

January 11, 2019

Secretary Matthew Beaton
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Filling the Vacant Seat on the Board of Registration of Hazardous Waste Site Cleanup Professionals

Dear Secretary Beaton:

The LSP Association is writing to urge your office to appoint a qualified individual to fill the one vacant seat on the eleven-member Board of Registration of Hazardous Waste Site Cleanup Professionals (also known as the LSP Board). The enabling legislation for the LSP Board (MGL c. 21A, Sections 19A-19J) specifies that three Board members must be members of “*statewide organizations that promote the protection of the environment at the time of appointments and who are knowledgeable with respect to issues involving responding to releases of oil and hazardous materials.*” One of these three “environmental” seats has been vacant for over five years.

The LSP Association (LSPA) is the non-profit professional society for Licensed Site Professionals (LSPs), the environmental consultants licensed by the LSP Board to oversee the investigation and remediation of hazardous waste sites in Massachusetts, and for other professionals (attorneys, laboratory personnel, contractors, etc.) involved in these activities. Through education, information, and advocacy, we work to help our nearly 850 members achieve and maintain high standards of practice in overseeing the assessment and remediation of hazardous waste disposal sites. We work closely with MassDEP in all aspects of waste site assessment and remediation, we participate in policy development workgroups, and we comment on draft guidance and regulations. We also interact regularly with the LSP Board. We attend their public meetings, monitor their decisions, and track the Board’s handling of complaints and legal actions involving LSPs.

The success of the Commonwealth’s innovative, privatized waste site cleanup program is dependent on high performance from all three “legs” of the program: highly competent and accountable LSPs; a strong regulatory framework and MassDEP compliance assistance and enforcement presence; and a representative licensing board. It is for this reason that over the past several years the LSPA has become increasingly concerned about the environmental seat vacancy.

A Board with all eleven seats filled is imperative to the successful operation of the LSP Board for at least three specific reasons:

- Maintaining a quorum of members needed to hold a meeting;
- Easing the burden on volunteer Board members; and
- Maintaining the credibility of the LSP Board and the privatized program.

Maintaining a quorum of members needed to hold a meeting

A quorum must be present for the LSP Board to hold a formal meeting and vote on such matters as license applications, disciplinary actions, and continuing education course approvals. Since a quorum for the Board is defined as a majority of the 11 authorized Board members – and not just a majority of the Board seats actually filled – every vacant seat is problematic. It is not uncommon for a few of the nine current volunteer Board members to be unable to attend a Board meeting in any given month, and sometimes Board members are late to arrive because of transportation issues. Not only the Board members, but also public attendees suffer the negative impacts of delays in establishing a quorum. Filling the vacant environmental seat and having one more person on the Board would help to reduce the delays associated with quorum issues.

Easing the burden on volunteer Board members

With the exception of the Board Chair, who is a MassDEP designee, the Board members are all uncompensated volunteers. The working arrangements of the Board require that both LSP and non-LSP Board members sit on the various Complaint Review Teams and Application Review Teams that are established to review disciplinary complaints and licensing applications, respectively. In each case, one of the Board members is required to be a non-LSP. The environmental seat vacancy means that there is one less person on the Board to fill this role, and the other non-LSP Board members have to step in.


Maintaining the credibility of the LSP Board and the privatized program

The privatized program was established 25 years ago by a diverse coalition of stakeholders who were dedicated to an open and transparent process and program. Having a vacant environmental seat for over five years does not honor or fulfill that intention. Rather, it invites commentary that the Board is insular with a disregard for the public interest. Moreover, EOEEA has not signaled to the public any interest in filling that seat, nor has it made clear what the process is for interested candidates. This does not support the central tenet of the privatized program that all stakeholders can participate in and benefit from its effectiveness and efficiency.

The LSPA is proud of our practice and the program we have helped build. We are very invested in ensuring that the LSP Board continues to be a credible and responsive entity in this privatized program. There is no shortage of individuals in the Commonwealth who meet the requirements for the environmental seat. We implore EOEEA to show its support for the LSP Board and the privatized program by putting out a call for candidates, explaining the process to interested stakeholders, and appointing a candidate to the environmental seat.

We are eager to assist in whatever ways we can. Please do not hesitate to call on us.

Sincerely,



Marilyn M. Wade, PE, LSP
President



Wendy Rundle
Executive Director

cc:

Edward Palleschi, Chief Secretary to the Governor

Daniel Sieger, Assistant Secretary for Environment, EOEEA

Commissioner Martin Suuberg, MassDEP

Paul Locke, Assistant Commissioner, MassDEP Bureau of Waste Site Cleanup

Maria Pinaud, LSP, Chair, LSP Board of Registration

Beverly Coles-Roby, Executive Director, LSP Board of Registration