

# STATE OF CONNECTICUT

## Board of Examiners of Environmental Professionals

Board Members:  
Kenneth M. Collette, Esq., Chair  
John Adams, LEP  
Michelle Gamache  
Robert F. Good, Jr., LEP  
Stephen Holtman PE, LEP  
Jeffrey Loureiro, PE, LEP  
Kelly Meloy, LEP  
Elsie Patton  
Alisa Phillips-Griggs  
Carol Violette, PhD, CHMM

### MINUTES

#### State Board of Examiners of Environmental Professionals

#### Regular Meeting – February 20, 2020

**A. Call to Order and Sign-In**

A regular meeting of the State Board of Examiners of Environmental Professionals (“the Board”) was called to order on Thursday, February 20, 2020 at 9:37 AM in the Russell Room on the 3<sup>rd</sup> floor, 79 Elm Street, Hartford, by Chair Kenneth Collette. Board members J. Adams, R. Good, C. Violette, S. Holtman, A. Phillips-Griggs, E. Patton, M. Gamache, K. Meloy and Board Administrator K. Maiorano were present. David Wrinn of the Attorney General’s Office, Jacques Gilbert of DEEP and Mike Cote representing EPOC also attended the meeting.

**B. Reading and Approval of the Minutes**

The draft minutes of the Regular Board meeting of December 2019 were read and approved with minor corrections; motion by R. Good, seconded by S. Holtman, passed unanimously, with M. Gamache abstaining.

**C. Public Participation**

No public comments.

**D. Unfinished Business and General Orders**

**Update on complaint #17-102**

E. Patton reported that a meeting was scheduled with the LEP for March 5<sup>th</sup>.

**Update on complaints #18-102**

C. Violette reported that a meeting was scheduled with the Board investigator designees, Jacques Gilbert of the DEEP and Asst. Attorney General David Wrinn for February 20<sup>th</sup> to complete the compliance review.

**Update on complaint #18-103**

J. Adams reported that a letter was sent to the LEP requesting additional information.

## **Update on complaints #19-101, 19-102 and 19-103**

S. Holtman and K. Meloy reported that after meeting with all parties and reviewing available information, their recommendation was that there was insufficient information to warrant further action by the Board.

K. Meloy summarized the issues as follows. The current owner was in the process of remediating and redeveloping the Site and identified significant quantities of coal ash containing fill and chlorinated solvent impacts on the property. During the coal ash remediation, two USTs were discovered near the northern property line, one on the site and the other partially off site. Three LEPs worked on the Site. The first LEP concluded that the Site was likely a dry cleaning “Establishment” under the Property Transfer Act based on multiple lines of evidence, and that legal counsel should be consulted for a final determination. The second LEP came to the same conclusion that based on the likely operation of the Site as a dry cleaner, the Site was concluded to be an Establishment. The releases of dry-cleaning solvent were supportive of this finding.

A former property owner (the complainant) claimed that the three LEPs involved had deliberately and intentionally misrepresented information to make the property an Establishment so that investigation and remediation of the property would be required, and that the UST removals and remediation completed were inappropriate to some extent. The complainant also pointed out some factual errors or discrepancies in one or more of the LEP reports. The Board members found no evidence to support this claim, and concluded that although there may have been some factual errors or discrepancies in one or more of the reports, the overall findings, conclusions, recommendations and remedial actions of the LEPs were appropriate, and did not rise to the level of Board disciplinary action.

On a motion by J. Adams, seconded by A. Phillips-Griggs, the Board accepted the recommendation of S. Holtman and K. Meloy that the matter be dismissed, and no further board action was required. The motion passed unanimously.

## **E. New Business**

### **Course Approvals**

Course approval request from LEP for college course titled “*Igneous/Metamorphic Petrology (GCSI 322)*” for 4 CECs. On a motion by S. Holtman, seconded by K. Meloy, credit was denied due to the inappropriateness of course content. The vote was unanimous.

Course approval request from Rutgers for *Principles of Vapor Design and Mitigation* course for 6.5 CECs. On a motion by K. Meloy, seconded by C. Violette, the course was approved for 6.5 credits with J. Adams dissenting indicating that the course approval should be for 6.75 CECs.

## Question from LEP regarding use of seal

K. Maiorano distributed a question from an LEP regarding whether the LEP could use his seal to stamp a letter that confirmed fill being brought onto a site being regulated by a local Conservation Commission was sampled and determined to be clean.

The Board examined two sections of the LEP Regulations including Sec. 22a-133v-5.(b) (b) Use of a Seal and the definition of Verification as presented in Section 22a-133v-1 (dd) to evaluate this question.

In the Use of Seal section, the regulations repeatedly refer to a Verification of other documents pertaining to Verifications as underlined below.

### *(b) Use of a Seal*

(1) A licensee's seal shall only be used by such licensee in connection with verifications or other documents pertaining to verifications for which such licensee is responsible. A licensee shall only use a seal during the time when such licensee has been issued a currently valid effective license issued by the Commissioner.

(2) A licensee shall use a seal to attest that in such licensee's professional judgment, the verification, and the professional services rendered in connection with such verification, comply with the provisions of sections 22a-133o, 22a-133w, 22a-133x, 22a-133y, 22a-133aa, 22a-133bb, 22a-133ee and 22a-134a of the Connecticut General Statutes, sections 22a-133k-1 through 22a-133k-3, inclusive, section 22a-133q-1, and sections 22a-133v-1 through 22a-133v-8, inclusive, of the Regulations of Connecticut State Agencies.

(3) A licensee shall not affix such licensee's seal to any document other than a verification or other document pertaining to a verification. Where documents are bound together, the application of the seal on one sheet or page shall be considered applied to all such sheets or pages.

(4) A licensee may seal, or sign and seal, a verification or other document pertaining to a verification, provided such licensee shall prepare, and retain for a period of not less than six (6) years, records pertaining to such verification sufficient to reconstruct the basis for such verification including all alternatives considered. Such records shall clearly identify the project and the documents to which it relates, and the name of the person or organization for which the verification was conducted and the date of such verification.

(5) A licensee shall not affix, or allow such licensee's seal to be affixed, on any verification for a parcel in which the licensee or licensee's employer has a financial interest, exclusive of professional services fees.

(6) A licensee shall not affix, or allow such licensee's seal to be affixed, to any verification or any other document in any manner other than is provided for in this subsection.

The Board then reviewed the definition of Verification as presented below.

*"Verification" means verification as defined in section 22a-134 of the Connecticut General Statutes or any written opinion which a licensed environmental professional is authorized by law to render (i) regarding an investigation, remediation, environmental land use restriction or (ii) pursuant to sections 22a-133o, 22a-133x, 22a-133y, and 22a-134a of the Connecticut General Statutes, sections 22a-133k-1 through 22a-133k-3, inclusive, and 22a-133q-1 of the Regulations of Connecticut State Agencies, or any other law, regulation, order, permit, license or approval.*

A spirited discussion ensued regarding the use of a seal for an approval and whether the municipality was requiring the use pursuant to a local ordinance. The last "or" in the definition may provide some ambiguity stating, *or any other law, regulation, order, permit, license or approval* and whether the municipality may have an ordinance requiring that an LEP perform the work and stamp submittals could be construed to be within the definition of a Verification. It was the consensus of the Board that there was insufficient information to make a determination. The Board asked K. Maiorano to inform the LEP that they may only use the seal in this instance if there is a law/ordinance requiring the use of their seal. Chair Collette made note that during the next revision of the LEP regulations, this language may want to be evaluated and clarified.

### **Review of applications for the May examination**

Board members reviewed 11 applications for admission to the May 2020 LEP Exam.

Motion to approve the following ten applications for acceptance into the May 2020 examination made by J. Adams, seconded by A. Phillips-Griggs; passed unanimously. The applicant numbers are provided below.

202000931  
202001505  
202002166  
202002167  
202002169  
202002170  
202002171  
202002172  
202002271  
202002276

Motion to deny admission to the May 2020 examination for applicant 202001912 made by E. Patton, seconded by S. Holtman; passed unanimously. The LEP did not sufficiently demonstrate sufficient engaged in or responsible charge.

One application, 202002274 was determined to be incomplete.

A motion was made by A. Phillips-Griggs, seconded by J. Adams to add two course approvals to the agenda passed unanimously.

Course approval request from NEWWA for a course titled “*Per- and polyfluoroalkyl substances (PFAS) in Drinking Water: Tools for Water Utilities to Address an Emerging Issue*” course for 6.0 CECs. On a motion by J. Adams, seconded by S. Holtman, the course was approved for 3.0 credits, passed unanimously.

Course approval request from Montclair State University for a course titled “*Emerging Contaminants: Trends in Science, Regulations and Business Implications*”. On a motion by K. Meloy, seconded by M. Gamache consideration of the course was tabled to request additional information, passed unanimously.

A motion was made by A. Phillips-Griggs, seconded by C. Violette to add consideration of Item Development and Test Assembly workshop date approvals to the agenda, passed unanimously.

K. Maiorano informed the Board that Transom Capital Group had provided potential dates for the Item Development Workshop of August 19<sup>th</sup> or 26<sup>th</sup> and the Test Assembly workshop of September 16<sup>th</sup> or 30<sup>th</sup>. The Board consensus was that it would be difficult to secure volunteers during the summer months for these workshops.

A motion by S. Holtman, seconded by E. Patton, that the Board approve September 16<sup>th</sup> as a date for the Item Development Workshop, passed unanimously.

K. Maiorano will request additional proposed dates for the Test Assembly workshop.

S. Holtman informed the Board of his impending retirement in May 2020 and offered to continue indefinitely on the Board until his position is filled.

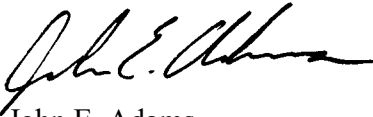
Next meeting is March 12, 2020 at 9:30AM.

**F. Adjournment**

On a motion by K. Meloy, seconded by S. Holtman and passed unanimously, Chair Collette declared the meeting adjourned at 12:18 PM.

Minutes were approved on March 12, 2020.

Respectfully submitted,



John E. Adams  
Board Secretary



# STATE OF CONNECTICUT

## Board of Examiners of Environmental Professionals

March 6, 2020

Board Members:  
Kenneth M. Collette, Esq., Chair  
John Adams, LEP  
Michelle Gamache  
Robert F. Good, Jr., LEP  
Stephen Holtman PE, LEP  
Jeffrey Loureiro, PE, LEP  
Kelly Meloy, LEP  
Elsie Patton  
Ailsa Phillips-Griggs  
Carol Violette, PhD, CHMM

This letter is in response to your email dated January 23, 2020 inquiring about the use of your Licensed Environmental Professional (LEP) seal on the test results for soil sampling conducted at a homeowner's residence as requested by the municipality's Conservation Commission (ConCom). In your email you state that the local ConCom is requesting an LEP stamped opinion letter on the fill results, and you requested the LEP Board's interpretation on whether that was a proper use of the LEP seal.

Please refer to the State Board of Examiners of Environmental Professional regulations, (commonly known as the LEP Regulations), specifically the definition of verification and the section on the design and use of a seal.

### **Sec. 22a-133v-1. Definitions**

(dd) "Verification" means verification as defined in section 22a-134 of the Connecticut General Statutes or any written opinion which a licensed environmental professional is authorized by law to render (i) regarding an investigation, remediation, environmental land use restriction or (ii) pursuant to sections 22a-133o, 22a-133x, 22a-133y, and 22a-134a of the Connecticut General Statutes, sections 22a-133k-1 through 22a-133k-3, inclusive, and 22a-133q-1 of the Regulations of Connecticut State Agencies, or any other law, regulation, order, permit, license or approval.

### **Sec. 22a-133v-5. Design and Use of Licensed Environmental Professional's Seal**

#### **(b) Use of a Seal**

(1) A licensee's seal shall only be used by such licensee in connection with verifications or other documents pertaining to verifications for which such licensee is responsible. A licensee shall only use a seal during the time when such licensee has been issued a currently valid effective license issued by the Commissioner.

(2) A licensee shall use a seal to attest that in such licensee's professional judgment, the verification, and the professional services rendered in connection with such verification, comply with the provisions of sections 22a-133o, 22a-133w, 22a-133x, 22a-133y, 22a-133aa, 22a-133bb, 22a-133ee and 22a-134a of the Connecticut General Statutes, sections 22a-133k-1 through 22a-133k-3, inclusive, section 22a-133q-1, and sections 22a-133v-1 through 22a-133v-8, inclusive, of the Regulations of Connecticut State Agencies.

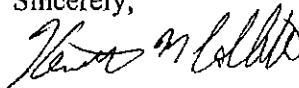
(3) A licensee shall not affix such licensee's seal to any document other than a verification or other document pertaining to a verification. Where documents are bound together, the application of the seal on one sheet or page shall be considered applied to all such sheets or pages.

(6) A licensee shall not affix, or allow such licensee's seal to be affixed, to any verification or any other document in any manner other than is provided for in this subsection.

The design and use of an LEP's seal is specifically regulated by the LEP regulations and is limited to verifications and documents pertaining to verifications with respect to certain statutes and regulations. The definition of verification includes specific statutes and regulations, and also speaks to any other law, regulation, order, permit, license or approval. Unless the ConCom can identify, with specificity, the legal requirement that would authorize the use of your LEP seal, and after due consideration by the Board, it is the Board's opinion that it would be improper to seal such document.

Should you have any questions, please contact Kim Maiorano, LEP Board Administrator at (860) 424-3788.

Sincerely,



Kenneth M. Collette  
Chairman

Board of Examiners of Environmental Professionals

KM:KC