



October 20, 2023

**Via Electronic Submission**

Commonwealth of Massachusetts  
Senate and House of Representatives  
Joint Committee on Environment and Natural Resources  
The Honorable Senator Rebecca L. Rausch, Chair  
    Senator James B. Eldridge, Vice Chair  
    Representative Daniel Cahill, Chair  
    Representative Dylan A. Fernandes, Vice Chair

Senators:

Edward J. Kennedy  
Michael O. Moore  
Michael F. Rush  
Bruce E. Tarr

Representatives:

Kristin E. Kassner  
Jennifer Balinsky Armini  
David Allen Robertson  
Carmine Lawrence Gentile  
Michelle L. Ciccolo  
Jessica Ann Giannino  
Daniel R. Carey  
Norman J. Orrall (Ranking Minority)  
Nicholas A. Boldyga

**RE: Testimony of Joseph V. Polsinello, MA DEP Licensed Site Professional (LSP) to the Joint Committee on Environment and Natural Resources regarding Bill S545 & H782, Senate Docket 2362 and Bill H782, House Docket 3895 on Wednesday October 25, 2023 relative to the board of registration of hazardous waste site cleanup professionals.**

Dear Honorable Senators and House of Representatives of the Joint Committee on Environment and Natural Resources:

Thank you for the opportunity to come before you to testify relevant to Senate Docket 2362 and House Docket 3895, "An Act relative to the board of registration of hazardous waste site cleanup professionals." I have submitted with today's testimony my previous 2019 Testimony (on House Bill 3873 to the Joint Committee on Financial Services for an Act relative to the board of registration of hazardous waste site clean-up professionals" and Senate Bill 594, an Act relative to the remediation of home heating releases) Oil Spill Insurance. The 2019 Testimony provides examples of 3 of many of my pro bono service serving homeowners from disaster.



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My name is Joseph V. Polsinello, owner of Inland Professional Corporation (IPC), and a MA DEP Licensed Site Professional) LSP # 7450 since 1993. My testimony today is in support of the above-mentioned Bills S545 and H782.

I am also respectfully sharing my written testimony to my friends and associates of the LSPA which I am a member, and MA DEP. I look forward to an opportunity to be a resource to the LSPA and MA DEP to consider meeting in the near future to further understand the basis of my testimony.

My background, I was one of the first emergency oil spill contractors circa 1970 from my family petroleum business Albany, New York; later established at CITGO Braintree MA 1979 as a DEQE spills contractor and transporter. I provided training to U.S. EPA enforcement; the New York State Attorney Generals Environmental Division; Assisted the Mass State Auditors report on state cleanup contract in the early 1980's. For the past fifteen (15) years I provided and continue to provide pro bono services to homeowners victimized by some tank service, consultants and some LSP's as requested and/or coordinated with MA DEP. I believe I may be the only LSP that filed a complaint against another LSP.

1. I participated circa 1992 with the implementation of the NEW MCP privatization LEAD Authority of LSP UNDER Daniel Greenbaum DEP commissioner, and DEP staff who did a fabulous service creating excellent regulations and policies.
2. The primary reason for the LSP Board was based on the concern of the environmental community of how LSP's could be trusted to work in the best interest of public health, safety and protection of the environment and natural resources.
3. The LSP Board, is the only venue as LSP's a majority of the time from the initial release / threat of release until filing a closure, or resignation are the sole authority. Considering complex identification of responsible parties, a DPS (downgradient property status), 21E 4A claim process; the result through my direct experience, homeowners, business, and their estate realize detrimental and tremendous hardship, elimination of asset value, inability to finance, transfer and often encompass unwarranted liability.
4. For the first ten (10) years Alan Feerce, from the MA Attorney General's office was the director and very active with LSP's and the LSPA, I remember warning we LSP's at meetings, I'm going to get a few of you this year." Later in a call to Alan, he agreed the language in the current board



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of ten (10) positions was a topic of concern as it required all LSP's and those related to the industry. Alan left, resigned or retired which was not quite understood as Director of the Board.

5. During Alan Feerce's initial ten (10) year term, there were voluminous disciplinary actions, suspensions of license and/or permanent revocation of an LSP's license.

6. Since Alan left, in my opinion there has been a significant reduction, or limited disciplinary or loss of licenses.

7. Three (3) of my pro bono homeowners filed complaints with the Board that were dismissed. The 9 Stow Road, Mattapan case that I worked with DEP NERO, involved a tank service company previously prosecuted and convicted by the MA AG Office, providing LSP Professional Services without a license. An LSP brought in by the tank service company became the LSP of Record, filed numerous, in my opinion fraudulent reports of gross contamination in and around the house foundation wall adjacent to where children resided and did nothing, ignoring the issue "waiting for insurance". I came in at the request of an Attorney, per my 2019 Testimony, worked with DEP, along with pro bono Peer LSP's, Civil Engineer, P.E., Well Installation Contractor, also volunteered service, installed wells, and determined the tank did not leak, no oil in ground, no groundwater at the basement as confirmed. The contractor who removed the UST, installed one (1") inch wells, which for some reason inconsistent with engineering principles contained fuel oil approximately ten (10) feet above the walk out basement with wood floors and carpet with no indications of groundwater or moisture whatsoever. The homeowner's complaint was dismissed, against the LSP filing serious disinformation, neglect for not protecting the family and young children; considering the LSP's filing a report to MA DEP BWSC under the RTN. The LSP described in the report, serious oil in and around the foundation of the walkout - live in basement area where the children slept and played. My complaint included the tank contractor conducting LSP services, installation of groundwater monitoring wells, field testing, laboratory analysis, reports and notices to DEP without a license. The Board ruled they had no jurisdiction as the contractor did not have a license. I know that is a violation of 309 CMR, and believe it would be a referral to the MA Attorney General's Office. Especially considering the same contractor was convicted in the past after pleading guilty to misrepresenting environmental contamination (See referenced attached).

8. The other two (2) of three (3) examples in my 2019 Testimony to the Joint Committees, retired homeowner pro-actively removing his UST in an area of no groundwater, walk out exposed basement, no oil was released. The fire department requested an LSP evaluate, a non LSP arrived and filled five (5) 55-gallon capacity drums, conducted headspace noting high readings in soils above what could have been obtained as we confirmed later. The LSP who never visited



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the property that day or as the homeowner provided, never came to the house. The insurance adjuster and LSP convinced the homeowner it needed to be reported. There was no initial coverage, declined by the insurance company. As I sat in the retired man's home, at this dining room table, upset as I was concerned of his health having COPD, a phone call as the contractor's representative mandated a large payment to cover pile driving and raising the house so the homeowner as was proposed, could excavate the oil under the house. I told Dominic, decline their request, "I don't have the money". Before I came on site, he was prepared to give them \$ 50,000.00 out of his retirement pension fund. A few days later, the adjuster, who had an LSP license, I assumed, convinced the insurance company groundwater had been impacted (there was no groundwater, high on a hill, deep ravine below, and dry, walk out basement with garage.

The insurance company provided a letter, "although we believe there was no release, we will cover cost for assessment." IPC, myself and geologist provided the assessment service, detailed with field, laboratory analysis and filed an RAO Closure with SERO. Dominic's complaint to the LSP Board was dismissed. Dominic appealed and together we met with the Board, who further declined and dismissed the complaint against the LSP, who was never on site, with his company requiring the house to be jacked up to allow excavation. My closure report only addressed the five drums filled by the LSP's assistant. Other excess soils were disposed with the drummed soils at an asphalt plant recycling plant as permitted with a bill of lading to provide a conservative measure. The sixty (60) provision for retraction of the notification was exceeded along with the LSP of Record who reported would have to do the retraction. Alarming to me, in reading the minutes of the LSP Board meetings, there were comments to look at filings Polsinello, # 3 LSP had done, along with questions and comments of my RAO closure and use of an old PID (photo ionization detector) that in the comments may not be applicable. Note: The standard that needs to be changed in the regulation of 100 ppm PID reading for a 72-hour release notification adjacent (10') to UST's. In reality PID for old weathered fuel oil and waste oil does not produce headspace. Headspace is a field screening tool, not the final data decision venue. Representative samples for Massachusetts certified laboratory are the standard for confirmation.

The third (3) incident, the LSP who was only on site a limited time during the excavation under a house, as the contractor's foreman assessed and determined, were, based on our confirmation, clean soils. That complaint against the LSP by the homeowner was dismissed. See my 2019 Testimony.

9. Currently my client has a serious complaint filed over 2 ½ years ago against an LSP of Record, for a major consulting firm. The complaint was lost in a mail bin at the LSP Board office for over a year, still remains pending a DEP assigned Attorney to review the complaint. The serious case has caused my client tremendous hardship for over 12 years. A preponderance of evidence DPS



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(downgradient property status) proves the contamination with oil against my clients' building was ignored by the LSP of Record as a source and condition applicable to that responsible party.

10. The LSP Board was *NOT* established to serve the best interests of LSP's, or as an extension of the LSPA. The LSP Board's main purpose is to license qualified LSP's; investigate complaints and information relevant to the LSP program; discipline, suspend, permanently revoke licenses; act on unlicensed individuals / firms practicing 309 CMR / MCP 310 CMR 40.0000 regulations as applicable with priority health, safety, protection of the environment and resources, and public welfare.

11. I was enlightened by the appointment of a new LSP Board investigator. Upon contacting the individual, I was very disappointed as there was no interest in my information with the only comment, "everything is going fine."

12. The original / current LSP Board, ten (10) positions, mandate being an LSP in a related industry. One member is a cleanup contractor, changing the title to environmental interests, others provide support to LSP's; hence deriving revenue from the process. Of late there one (1) is an environmental interest recently appointed. The statute remains confusing and difficult to fill positions and *excludes Users* described below. (13.)

13. My experience in the last ten (10) years as a member of professional, legal, banking, insurance, accounting organizations, to include REBA, (Real Estate Bar Association). The consensus identifies the major issue of the ***Users***, i.e. ***Fire Department, Banks, Real Estate Interests, Homeowners, Oil Companies, Insurance Agents etc. who are not represented on the current board.***

14. **Review and Promulgation of the Regulations** is an important part of the Board's responsibility. Business, Impact to Finances, Legal and Public Health and Safety, especially Citizens at Large are not on the Board. The current LSP Board is a closed entity excluding the *Users*. *Users*, understandably ignorant of the 21E process, reach out to an LSP. Often the consultant is a subordinate, not an LSP providing advice and counsel contrary to regulatory and policy compliance and actual conditions. Increased notifications of release (noted by DEP circa 2013) may be a result of aggressive commercial real estate due diligence assessments by non LSP's with limited relative professional experience. A report identifying *your* property as a source of release of O/HM (oil & hazardous materials) requires notification to MA DEP BWSC and obtaining an RTN – Release Tracking Number; results in substantial unknown cost and time to consider closing out the issue. Thereafter having an RTN further taints the property for future finance or transfer. A regulatory change allowing MA DEP BWSC to close out a "Site" on an



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appeal based on a cost to benefit, relieves an LSP of liability (as they are responsible under the MCP and 309 CMR). Unofficially, this occurs as the owner runs out of money. In an appeal case they could provide a no further action subject to and future identification (other states provide this venue). Initially, I assume, the idea of all LSP's on the Board, as a startup implementation of a new program needing to develop experience with the *New MCP* can be understood. That day is over given the void in the above-described lack of participation.

**15. Solve the Homeowner Oil Spill Crisis – Obtain Reasonable Cost Insurance Coverage. Homeowner Oil Spill crisis will never be addressed, reduced, or insured as not conducive to many LSP's / LSPA.**

Joe Polsinello, Associates and Resources with the Change in the LSP Board positions providing diverse entangle resource opening up the options and alternatives, combined with MA DEP we could immediately end the crisis, eliminate and significantly reduce homeowner oil releases and provide reasonable cost insurance. **How ?** Take a lesson from New York State DEC (referenced) who combined with the petroleum industry and heating oil companies to resolve the matter. With exception, made the oil dealers responsible not to fill old, bad tanks and equipment; and provided low-cost maintenance programs, tank and heating systems, and the oil on budget plans.

With my petroleum industry and HVAC background, there are a few very qualified oil dealers who already engage in pro-active programs, protecting and ensuring their customers realize safe home comfort.

In the case of New York State, with the oil companies the lead proponent is ensuring oil supply system integrity, as insurance companies could realize cost were amortized and reduced, resulted in coverage. The LSP process is expensive, given the liability and responsibility an LSP must undertake. The LSPA is an excellent venue for, as they have done a tremendous job in education and outreach.

16. Ryan Kath, TV reporter for NBC News 10 Boston for a number of years highlights a series on homeowner oil spills with the message, "have an oil spill, results in tremendous cost most times with no insurance". Ryan is not interested in my message. Homeowner oil spills should cost *Zero; Not over \$ 5,000.00; and extreme cases not over \$ 50,000.00*. There is no control of cost, most times no construction, civil engineering nor common sense applied. Maintenance, inspection is excluded resulting in tanks and systems of poor quality being filled. As previously stated (15.) let's take a lesson from New York State DEC.

17. The Chapter 453 of the Acts of 2008, amended 2010, "Homeowner Oil Heating System Upgrade and Insurance Law" failed. Not mandatory. 99% of the insurance agents if any have no

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idea of the law and complex method of compliance to obtain coverage. Apply for homeowners' policy, check off the box to decline coverage and save \$ 100.00; on renewal the topic of coverage is never addressed. The law ignores the most important aspect, replacing the tank. My calls in my pro bono service to homeowners' I respond to, sometimes in the past from DEP Emergency Response, Attorneys, Fire Departments, Insurance Agents that did not provide coverage, Oil Companies, the cause should never have happened. Home inspection report caution, oil company fills suspect tank and equipment that failed. In some cases fraudulent assessment encouraged homeowners to report, or allow them to report to the MA DEP. See my 2019 Testimony.

18. Oil tanks should not be located in homes with private wells, in public water supply wellhead protection areas, endangered species. Propane fuel can be supplied. If mandated, as in emergency generators, double wall, full containment of all components with monitoring and alarms; *and* provisions to monitor deliveries.

Please consider my testimony and comments do not in any way diminish the dedicated work and service to the citizens of the Commonwealth by the Massachusetts Department of Environmental Protection, especially Millie Garcia-Serrano Director of the Southeast Regional Office (SERO) and Chairperson and Acting Director of the LSP Board. Additionally, as a member of the LSPA (Association) provides exceptional venue for all LSP's, related service and young professionals striving to become LSP's. LSP's expend a great deal of time, energy and cost in providing comprehensive professional environmental service under the MA DEP 21E program.

Thank you for your generous time and consideration.

Joseph V. Polsinello, Principal / LSP    October 20, 2023  
Inland Professional Corporation  
51 Mill St. Unit 7  
Hanover, MA 02339  
Mobile Direct 518 463 7800  
Office 781 826 4520



**JOSEPH V. POLSINELLO**  
**PROFESSIONAL PROFILE**

Mr. Polsinello is president and principal owner of Inland Professional Corporation providing environmental, business and project management. Having over 45 years of combined experience in general contracting, emergency spill response, hazardous waste cleanup, real estate development, building and site construction, and the petroleum industry. As a Massachusetts Licensed Site Professional (LSP) Mr. Polsinello along with associates provides environmental site assessment, management, site ranking and LSP opinion consistent with the Massachusetts Contingency Plan. Specific responsibilities include health and safety, program development, education and training, specifications, contracts, estimating, planning, operations coordination, site supervision, project management and emergency response contingency.

**PROFESSIONAL EXPERIENCE**

Mr. Polsinello was president and principal owner of Inland Pollution Control, Inc., with facilities in New York and Massachusetts from 1971 through 1988. IPC was a full service management and contracting company performing emergency response and spill cleanup, environmental remediation, handling, transportation and disposal of petroleum and chemical hazardous materials and wastes. IPC performed work for the U.S. EPA, various state, commercial and industrial clients including many *Fortune 500* corporations relating to the petroleum, utility, real estate and financial institutions performing private environmental waste management and superfund related remediation cleanup. Specific projects addressed: toxic chemicals, PCB's, petroleum releases, groundwater contamination, bio-remediation, asphalt reclamation and recycling, solvent recovery, incineration, wastewater treatment, decontamination and disposal. IPC and Polsinello associated companies provide routine plant maintenance, above / underground storage tank removal, replacement, deep-water marine terminal operations and management.

Over the past 30 years, Mr. Polsinello has attended, completed and participated in numerous training courses, seminars, lectures and conferences. At IPC, he was responsible for preparing, reviewing, implementing, instructing and providing health, safety, operational and transportation training programs both in house and for clients.

As manager of operations for Polsinello Fuels, Inc., Rensselaer, NY, Mr. Polsinello was responsible for conducting operations, overseeing full service bulk, packaged, retail and wholesale petroleum products and related TBA items under independent and CITGO Petroleum Corporation brand, plumbing, electrical and air-conditioning.

Mr. Polsinello was president and principal owner of Polsinello Services, Inc., Rensselaer, NY since 1969, which operates full service management and operations bulk oil storage terminals, including tanker and barge marine transfer operations, tank truck loading and distribution.

Also, Mr. Polsinello was president and principal owner of Respond Air, Inc., a corporate aircraft operation and management company.





## JOSEPH V. POLSINELLO PROFESSIONAL PROFILE

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Since 1972, Mr. Polsinello assisted in the operation of Chauffeur Training Schools, Inc., Rensselaer, NY, a family related business. He had provided instruction within training safety programs associated with the transportation, highway safety and trucking industry.

As the owner and developer of Pantooset Farms Inc. on the North River, a residential community, Mr. Polsinello is a licensed builder and construction supervisor.

Mr. Polsinello was also president and principal owner of Polsinello Terminals, Inc., Rensselaer, NY, which owns and operated a marine bulk oil storage terminal Port of Albany, Hudson River.

Since 1966, Mr. Polsinello has performed numerous phases of excavation, demolition, dismantling, salvage, restoration, rebuilding, real estate development, and total building construction.

### **PROFESSIONAL, COMMUNITY AND CIVIC**

Massachusetts Licensed Title V Septic System Inspector

OSHA 29 CFR 1910.120 Certification / 1926.00

Massachusetts Construction Supervisors License

Massachusetts Licensed Building Contractor

Massachusetts Licensed Site Professional

First Aid and CPR Certification.

Certified Tank Tester and Installer.

Member of the Town of Hanover Open Space Planning Committee

Class I CDL Hazardous Material Tractor Trailer License / Past CDL Instructor

Multi - Engine Instrument Airplane Pilot

Former Board of Director of North and South Rivers Watershed Association

Member of the Town of Hanover Emergency Contingency Planning

Member and Former Board of Director-Builders Association of Greater Boston

Past President of the Tri Town Rotary Club / Member Braintree Rotary

Member of the Legislative Committee- Home Builders Association of Massachusetts

Appointed to Commonwealth of Massachusetts,

Department of Environmental Protection, Riverfront Advisory Committee

Town of Hanover, Department of Public Works / Water Commissioner

Former Alternate Town of Hanover, North River Commissioner



*The Commonwealth of Massachusetts*

**BOARD OF REGISTRATION OF  
HAZARDOUS WASTE SITE CLEANUP PROFESSIONALS**

*This is to Certify That*

**Joseph V. Polsinello**

*has been duly registered by this Board as a qualified Licensed Site Professional,  
as provided by the laws of the Commonwealth.*

*Boston, Massachusetts*      July 10, 2023

|s| Millie Garcia-Serrano

*Chairperson of the Board*

7450      January 30, 2026

*License Number      Expiration Date*



**1992** The Board of Registration of Hazardous Waste Site Cleanup Professionals (the LSP Board) is established by the enactment of MGL c.21, Sec. 19-19J. The eleven members of the first LSP Board include:

- Three representatives of environmental organizations (Gretchen Latowsky, Rob Sargeant and Judy Shope)
- A labor representative (Sue Shepard)
- An LSP from the petroleum industry (Wayne Johnson)
- An LSP from industry (John Seferiadis)
- Three other LSPs (Deborah Gevalt, Lee Lyman, and Bill Rizzo)
- A hydrogeologist (Larry Feldman)
- A chairperson designated by the MassDEP commissioner (Jim Colman)

**November 1992** While at a HazWAC meeting in New Orleans, a handful of environmental consultants (John Balco, Joe Engels, Larry Feldman, Deborah Gevalt, and Rick Hughto) meet at the Café du Monde to discuss the need for an association for the newly-created profession of LSP. The concept of the LSPA is born at this meeting.

1992



1993

**January 1993** The initial organizational meeting of the LSPA is held at the Newton Marriott, Newton, MA.

**March 1993** The LSPA is formally incorporated as the professional association of LSPs and other environmental professionals who oversee the assessment and remediation of properties contaminated by hazardous waste in the Commonwealth.

The first LSPA Board is comprised of Rick Hughto - President, Jeff Hardin - Treasurer, Joe Engels - Clerk, John Balco, Larry Feldman, Deborah Gevalt, Joel Loitherstein, and John Seferiadis.

**May 1993** The LSP Board promulgates its initial regulations (309 CMR).

**July 1993** The "new" MCP, for implementing the new MGL Chapter 21E, is submitted to the Secretary of State.

**September 1993** The LSPA holds meetings with members to prepare for the October 1 "opening day" of the new MCP.

**October 1, 1993** New MCP regulations, pertaining to the 1992 Chapter 21E amendments, go into effect.



assess  
advise  
restore



Join LSPA Today

[www.lspa.org](http://www.lspa.org)

## Vacant Seat on LSP Board, and Recent LSPA Activities

### LSP Board "Environmental" Seat is Vacant

The Board of Registration of Hazardous Waste Site Cleanup Professionals (aka the LSP Board) has one vacant seat which, according to [statute](#), must be filled by persons who are "... 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."

The appointment is subject to confirmation by the Governor. The term of service is four years. Board meetings occur monthly, except for the months of July and December. [Click here](#) for more detailed information about this volunteer position.

Interested applicants should forward a resume and cover letter to the Board's Acting Executive Director, Millie Garcia-Serrano, via electronic mail at [millie.garcia-serrano@mass.gov](mailto:millie.garcia-serrano@mass.gov), with copy to the general LSP board inbox at [lsp.board@mass.gov](mailto:lsp.board@mass.gov). Please visit <http://www.mass.gov/lsp> for further information about the Board.

### LSPA Feedback to MassDOR on Implementation of Brownfields Tax Credits

The LSPA sent [this letter](#) to the Massachusetts Department of Revenue (DOR) following their request for feedback on the implementation of the Massachusetts Brownfields Tax Credit (BTC) regulations (830 CMR 63.38Q.1) which went into effect just over two years ago.

The LSPA provided comments to MassDOR in February 2021 in an effort to contribute to the clarification and codification of the BTC program. Unfortunately, most of the LSPA members we heard from are disappointed with the new regulations. [The LSPA letter](#) provides more details.

### Insurers Deny Home Heating Oil Cleanups.....Again

Many thanks to [Ryan Kath at NBC News 10 Boston](#) for helping the LSPA spread the word about the importance of proactively requesting insurance coverage for home heating oil spills and leaks. [Here is his most recent story](#) about the financial and emotional nightmare facing a Rutland family. This is just one more example of why the [LSPA is working to get legislation passed](#) to mandate that insurers provide coverage for home heating oil spills and leaks.

### LSPA Events

EPA and MassDEP  
Dewatering and  
Remediation General  
Permit Workshop  
Tighe & Bond  
Westfield, MA  
2.5 DEP Regulatory Credits

Building and  
Presenting Your Case  
for Risk and Remedy  
Using the FoREVER Tool  
GZA GeoEnvironmental,  
Norwood, MA  
6.0 Technical LSP Credits  
(#1468B)

[View Events Calendar](#)

### LSPA Committees

Learn more about how to become involved in an LSPA committee:

[Education](#)

[Emerging Professionals](#)

[Legislative](#)

[Loss Prevention](#)

[Regulations](#)

[Technical Practices](#)

[Western Massachusetts](#)

## Action Alert: Clock is Ticking for LSPA's S. 2830 on Home Heating Oil Insurance

The LSPA's bill **S. 2830**, which would require insurance companies to provide first- and third-party coverage for home heating oil releases, is under consideration by the Massachusetts House Committee on Ways and Means. We are asking for your help in the next two days.

If your state representative is a member of the **House Committee on Ways and Means NOW** is the time to get their attention. The more requests from constituents, the more visibility and support our bill gets. The legislature's formal session ends on July 31, 2022.

We encourage you to write your state representative in the next two days to urge their support of the bill. Check [here](#) to find your state representative. (If you have already written but not heard back from your representative, don't hesitate to re-send your previous email).

Attached [here](#) is a sample email you can send. All representatives' email addresses are on their home page. No need to send paper mail.

If you have experience with a home heating oil release, especially one in which the homeowner did not have insurance or had a tough time getting coverage, please feel free to share this in your letter. Real life examples are most compelling, especially if your client's property is in the district of one of these representatives.

For more information about the bill, please read the LSPA's [recent letter](#) summarizing progress to date, as well as links to media coverage.

Please contact our Executive Director Wendy Rundle at [wrundle@lspa.org](mailto:wrundle@lspa.org) if you have any questions.

Thank you for your support; we will keep LSPA members apprised.

LSPA Legislative Committee Co-Chairs  
Spence Smith, LSP, Jacobs  
Tim Clinton, LSP, Fuss & O'Neill

### LSPA OnDemand Courses

#### MCP Practice Topics for LSPs

Online Course #1748  
1.0 DEP Regulatory Credit

#### MCP REDUA Refresher

Online Course #1730  
1.0 DEP Regulatory Credit and  
1.0 Technical LSP Credit

#### LNAPL Natural Source Zone Depletion

Online Course #1691A  
1.0 Technical LSP Credit

#### Risk Communication and PFAS: Effective Messaging in the Face of Uncertainty

Online Course #1720  
1.0 Technical LSP Credit

» [View OnDemand Courses](#)

### LSPA Committees

LSPA activities and initiatives typically begin at the committee level. LSPA committees are actively involved in all aspects of the association.

Education  
Emerging Professionals  
Legislative  
Loss Prevention  
Regulations  
Technical Practices  
Western Massachusetts



The Official Website of the Executive Office of Energy and Environmental Affairs

## Energy and Environmental Affairs

EEA Home > Agencies > MassDEP > Cleanup of Sites & Spills > Laws & Rules > Homeowner Oil Heating System Upgrade and Insurance Law

### Homeowner Oil Heating System Upgrade and Insurance Law

#### Introduction

This fact sheet contains important information for those who heat their homes with oil. By September 30, 2011, you must upgrade your home heating system equipment to prevent leaks from tanks and pipes that connect to your furnace. By making a relatively small expenditure now, you can prevent a much greater expense in the future.

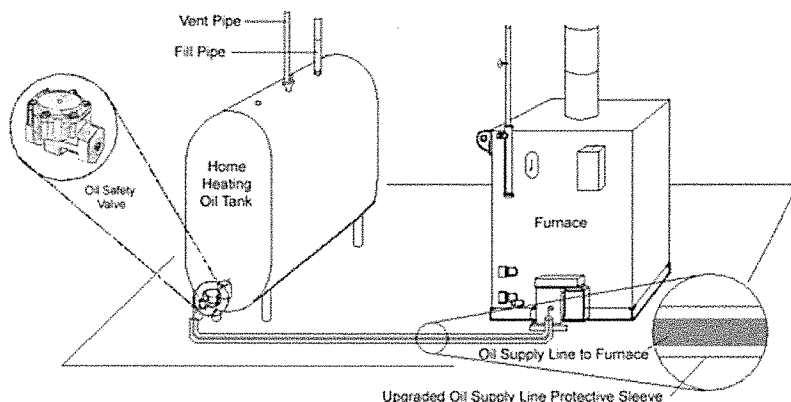
Massachusetts has a new law to address oil leaks from home heating systems (Chapter 453 of the Acts of 2008, as most recently amended in 2010). This law has two major provisions that require:

- the installation of either an oil safety valve or an oil supply line with protective sleeve on systems that do not currently have these devices; and
- insurance companies that write homeowner policies to offer coverage for leaks from heating systems that use oil.

Most homeowner policies do not currently include such coverage, leaving many to pay for costly cleanups out of their own pocket. Although it is mandatory that insurance companies make this coverage available by July 1, 2010 to homeowners whose systems are upgraded, the insurance is an optional purchase.



#### Above-Ground Home Heating Oil System Leak Prevention Upgrades



#### Who must take action?

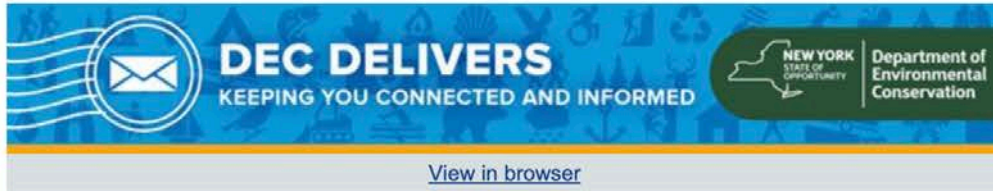
Owners of 1- to 4-unit residences that are heated with oil must already have or install an oil safety valve or an oil supply line with a protective sleeve, as shown in the diagram above. Installation of these devices must be performed by a licensed oil burner technician. Technicians are employed by companies that deliver home heating oil or are self-employed. It is important to note that heating oil systems installed on or after January 1, 1990 most likely are already in compliance because state fire codes implemented these requirements on new installations at that time.

#### Who is exempt?

Homeowners are exempt from taking these leak prevention steps if:

- the oil burner is located above the oil storage tank and the entire oil supply line is connected to and above the top of the tank OR
- an oil safety valve or oil supply line with protective sleeve was installed on or after January 1, 1990, AND
- those changes are in compliance with the oil burning equipment regulations; a copy of the oil burner permit from the local fire department may be used to demonstrate compliance.

#### Why comply?



## DEC Reminds Homeowners and Landlords to Prioritize Home Heating Safety This Fall and Winter

### Property Owners Advised to Put Safety First and Utilize Assistance Program Opportunities

The New York State Department of Environmental Conservation (DEC) today advised homeowners and landlords to put safety first when preparing for home heating needs this fall and winter. DEC reminded property owners to avoid connecting occupied buildings to wells producing natural gas because doing so can be dangerous and potentially deadly. DEC also encouraged property owners who use oil for heat to inspect fuel storage tanks for potential leaks or spills before receiving shipments of fuel oil for the upcoming heating season. In addition, with the expectation of rising supply and delivery costs, DEC urged residents to take steps now to utilize programs designed to save consumers energy and money.

"New Yorkers are encouraged to plan ahead and prepare to ensure a safe and warm home this winter season," **DEC Commissioner Basil Seggos said.** "Property owners using oil for heat should inspect fuel storage tanks for leaks and spills before receiving shipments for the heating season and be extra cautious if connecting to a home-use well. Annual inspections and simple precautions can help prevent leaks and spills and protect people, property, and the environment."

#### Natural Gas Safety

Natural gas produced by a gas or oil well is odorless and difficult or impossible for a person to detect. While the primary component of natural gas is methane, gases like propane and butane may also be present in addition to water, because the gas is raw and untreated. This may result in improper and erratic combustion in appliances. The risk of an explosion due to natural gas build-up in a home is substantially greater if that gas is not provided by a utility.

If a home-use well is connected to a house or other structure:

1. Contact a plumber licensed to work on gas lines and have the fuel source switched to utility natural gas or consider another fuel or heating appliance;
2. Natural gas directly from a well is odorless and colorless, meaning it may build up to explosive levels without detection. Install methane detection alarms in any closed space where methane may accumulate;
3. Commercial gas suppliers always add the odorant mercaptan to natural gas before it is delivered for use. Consider adding mercaptan to natural gas from a home use well so that it can be more easily detected; and
4. Contact DEC if the well is not registered in DEC's database. Owning and operating an oil or gas well comes with regulatory responsibilities aimed at protecting the environment. New York is actively plugging oil and gas wells throughout the state for which there is no registered operator.

For questions and additional information about "home-use wells," contact DEC at (518) 402-8056 or [oilgas@dec.ny.gov](mailto:oilgas@dec.ny.gov). Also, visit DEC's website for [photos and additional details](#).

#### Fuel Oil Safety

DEC also reminds home and property owners to inspect heating fuel oil storage tanks for leaks or spills before ordering and receiving fuel oil.

Annual inspections can prevent leaks and spills and protect property, public health, and the environment. Homeowners are advised to look for the following concerns and contact their fuel oil service provider if they see any of the items from the lists below.



### Fuel Oil Safety

DEC also reminds home and property owners to inspect heating fuel oil storage tanks for leaks or spills before ordering and receiving fuel oil.

Annual inspections can prevent leaks and spills and protect property, public health, and the environment. Homeowners are advised to look for the following concerns and contact their fuel oil service provider if they see any of the items from the lists below.

For above-ground heating fuel oils storage tanks, look for:

1. Bent, rusty, or wobbly tank legs or tank located on an unstable foundation;
2. Signs of rust, weeps, wet spots, or many dents on the tank's surface;
3. Drips or any signs of leaks around the oil filter or valves;
4. Fuel oil lines not covered in a protective casing - even if under concrete;
5. Overhanging eaves where snow and ice could fall onto the tank;
6. Stains on the ground or strong oil odor around the tank;
7. Browning, dying, or loss of vegetation around the tank;
8. Silent overfill whistle while tank is being filled - ask fuel delivery person;
9. Fully or partially blocked tank vent from snow, ice, or insect nests;
10. Signs of spills around fill pipe or vent pipe;
11. Improperly sized vent pipes - ask fuel delivery person; and
12. Cracked, stuck, or frozen fuel level gauges or signs of fuel around them.

For underground heating fuel oils storage tanks, look for:

1. Water in the tank - ask fuel delivery person to check;
2. Oil or oil sheen in your basement sump or French drain;
3. Silent overfill whistle while tank is being filled - ask fuel delivery person;
4. Fully or partially blocked tank vent from snow, ice, or insect nests;
5. Signs of spills around fill pipe or vent pipe;
6. Well water has strange tastes or smells;
7. Complaints from neighbors of fuel oil smells; and
8. Using more than normal amount of fuel.

DEC offers tips on environmentally friendly home heating safety and a checklist covering many issues for home heating oil tanks in this month's [Living the Green Life](#) webpage, offering both prevention and response guidance about fuel spills. Fuel oil spills or leaks should be reported to the DEC Spills Hotline at 1-800-457-7362. For more information on home heating oil tank stewardship, visit the [Underground Heating Oil Tanks: A Homeowner's Guide](#) webpage on DEC's website.

### Help for Homeowners

New Yorkers can take the following steps in their homes to help protect against higher energy costs, including:

- apply for the [Home Energy Assistance Program](#), with applications starting on Nov. 1;
- be [more energy efficient to lower energy usage](#);
- receive a [customized list of energy-related assistance](#) in the State;
- [sign up for Community Solar](#);
- get a [free energy audit](#);
- join a [Clean Heating and Cooling Campaign](#);
- [know your rights and protections](#) regarding utility services; and
- consider bill payment options, among other steps.



Photo Courtesy of NYSDEC: Oil spill from home heating tank.



## **Previous Complaint References**

**4 Separate Dismisses by LSP Board**

**Teresa & James Coston  
9 Stow Road, Mattapan  
Letter to Legislators & City Counsel 2019**



COMMONWEALTH OF MASSACHUSETTS

**Board of Registration  
of  
Hazardous Waste Site Cleanup Professionals**

ONE WINTER STREET, 3<sup>rd</sup> Floor  
BOSTON, MA 02108  
PHONE: (617) 556-1091 FAX: (617) 292-5872

April 29, 2013

YEAR INCORRECT

2014

Mr. Dominic J. Galluzzo  
86 Candia Street  
Weymouth, MA 02189

Re: LSP Board Complaint No.13C-03

Dear Mr. Galluzzo:

On February 26, 2014; at a meeting of the Board of Registration of Hazardous Waste site Cleanup Professionals ("Board"), the Board decided to appoint a screening team to review the information you submitted with your complaint against Mr. Richard LaMothe and Mr. Scott Masse, and report back to the Board. As you know, you alleged in your complaint that on the day your heating oil tank was removed from the ground at your home, Mr. LaMothe reported a release of oil to Massachusetts Department of Environmental Protection ("MassDEP") without your authorization, and he proposed a scope of remedial work that was unduly large and took advantage of you as an individual homeowner. You alleged that Mr. Masse, acting as an insurance claim adjuster, negligently failed to recognize that the oil release was insignificant and that he restricted the remedial work at your property. You also alleged claims against Matthew Shilale, who is not a Licensed Site Professional ("LSP"), for his actions as a Claim Consultant for your insurer. Your complaint states that you engaged a third LSP, Mr. Polsinello, who tested the excavated soil and informed you that the release need not have been reported to MassDEP. I was assigned to the screening team with two Board members.

The screening team reviewed your complaint and all the reference documents that you submitted with your complaint, the responses by Mr. LaMothe and Mr. Masse, and other documents in the MassDEP file regarding your property at 86 Candia Street.

At a meeting held on April 17, 2014, the screening team recommended to the Board that your complaint should be dismissed without investigation by a Complaint Review Team, because, based on a review of all of the documentation provided by yourself, Mr. LaMothe, and Mr. Masse, the screening team concluded that neither Mr. LaMothe or Mr. Masse violated the MCP or Board regulations. The screening team reported that they did not believe that Mr. LaMothe erred in concluding that the release must be reported to MassDEP, because when the tank was removed, five measurements of organic vapors exceeded 100 parts per million by volume, a concentration that must be reported within 72 hours to MassDEP, pursuant to the cleanup regulations. The


Mr. Dominic J. Galluzzo  
April 29, 2014  
Page 2 of 2

screening team reported that documents they reviewed indicated that you authorized Mr. LaMothe to report the release to MassDEP, because his proposal for response actions stated that you authorized him to report the release to MassDEP, and your signature on that proposal was dated four days after the release was discovered. The documents also showed that Mr. LaMothe communicated frequently with you by email, and at your request he provided a financing letter that included potential unknown costs, to help you obtain insurance coverage or financing. Mr. LaMothe's proposed remedial action would have removed all contamination from your property, and the financing letter stated that the "unknown" costs were unlikely to be incurred, thus his proposal did not appear predatory. The screening team reported that Mr. Masse did not perform professional services because he only reviewed Mr. LaMothe's proposed costs for response actions. The Board does not have jurisdiction over Mr. Shilale, because he is not an LSP. The Board members in attendance voted unanimously to dismiss the complaint.

You have a right pursuant to 309 CMR 7.06(3) of the Board's regulations to petition the Board to reconsider the dismissal of your complaint for good cause shown.

If you have any questions, please feel free to contact me at 617-348-4032.

Sincerely,

  
Lynn Peterson Read  
Assistant General Counsel

cc: Mr. Richard LaMothe  
Mr. Scott Masse



COMMONWEALTH OF MASSACHUSETTS  
**Board of Registration  
of  
Hazardous Waste Site Cleanup Professionals**  
ONE WINTER STREET, 3rd Floor  
BOSTON, MA 02108  
PHONE: (617) 556-1091

December 3, 2018

William Scafidi  
16 Waldo Street  
Randolph, MA 02368

Re: LSP Board Complaint No. 18C-03

Dear Mr. Scafidi:

On August 20, 2018, the staff of the Board of Registration of Hazardous Waste Site Cleanup Professionals ("the Board") received your written complaint against Anthony Andronico (LSP No. 6105). It was docketed as Complaint No. 18C-03. Your Complaint pertains to Mr. Andronico's role as LSP-of-Record for a home heating oil release at 114 Sheridan Street, Brockton, MA, RTN 4-26604 ("the site"). Pursuant to its regulations, the Board reviewed your Complaint to determine whether it alleged sufficient facts warranting an investigation of Mr. Andronico's professional conduct. After a full review of your Complaint, as well as a letter from Mr. Andronico responding to the Complaint, the Board reached the conclusion that there is insufficient evidence of a violation of its Rules of Professional Conduct, and on October 17, 2018, it voted to dismiss the Complaint. The bases of this decision are detailed below.

Your Complaint states that Mr. Andronico was not present for, or did not personally conduct, any of the sampling activities performed at the site. You assert that, because of this, he failed to exercise independent professional judgement, failed to serve as the principle decision-maker and did not manage, supervise, perform, or periodically observe the work at the site.

The Board's regulations (309 CMR 4.03(2)(a)) state:

*A licensed site professional shall render a waste site cleanup activity only when he or she has either:*

*(a) in the case of an opinion related to an assessment:*

*1. managed, supervised or actually performed such assessment, or*

2. *periodically reviewed and evaluated the performance by others of such assessment;*

The Board's regulations do not require an LSP to personally conduct all sampling activities. The regulations allow for others to conduct such activities, provided that the LSP periodically reviews and evaluates the work. The Board was unable to find sufficient evidence in your Complaint demonstrating Mr. Andronico did not periodically review and evaluate the work of Benjamin Dwelly, who conducted the sampling and assessment activities at the site. Mr. Andronico's absence from the site during the sampling and assessment activities does not necessarily constitute a lack of review and evaluation required by the regulations.

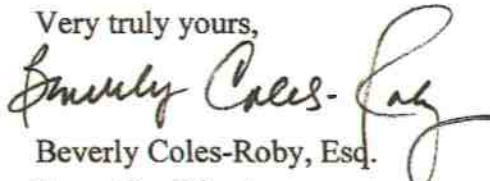
Your Complaint also alleges that a conflict of interest exists because Mr. Andronico is employed by the company who conducted the remediation work, Cyn Environmental Services ("Cyn"). Employment of this nature does not constitute a conflict of interest under the Board's regulations. In fact, it is common practice for environmental remediation firms to employ LSPs.

You also indicate you are dissatisfied with the work performed by Benjamin Dwelly, who is employed by Cyn, but is not an LSP. Please note, the Board has no jurisdiction over a non-LSP unless that individual acts as, advertises as, holds himself or herself out to be, or represents himself or herself as being an LSP. The Board found no evidence Mr. Dwelly held himself out to be an LSP, therefore, the Board has no jurisdiction over him or the work he conducted.

As a result of finding insufficient evidence of a violation, on October 17, 2018 the Board voted to dismiss the Complaint. Our office will close its file on this matter. In accordance with the Board's regulations, a copy of this letter will be forwarded to Mr. Andronico, informing him that this Complaint was dismissed.

Finally, pursuant to 309 CMR 7.06(3), you are herein notified that you have the right to request reconsideration of the Board's decision to dismiss the Complaint for good cause shown within thirty (30) days of receipt of this letter. If you have any questions about the closure of this Complaint, please contact me at 617-292-5985 or via email at [beverly.robby@state.ma.us](mailto:beverly.robby@state.ma.us).

Very truly yours,



Beverly Coles-Roby, Esq.  
Executive Director

## ***Appendix A – Photographic Information***

**9.) May 5, 2017.** View of the excavation soils, no visual or olfactory indications of oil staining or odors. Note: Soils observed consisted of dense clay / glacial till material.



**10.) May 5, 2017.** View of the excavation soils, no visual or olfactory indications of oil staining or odors. Note: Soils observed consisted of dense clay / glacial till material. Joseph Polsinello / Principal IPC, inspecting Excavation.



## ***Appendix A – Photographic Information***

**7.) May 5, 2017.** Interior view of the southeastern side of the residential house, right of the excavation within the building. Note: No visual or olfactory indications of oil.



**8.) May 5, 2017.** Interior view of the southeastern side of the residential house, left of the excavation within the building. Note: No visual or olfactory indications of oil.





# KETHRO & THOMAS, P.C.

ATTORNEYS AND COUNSELORS AT LAW

382 WASHINGTON STREET  
NORWELL, MASSACHUSETTS 02061  
781-659-4450 • FAX 781-659-4459

DONALD G. KETHRO, ESQ.  
dk@kethrothomas.com

GARY D. THOMAS, ESQ.  
gt@kethrothomas.com

August 28, 2017

Rich Mueda, Account Manager  
Cyn Environmental Services  
100 Tosca Drive  
Stoughton, MA 02072

RE: 114 Sheridan Street, Brockton, MA

Dear Mr. Mueda,

Please be advised that the undersigned represents the interests of William Scafidi, who is the owner of the above-referenced property. My client reports to me that on or about April 4, 2017, your firm was involved in remediation activities relating to the potential release of #2 fuel at Mr. Scafidi's Brockton property. My client was informed by Cyn that an estimated 50 gallons of fuel had escaped onto a carpet and poured concrete floor in the former garage of the premises. Mr. Scafidi has hired consultants to review and evaluate the scope of work that was undertaken by Cyn Environmental Services. Through those experts and discussions with the Board of Health, serious questions as to the methods, decisions, and lack of explanation he was offered with respect to the manner and costs associated with the services provided by Cyn Environmental Services have arisen.

Mr. Scafidi has been billed a significant sum for work which may not have been necessary. It is my understanding that Cyn Environmental Services, as a remediation contractor and not a Licensed Site Professional, explained the process to Mr. Scafidi. No LSP was hired to represent purely my client's interest in this matter and to determine the best method for evaluation and remediation of the site. Cyn hired Anthony Andronico, an LSP, who did not conduct the excavation assessment, but merely reviewed that work which was undertaken, without LSP consultation, by a Cyn employee.

Subsequent investigation by a Licensed Site Professional indicated that the majority of the oil was absorbed by the carpet. The premise that the oil penetrated the concrete was assumed rather than confirmed by an LSP and has since been established as inaccurate.

**KETHRO & THOMAS, P.C.**

Rich Mueda, Account Manager  
Cyn Environmental Services  
August 28, 2017  
Page -2-

The result has been that my client's poured concrete floor has been destroyed based upon what is now found to be a clearly erroneous opinion that oil penetrated the concrete requiring the excavation and removal of some 8 tons of subsurface material. The removal and disposal of this material, it is respectfully submitted, resulted in thousands of dollars of unnecessary and excess cost borne by Mr. Scafidi. It has been brought to my attention that the decisions surrounding the work which was undertaken was not made by an LSP and that the scope of the work was unnecessary.

For the foregoing reasons, please accept this letter as formal notification of my client's election to look further into the total costs associated with the services rendered by Cyn Environmental Services, which include corrective action now required to repair his property as a result of unnecessary work; as well as, complete assessment of the course of action which should have been taken had an LSP been contacted at the outset as required by statute.

As the amount of damages are properly determined, I will provide you with further information as to my client's demands in this regard. Should you or your counsel have any questions regarding any matter outlined in this letter, I encourage you to contact me directly.

Sincerely,



Donald G. Kethro

DGK/mdc

cc: William Scafidi  
Anthony Andronico

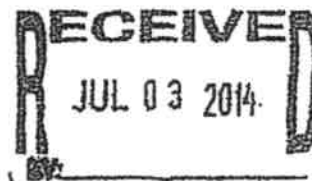


COMMONWEALTH OF MASSACHUSETTS  
**THE GENERAL COURT**

STATE HOUSE, BOSTON 02133-1053



The Commonwealth of Massachusetts  
**MASSACHUSETTS SENATE**  
OFFICE OF SENATOR MIKE RUSH



**JOHN T. REGAN**  
*Chief of Staff*

June 23, 2014

STATE HOUSE, ROOM 504  
BOSTON, MA 02133  
WWW.MASENATE.GOV

TEL: (617) 722-1348  
FAX: (617) 722-1071  
JOHN.REGAN@MASENATE.GOV

Board of Registration of Hazardous Waste Site Cleanup Professionals  
Executive Office of Energy and Environmental Affairs  
One Winter St., 3<sup>rd</sup> Floor  
Boston, MA 02018

To Whom It May Concern:

We are writing in regards to the Board of Registration of Hazardous Waste Site Cleanup Professionals powers and duties set forth in M.G.L. c.21A §§ 19-19J and promulgated through regulations 309 CMR 1.00-9.00. More specifically, we would like to address the conflict of interest regulations promulgated through 309 CMR 4.04.

We respectfully request a full explanation of 309 CMR 4.04 relative to the testing and delivery of soil derived from construction sites. Our current understanding of the provision is that any Licensed Site Professional (LSP) shall not be affiliated with any company that transports tested soil to a different location for storage.

We recognize the need for land in the Commonwealth to accept soils covered under these regulations. Because of this demand, the transportation to and acceptance of construction soil at designated locations can be a lucrative endeavor for individuals involved in the business.

Possession of a financial interest in both the testing and transporting of material, however, presents an opportunity for fraud and abuse of the system. We are optimistic that the Board agrees with our position that there may be a conflict of interest when parties who derive a financial interest from the transportation or acceptance of construction soil are simultaneously responsible for assessing their own compliance with state regulation.

For the safety of our residents and for the protection of the environment, our hope is that the existing regulations do not permit this conflict to take place. If otherwise, we urge the Board to immediately amend 309 CMR 1.00-9.00 to reflect the potential for abuse in scenarios where the transporters of soils are also responsible for ensuring their own compliance with the law.

Thank you for your attention to this matter. We look forward to hearing from you.

Very truly yours,



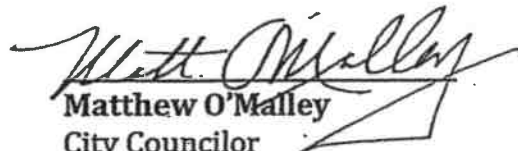
**Mike Rush**  
State Senator  
Norfolk & Suffolk District



**Edward Coppinger**  
State Representative  
10<sup>th</sup> Suffolk District



**Angelo Scaccia**  
State Representative  
14<sup>th</sup> Suffolk District



**Matthew O'Malley**  
City Councilor  
District 6, City of Boston

cc:/ David Cash, DEP Commissioner  
Maeve Vallely Bartlett, Secretary, Exec. Office of Energy & Env't Affairs



COMMONWEALTH OF MASSACHUSETTS  
**Board of Registration  
of  
Hazardous Waste Site Cleanup Professionals**  
ONE WINTER STREET, 3rd Floor  
BOSTON, MA 02108  
PHONE: (617) 556-1091 FAX: (617) 292-5872

September 27, 2017

Joseph Polsinello  
Inland Professional Corporation  
51 Mill Street, Unit 7  
Hanover, MA 02339

Re: **LSP Board Complaint No. 17C-01**

Dear Mr. Polsinello:

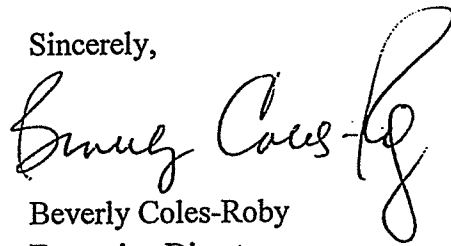
On March 21, 2017, at a meeting of the Board of Registration of Hazardous Waste Site Cleanup Professionals ("the Board"), the Board voted to appoint a Screening Team, consisting of two Board members and a staff attorney, to review the information you submitted with your complaint against Richard J. Wozmak (LSP No. 5463) and Commonwealth Tank Inc. ("CommTank"). The Screening Team also reviewed documents submitted by Teresa and James Coston, as well as a letter responding to the complaint from Mr. Wozmak.

At a meeting held on August 16, 2017, the Screening Team recommended to the Board that your complaint against Mr. Wozmak be dismissed, and a warning be issued to him. The Screening Team concluded that Mr. Wozmak's actions did not constitute a violation of the Board's regulations. A copy of the dismissal letter issued to Mr. Wozmak, which describes how the Screening Team reached its conclusion, is attached for your reference. With respect to your complaint against CommTank, the Screening Team focused its investigation on whether the Project Manager, Luis Diaz, represented himself as being an LSP. The Board has no jurisdiction over a non-LSP unless that individual acts as, advertises as, holds himself or herself out to be, or represents himself or herself as being an LSP. The Screening Team found no evidence that Mr. Diaz held himself out to be an LSP, and therefore the Board has no jurisdiction over him or the work he conducted. The Screening Team recommended the complaint against CommTank be dismissed for a lack of jurisdiction.

For the reasons detailed above, the Board voted unanimously to dismiss the complaint. You have a right, pursuant to 309 CMR 7.06(3) of the Board's regulations, to petition the Board to reconsider the dismissal of your complaint for good cause shown.

If you have any questions about this matter please contact me at 617-292-5985 or [beverly.robby@state.ma.us](mailto:beverly.robby@state.ma.us).

Sincerely,

A handwritten signature in cursive script that reads "Beverly Coles-Roby". The signature is written in black ink and is positioned to the left of the typed name.

Beverly Coles-Roby  
Executive Director



COMMONWEALTH OF MASSACHUSETTS  
**Board of Registration  
of  
Hazardous Waste Site Cleanup Professionals**  
ONE WINTER STREET, 3rd Floor  
BOSTON, MA 02108  
PHONE: (617) 556-1091 FAX: (617) 292-5872

September 26, 2017

**PERSONAL AND CONFIDENTIAL**

Richard J. Wozmak, LSP  
EndPoint LLC  
25 Buttrick Road, Unit D-2  
Londonderry, NH 03053

**Re: Issuance of Warning and Notice of Dismissal for LSP Board Complaint No. 17C-01**

Dear Mr. Wozmak:

At a meeting of the Board of Registration of Hazardous Waste Site Cleanup Professionals ("the Board"), held on August 16, 2017, the Screening Team presented its findings and recommendations to the Board regarding the Complaints filed against you by Teresa and James Coston (home owners) and Joseph Polsinello, LSP. For reasons discussed below, the Board voted to issue you, Richard J. Wozmak, Licensed Site Professional No. 5463, a warning and to dismiss the Complaints.

As you know, both you and Commonwealth Tank Inc. ("CommTank") were named in the Complaints, which stemmed from your involvement, as LSP-of-Record, with the disposal site located at 9 Stow Road in Mattapan, Massachusetts (RTN 3-31809). The Complaints detailed numerous allegations involving the removal of an underground home heating oil tank and associated response actions. After careful consideration of the allegations, the Screening Team determined that most were beyond the scope of the Board's jurisdiction, or were related to questionable assessment activities conducted by the tank removal contractor CommTank. The allegations made against CommTank were investigated separately from your actions as LSP-of-Record. As it pertained to you, the Screening Team focused its investigation on the adequacy of the December 5, 2013 Immediate Response Action ("IRA") Plan and, specifically, your LSP Opinion and reliance on the information and data collected by CommTank.

In accordance with 309 CMR 4.03(2)(a), “[a] licensed site professional shall render a waste site cleanup activity opinion related to assessment only when he or she has either (1) managed, supervised or actually performed such assessment, or (2) periodically reviewed and evaluated the performance by others of such assessment.” The Screening Team acknowledged that the work conducted by CommTank was completed prior to your involvement with the site. Therefore, you were unable to manage or supervise any of CommTank’s assessment activities as they were being conducted. The Screening Team next considered the amount of time between the date you were authorized by the Costons to begin work (November 25, 2013), and the date the IRA Plan was due to MassDEP (December 10, 2013), and determined there was sufficient time for you to review and evaluate CommTank’s assessment data and make a determination on its adequacy; however, inadequate time existed for you to collect and analyze additional samples for inclusion in the IRA Plan. The Screening Team noted inaccuracies and/or deficiencies in CommTank’s assessment data and documentation, including headspace screening results, monitoring well construction, and groundwater elevation data. However, laboratory analysis of soil samples collected from the tank grave on the date of tank removal, and soil borings installed in the vicinity of the tank subsequent to removal, indicated the presence of petroleum contamination above the applicable Method 1 Standards within the former tank area. The Screening Team determined that your IRA Plan proposal to excavate soil, dewater the excavation, and conduct additional assessment activities including soil vapor monitoring underneath the residence was reasonable based on this analytical data. Therefore, the Screening Team found that, even though there were obvious errors and questions surrounding the information CommTank provided to you, the detection of petroleum contamination in the site soils substantiated the response actions that were proposed in your IRA Plan.

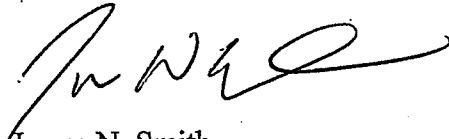
For the reasons stated above, the Board hereby warns you to be mindful of your Professional Responsibility obligations under 309 CMR 4.03 as they relate to adequate review and evaluation of assessment activities performed by others for which you are submitting an LSP Opinion, as well as explanation of any concerns you may have with material facts, data, or other information which has been collected by others. While this warning does not constitute disciplinary action and will not be noted on your disciplinary record, it is intended by the Board to prompt you to improve your practices when rendering professional services in the future.

Similarly, because the issuance of a warning is not a disciplinary action, it is not subject to appeal. However, the facts underlying this warning may be used by the Board to demonstrate a pattern of noncompliance in any subsequent formal disciplinary proceeding that leads to a license sanction and/or issuance of an administrative penalty. Your right to challenge those facts in any subsequent action is not diminished by the issuance of this warning.

If you have any questions about this matter please contact the Board’s Executive Director, Beverly Coles-Roby at 617-292-5985 or [beverly.robby@state.ma.us](mailto:beverly.robby@state.ma.us).



Sincerely,

A handwritten signature in black ink, appearing to read 'J. N. Smith', written in a cursive style.

James N. Smith

Co-chairperson

Professional Conduct Committee

cc: Teresa and James Coston  
Joseph Polsinello  
Adam Rogoff, Esq.



The Official Website of the Attorney General of Massachusetts

## Attorney General Maura Healey

[Home](#) > [News and Updates](#) > [Press Releases](#) > [2010](#) > [President of Company Pleads Guilty to...](#)MARTHA COAKLEY  
ATTORNEY GENERAL

For Immediate Release - July 06, 2010

### Media Contact

Jill Butterworth (AGO)  
(617) 727-2543  
Joe Ferson (MassDEP)  
(617) 654-6523

## President of an Oil Tank Removal and Installation Company Pleads Guilty to Misrepresenting Environmental Contamination as Part of Scheme to Overcharge Clients for Unnecessary Remediation Work

**WOBURN** - The president of an oil tank removal company has pled guilty to charges that he misrepresented the extent of environmental contamination conditions in order to charge clients for extensive, unnecessary environmental remediation work, Attorney General Martha Coakley and the Massachusetts Department of Environmental Protection (MassDEP) announced today.

Kevin Hoag, age 43, of Reading, pled guilty late last week to attempted larceny over \$250 by false pretense (2 counts). Middlesex Superior Court Judge Bruce Henry sentenced Hoag to three years of probation, with detailed conditions governing the future operation of his company, Commonwealth Tank Incorporated, of Wakefield; 360 hours of community service; and the payment of \$60,000 in restitution.

"The defendants misrepresented the extent of environmental work required by law as a way to justify extensive work and unnecessarily overcharge clients," AG Coakley said. "With this plea, the defendants have taken responsibility for their actions and will pay restitution to the victims in this case."

"Our environmental cleanup regulations should not be used by companies like Commonwealth Tank to force unsuspecting homeowners to perform work that is, in many cases, unnecessary and costly," said MassDEP Commissioner Laurie Burt. "Through this settlement, a neutral third party will review the numerous consumer complaints against the company and determine if a fair cost was charged for the work performed."

The charges of attempted larceny against Hoag, President of Commonwealth Tank, stem from an investigation that found the company provided victims with preliminary cost estimates and then completed additional unnecessary work that was misrepresented to clients as necessary, which resulted in final costs that were thousands of dollars over the initial estimates.

The company, Commonwealth Tank, Inc., was also charged with knowingly deceiving clients and misrepresenting compliance with environmental laws in order to justify excessive work and expenses in November 2009 as part of this investigation. Under an agreement entered in Middlesex Superior Court today, Commonwealth Tank was put on pretrial probation and will be held to the same conditions as Hoag. These conditions include a requirement that the company not be able to charge for work that is performed unless the customer has first signed a written estimate covering the work, will not conduct soil excavation without first receiving the results of soil testing by trained employees, and will advise customers of the need to retain a licensed site professional when more complex environmental conditions are discovered. The company has also agreed to submit certain disputed customer claims to resolution through an agreed-upon mediation process. These and numerous other probation conditions will hold the company to a high standard going forward.

According to authorities, Hoag, representing Commonwealth Tank, took on a series of jobs and knowingly deceived clients about the situation of their properties and misrepresented that the work was required by environmental laws in order to justify excessive work and expenses. In most cases, the victims grew suspicious of the excessive work and hired licensed site professionals (LSP) and other environmental consultants to review the sites. Further investigation showed that in certain cases unnecessary and excessive work was being justified under false pretenses that the work was environmentally and lawfully necessary.

This case was investigated by the Massachusetts Environmental Crimes Strike Force (ECSF), an interagency unit that includes prosecutors from the Attorney General's Office, Environmental Police Officers assigned to the Attorney General's Office, and investigators and engineers from the Massachusetts Department of Environmental Protection (MassDEP). The ECSF is overseen by Attorney General Martha Coakley, MassDEP Commissioner Laurie Burt and Energy and Environmental Affairs Secretary Ian A. Bowles. The ECSF investigates and prosecutes crimes that harm the state's water, air, land or that pose a significant threat to human health, safety, welfare or the environment.

The case is being prosecuted by Assistant Attorneys General Wendoly Ortiz Langlois and Andrew Rainer, with assistance

from Jeanne Argento of the Massachusetts Department of Environmental Protection and Massachusetts State Police assigned to the Attorney General's Office.

Members of the public who have information regarding a potential environmental crime are encouraged to contact the MassDEP Environmental Strike Force Hotline at 1-888-VIOLATE (846-5283) or the Attorney General's Office at 617-727-2200.

#####

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January 20, 2015

Massachusetts State Senator Mike Rush, State House Boston  
Norfolk & Suffolk District

Massachusetts State Representative Edward Coppinger, State House Boston  
10<sup>th</sup> Suffolk District

Massachusetts State Representative Angelo Scaccia, State House Boston  
14<sup>th</sup> Suffolk District

City of Boston, City Councilor Matthew O'Malley, District 6, City of Boston, MA

**RE: Licensed Site Professional (LSP) Services - Oil Tank Removal Concerns  
Teresa & James Coston Residence 9 Stow Road, Mattapan, MA**

Dear Senator Rush, Representative Coppinger, Representative Scaccia and City Councilor O'Malley:

My name is Teresa Lawrence-Coston and my husband James and I closed on our new home on September 11, 2013. Before closing we were informed that there was an underground oil tank on the property and I guess by law you cannot have an unused oil tank on your property so the owner who sold to us through the mortgage company agreed to a hold back agreement to be responsible for the removal of the tank. This agreement stated that the owner who sold to us stated she would be responsible for the removal of the oil heating tank and any contamination found.

I'm bringing this your attention relative to your June 23, 2014 letter to the Board of Registration of Hazardous Waste Site Cleanup Professionals of your concern of an opportunity for fraud and abuse of the Licensed Site Professional (LSP) Process.

Fortunately Attorney William Rosa (508 823 4567) introduced Joseph Polsinello, (518 463 7800) an LSP and Owner of Inland Professional Corporation who is assisting me at no cost or obligation. Through Attorney Rosa and Joe Polsinello I was able to obtain the legal representation of Attorney Richard Chip Nylan (617 348 4500 ext. 3). I have also been made aware that there have been numerous instances of homeowners being taken advantage of by tank removal and LSP's as indicated in the Attorney General news letter circa 2009, the very same tank removal company that worked at our new home. Dominic Galluzzo, (781 337 8908) retired and with COPD also experienced an LSP and remediation firm identifying his home as extensively contaminated with estimates of \$ 100,00.00's of thousands of dollars in cost plus unknowns.

After the oil tank was removed by CommTank, they tested the soil and informed me that the soil was contaminated and way above the legal limit it should be, so with my permission they reported the results to DEP. CommTank conducted soil borings and testing and said I now needed an LSP. Please keep in mind this is my first house and all this is all new to me. Also the previous owner Rose Carty who sold me the house was responsible and hired CommTank in the first place.

January 20, 2015

RE: Licensed Site Professional (LSP) Services - Oil Tank Removal Concerns

Teresa & James Coston Residence 9 Stow Road, Mattapan, MA

Page 2 of 2

Once DEP got involved based on the CommTank notification they were telling me that I had all these dead-lines to meet or I would be fined and that I had to hire an LSP. The lead person at CommTank knew this LSP that worked for End Point and brought him to meet me at my house.

Considering Rose Carty was responsible, Richard J. Wozmak, the LSP and Principal of the End Point had me believing they were looking out for my best interest, but after further investigation and assistance from Joseph Polsinello of Inland Professional Corporation it appears the results that CommTank came out with were not accurate and End Point just used CommTank's information to further report to DEP.

Reportedly CommTank was paid \$ 10,000.00 from Rose Carty. Subsequently both CommTank and End Point have proposed additional tens of thousands of dollars in costs. My husband James was told excavation in and around and under our house might have to be performed.

Right now End Point is taking me to Small Claims Court February 2, 2015 9:00AM in Dorchester Court BMC 510 Washington Street for the non-payment of invoices in the amount of \$ 4,897.00 which I feel I should not be responsible for if they were submitting inaccurate information to DEP when in fact CommTank had done the work. I have also received a notice of non-compliance from the MA DEP with a demand payment of \$ 4,915.00.

My husband James and I thank you for your time and consideration.



Teresa Lawrence-Coston

9 Stow Road

Mattapan, MA 02121

617 792 2592 cell

617 696 0471 home

CC: MA DEP Commissioner Martin Suuberg, One Winter Street, Boston, MA 02108

MA DEP Assistant Commissioner BWSC Benjamin J. Ericson,

One Winter Street, Boston, MA 02108

Attorney Richard Chip Nysten

Attorney William Rosa

Joseph V. Polsinello, Inland Professional Corporation

Dominic Galluzzo, 86 Candia Street, Weymouth, MA

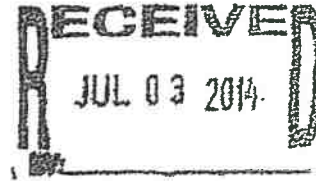


COMMONWEALTH OF MASSACHUSETTS  
**THE GENERAL COURT**

STATE HOUSE, BOSTON 02133-1053



The Commonwealth of Massachusetts  
**MASSACHUSETTS SENATE**  
OFFICE OF SENATOR MIKE RUSH



**JOHN T. REGAN**  
*Chief of Staff*

June 23, 2014

STATE HOUSE, ROOM 504  
BOSTON, MA 02133  
WWW.MASENATE.GOV

TEL: (617) 722-1348  
FAX: (617) 722-1071  
JOHN.REGAN@MASENATE.GOV

Board of Registration of Hazardous Waste Site Cleanup Professionals  
Executive Office of Energy and Environmental Affairs  
One Winter St., 3<sup>rd</sup> Floor  
Boston, MA 02018

To Whom It May Concern:

We are writing in regards to the Board of Registration of Hazardous Waste Site Cleanup Professionals powers and duties set forth in M.G.L. c.21A §§ 19-19J and promulgated through regulations 309 CMR 1.00-9.00. More specifically, we would like to address the conflict of interest regulations promulgated through 309 CMR 4.04.

We respectfully request a full explanation of 309 CMR 4.04 relative to the testing and delivery of soil derived from construction sites. **Our current understanding of the provision is that any Licensed Site Professional (LSP) shall not be affiliated with any company that transports tested soil to a different location for storage.**

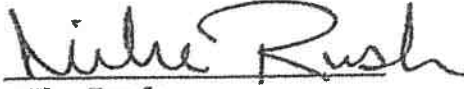
We recognize the need for land in the Commonwealth to accept soils covered under these regulations. Because of this demand, the transportation to and acceptance of construction soil at designated locations can be a lucrative endeavor for individuals involved in the business.

**Possession of a financial interest in both the testing and transporting of material, however, presents an opportunity for fraud and abuse of the system. We are optimistic that the Board agrees with our position that there may be a conflict of interest when parties who derive a financial interest from the transportation or acceptance of construction soil are simultaneously responsible for assessing their own compliance with state regulation.**

For the safety of our residents and for the protection of the environment, our hope is that the existing regulations do not permit this conflict to take place. If otherwise, we urge the Board to immediately amend 309 CMR 1.00-9.00 to reflect the potential for abuse in scenarios where the transporters of soils are also responsible for ensuring their own compliance with the law.

Thank you for your attention to this matter. We look forward to hearing from you.

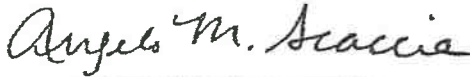
Very truly yours,



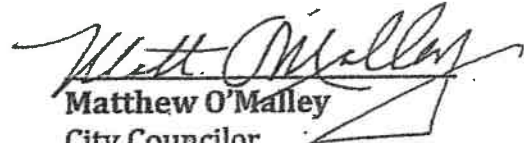
**Mike Rush**  
State Senator  
Norfolk & Suffolk District



**Edward Coppinger**  
State Representative  
10<sup>th</sup> Suffolk District



**Angelo Scaccia**  
State Representative  
14<sup>th</sup> Suffolk District



**Matthew O'Malley**  
City Councilor  
District 6, City of Boston

cc:/ David Cash, DEP Commissioner

Maeve Vallely Bartlett, Secretary, Exec. Office of Energy & Env't Affairs

309 CMR: BOARD OF REGISTRATION OF  
HAZARDOUS WASTE SITE CLEANUP PROFESSIONALS

- (b) omit a fact necessary to make the description, when considered as a whole, not materially misleading; or
- (c) make a statement that in the Board's opinion is likely to create an unjustified expectation about results the LSP can achieve, or state or imply that the LSP can achieve results by means that violate the Massachusetts Contingency Plan, the Rules of Professional Conduct contained in 309 CMR 4.00, or other law.

(17) A licensed site professional who becomes obligated to make any of the notifications required by 309 CMR 4.03 shall make the required notification even if he or she is discharged by the client before doing so.

4: Conflict of Interest

(1) A licensed site professional shall not accept compensation, financial or otherwise, for his or her professional services pertaining to a site from more than one person having significant conflicting or adverse interests unless the circumstances are fully disclosed to, and agreed to by, all clients engaging him or her with regard to that site.

(2) In the event a licensed site professional has, develops or acquires any business association, direct or indirect financial interest, or other circumstance which is substantial enough to create an impression of influencing his or her judgment in connection with his or her performance of professional services pertaining to any site, the licensed site professional shall fully disclose in writing to his or her client the nature of the business association, financial interest or circumstance. For the purposes of 309 CMR 4.04(2) receipt of salary or employee benefits by an LSP employed by his or her client on a full time basis is deemed not to be substantial.

(a) If the client or employer objects to such business association, financial interest or circumstance, the licensed site professional shall offer to terminate, at his or her discretion, either the business association, financial interest or circumstance, or his or her engagement with regard to the site or sites.

(b) If a licensed site professional believes that his or her business association, financial interest or circumstance renders him or her incapable of discharging his or her professional obligations under 309 CMR 4.00 in connection with his or her performance of professional services pertaining to a site, the licensed site professional shall terminate his or her engagement with regard to that site.

(3) A licensed site professional shall not solicit or accept financial or other valuable consideration from material or equipment suppliers in return for specifying or endorsing their products.

5: Accepting Compensation

An LSP shall not let his or her ownership interest, compensation, or continued employment affect his or her Professional Services to the extent that said Professional Services do not meet the standards set forth in 309 CMR 4.00 and 310 CMR 40.0000.





## INLAND PROFESSIONAL CORPORATION

Environmental, Construction & Business Management

Environmental Business  
and Construction  
Planning and Strategy

Real Estate Acquisition  
Joint Venture Development  
Marketing and Finance

Environmental Site  
Assessments (21E)  
Licensed Site Professional  
(LSP) Services

CB Building Material,  
Lead Paint / Asbestos  
Assessment / Consulting  
Advisory Services

Expert Witness / Legal  
Advisory & Support  
Services to Law Firms &  
Attorneys

Title V, Septic Inspection,  
Wastewater Treatment  
Design and Installation

Contaminated Property  
Brownfield Acquisition  
Marketing & Finance

Above and Underground  
Storage Tank (AST/UST)  
Inspection, Certification,  
Removal, Replacement  
Management Services

Emergency and Site  
Remediation, Treatment  
Decontamination

Construction & Project  
Management/Plan and  
Specification/Preparation  
Estimating & Cost Control

Wetlands Delineation,  
Application Filing &  
Representation

Survey & Land Use  
Planning & Permitting

Health & Safety,  
Regulatory Compliance  
Planning & Training

Principal:

Joseph V. Polsinello

Saturday October 18, 2014 Via Email To: John.Regan@MASenate.gov

John T. Regan  
Chief of Staff  
Office of Senator Mike Rush  
Commonwealth of Massachusetts  
State House, Room 504  
Boston, MA 02133

Dear Chief of Staff Regan:

It was my distinct honor and privilege meeting you with my associate Sarah V. McKnight, at the recent MA DEP "Soil Management" meeting this past Friday October 17, 2014.

I was pleasantly surprised in meeting you. Since unexpectedly receiving the attached June 23, 2014 two (2) page letter signed by State Senator Mike Rush and signatory colleagues, obtained from a homeowner going before the Board of Registration of Hazardous Waste Site Cleanup Professionals; the basis of your letter has become a priority of mine.

In reference to my qualifications, experience with reference, I have been involved in the "environmental" business and industry since the late 1960's to include being a licensed Massachusetts hazardous waste transporter / emergency spills cleanup contractor 1979-1988 until Inland Pollution Control, Inc. sale to *Waste Management*. I was, and continue to be one of the first LSP's since the inception in 1993.

I live and am active in my Town of Hanover, MA over the past thirty five (35) years, having served on the DPW / Water Commission, North River Commission and the River's Protection Act.

My past participation included assisting the U.S. EPA Investigators, New York State Attorney General's Office, and Massachusetts Officials' relating to the illegal dumping of hazardous waste; State Auditors Office regarding the past state cleanup contracts, and MA State Inspector Generals Office in the interest of consumer protection, fraud and illegal filling of wetlands.

My primary interest is the safety and protection of the environment followed by consumer protection. My businesses require a fair and level playing field and elimination of waste and unfair practices.

The reference of "***an opportunity for fraud and abuse of the system***", that concern is completely correct in my knowledgeable and experienced opinion. I am currently assisting homeowner's unfairly impacted by the system, **surprisingly** experiencing reactionary opposition from the very agencies charged with oversight. I had actively participated against a

Saturday October 18, 2014  
John T. Regan, Chief of Staff  
Office of Senator Mike Rush  
Commonwealth of Massachusetts  
Page 2 of 2



proposal in my Town of Hanover as presented by our Town Manager to "privatize the transfer station". I had successfully and painfully defended myself, having to become a plaintiff against arbitrary and capricious retaliatory actions a local conservation commission agent initiated against me. That fraud and abuse of the Agent for the Commission was compounded by the very members who were violating wetlands protection on their own properties; the "system" allowing that occurrence.

In all of the above examples, there was no element of safety & health, protection of the environment whatsoever, in fact precisely the opposite. That very Agent and Conservation Commission was allowing the illegal filling of wetlands and resource areas for favored applicants.

The cost to taxpayers, individuals and legitimate business at times, the basis of actions as assessed by the "experts" is grossly exaggerated, with the results exasperating, especially to unsuspecting and unprepared homeowners, many retired, severely decimated with their primary assets and lives destroyed, falling prey to the "system" expected to protect them.

For a number of years I have been observing, experiencing, and recently investigating a venue for fair and productive discussion and application to the basis of what I consider of mutual interests.

You have identified a serious issue that compromises the very goals and objectives of the programs, *while* considering a fair, cost effective regulatory compliance venues, protective of health, safety and the environment at beneficial and acceptable costs to consumers and citizens of Massachusetts.


As coordinated and defined by my business, legal associates and colleagues, I would look forward to a meeting with you and Senator Rush and signatory colleagues to the June 23, 2014 letter in the very near future.

Thank you for your time and opportunity to introduce myself.

Sincerely,

Joseph V. Polsinello  
President / LSP

Dominic Galluzzo, Homeowner 86 Candia Street, Weymouth, MA  
Sarah V. McKnight, Geologist / Project Management, IPC

<b>NOTICE OF NEXT EVENT</b>	DOCKET NUMBER <b>1407SC001735</b>	<b>Trial Court of Massachusetts BMC Department</b> 
CASE NAME <b>Richard Wozmak of EndPoint,LLC v. Teresa Lawrence-Coston</b>		
ATTORNEY (OR PRO SE PARTY) TO WHOM THIS COPY OF NOTICE IS ISSUED <b>Teresa Lawrence-Coston 9 Stow Rd. Mattapan, MA 02126</b>	COURT NAME & ADDRESS <b>BMC Dorchester 510 Washington Street Dorchester, MA 02124-</b>	
NEXT COURT EVENT <b>Magistrate Hearing  02/02/2015 at 09:00 AM Small Claims Magistrate Session</b>	JUDGE OR MAGISTRATE (if already assigned)	
<b>^^^ COUNSEL FOR ALL PARTIES (OR PRO SE PARTY)   ^^^ MUST APPEAR ON THE DATE &amp; TIME SHOWN ABOVE</b>		
<p><b>TO THE PARTIES TO THIS CASE:</b></p> <p>The nature, date and time of the next scheduled event concerning this case is indicated above.</p> <p><b>You are required to be present at this event.</b></p> <p>If you have good reason to request the Court to reschedule this event for another date, such request must be made by motion in accordance with the applicable court rule. Please note that the granting of a continuance is not automatic even when all the parties agree.</p> <p><b>Further Orders of the Court.</b></p>		
DATE ISSUED <b>December 9, 2014</b>	CLERK-MAGISTRATE <b>Anthony S Owens</b>	

STATEMENT OF SMALL CLAIM AND NOTICE OF TRIAL

For Court Use Only

DOCKET NO.

1407SC1735

Trial Court of Massachusetts Small Claims Session



PART 1	<input checked="" type="checkbox"/> BOSTON MUNICIPAL COURT	<input type="checkbox"/> DISTRICT COURT	<input type="checkbox"/> HOUSING COURT
	Dorchester Division 07	Division	Division

PART 2	PLAINTIFF'S NAME, ADDRESS, ZIP CODE AND PHONE	PLAINTIFF'S ATTORNEY (if any)
	Richard Wozniak & EndPoint, LLC 25 Buttrick Rd Unit D2 Londonderry, NH 03053 PHONE NO: (603) 965 3810	Name: Address: PHONE NO: SSO NO:

PART 3	DEFENDANT'S NAME, ADDRESS, ZIP CODE AND PHONE	ADDITIONAL DEFENDANT (if any)
	Teresa Lawrence Boston 9 Stow Rd Mattapan, MA 02126 PHONE NO:	Name: Address: PHONE NO:

**PLAINTIFF'S CLAIM.** The defendant owes \$ 4,897.00 plus \$ 100 court costs for the following reasons:  
Give the date of the event that is the basis of your claim.

During the period of November 2013 through February 2014, EndPoint (Plaintiff) performed environmental consulting services for Teresa Lawrence Boston (Defendant) in accordance with a proposal and contract signed by the defendant. EndPoint, LLC has not been paid for the services, even after repeated attempts by EndPoint to secure payment.

SIGNATURE OF PLAINTIFF x RAW DATE 12-1-14

**MEDIATION:** Mediation of this claim may be available prior to trial if both parties agree to discuss the matter with a mediator, who will assist the parties in trying to resolve the dispute on mutually agreed to terms. The plaintiff must notify the court if he or she desires mediation; the defendant may consent to mediation on the trial date.

The plaintiff is willing to attempt to settle this claim through court mediation.

**MILITARY AFFIDAVIT:** The plaintiff states under the pains and penalties of perjury that the:

above defendant(s) is (are) not serving in the military and at present live(s) or work(s) at the above address.

above defendant(s) is (are) serving in the military

SIGNATURE OF PLAINTIFF x RAW DATE 12-1-14

NOTICE OF TRIAL	<p><b>NOTICE TO DEFENDANT:</b> You are being sued in Small Claims Court by the above named plaintiff. You are directed to appear for trial of this claim on the date and time noted to the right.</p> <p>If you wish to settle this claim before the trial date, you should contact the plaintiff or the plaintiff's attorney.</p> <p>SEE ADDITIONAL INSTRUCTIONS ON THE BACK OF THIS FORM</p>	<p>NAME AND ADDRESS OF COURT</p> <hr/> <p>DATE AND TIME OF TRIAL</p> <p><u>2-2-15</u> AT <u>9:00 AM</u></p> <p>DATE TIME</p>	<p><b>COURT USE ONLY</b></p> <p>BOTH THE PLAINTIFF AND THE DEFENDANT MUST APPEAR AT THIS COURT ON THE DATE AND TIME SPECIFIED</p>
	<p>FIRST JUSTICE</p> <p>CLERK-MAGISTRATE OR DESIGNEE</p>	<p>ROOM NO.</p>	

INSTRUCTIONS FOR FILING A SMALL CLAIM — You must complete Parts 1-6 of this form. See instructions on reverse.

ESTADO DE MASSACHUSETTS TRIBUNAL DE JUSTICIA DE PEQUEÑAS RECLAMACIONES

10000000000051601818EQESCAI03011500004915000000491500VC00007598836

**INVOICE**

Remit to:  
 DEPT. OF ENVIRON. PROTECTION  
 COMMONWEALTH MASTER LOCKBOX  
 P.O. Box 3982  
 BOSTON MA 02241-3982

Customer Name		Page 1
TERESA LAWRENCE-COSTON		
Customer Number	Invoice Number	Notice Date
VC0000759883	INTF68494RT3X0031809	01-01-15
E-Payment ID	AR Dept BPRC	Due Date
0051601818	EOE:SCAI	03-01-15
	Amount Due	Amount Enclosed
	\$4,915.00	

Bill to:  
 TERESA LAWRENCE-COSTON  
 9 STOW RD  
 MATTAPAN MA 02126-2625

Payment Method: Check  Money Order

Please check if address has changed. Write correct address on back of stub and attach with payment

Please write Invoice No on front of check or Money Order. DO NOT MAIL CASH

Please detach the above stub and return with your remittance payable to COMMONWEALTH OF MASSACHUSETTS



**Commonwealth of Massachusetts**  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION  
**ORIGINAL**

Page : 1

Customer Name		Invoice Number	Notice Date	Due Date
TERESA LAWRENCE-COSTON		INTF68494RT3X0031809	01-01-15	03-01-15
Customer Number		VC0000759883		

**Invoice Charges**

Ref Line No.	DESCRIPTION	Invoice Date	No. of Units	Unit of Measure	Unit Price	Charges/Credit
1	Year Ending 10/11/2014 TIER ID Fee	12-31-14				\$4,915.00

Credit Payments Applied		\$0.00
Total Amount Due By	03-01-15	\$4,915.00

THIS INVOICE RELATES TO RTN 3-0031809. RESIDENCE, 9 STOW ROAD, MATTAPAN, MA 02126

DEP RECORDS INDICATE THAT THE ABOVE REFERENCED ANNUAL COMPLIANCE ASSURANCE FEE(S) ARE APPLICABLE TO THIS SITE FOR THE BILLABLE YEARS INDICATED ABOVE. PAYMENT IS NOT AN ADMISSION OF LIABILITY PURSUANT TO C.21E SECTION 5. TO ENSURE PROPER CREDITING, PLEASE INCLUDE YOUR FEDERAL TAX IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER ON THE VERIFICATION FORM INCLUDED WITH THE ORIGINAL INVOICE. PLEASE CONTACT DEP FOR INFORMATION OR ASSISTANCE.

**Instructions**

THE ENCLOSED BILLING RIGHTS ARE PART OF THIS 1ST INVOICE ISSUED TO YOU PURSUANT TO M.G.L.C.21E, SEC 3B & 310 CMR 40.0000. YOU MUST EITHER REMIT FULL PAYMENT OR REQUEST A REVIEW BY THE DUE DATE PURSUANT TO 310 CMR 4.03 (8) AND THE ENCLOSED BILLING RIGHTS. NON-PAYMENT WILL RESULT IN INTEREST, LATE CHARGES, INTERCEPT OF STATE PAYMENTS OR TAX REFUNDS, AND REFERRAL TO DEBT COLLECTION UNDER C.7A, C.62D AND 815 CMR 9.00.

**CONTACT: Bureau of Waste Site Cleanup (617) 292-5545**



The Official Website of the Attorney General of Massachusetts

## Attorney General Martha Coakley

Home > News and Updates > Press Releases > 2009 > Environmental Contractor and Principals...

MARTHA COAKLEY  
ATTORNEY GENERAL

For Immediate Release - November 20, 2009

### Media Contact

Jill Butterworth (AGO)  
(617) 727-2543  
Joe Ferson (MassDEP)  
(617) 654-6523

## Environmental Contractor and Principals Indicted for Larceny and False and Misleading Advertisements

**WOBURN - Commonwealth Tank Incorporated (CommTank), a Wakefield oil tank installation and removal company, and its president and treasurer were indicted yesterday on charges they knowingly deceived clients and misrepresented compliance with environmental laws in order to justify excessive work and expenses. The indictments allege the defendants devised a scheme to obtain unnecessary environmental remediation work after removing oil tanks by falsely claiming to their clients that the work was required to be in compliance with Department of Environment of Protection (MassDEP) standards and other legal requirements.** CommTank was indicted by a Middlesex Grand Jury on charges of Larceny by False Pretenses of a Person over 60 (2 counts), Larceny by False Pretenses (1 count), Attempted Larceny by False Pretenses (4 Counts), and False and Misleading Advertisement (2 counts). Company president Kevin Hoag, age 42, of Reading, was charged with Larceny by False Pretenses (1 count), Attempted Larceny by False Pretenses (2 counts), and False and Misleading Advertisements (2 counts). Company treasurer Christina Hoag, age 42, of Reading, was charged with Offering to Practice Engineering Without being Registered (2 counts) and Untrue and Misleading Advertisements (2 counts).

The indictments stem from an investigation by the Massachusetts Environmental Crimes Strike Force (ECSF) into whether CommTank and Kevin Hoag used false pretenses to charge clients for excessive remediation work. The Strike Force received information that, in many instances, CommTank initially provided victims with preliminary cost estimates and then completed unnecessary work or steps that were misrepresented to the clients, which resulted in final costs that were tens of thousands of dollars over the initial estimate. The charges of False and Misleading Advertisements against all three defendants and the charges of offering to practice engineering without being registered against Christine Hoag stem from Ms. Hoag's identification on the company website as "Senior Engineer/DEP Liaison." The indictments allege that Hoag is not licensed as an engineer under Massachusetts law, nor does she hold an "Engineering in Training" certificate.

The investigation found that in many cases, the victims grew suspicious of CommTank's work and hired licensed site professionals (LSP) and other environmental consultants to review the sites. Further investigation showed that in many cases unnecessary and excessive work was being justified under false pretenses that the work was required by law.

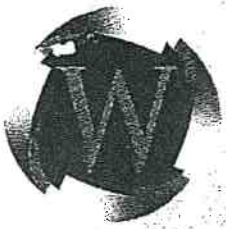
Comm Tank, an oil tank removal and installation company, that also offers emergency spill response and site remediation services, has previously been the subject of administrative enforcement actions by MassDEP for failure to report a secondary fuel release at a remediation site, wetlands violations and violations of hazardous materials, waste management, and asbestos regulations.

This case was investigated by the Massachusetts Environmental Crimes Strike Force (ECSF), an interagency unit that includes prosecutors from the Attorney General's Office, Environmental Police Officers assigned to the Attorney General's Office, and investigators and engineers from the Massachusetts Department of Environmental Protection (MassDEP). The ECSF is overseen by Attorney General Martha Coakley, MassDEP Commissioner Laurie Burt and Energy and Environmental Affairs Secretary Ian A. Bowles. The ECSF investigates and prosecutes crimes that harm the state's water, air, land or that pose a significant threat to human health, safety, welfare or the environment.

The case is being prosecuted by Assistant Attorney General Andrew Rainer, Chief of the Strike Force, and Assistant Attorney General Wendoly Langlois, with assistance from State Police assigned to the Attorney General's Office. Jeanne Argento, Senior Counsel, developed the case for MassDEP and worked closely with prosecutors from the Attorney General's Office.

Members of the public who have information regarding a potential environmental crime are encouraged to contact the MassDEP Environmental Strike Force Hotline at 1-888-VIOLATE (846-5283) or the Attorney General's Office at 617-727-2200.

#####



WYNN & WYNN  
ATTORNEYS

Dianna M. Gallagher  
Jeni A. Landers  
Jeffrey L. Madison  
James M. McCarthy  
Kevin P. McRoy\*\*  
Robert F. Mills  
Charles D. Mulcahy  
John J. O'Day, Jr.  
Kevin J. O'Malley  
Anthony T. Panebianco\*\*\*  
Raymond C. Pelote\*  
Thomas E. Pontes  
Michael J. Princi  
Ryan E. Prophet  
Rebecca C. Richardson  
Janice E. Robbins  
William Rosa\*  
Dina M. Swanson  
Andrew A. Toldo  
Paul F. Wynn  
Thomas J. Wynn

*Of Counsel*

Hon. Robert L. Steadman (Ret.)  
Hon. James F. McGillen, II (Ret.)  
Keough & Sweeney  
William E. O'Keefe  
Edward F. O'Brien, Jr.

**Admitted:**

\*Massachusetts and Rhode Island  
\*\*Massachusetts and New Hampshire  
\*\*\*Massachusetts and New York

July 10, 2014

Ms. Teresa Lawrence-Coston  
49 Rosseter Street  
Dorchester, MA 02121

RE: 9 Stow Road, Boston, MA  
W&W File #33808.3

Dear Teresa:

I am in receipt of your most recent correspondence relative to your homeowner's insurance. I have also received correspondence from Mid-Island Mortgage Corp. in which they indicate that they believe any issue relating to hazardous materials is your responsibility. They have declined to engage Inland Professional Corporation on this matter.

Given these new developments, it would be my suggestion to you that you consider retaining counsel to assist you. At the time the loan was closed, it was anticipated by all parties that the tank would be removed, that there would be no leak of oil, and that the \$5,000.00 which was held in escrow would be used to pay for the tank removal. Unfortunately, the company which conducted the removal of the tank and the Licensed Site Professional (LSP) who was involved in the procedure, made a determination that there was a spill of oil from the tank and, therefore, a simple removal was not sufficient to satisfy Massachusetts DEP.

Given the unusual nature of that finding, it was my suggestion to you that you retain outside LSP assistance to review what had been done previously, and to make a determination on whether they believed it to be reasonable that a spill had occurred. Joe Polsinello of Inland Professional Corporation, after some preliminary work, indicated that he did not believe that the results were consistent with the other information which was available through the reports which were filed; and, therefore, believed that you should test this finding since if the findings which were made by the original LSP were correct, it could result in substantial cost of clean up.

It is correct that in addition to the \$5,000.00 escrow which was held, the Seller indicated that she would be responsible for any cost exceeding that amount. However, in order to collect that money from her, it may be necessary to

Ms. Teresa Lawrence-Coston  
Page Two

commence suit once a true cost has been determined and that situation would involve the necessity for you to employ counsel. The \$5,000.00 that I am holding could be used to retain counsel to review the situation. If you request, I will pay the outstanding invoices relative to the removal from the escrow; however, the issue relating as to whether or not there was a spill would not have been resolved. The matter may resurface and cause issues for you in the future in particular if you were to refinance or if you were to sell the premises.

As regards your homeowner's insurance, the fact of the matter is that they are denying you coverage based upon the incorrect assumption that an underground tank remains on the premises. This is not the case. The tank has been removed. I am not sure whether or not they have been informed of that fact.

This entire matter has escalated dramatically from what was anticipated at the time the parties made the decision to close without the tank having been removed. At this point in time, in order to protect your rights, I do believe you should seek counsel to give you advise as to how to proceed. I, as closing attorney for the lender, would not be able to represent you; however, I have done some research and it has been recommended to me that you may want to consider Attorney Richard ("Chip") A. Nysten of Lynch DeSimone Nysten, LLP, located on Post Office Square in Boston. I have enclosed information concerning Attorney Nysten, including his contact information.

The \$5,000.00 remains in escrow. We will disperse it as per your instructions; however, I strongly recommend that you seek an outside opinion as to your best course of action to insure that this matter is dealt with appropriately. And, if necessary, to assist you in insuring that the Seller is burdened with any additional cost and expense over and above the monies being held in escrow.

Should you have any questions, please do not hesitate to contact my office.

Very truly yours,  
WYNN & WYNN, P.C.



William Rosa

WR:djg  
Enclosure





## Waste Site & Reportable Releases Information

### Related links

[Supporting Documents](#)  
[LSP Lookup](#)

Site Number <sup>?</sup>  
3-0031809

Site Name <sup>?</sup>  
RESIDENCE

Compliance Status <sup>?</sup>  
TIER1D

Compliance Date <sup>?</sup>  
10/20/2014

Phase <sup>?</sup>

RAO Class <sup>?</sup>

Location Type <sup>?</sup>  
RESIDENTIAL

Source <sup>?</sup>  
UST,  
TANK

Category <sup>?</sup>  
72 HR

AUL Info <sup>?</sup>

Address <sup>?</sup>  
9 STOW ROAD

Town <sup>?</sup>  
BOSTON-MATTAPAN

Zip Code <sup>?</sup>  
02126

Official Notification Date <sup>?</sup>  
10/11/2013

Initial Status Date <sup>?</sup>  
10/11/2014

### Response Action Information

RESPONSE ACTION TYPE	STATUS	SUBMITTAL DATE	RAO CLASS	ACTIVITY & USE LIMITATION DATE
IRA Immediate Response Action	TSAUD Level I - Technical Screen Audit	02/19/2014		
RNF Release Notification Form Received	REPORT Reportable Release or Threat of Release	12/05/2013		
REL Potential Release or Threat of Release	REPORT Reportable Release or Threat of	10/11/2013		

### Chemicals

CHEMICAL	AMOUNT	UNITS
#2 FUEL OIL	628.000	PPMV

### LSPs

LSP	LSP NUMBER
Wozmak, Richard J	<b>5463</b>

## Response Action Information

RESPONSE ACTION TYPE	STATUS	SUBMITTAL DATE	RAO CLASS	ACTIVITY & USE LIMITATION DATE
IRA Immediate Response Action	TSAUD Level I - Technical Screen Audit	02/19/2014		
RNF Release Notification Form Received	REPORT Reportable Release or Threat of Release	12/05/2013		
REL Potential Release or Threat of Release	REPORT Reportable Release or Threat of Release	10/11/2013		

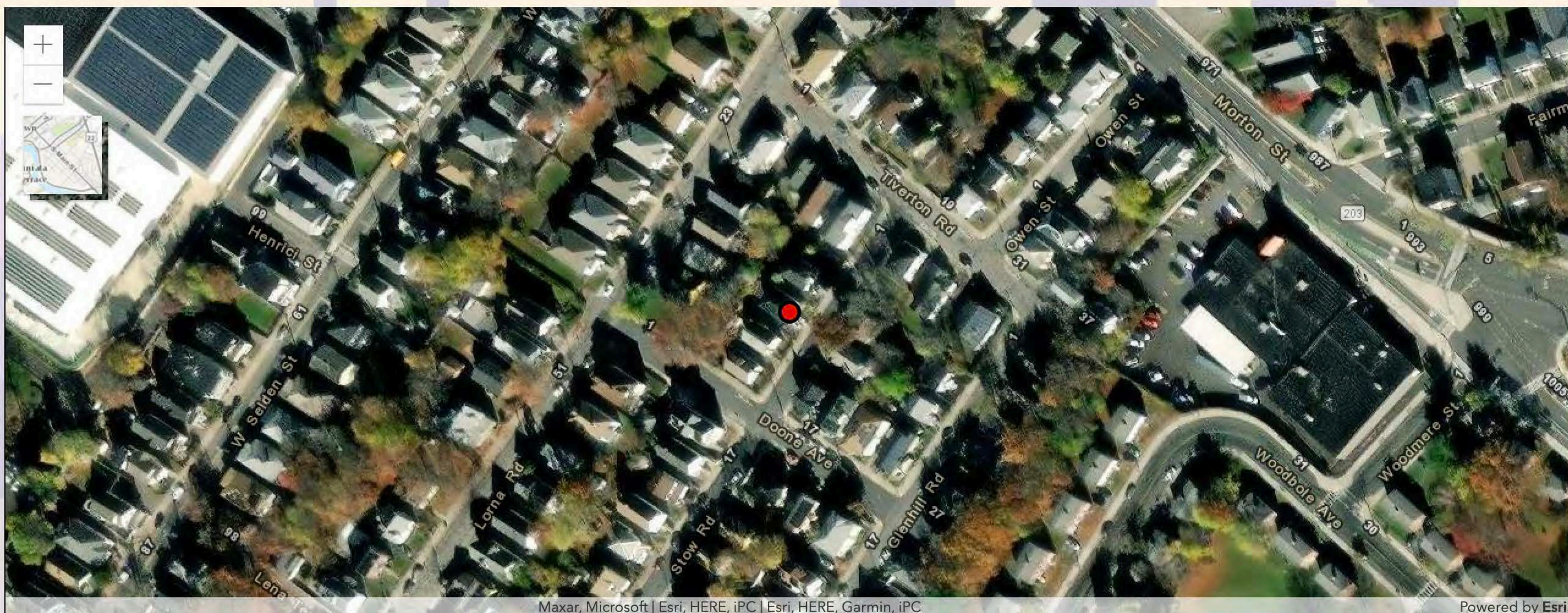
## Chemicals

CHEMICAL	AMOUNT	UNITS
#2 FUEL OIL	628.000	PPMV

## LSPs

LSP	LSP NUMBER
Wozmak, Richard J	<b>5463</b>

## Location



Maxar, Microsoft | Esri, HERE, iPC | Esri, HERE, Garmin, iPC

Powered by Esri

● Open Sites   ● Closed Sites   ● Closed Sites with Use Limitation

← PREVIOUS

🔍 SEARCH AGAIN



# Energy & Environmental Affairs Data Portal

Electronically Submitted Files

Scanned Files

RTN	Form Name	Submit Date	Attachments	Notes	ID
3-0031809	<b>BWSC101 Release Log Form- 592</b>	10/15/2013 1:08:57 PM	138 kb <b>NOTICE OF RESPONSIBILITY.pdf</b>		603149
3-0031809	<b>BWSC103 Release Notification &amp; Retraction Form- 279</b>	12/5/2013 6:38:49 PM			615465
3-0031809	<b>BWSC105 Immediate Response Action Transmittal Form- 596</b>	12/5/2013 6:39:20 PM	2 mb <b>IRA Plan Complete - 12 05 13.pdf</b>		615478
3-0031809	<b>BWSC105 Immediate Response Action Transmittal Form- 596</b>	2/18/2014 3:05:51 PM	1 mb <b>IRA Stat 2-14-14.pdf</b>		631003
3-0031809	<b>BWSC126 Miscellaneous Document Transmittal Form- 570</b>	11/21/2014 1:49:35 PM	53 kb <b>LSP Resignation Letter 11-21-14.pdf</b>		703679
3-0031809	<b>BWSC102 Release Amendment Form- 541</b>	3/30/2022 2:38:40 PM	1 mb <b>Mattapan_Oil Investigation Followup_10_26_15.pdf</b>		1359659
3-0031809	<b>BWSC102 Release Amendment Form- 541</b>	3/30/2022 2:41:32 PM	1 mb <b>Mattapan_Oil Investigation Final Report.pdf</b>		1359664
3-0031809	<b>BWSC102 Release Amendment Form- 541</b>	3/30/2022 2:43:37 PM	5 mb <b>IPC Plans.pdf</b>		1359666
3-0031809	<b>BWSC102 Release Amendment Form- 541</b>	3/30/2022 2:58:23 PM	4 mb <b>Misc file items.pdf</b>		1359669



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

DEVAL L. PATRICK  
Governor

RICHARD K. SULLIVAN JR.  
Secretary

KENNETH L. KIMMELL  
Commissioner

**October 25, 2013**

**URGENT LEGAL MATTER: PROMPT ACTION NECESSARY**

Teresa Lawrence-Coston  
9 Stow Road  
Mattapan, MA 02126

**RE: Mattapan  
9 Stow Road  
RTN 3-31809**

Attention: Teresa Lawrence-Coston

**NOTICE OF RESPONSIBILITY; MGL c. 21E &  
310 CMR 40.0000**

Dear Ms. Lawrence-Coston:

On October 11, 2013, at 1:56 pm, the **Massachusetts Department of Environmental Protection** (MassDEP) received oral notification of a release/threat of release of oil/hazardous material at the subject location, which requires one or more response actions. Based on this information, MassDEP has reason to believe that the subject property or portion(s) thereof is a disposal site as defined in the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E and the Massachusetts Contingency Plan (MCP), 310 CMR 40.0000. M.G.L. c.21E and the MCP govern the assessment and cleanup of disposal sites.

The purpose of this notice is to inform you of your legal responsibilities under state law for assessing and/or remediating the subject release. For purposes of this notice, the terms and phrases used herein shall have the meaning ascribed to them by the MCP unless the text clearly indicates otherwise.

### **STATUTORY LIABILITIES**

MassDEP also has reason to believe that you (as used in this letter "you" refers to **Teresa Lawrence-Coston**) are a Potentially Responsible Party (PRP) with liability under M.G.L. c. 21E, Section 5, for response action costs. Section 5 makes the following parties liable to the Commonwealth of Massachusetts: current owners or operators of a site from or at which there is or has been a release/threat of release of oil or hazardous material; any person who owned or operated a site at the time hazardous material was stored or disposed of; any person who arranged for the transport, disposal, storage or treatment of hazardous material to or at a site; any person who transported hazardous material to a transport, disposal, storage or treatment site from which there is or has been a release/threat of release of such material; and any person who otherwise caused or is legally responsible for a release/threat of release of oil or hazardous material at a site.

This liability is "strict" meaning that it is not based on fault but solely on your status as owner, operator, generator, transporter or disposer. It is also "joint and several", meaning that you may be liable for all response action costs incurred at the site, regardless of the existence of any other liable parties.

The MCP requires responsible parties to take necessary response actions at properties where there is or has been a release or threat of release of oil and/or hazardous material. If you do not take the necessary response actions, or fail to perform them in an appropriate and timely manner, MassDEP is authorized by M.G.L. c. 21E to have the work performed by its contractors. By taking such actions, you can avoid liability for response action costs incurred by MassDEP and its contractors in performing these actions, and any sanctions, which may be imposed, for failure to perform response actions under the MCP.

You may be liable for up to three (3) times all response action costs incurred by MassDEP. Response action costs include, without limitation, the cost of direct hours spent by MassDEP employees arranging for response actions or overseeing work performed by persons other than MassDEP or its contractors, expenses incurred by MassDEP in support of those direct hours, and payments to MassDEP's contractors. (For more detail on cost liability, see 310 CMR 40.1200.)

MassDEP may also assess interest on costs incurred at the rate of twelve percent (12%), compounded annually. To secure payment of this debt, the Commonwealth may place liens on all of your property in the Commonwealth. To recover the debt, the Commonwealth may foreclose on these liens or the Attorney General may bring legal action against you.

In addition to your liability for up to three (3) times all response action costs incurred by MassDEP, you may also be liable to the Commonwealth for damages to natural resources caused by the release. Civil and criminal liability may also be imposed under M.G.L. c. 21E, § 11, and civil administrative penalties may be imposed under M.G.L. c. 21A, § 16 for each violation of M.G.L. c. 21E, the MCP, or any order, permit or approval issued hereunder.

### **NECESSARY RESPONSE ACTIONS**

The subject site shall not be deemed to have all the necessary and required response actions taken unless and until all substantial hazards presented by the site have been eliminated and a level of No Significant Risk exists or has been achieved in compliance with M.G.L. c. 21E and the MCP.

In addition, the MCP requires persons undertaking response actions at disposal sites to perform Immediate Response Actions (IRAs) in response to "sudden releases", Imminent Hazards and Substantial Release Migration. Such persons must continue to evaluate the need for IRAs and notify MassDEP immediately if such a need exists.

**MassDEP has determined that an IRA is necessary to respond to a release of oil and/or hazardous material at the subject site.**

**You are authorized to conduct only the specific response actions for which you received oral approval from MassDEP at the time oral notification was provided to MassDEP of the subject release. All additional Immediate Response Actions require MassDEP approval in accordance with 310 CMR 40.0420.**

**MassDEP reminds you that IRAs must include site assessment activities necessary to evaluate potential Imminent Hazard (IH), Substantial Release Migration (SRM), and Critical Exposure Pathway (CEP) conditions. Additional Immediate Response Actions will be required in the event an IH, SRM, or CEP condition is observed.**

You must employ or engage a Licensed Site Professional (LSP) to manage, supervise or actually perform the necessary response actions at the subject site. In addition, the MCP requires persons undertaking response actions at a disposal site to submit to MassDEP a Response Action Outcome Statement (RAO) prepared by an LSP in accordance with 310 CMR 40.1000 upon determining that a level of No Significant Risk already exists or has been achieved at a disposal site or portion thereof. [You may obtain a list of the names and addresses of these licensed professionals from the Board of Registration of Hazardous Waste Site Cleanup Professionals at (617) 556-1091.]

There are several other submittals required by the MCP which are related to release notification and/or response actions that may be conducted at the subject site in addition to an RAO, that, unless otherwise specified by MassDEP, must be provided to MassDEP within specific regulatory timeframes. The submittals are as follows:

- (1) If information is obtained after making an oral or written notification to indicate that the release or threat of release didn't occur, failed to meet the reporting criteria at 310 CMR 40.0311 through 40.0315, or is exempt from notification pursuant to 310 CMR 40.0317, a Notification Retraction may be submitted within 60 days of initial notification pursuant to 310 CMR 40.0335; otherwise,

- (2) If one has not been submitted, a Release Notification Form (RNF) [**copy attached**] must be submitted to MassDEP pursuant to section 310 CMR 40.0333 within 60 calendar days of the initial date of oral notification to MassDEP of a release pursuant to 310 CMR 40.0300 or from the date MassDEP issues a Notice of Responsibility (NOR), whichever occurs earlier;
- (3) Unless an RAO or Downgradient Property Status Submittal is provided to MassDEP earlier, an Immediate Response Action (IRA) Plan prepared in accordance with 310 CMR 40.0420, or an IRA Completion Statement (310 CMR 40.0427) must be submitted to MassDEP within 60 calendar days of the initial date of oral notification to MassDEP of a release pursuant to 310 CMR 40.0300 or from the date MassDEP issues an NOR, whichever occurs earlier; and
- (4) Unless an RAO or Downgradient Property Status Submittal is provided to MassDEP earlier, a completed Tier Classification Submittal pursuant to 310 CMR 40.0510, and, if appropriate, a completed Tier I Permit Application pursuant to 310 CMR 40.0700, must be submitted to MassDEP within one year of the initial date of oral notification to MassDEP of a release pursuant to 310 CMR 40.0300 or from the date MassDEP issues an NOR, whichever occurs earlier.
- (5) Pursuant to the MassDEP's "Timely Action Schedule and Fee Provisions", 310 CMR 4.00, a fee of \$1,470 must be included with an RAO statement that is submitted to MassDEP more than 120 calendar days after the initial date of oral notification to MassDEP of a release pursuant to 310 CMR 40.0300 or after the date MassDEP issues an NOR, whichever occurs earlier, and before Tier Classification. A fee is not required for an RAO submitted to MassDEP within 120 days of the date of oral notification to MassDEP, or from the date MassDEP issues an NOR, whichever date occurs earlier, or after Tier Classification.

It is important to note that you must dispose of any Remediation Waste generated at the subject location in accordance with 310 CMR 40.0030 including, without limitation, contaminated soil and/or debris. Any Bill of Lading accompanying such waste must bear the seal and signature of an LSP or, if the response action is performed under the direct supervision of MassDEP, the signature of an authorized representative of MassDEP.

MassDEP encourages parties with liabilities under M.G.L. c. 21E to take prompt action in response to releases and threats of release of oil and/or hazardous material. By taking prompt action, you may significantly lower your assessment and cleanup costs and avoid the imposition of, or reduce the amount of, certain permit and annual compliance fees for response actions payable under 310 CMR 4.00.

**Teresa Lawrence-Coston**  
**Notice of Responsibility**  
**Page -5-**

If you have any questions relative to this notice, you should contact the undersigned at the letterhead address or (978) 694-3386. All future communications regarding this release must reference the Release Tracking Number (RTN) **3-31809** contained in the subject block of this letter.

Sincerely,

The Massachusetts Department of Environmental Protection is providing this final document copy to you electronically. A signed copy of the original document is on file at the DEP's Northeast Region records office located in Wilmington, Massachusetts.

Ida Babroudi  
Environmental Engineer  
Bureau of Waste Site Cleanup

cc: Public Health Commission, City of **Boston**, Mr. Leon Bethune,  
"via electronic submittal", [lbethune@bphc.org](mailto:lbethune@bphc.org)

MassDEP data entry/file (NOR / Issued)

Attachment: Release Notification Form; BWSC - 103



**9 Stow Road, Mattapan, MA 02126**

**Oil tank & Contamination break down of events**

- On October 9<sup>th</sup> oil tank was removed by Commtank and was informed by the Lead Luis that the soil was contaminated
- On October 24<sup>th</sup> Commtank came back out to property to take some more samples
- On November 19<sup>th</sup> Luis came by with LSP Rick Wozmak from EndPoint to go over the situation and what the next steps should be.
- On November 21<sup>st</sup> received an email with a draft the copy of the work scope and contract for the next phase of work associated with the clean up.
- On November 21<sup>st</sup> sent email me Ms. Carty the previous owner's realtor informing of the cost of the up coming phase. He responding and wanted everything forwarded to him so he could pass it on to Ms. Carty.
- On November 26<sup>th</sup> Rick sent me my sign copy dated Nov. 25<sup>th</sup> of the work scope and asked me to keep him informed regarding my insurance company.
- On December 3<sup>rd</sup> I reached out to Rick informing him that a claim person came out to talk to me regarding the situation and provided the ins. Co with both Commtank information and LSP information.
- On December 3<sup>rd</sup> Rick informed me that he was currently putting together the IRA Plan for transmittal to MassDEP.
- On December 5<sup>th</sup> the IRA was ready for my signature.
- On December 12<sup>th</sup> Joe Dinan who worked for my insurance company (BunkerHill) contacted me informed me that he would come by and inspect the property and gauge the monitoring wells on December 13<sup>th</sup>.
- On January 9<sup>th</sup> Endpoint prepared a Work Scope Addendum No. 1 for Joe Dinan to review and approve along with the cost that had to be revised.
- On January 21<sup>st</sup> EndPoint was informed by Joe Dinan that my insurance company would be closing the claim due to the matter being a pre-existing issue.

- On February 18<sup>th</sup> an IRS Status report was sent to MAssDEP and letting them know the situation around the Hold back agreement.

\*\*Since then I have just been getting invoices with interest accrued from Endpoint and emails asking the status and informing me of an up coming follow-up with MassDEP in mid August.



**Saturday March 30, 2019**

**Mr. Feerce,**

**I apologize for the inconvenience but can only finally realize only you may provide some direction and light on the issues contained in my package. Again I apologize of the information, as I wanted to demonstrate my comprehensive investigation and work relating to homeowners being victims of tank removal and LSP's.**

**You will see my attached information with references you may recognize to include Attorneys. I go back to being a DEQE spills contractor, new MCP / LSP program. I am well known and respected by MA DEP and other state agencies.**

**Specifically Attorneys Chip Nylen 617 348 4500 ext. 3, Don Kethro 781 659 4450 and William Rosa 508 823 4567 worked with me pro bona to help the homeowners. I provided the AG Betsy Harper, worked with Jeanne Argento on the 9 Stow Road, Mattapan.**

**The LSP Board lacking your discipline and professional and ethics approach has resulted in the tail wagging the dog. All LSP's with a contractor and consultant in my opinion, self-serving inability to conduct the basis of why the LSP Board was created.**

**My examples that included comprehensive investigation with Peer review LSP's proved the negligence, fraud, and in my opinion of 9 Stow Road Mattapan, criminal. There is no consumer protection whatsoever. Boston NBC 10 Ryan Kath has been running stories of homeowners \$100K plus cost. Ridiculous.**

**DEP is not the problem. BWSC people have even come up against complaints by the LSP Board against BWSC for "interfering". DEP Attorney "they refuse to take our complaints".**

**With my State Representative David DeCoste, I filed HD1200 to amend the membership of the LSP Board.**

**Thank you Sir. I would look forward to speaking to you,**

**Joseph V. Polsinello  
518 463 7800 mobile direct**



October 1, 2019

**To:**

Commissioner Martin Suuberg  
Regional Director, Millie Garcia-Serrano  
Deputy Regional Director, Bureau Water Resources, David Johnston  
Deputy Regional Director, Bureau Waste Site Cleanup, Gerard Martin  
Deputy Regional Director, Bureau Air and Waste, Seth Pickering  
Deputy Regional Director, Bureau of Administrative Services, Jennifer Viveiros

**From:**

Joe Polsinello, 518 463 7800 Mobile Direct [joe@inlandprofcorp.com](mailto:joe@inlandprofcorp.com)

**RE: Testimony Joint Senate & House Committee on Financial Services Sept. 26<sup>th</sup>  
Senate No. 594 "An act relative to the remediation of home heating releases**

Thank you for allowing me to share my testimony, which provides an easily read outline of my 15 and recent 5 years of experience providing pro bona services to homeowners, and statement of considerations with recommendations. I plan on providing the Committee with a more comprehensive response based on my Testimony and interaction.

Senate No. 594 supported by the LSP Association mandates all homeowner policy coverage, regardless of the heating type, provide \$75K 1<sup>st</sup> party, and \$ 250K 3<sup>rd</sup> party coverage. My experience to include 3 of many examples, I conducted with Peer LSP's and one example with John Fitzgerald, NERO; as I testified, the cost should be zero, \$ 5,000 and never over \$ 50,000 with exception of significant volumes of release into private potable water / aquifer / Zone II. Jacking up and moving a house is unnecessary, driving the cost. Some notifications were made based on "headspace" only, with very suspect concerns.

Appendix G provides a worst case egregious actions of a tank removal company previously convicted of conducting professional services without a license, performed the LSP of Record services thereafter, creating questionable soil boring and well sampling data, assumptions filed with the BWSC by the non LSP tank company. The homeowner's and my complaint to the LSP Board resulted in no disciplinary action; with a Board opinion there was no jurisdiction over an unlicensed LSP. Providing misrepresented, erroneous data and opinion is unsafe, irresponsible, creating alarm, unnecessary fear, regulatory compliance, legal and insurance consequences. In the "G" case, small children's playroom and bedrooms occupied the basement live in area, an IRA opinion excavation required with groundwater contaminated with phase layers of oil in and around the foundation. The LSP failed on to conduct imminent threat assessment, stating in the IRA Status "will implement when insurance coverage is obtained". The correct answer is contact DEP BWSC immediately, do not take responsibly or resign as LSP of Record and notify DEP BWSC to ensure safeguard actions area taken.



DEP Leadership

RE: Testimony Joint Senate & House Committee on Financial Services Sept. 26<sup>th</sup>

Senate No. 594 "An act relative to the remediation of home heating releases

Joe Polsinello Memo

October 1, 2019

2 of 2

As briefly explained in my testimony, a number of notifications are based on non qualified / non LSP's, i.e. tank removal companies, entry level, cleanup technicians, worst case, with some, an incentive to create a significant release as my Appendix G. My family's petroleum business Upstate New York provides a mandated maintenance program to inspect upgrade the system or no oil delivery. NY DEC at times, although not formal, considers the supplier responsible / liable at times.

The solution may consider an immediate executive order / policy that requires home inspection, oil delivery, service technicians, real estate agents, insurance agents, building, plumbing, board of health, office of fire prevention to take immediate actions to mandate upgrade of a system or no continued delivery of oil, or drain the tank. Temporary magnets always fail. I experienced a number of home inspections for purchase noting the oil tank requires upgrade. Human nature, the \$ 500.00 cost is delayed, until the spill does occur. Insurance will never provide, nor will the Legislature pass blanket coverage without cost control and accountability.

Conflict of Interest must be eliminated. I was very proud to state, and in my written "Preface" page 2 & 3, the Department exceeds all expectations in your performance. As I stated, "I am not sugar coating my opinion", "I grew up through the DEQE and transition to DEP" in providing explanation along with "The Citizens are well served." Additional staff / budget is warranted.

Prior, during and after my testimony I was asked of DEP programs, to include the 310 CMR 310 80.00 Underground Storage Tank (UST) Systems / Third Party Inspections. Excellent as I used in my page 6 of 7., "Resolution Conflicts of Interests". Jeff Gould, Patti Mullan, lead by Tom Denormandie, the program is exceptional. As stated in my testimony 310 CMR 80.49 (6) (c) Prohibits conflict and eliminates the inspector doing the repair work, mandates independence.

I had opportunity to discuss House Bill No. 3873 to amend the membership of the LSP Board to include the users (Page 5 Item 5.)

In closing, I plan to continue to be an active and a respectful resource to the Department, LSPA, Home Remodelers and Builders, Petroleum, Insurance and other interests, to reduce / eliminate the hardship on homeowners.

As always, I thank you all for your time and consideration.

Joe Polsinello 518 463 7800 mobile direct

[joe@inlandprofcorp.com](mailto:joe@inlandprofcorp.com)

**SENATE . . . . . No. 594**

---

By Ms. Gobi, a petition (accompanied by bill, Senate, No. 594) of Anne M. Gobi, Jason M. Lewis, Barry R. Finegold, Bruce E. Tarr and other members of the Senate for legislation relative to the remediation of home heating oil releases. Financial Services.

---

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 534 OF 2017-2018.]

**The Commonwealth of Massachusetts**

—————  
**In the One Hundred and Ninety-First General Court**  
**(2019-2020)**  
—————

An Act relative to the remediation of home heating oil releases.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 175 of the General Laws, as appearing in the 2016 Official  
2 Edition, is hereby amended by striking out Section 4D and inserting in place thereof the  
3 following section:—

4           Section 4D. (a) As used in this section, unless the context clearly requires otherwise,  
5 "residential property" shall mean a 1 to 4-unit dwelling used for living or sleeping and "liquid  
6 fuel tank" shall mean a tank in which heating oil is stored and from which heating oil is delivered  
7 or pumped through a fuel supply line to an oil burner, whether located within a dwelling or other  
8 structure, including tanks installed at or below grade level, or located outdoors but excluding  
9 underground tanks wherever located.

10 (b) The joint underwriting association, formed pursuant to chapter 175C, and each insurer  
11 licensed to write and engaged in the writing of homeowners' insurance shall provide the  
12 following coverage to residential owners to whom a homeowners' insurance policy is issued or  
13 renewed: (1) first party property coverage for response action costs incurred under chapters 21E  
14 or 21K, or regulations promulgated pursuant thereto and property damage on the insured's  
15 property caused by or in response to a release of heating oil from a residential liquid fuel tank or  
16 any piping, fuel supply lines, equipment or systems connected thereto; and (2) liability coverage  
17 for third party claims arising out of a release of heating oil into the environment. Minimum  
18 coverage of \$75,000 per occurrence for first party property subject to a reasonable deductible not  
19 to exceed \$1,000 per claim and minimum coverage of \$250,000 per occurrence for third party  
20 liability shall be provided. For the purposes of this section, first party property coverage shall  
21 include response action costs incurred to assess and remediate a heating oil release impacting  
22 soil, indoor air or other environmental media on the insured's property. Third party liability  
23 coverage shall include the obligation to defend the insured at the insurer's expense against third  
24 party claims, and such defense obligation shall include coverage for costs incurred to investigate  
25 the source and extent of the release of heating oil. Damages covered under third party liability  
26 coverage shall include response action costs incurred to address conditions on and off the  
27 insured's property arising from a heating oil release on the insured's property that has impacted or  
28 is likely to impact groundwater or has migrated to, or is likely to migrate to, a third party's  
29 property. First party and third party liability coverage shall apply simultaneously and, in addition  
30 to, one another when both coverages are applicable.

31 SECTION 2. This act shall take effect on January 1, 2020.

- Part I
  - Title I
  - Title II
    - Chapter 6
    - Chapter 6A
    - Chapter 6B
    - Chapter 6C
    - Chapter 6D
    - Chapter 6E
    - Chapter 7
    - Chapter 7A
    - Chapter 7B
    - Chapter 7C
    - Chapter 7D
    - Chapter 8
    - Chapter 9
    - Chapter 9A
    - Chapter 10
    - Chapter 11
    - Chapter 12
    - Chapter 12A
    - Chapter 12B
    - Chapter 12C
    - Chapter 13
    - Chapter 14
    - Chapter 15
    - Chapter 15A
    - Chapter 15B
    - Chapter 15C
    - Chapter 15D
    - Chapter 15E
    - Chapter 16
    - Chapter 17
    - Chapter 18
    - Chapter 18A
    - Chapter 18B

# Section 19A: Board of registration of hazardous waste site cleanup professionals


Section 19A. There is hereby established within the executive office of environmental affairs the board of registration of hazardous waste site cleanup professionals. The board shall consist of eleven members. One member, who shall be the chairman of the board, shall be the commissioner of the department or his designee; provided, that said designee shall be a full-time employee of the department at all times while he is so designated. The governor shall appoint the other ten members of the board, who shall be the following: five shall be hazardous waste site cleanup professionals licensed by the board at all times while they are members of the board effective one year after the date of publication in the Massachusetts Register of the first regulations promulgated pursuant to section nineteen B; provided, however, one such licensed hazardous waste site cleanup professional shall be a full-time employee of a manufacturing firm engaged in the utilization of hazardous materials and one other such licensed hazardous waste site cleanup professional shall have significant experience in the assessment or redemption of sites contaminated with petroleum; three shall 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 shall be a member of a labor organization who is knowledgeable with respect to issues involving responding to releases of oil and hazardous materials; and one shall be a hydrogeologist who is knowledgeable with respect to issues involving responding to releases of oil and hazardous materials and environmental protection. Until one year after the date of publication in the Massachusetts Register of the first regulations promulgated pursuant to section nineteen B, five environmental professionals who have knowledge and experience, and are presently engaged, in responding to releases of oil and hazardous materials shall serve in place of the five licensed hazardous waste site cleanup professionals; provided, however, that one such environmental professional shall be a full-time employee of a manufacturing firm engaged in the utilization of hazardous materials, and one other such environmental professional shall be a full-time employee of a firm engaged in the manufacturing and processing of petroleum products. The terms of the ten members of the board initially appointed by the governor shall expire one year after the date of publication in the Massachusetts Register of the first regulations promulgated pursuant to section nineteen B. The governor shall thereupon appoint two licensed hazardous waste site cleanup professionals to a one-year term beginning one year after the date of publication in the Massachusetts Register of the first regulations promulgated pursuant to section nineteen B, one licensed hazardous waste site cleanup professional to a two-year term beginning on said date, one licensed hazardous waste site cleanup professional to a three-year term beginning on said date; and one licensed hazardous waste site cleanup professional to a four-year term beginning on said date; one member from a statewide organization that promotes the protection of the environment to a two-year term beginning on said date, a member from a statewide organization that promotes the protection of the environment to a three-year term beginning on said date, and a member from a statewide organization that promotes the protection of the environment to a four-year term beginning on said date, the representative from the labor organization to a three-year term beginning on said date and the hydrogeologist to a four-year term.

Thereafter, the term of the ten members of the board appointed by the governor shall be four years. Each of the ten members of the board appointed by the governor whose term has expired shall continue to be members of the board until his successor is appointed and qualified, at which time the successor shall complete the unexpired portion of the term. The ten members of the board appointed by the governor shall serve without compensation.

Subject to appropriation, the secretary of the executive office of environmental affairs shall employ such staff and other persons as are required to assist him or the board or both in the performance of their functions or duties pursuant to sections nineteen through nineteen J, inclusive, including, without limitation, administrative law judges who may conduct adjudicatory proceedings held pursuant to sections nineteen through nineteen J, inclusive; provided, that the board shall make all final decisions in such adjudicatory proceedings.



## Section 19B: Regulations

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Section 19B. (a) The board shall adopt, and may from time to time amend and repeal, regulations as it deems necessary for the implementation, administration, and enforcement of sections nineteen through nineteen J, inclusive. Said regulations shall be adopted, amended, or repealed pursuant to section two of chapter thirty A and all other provisions of chapter thirty A governing the adoption, amendment, and repeal of regulations. Said regulations shall include, without limitation, requirements for education, training, experience, and references and standards for professional conduct. Said standards shall be sufficiently stringent so that all waste site cleanup activity opinions rendered by all individuals meeting such standards and licensed by the board shall be rendered so that they protect public health, safety, welfare, and the environment.

(b) Without limiting the generality or applicability of the foregoing, by no later than January first, nineteen hundred and ninety-three, the board shall promulgate, in accordance with section two of chapter thirty A, and shall submit to the state secretary for publication in the Massachusetts Register, in accordance with sections five and six of chapter thirty A, regulations establishing standards for education, training, experience, and references that must be met by all individuals in order to thereafter be eligible to be licensed by the board as a hazardous waste site cleanup professional. By no later than January first, nineteen hundred and ninety-three, the board shall submit to the state secretary for publication in the Massachusetts Register, and the state secretary shall publish in the Massachusetts Register, in accordance with sections five and six of chapter thirty A, the notice required by section two of chapter thirty A and a draft of the regulations described in the preceding sentence.

Upon written request from an individual licensed by the board as a hazardous waste site cleanup professional, the board may render an advisory opinion interpreting one or more regulations promulgated by the board establishing standards for professional conduct. An opinion rendered by the board, until and unless amended or revoked, shall be a defense in a criminal action brought under sections nineteen through nineteen J, inclusive, and shall be binding on the board in any subsequent proceedings concerning the individual who requested the opinion and acted in good faith in reliance thereon, unless material facts were omitted or misstated by the individual in the request for an opinion. Such requests shall be confidential; provided, however, that the board may publish such opinions, but the name of the requesting individual and other identifying information shall not be included in such publication unless the requesting individual consents to such inclusion.

Notwithstanding any other general or special law to the contrary, no licensed hazardous waste site cleanup professional shall be liable to any other person for making any disclosure in good faith if such disclosure is required pursuant to any law or to any regulation or order of the board or of the department or of any agency of the United States, or of the commonwealth, or of any city or town or other body politic, or pursuant to any court order or judicial process.

## Section 19C: Licensing

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Section 19C. The board may license individuals to be hazardous waste site cleanup professionals. Each application for an initial license or license renewal shall be accompanied by a fee established by the board that shall be set to cover all costs of processing the application, and each licensee whose license is valid for one year or more shall pay an annual fee that shall be set to cover all costs of administering and enforcing sections nineteen through nineteen J, inclusive, and shall otherwise be set in accordance with the provisions of section three B of chapter seven. The board may deny an application for an initial license or for a license renewal, or suspend or revoke a license, at any time for cause. The board may grant an application for an initial license or for a license renewal, and may allow a license to remain in effect, only if and while the board is persuaded that the applicant for or holder of the license is in compliance, and will be in compliance routinely and on a continuing basis, with all standards and requirements applicable to hazardous waste site cleanup professionals. Each license issued pursuant to sections nineteen through nineteen J, inclusive, shall be issued only to an individual, shall be valid only for the individual to whom it is issued, and may not be transferred. Each license issued pursuant to sections nineteen through nineteen J, inclusive, shall be for a period not to exceed five years, unless a shorter term is specified therein, or unless sooner suspended or revoked. Any individual whose application for an initial license or for a license renewal is denied, or whose license is revoked, may be barred by the board from applying for a license for a period of not more than five years. The term during which reapplication is barred shall be established as part of the determination or decision of the board in the proceedings concerning the denial or revocation.

The board shall cause notice of each license application, approval, denial, suspension, or revocation, or the lifting or termination of each license suspension, and of each public censure and private censure, and of the results of all adjudicatory proceedings thereon, to be given to the department promptly and in whatever ways are necessary in order to enable the department to promptly and properly exercise its powers and perform its duties pursuant to the provisions of this chapter, chapter twenty-one E, and all other applicable laws. The board shall not approve an application for an initial license or for a license renewal until at least thirty days after the department has received said notice, or until the department has notified the board in writing that it has no objection to the approval of the application, whichever occurs first.

## Section 19D: License requirement; regulations

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Section 19D. Effective on and after one year after publication in the Massachusetts Register of the first regulations promulgated pursuant to section nineteen B, no person shall be, or act as, or advertise as, or hold himself out to be, or represent himself as being, a hazardous waste site cleanup professional unless that person is in possession of a valid license issued by the board.

The provisions of sections nineteen through nineteen J, inclusive, and of chapter twenty-one E, and regulations promulgated pursuant thereto, shall not restrict or prohibit and shall not be construed as restricting or prohibiting any person who is a full-time employee or may become a full-time employee of a person who is or may potentially be an owner or operator as defined in said chapter twenty-one E or of a person who is or may potentially be liable pursuant to the provisions of said chapter twenty-one E from being licensed as a hazardous waste site cleanup professional if so qualified pursuant to standards established, through regulation, by the board. The provisions of section nineteen through nineteen J, inclusive, and of chapter twenty-one E, and regulations promulgated thereto, shall not restrict or prohibit and shall not be construed as restricting or prohibiting any such full-time employee, if so licensed, from undertaking any activity permitted by regulations for hazardous waste site cleanup professionals at the request of such employee's employer.

## Section 19E: Inspection of known or suspected sites; warrants

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Section 19E. Personnel or authorized agents of the board or of the department may at all reasonable times enter any known or suspected site, vessel, or other location, whether public or private, for the purpose of investigating, sampling, inspecting, or copying any records, condition, equipment, practice, or property relating to activities subject to sections nineteen through nineteen J, inclusive. Personnel or authorized agents of the board may and shall seek a warrant authorizing such entry whenever they wish to enter any location and either they do not wish to ask permission for such entry first or permission for such entry has been sought and refused. Any court, judge, or justice authorized to issue warrants in criminal cases may issue such warrants authorizing such entry by personnel or authorized agents of the board upon a showing that such entry is necessary to allow the board to carry out its regular procedures for verifying compliance with sections nineteen through nineteen J, inclusive, and the regulations promulgated by the board pursuant to sections nineteen through nineteen J, inclusive.

Where necessary to ascertain facts relevant to, or not available at, such site, vessel, or other location, any person shall, upon request of any officer, employee, or duly authorized representative of the board or of the department, furnish information relating to activities subject to sections nineteen through nineteen J, inclusive, and shall permit said officers, employees, or authorized representatives to have access to, and to copy, all records relating to said activities.

In the event that the board or the department has reason to believe that any person has made fraudulent representations to the board or the department or has destroyed or concealed evidence relating to any activity subject to sections nineteen through nineteen J, inclusive, the board or the department may seize any records, equipment, property, or other evidence it deems necessary.

Any monetary claims against an employee of the commonwealth based on non-compliance with sections nineteen through nineteen J, inclusive, including any claim based on a failure to use due care in the execution of his duties as a licensed hazardous waste site cleanup professional, shall be limited to actions brought under the provisions of chapter two hundred and fifty-eight.

## Section 19F: Violations; orders issued by board; notice to department

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Section 19F. Whenever it appears that there is a violation of any provision of sections nineteen through nineteen J, inclusive, or of any regulation, license, or order issued or adopted thereunder, the board may issue to a person causing or contributing, or likely to cause or contribute, to such violation an order requiring the production or analysis of samples, requiring the production of records, or imposing such restraints on or requiring such action by said person, as the board deems necessary to abate or prevent such hazard or violation. Issuance of an order pursuant to this section shall not preclude, and shall not be deemed an election to forego, any action to suspend or revoke a license, to recover damages, or to seek injunctive relief, civil or criminal penalties, or any other remedy.

The board shall cause notice of each order, and of the results of all adjudicatory proceedings thereon, to be given to the department as promptly as necessary and in whatever ways are necessary in order to enable the department to promptly and properly exercise its powers and perform its duties pursuant to the provisions of this chapter, chapter twenty-one E, and all other applicable laws.