



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

MINUTES
of
BOARD MEETING
Held on April 21, 2016
[Approved: May 19, 2016]

Meeting Location: Massachusetts Department of Environmental Protection
Western Regional Office
436 Dwight Street
Springfield, MA 01103

Prepared by: L. Williamson

List of Documents Used at the Meeting:

1. Agenda
2. Draft Minutes of Meeting held on March 17, 2016
3. Renewal Dockets #1, #2 and #3
4. List of Action Items for LSP Board
5. Petition for Waiver, dated March 30, 2016
6. Petition for Waiver, dated April 11, 2016
7. Copy of House Bill No. 695
8. Copy of Journal of the House, April 4, 2016
9. Copy of LSPA letter Re: Opposition to H. 695, September 29, 2015

1. **Call to Order:** Maria Pinaud called the meeting to order at approximately 2:35 p.m. Also present were David Austin, Gail Batchelder, Kathleen Campbell, John Guswa, Debra Listernick, Robert Rein, and Farooq Siddique. Board members absent were Kirk Franklin and James Smith. Staff members present were Beverly Coles-Roby and Lori Williamson. Also present were Wendy Rundle, Executive Director of the LSP Association (LSPA); Wesley Stimpson of WES Associates; and Linda Segal. Mr. Stimpson left the meeting at 3:30 p.m.
2. **Announcements:** No announcements were made.
3. **Agenda:** Ms. Coles-Roby stated that she would like to add the following items to the Agenda: a Public Records Request the Board had received, an email from an individual who is requesting a meeting, and a Petition for Waiver. Ms. Campbell suggested deferring the discussion of the proposed Continuing Education regulation revisions to a subsequent meeting.
4. **Minutes of Meeting Held on March 17, 2016:** The members present reviewed the draft

minutes of the meeting of the Board held on March 17, 2016. Ms. Rundle made corrections to Section 13E: “LSPA Meeting with MassDEP Commissioner”. **A motion was made and seconded to approve the March 17, 2016 minutes as amended. The motion passed unanimously, with Dr. Guswa abstaining from voting.**

5. **A-B. Decisions Regarding Licensing of Applicants:** The staff presented the following Application Docket:

ID #	Applicant Name/Company Name	ARP #	REC.
9855	Andrew D. Robinson/Arcadis, U.S., Inc.	278	A

ID #	Applicant Name/Company Name	ARP #	REC.
6227	Jason K. Wilkinson/Ramboll Environ	279	A
7850	Craig C. Paradis/Resource Control Associates, Inc.	279	D

Ms. Pinaud asked the ARPs to briefly describe the reasons for their recommendations. Ms. Coles-Roby stated that Ms. Pinaud and Ms. Campbell felt Mr. Robinson had good background and experience. Ms. Coles-Roby stated that Mr. Austin, Ms. Listernick, and Mr. Siddique felt Mr. Wilkinson’s application showed a range of experience with various contaminants, projects, and phases of work. The panel determined that Mr. Paradis did not have a sufficient amount of relevant professional experience to meet the regulatory requirement and much of his experience pertained to fieldwork subtasks as opposed to decision-making experience.

A motion was made and seconded to accept the recommendation from Application Review Panel #278 that the application submitted by Andrew Robinson be approved and that he be found eligible to take the exam. The motion was approved unanimously. Dr. Batchelder left the room from 2:50 p.m. to 3:00 p.m. and was not present for the vote.

A motion was made and seconded to accept the recommendation from Application Review Panel #279 that the application submitted by Jason Wilkinson be approved and that he be found eligible to take the exam and the application submitted by Craig Paradis be denied. The motion was approved unanimously. Dr. Batchelder was not present for the vote.

6. **License Renewal Applications:**

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

**Renewal Docket #1
Renewal Date: April 30, 2016**

New Renewal Date: April 30, 2019

Has completed all requirements for renewal:

	LSP #	First	Middle	Last
1	5928	Jonathan	S	Moore

Renewal Docket #2

Renewal Date: January 30, 2016

New Renewal Date: January 30, 2019

Completed requirements within 90-day extension:

	LSP #	First	Middle	Last
1	4614	Elizabeth	M	Greene
2	2039	Joseph	R	McLoughlin III
3	2002	John	E	Harvey
4	8559	Irwin		Silverstein
5	9290	Deborah	H	Gevalt
6	4208	Michael	S	Lotti

Renewal Docket #3

Old Renewal Date: October 30, 2015

New Renewal Date: April 30, 2019

License expired on October 30, 2015, 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	6708	Christian	C	Fahy

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. Dr. Batchelder was not present for the votes.

B. Other Renewal-related Matters: None.

7. Other Licensing-Related Matters:

A. New Panel Assignments and Scheduling: No new applications were received.

B. Appeals Status Report: None.

- C. Expired LSP Licenses- Failure to Pay Annual Fees:** Ms. Coles-Roby reported that seven LSPs have been suspended for failing to pay their 2016 Annual Fees. She stated that these LSPs have been listed as suspended in the LSP Board’s database and eDEP has been notified.
- D. Petition for Waiver:** The Board reviewed and discussed a Petition for Waiver, dated March 30, 2016 from an LSP whose 90-day extension expires on April 29, 2016 and is in need of an additional 2.5 DEP credits to renew his license. Dr. Guswa stated that the LSP has obtained 9.5 DEP credits, and a total of 37 DEP credits were offered between January 30, 2013 and April 21, 2016. Mr. Austin stated that the LSP missed many of the course offerings due to the personal issues described in the petition. Dr. Batchelder asked when the next DEP course offering was taking place. Ms. Rundle stated that DEP will be offering an audit course in mid-November and early December 2016. The Board members agreed that the LSP had shown good cause in his petition. **A motion was made and seconded to approve the Petition for Waiver and extend the LSP’s deadline for obtaining the remaining credits until December 31, 2016 while maintaining the LSP’s original expiration date for the subsequent renewal period. The motion was approved unanimously.**

The Board reviewed and discussed a Petition for Waiver, dated April 11, 2016 from an LSP whose 90-day extension expires on April 29, 2016 and is in need of an additional 2 DEP credits to renew his license. Ms. Pinaud stated that the LSP appears to have been under the impression that the course *The New MCP for Everyone* was a DEP course; however it was not. Ms. Listernick stated that good cause was not demonstrated in the petition. The Board members agreed that good cause had not been shown. **A motion was made and seconded to deny the Petition for Waiver. The motion was approved unanimously.**

- E. 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
7613	July 22, 2015	Inactive	Warren	Robert
9921	September 1, 2014	Inactive	DelMarco	David
9451	February 12, 2016	Inactive	Zirbel	Martha
8501	January 22, 2015	Inactive	Taliadouros	Kleo
2173	January 25, 2016	Inactive	MacDonald	David

- F. Total Number of Active LSPs:** As reported in the Agenda, the total number of Active LSPs was 540 as of April 12, 2016.

8. Examinations:

- A. Exam Results- April 6, 2016:** Ms. Coles-Roby stated that four individuals took the exam on April 6, 2016, and two passed. She stated there was a minor issue loading the

exam, which is likely due to the age of the software. Dr. Guswa questioned if any exam challenges had been received yet. Ms. Coles-Roby responded that none had been received.

B. Exam Committee Report: Ms. Coles-Roby stated that she is trying to schedule a meeting with the psychometrician. She stated that she had informed him of the Board's position that all questions have already been reviewed and the second version of the exam just needs to be put together.

C. Next Exam- July 2016: Ms. Coles-Roby reported the next exam will be offered in July 2016 to all those who have been approved to take it.

9. Continuing Education Committee Report:

A-B. Report on Course and Conference Approval Requests: The Board agreed to forgo a Continuing Education Committee report because all the Board members present at this meeting were also present at the meeting of the Continuing Education Committee held earlier in the day.

C. Other Business: Ms. Campbell reported that she had attended the *Historic Fill* course that was offered at this month's LSPA member meeting. She stated that there were over 200 people in attendance and two proctors standing outside the room at the end of the evening assisting in distributing the Attendance Certification Forms. Ms. Campbell reported that she witnessed an individual ask the proctors for the Attendance Form of another LSP. She stated that she had a conversation with Ms. Rundle about it and wanted to make the Board aware of the issue. Ms. Rundle stated that there were approximately 220 people in attendance at the meeting and, of those, approximately 160 were LSPs. She stated the proctors typically stand behind the tables just outside the room and pass the Forms out at the end of the course. She stated that she had contacted the proctors from that evening to ask them if they knew whether or not the LSP in question was present for the entire course, and they confirmed that the LSP was. Ms. Rundle stated that the LSP will be contacted and informed that she must pick up her own Form from now on. Ms. Rundle stated that proctors are always stationed outside the room and take notice of anyone who leaves the course early or is out of the room for an extended period of time. She stated that this particular meeting was very well attended and the issue arose because of the large number of LSPs collecting their Forms all at once. She stated that a portion of the Forms were distributed by the proctors, and some were placed on the table for LSPs to locate their own. She stated that the LSPA would be happy to consider any suggested improvements to the process that the Board may have. Ms. Pinaud suggested making an announcement in the LSPA newsletter that LSPs must collect their own Forms. Dr. Batchelder stated that some course providers require LSPs to sign their initials at the beginning and again at the end of the course. The signatures can be compared to make sure the LSPs stayed until the end of the course. She suggested setting up a separate column on the sign in sheet for LSPs to sign out at the end of the course. Ms. Rundle stated that currently, the proctors

check attendees in, but they could consider adding a column to the sheet for LSPs to sign out. She stated they could also staff up for those offerings where large numbers of attendees are anticipated. Mr. Siddique stated that if any of the Board members are present at the course offerings, they would be willing to assist in disseminating the Forms.

10. **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.

11. **Personnel, Budget, and Fees:** Ms. Coles-Roby stated that interviews for the General Counsel position will be conducted very soon. She stated that enough resumes were received in the first batch that she will be able to start interviewing without having to reopen the posting.

12. **Status of Board Member Replacements by Governor:** Ms. Pinaud stated that she and Ms. Coles-Roby will be meeting with MassDEP's Commissioner on April 29, 2016. Ms. Campbell asked if it was the Commissioner's recommendation that would move things forward. Ms. Pinaud responded that the Commissioner is part of the decision making process. Mr. Austin asked how many individuals were being considered. Ms. Pinaud responded that there are currently two candidates. She stated that she would have more to report to the Board at next month's meeting.

13. **Other Business:**

A. **Action Items List:** Ms. Pinaud stated that the Legislative matter letter had been issued. Mr. Siddique asked how the Board makes a request to update the exam software. Ms. Coles-Roby stated that the Board's budget is not large enough for this and the contract would have to be with MassDEP or EEA.

B. **Regulations Promulgation Overview:** The Board agreed that an overview of the regulation promulgation process could take place within the individual subcommittee meetings. Ms. Coles-Roby reported the assignments as follows:

- 309 CMR 2.00- Ms. Coles-Roby
- 309 CMR 3.00- Ms. Pinaud, Dr. Batchelder, and Ms. Coles-Roby
- 309 CMR 4.00- Dr. Batchelder, Mr. Austin, and Ms. Coles-Roby
- 309 CMR 5.00- Ms. Listernick
- 309 CMR 7.00- Ms. Listernick and Ms. Coles-Roby
- 309 CMR 8.00- Ms. Pinaud, Ms. Coles-Roby, and Mr. Rein
- 309 CMR 9.00- Ms. Pinaud, Ms. Coles-Roby, and Mr. Rein

Mr. Austin asked if each subcommittee would be documenting their suggested revisions in redline strikeout format. Ms. Coles-Roby responded that the format would be up to each individual committee. Mr. Austin stated that the LSPA had submitted suggestions on revisions some time ago and asked if those were still available. Ms.

Coles-Roby confirmed that she has copies of documents submitted by the LSPA.

- C. Executive Order 562:** Ms. Coles-Roby stated that she filed the reports associated with Executive Order 562 with MassDEP on March 24, 2016. She reported that two reports were required for each section of the regulations and each report was approximately four pages long with twenty-five questions. She stated the reports were approved by MassDEP's Commissioner and they are being forwarded to EEA and the Executive Office of Administration and Finance.
- D. Continuing Education Regulations- Proposed Amendments:** The Board agreed to hold a separate workgroup meeting prior to the next Board meeting to begin going through the proposed revisions. Ms. Campbell, Ms. Pinaud, Dr. Batchelder, Mr. Siddique, Mr. Austin (tentative), Ms. Coles-Roby, and Ms. Williamson volunteered to take part in the meeting.
- E. House Bill 695:** Ms. Coles-Roby reported that on April 4, 2016 House Bill 695 was reported favorably by the Joint Committee on Environment, Natural Resources, and Agriculture and was referred to the committee on House Ways and Means. Ms. Rundle stated that the LSPA is tracking the progress and will be writing a letter to the committee in opposition to the bill, expanding on its previous one. She stated she is also encouraging interested LSPA members to write letters to the representatives on the committee.

Ms. Coles-Roby stated that the Board needs to strategize and consider whether to write a letter or to testify before the committee. Mr. Rein asked if the Massachusetts Division of Professional Licensure was aware of this bill, as it could ultimately affect their agency as well. Mr. Siddique asked what the MassDEP's Commissioner's position is on this issue. Ms. Pinaud stated that the Commissioner has no position on the bill. Ms. Coles-Roby stated that MassDEP is a separate agency and the Commissioner cannot take a position. Dr. Batchelder stated that if this bill passes, it would be precedent setting for all Boards. Ms. Rundle stated that she was surprised how many supporters the bill has gotten over time. Ms. Coles-Roby stated that if this bill passes, it would not be justice for LSPs who appear before the Board, because it would add an additional layer to the process and make it much longer. She stated it would nullify every decision the Board makes. Ms. Rundle stated that the language in the bill is unclear about where the final decision would rest. Mr. Siddique questioned why this bill was proposed in the first place. Ms. Coles-Roby stated that it originated from a complaint that was dismissed by the Board for lack of jurisdiction. Ms. Rundle stated that the complainant was a constituent of Representative Kafka, the bill's sponsor.

Ms. Coles-Roby asked the Board members to email her any ideas for talking points and she will prepare something for the next Board meeting. Ms. Pinaud stated that she would be recusing herself from this issue because she is Commissioner's representative on the Board. Ms. Rundle stated that, if anyone would be testifying, it would be

important to also have a letter, which you leave at the front desk, for any members who are not present that day. Ms. Coles-Roby stated that the Board still does not know what the testimony was at the Joint Committee hearing. She stated that she is stilling researching whether transcripts are available for review. Ms. Rundle stated that no testimony was given in person in favor of the bill. She stated that the LSPA and an individual LSP testified against it. Mr. Rein asked if the Board could talk to Division of Professional Licensure (DPL), as the bill would set a precedent for all Boards. Ms. Coles-Roby stated that she could contact the General Counsel for DPL. Dr. Batchelder stated that MassDEP has an appeals board and this bill could affect them as well. She stated she is surprised the Commissioner is not involved with this issue. Ms. Coles-Roby stated when the Board disciplines an LSP and issues a Final Decision, if this bill passes, that LSP would be able to go to the new Board and back to MassDEP. She stated MassDEP would have the final decision. Mr. Siddique stated that most complaints come from MassDEP and questioned if MassDEP has a stake in this issue, why are they not participating. Dr. Batchelder stated that it appears the situation which prompted this bill has escaped the legislators because the Board had no jurisdiction over the complaint and had no other option but to dismiss it.

F. Manual for Conducting Administrative Adjudicatory Proceedings: Ms. Coles-Roby asked the Board members to review the document and forward any questions they had to her.

G. LSP Board Bulletin: Ms. Coles-Roby reported that the second edition of the Bulletin went out on March 31, 2016. She stated that she is looking for ideas for this month's edition if any Board members would like to make suggestions.

H. Public Records Request: Ms. Coles-Roby stated that the Board received a public records request on March 28, 2016. She stated that the Board has no documents responsive to the request. She stated that the names of two LSPs were mentioned in the request and she will be notifying them.

I. Email Requesting Meeting: Ms. Coles-Roby stated that she had received an email from a member of the public who has filed two public records requests recently. The individual states that he feels several LSPs associated with a specific site have conducted misconduct and he would like to meet to discuss the issue further. She stated that the individual is engaged in a lawsuit pertaining to a release site. She stated that she would forward a copy of the email to the members of the Board for their comments on how to respond to the individual.

14. **Future Meetings:** The Board's next meeting will be on May 19, 2016 in the Central Regional Office of MassDEP in Worcester.

15. **Adjournment:** A motion was made and seconded to adjourn, and by unanimous vote, the Board meeting was adjourned at approximately 4:29 p.m.