while a lawsuit is pending that involves some of the same parties and the same site as the complaint. Ms. Batchelder said the Board has faced this situation several times, and has accepted complaints for investigation while lawsuits were pending about the same sites, because the lawsuit could drag on, and the Board had to start its process and consider if the LSP should continue practicing. Mr. Guswa and Mr. Ericson said the lawsuit alleges property damage, but a complaint to the Board alleges the LSP's work did not meet professional standards, thus the lawsuit and the complaint to the Board raise different questions. The members present agreed that, in accordance with past practice, the Board's review of Complaint No. 13C-01 would not be influenced by the existence or substance of the lawsuit. After discussion, a motion was made and seconded that the complaint should be investigated by a Complaint Review Team. The motion passed unanimously. Ms. Batchelder and Ms. Race agreed to serve on the CRT.

**6. Future Meetings**

The Committee is scheduled to meet on May 16, 2013, at the Western Regional Office of MassDEP in Springfield. The Committee is also scheduled to meet on June 20, 2013, at MassDEP at One Winter Street, Boston.

**7. Adjournment:** The meeting was adjourned at approximately 2:05 p.m.