

July 12, 2011

The Honorable Marc R. Pacheco, Senate Chair
The Honorable Anne M. Gobi, House Chair
Joint Committee on Environment, Natural Resources & Agriculture
State House
Boston, MA 02133

Subject: Support for S. 339, Advancing the Redevelopment of Brownfields

Dear Chairman Pacheco and Madam Chair Gobi:

We write to encourage your support of **S. 339, "An Act to Advance the Redevelopment of Brownfields."** This bill provides appropriate and important modifications to MGL Chapter 21E that will help facilitate the redevelopment of brownfields while also ensuring the protection of health, safety, public welfare, and the environment.

Section 1 of the bill proposes a definition of "No Significant Risk" that is slightly modified from its definition in 310 CMR 40.0000 (the Massachusetts Contingency Plan, or "MCP"), and explicitly allows for the use of Activity and Use Limitations (AULs) or other specified legal instruments to restrict certain activities and uses as a protective measure at sites that are regulated under MGL Chapter 21E and the MCP. This proposed definition clarifies, confirms, and is consistent with current professional and regulatory practice.

Section 2 of the bill includes a definition of "Permanent Solution" that is generally consistent with the definition of this term in the MCP, but also specifies that such an MCP endpoint can be reached even if an active remedial system installed for the purpose of mitigating the intrusion of vapors into buildings is still operating. Under the current regulations, continued operation of an active mitigation system does not qualify as a Permanent Solution, and precludes closure of the site, so this change would allow such sites to achieve closure under the MCP, while at the same time – through the implementation of an AUL or similar instrument – protecting the health of the building's current and future residents and/or workforce.

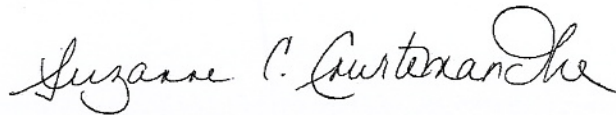
Finally, Section 3 of the bill would allow the term "Permanent Solution" to apply not only to sites that underwent active remediation, but also to sites that were found not to require remediation to achieve a condition of No Significant Risk. This is more than a question of semantics, since a Permanent Solution must be achieved in order to trigger the liability protection set forth in Section 5C of MGL c.21E.

The LSP Association is the non-profit, professional society for both Licensed Site Professionals (LSPs), licensed by the Commonwealth, as well as other hazardous waste site cleanup professionals (attorneys, laboratory personnel, contractors, etc.) involved in the management of hazardous waste sites in Massachusetts. Through education and information, we work to support our nearly 1,000 members to

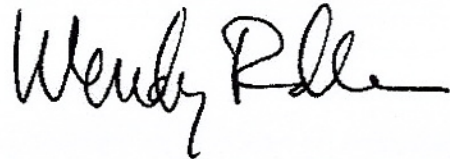
achieve and maintain high standards of practice in overseeing the assessment and remediation of hazardous waste disposal sites.

We urge you to actively support passage of this bill, since by doing so you will help to expedite remedial activities at brownfield sites, and thus stimulate economic development in urban areas around the state. If the LSP Association can provide any additional information, please contact us at 1-781-876-8915. Thank you for your attention.

Sincerely,



Suzanne C. Courtemanche, LSP, President



Wendy Rundle, Executive Director