



January 21, 2015

Sarah Weinstein, Deputy Assistant Commissioner, BWP
Paul Locke, Director, Division of Response and Remediation, BWSC
MA Department of Environmental Protection
One Winter Street
Boston, MA 02108

Subject: Role of LSPs in MassDEP's Proposed Interim Reclamation Soils Policy

Dear Ms. Weinstein and Mr. Locke:

Representatives from the LSP Association (LSPA) attended each of MassDEP's stakeholder meetings from October through December 2014. We very much appreciate the department's efforts in establishing a process for stakeholder input, providing opportunities for remote participation in these meetings, and developing a blog to solicit input and share information as the process progressed.

At the December 12, 2014 meeting, Ms. Weinstein unveiled the key concepts of the department's yet-to-be-released proposed interim policy for facilities receiving more than 100,000 cubic yards of soil. This interim policy includes that MassDEP expects to issue site-specific approvals as Administrative Consent Orders (ACOs) until a permitting process is in place. Among other things, Ms. Weinstein mentioned that an ACO would likely include required oversight by an LSP or "other qualified environmental professional," and also the possibility of a role for third party inspectors.

The LSPA feels strongly that LSPs are the most uniquely qualified environmental professionals to perform this soil sampling, sign-off, and fulfill the oversight role, more so than others who might consider themselves to be qualified. As you know, to be licensed, an LSP must meet minimum education and relevant professional experience requirements and must pass a comprehensive exam. To maintain licensure, LSPs are required to attend LSP Licensing Board-approved continuing education courses and to maintain a code of professional conduct. Among other requirements for LSPs, the LSP Board regulations (309 CMR) state the following: *"A licensed site professional shall hold paramount public health, safety, welfare, and the environment in the performance of professional services."* Protection of the environment is not included in the regulations governing other licensed professionals.



Many licensed professional engineers are also LSPs but, conversely, there are many licensed professional engineers with no educational or practical experience in soil management. LSPs are required to have demonstrated expertise in hazardous waste site cleanup decision making, which includes a depth of understanding of soil characterization and management of soils – contaminated or not.

Including “other qualified environmental professionals” in this proposed policy and, presumably, the future regulation, leaves the door wide open for a variety of other professionals to participate in soil movement and management activities. The LSPA does not think it is prudent to risk what is already a highly publicized and political effort with the possibility of a loophole that could result in significant harm to public health, safety, welfare, and the environment. None of the stakeholders would benefit from that.

The LSPA urges MassDEP to confine the language regarding qualified professionals in this proposed interim policy and future regulation to Licensed Site Professionals only. Over the 21 year history of this privatized program, LSPs have proven that they are the most qualified and experienced professionals overseeing soil management. This new policy approach deserves nothing less.

We are pleased to discuss this further with you at your convenience.

Sincerely,

A handwritten signature in blue ink that reads 'Paul McKinlay'.

Paul A. McKinlay, LSP
President

A handwritten signature in black ink that reads 'Wendy Rundle'.

Wendy Rundle
Executive Director