

Meeting Minutes  
LSRPA Board of Trustees Conference Call  
September 5, 2013  
8:30 to 10 am

**ROLL CALL**

**President's Remarks**

S. Posten chaired the call in K. Goldstein's absence. He reported on the August 28th meeting with Dave Sweeney, which included a discussion of the upcoming September 12 meeting with the Governor's office. Only Commissioner Martin was invited to the upcoming meeting, not the SRP. N. DeRose, S. Boyle, K. Goldstein and S. Senior will provide input to N. DeRose, who will participate in the meeting. Preparation for enforcement of the May 2014 RI completion deadline is of great concern. In response to a question by S. Senior on how DEP plans to prepare and develop a plan, and if necessary, to enforce the May 2014 deadline with its present manpower and structure, D. Sweeney commented on the possible problems for those cases if forced into direct oversight, including what does direct oversight mean and that the goal of the Department is not to recreate the old case manager model for all the direct oversight sites. S. Boyle advised that a meeting with SRP Assistant Commissioner Pedersen and various trade groups may be scheduled. S. Posten emailed congratulations to Mark Pedersen, the new Assistant Commissioner, and to keep the lines of communication open. Assistant Commissioner Pedersen probably will be on both SRAG and IPSC.

S. Posten advised that the complexity of the DEP LSRP-related forms was discussed and SRP acknowledged the LSRPA Forms committee working on this issue with the Department. SRP acknowledged the cumbersome problem of the DEP database and the importance for the new online forms to be correct, since it is cost prohibitive to make changes in the on-line forms once these are finalized.

S. Senior suggested the issue of attorney requests for review of Remedial Action Work plans be included on the meeting agenda. Those requests define the LSRP program in process. There is an existing approval process and procedure for approval of alternatives to presumptive remedies, but no approval process where that process doesn't apply. Presumptive remedies apply to sites where remediation was initiated after May 7, 2010, new construction and change in use. D. Sweeney and D. Haymes have concerns on giving those approvals before 2010, but acquiesced in terms of new policy statements for sites pre-May 2010. If you ask DEP to give advice, then you have to follow it.

Issue with new PI numbers being assigned to RFS was discussed. It is an internal DEP database issue whereby a different PI number is used when DEP works with Treasury. There had been some confusion by DEP and possible incorrect numbers. Supplemental PI numbers are being generated by DEP for sites with RFS requirements. DEP staff was calling the RP and telling them that their LSRP was using the wrong numbers, which was confusing RPs who thought they would need to change their forms. K. Stetser has spoken with Karen Jentis on this issue.

S. Posten advised the Committee of a question received on whether an LSRP license meets the requirements for a Subsurface Evaluator Certification, thereby certifying a firm to practice this

service/maintain a Firm's existing UST Certification. Issue will be raised during SRAG meeting and S. Posten will contact Kirsten Hahn.

### **EXECUTIVE DIRECTOR'S REPORT**

- Mission Statements

Committees have not yet submitted mission statements, which will be posted on the website.

- Upcoming events

Young Professional Mixer is scheduled for September 9<sup>th</sup>. Committee encouraged to have their young professionals register for this event. Currently there are only six people registered for the Member Breakfast scheduled for Mastoris Diner. R. Ferguson will take lead in T. Toskos' absence. LSRP Advanced Tools Workshop is scheduled for September 23. Currently 38 individuals registered. The Best Practices Workshop is scheduled for Oct. 16<sup>th</sup>. Only five people currently registered, but marketing has not yet been done. Volunteers needed for November's League of Municipalities Conference. Currently, R. Ferguson, J. Oberer and C. Graff volunteered.

- Tools of the Trade case studies.

S. Posten will have his case study, Protocol for Administratively Dealing with Offsite Contamination, completed shortly. Lisa Voyce agreed to provide a case study; Julian's study will focus on comingled plumes. M. Pietrucha working on a topic and J. Oberer will forward studies to L. Voyce and copy S. Boyle.

### **SECRETARY'S REPORT**

Current on minutes through July. M. Fisher and L. Watson working on posting minutes to the LSRPA website.

Responding to inquiry by S. Posten on comments from the Forms Committee, M. Fisher advised that DEP is receptive to LSRPA's comments, but people are still frustrated with number of forms and level of details. Looking for ways to consolidate information. Committee meeting with DEP on a monthly basis. Goal is to have RI form online sometime in the fourth quarter of 2013. It was noted that it is helpful to have instructions and forms complete before printing the completed form. Discussion on mechanics of the key document reports as part of the form uploading process due to the size of the key documents – DEP is reportedly working on this issue.

### **TREASURER'S REPORT**

Not many transactions since last Steering Committee meeting. Will prepare projections through end of year and next year for upcoming Steering Committee meeting.

### **HOT TOPICS**

- September 12 meeting with Governor's Office on 2014 deadline – N. DeRose

N. DeRose provided summary of the upcoming September 12th meeting scheduled with the representatives from Governor's Office. Participants will include Commissioner Martin, S. Senior, K. Goldstein, David Gockel, President of Langan, Michael McGuinness, Executive Director of NAIOP, and himself. SRP personnel not included in meeting, although they received a copy of Langan's letter. Concern with the May 2014 RI deadline as representatives of profession and the penalty of direct oversight being counteractive to goals of the program and DEP not having resources to manage sites that may be put into direct oversight. Wants audience to be aware that other legislative fix and creative legal interpretations of Section 27 of SRRA exist to provide remedies to the deadline. Meeting will discuss the penalty associated with the direct oversight, not deadline. As practitioners, there are legitimate concerns with sites that have been working to meet deadline and still will not meet it. Great audience and we can possibly get their attention to help facilitate our agenda.

R. Ferguson stated that the May 2014 RI deadline is on agenda for upcoming SRAG meeting. S. Boyle suggested using different RI form for the May 2014 deadline where RI is complete, but not ready to submit RI report. R. Ferguson will follow up with S. Senior and A. Robins on the forms issue.

N. DeRose commented on a legislative bill that would allow the Department to extend the May 2014 RI deadline, as well as allow for self-guarantees for financial assurance. Bill would also require the Department to evaluate the use of RBCA concepts into the program. S. Boyle indicated that the referenced legislation is being proposed by Chemistry Council.

- Oct 16<sup>th</sup> Business Practices 2.0 Seminar (Saddle Brook, NJ)

R. Ferguson advised that the seminar will include a discussion on due diligence impacts on LSRPs, Edd Hogan article, changes to due diligence. Larry Snapf has agreed to speak in the morning and participate in panel on legal liabilities issues. B. Call is reviewing another vehicle for secondary insurance for LSRPs. More formalized agenda will be available next week and blurb prepared. (Note: This session was since cancelled due to low registration).

- White papers under prep: LSRP reporting obligations – G. Forrest (no longer), OPRA-ability of LSRPs – J. Oberer, Document Retention – J. Oberer, Clean Fill – R. Ferguson, and LSRP Contracts & 3rd Party Reliance – J. Scagnelli/W. Call

J. Oberer submitted draft white papers on records retention and Oprability from the Licensing Board. These papers will also be circulated to BOT. R. Ferguson spoke with Joanne Held regarding presenting comments on the rule at upcoming Licensing Board meeting rather than waiting for the public comment period and will contact K Hershey on this issue. R. Ferguson circulating agenda for next meeting.

DEP advising LSRPs that they are expected to stop working on a case if the RP is not meeting deadlines. The case/issue would be referred to the Licensing Board. Raise issue to L. Romino to possibly determine the source. Concern with who will catch up on the case if LSRP steps down. The LSRP would be reported to the Licensing Board due to failure of client (RP) to meet deadline when they (RP) are the one responsible by law. N. DeRose stated that when a complaint about an LSRP is taken to the Licensing Board, the basis must be that the LSRP did not follow the Code of Conduct. Put this on agenda for meeting with Mark Pedersen. R. Ferguson and B. Call will explore the issue.

- SRPLB Liaison updates – R. Ferguson

A quorum was not present, therefore the previously scheduled meeting was not held.

- By laws committee meeting in September