

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
BOARD OF REGISTRATION OF
HAZARDOUS WASTE SITE CLEANUP PROFESSIONALS

In the Matter of:)
)
)

James J. Decoulos,
Respondent)
)

Docket No.: LSP-10AP-01

**AFFIDAVIT OF JAMES J. DECOULOS IN SUPPORT OF HIS MOTION TO STRIKE
THE TESTIMONY OF CYNTHIA A. BARAN AND JOHN FITZGERALD**

My name is James J. Decoulos and the following facts are true to the best of my
knowledge, information and belief.

1. On September 1, 2010, I emailed and faxed a formal public records request to John Fitzgerald for his notes and communication regarding his involvement with the DEP Light Non-Aqueous Phase Liquid Workgroup. *See* attached Exhibit A.

2. I called Mr. Fitzgerald on September 2nd and briefly spoke with him to ensure that he received my request.

3. To date, I have not received any response on my September 1st request.

4. On September 1, 2010, I emailed and faxed a formal public records request to Cynthia A. Baran and Irene Lavoie, the Keeper of the Records for the Southeast Regional Office of the Massachusetts Department of Environmental Protection, to obtain all communication between Ms. Baran, Jonathan Hobill and David C. Bennett regarding their involvement with the real property at or near 131 Main Street in Carver, Massachusetts and any work related to DEP Release Tracking Numbers (RTNs) 4-13333, 4-17582 or 4-17852.. *See* attached Exhibit B.

5. I have had various communications with Ms. Lavoie to obtain the information I seek but have still not received any of the information I outlined in my September 1st request.

Signed under the pains and penalties of perjury this 15th day of October, 2010.

A handwritten signature in black ink, appearing to read "James J. Decoulos". The signature is fluid and cursive, with the first name "James" and last name "Decoulos" clearly distinguishable.

James J. Decoulos

EXHIBIT A

DECOULOS & COMPANY

ENVIRONMENTAL ENGINEERING & LAND PLANNING

VIA EMAIL AND FACSIMILE

Wednesday, September 1, 2010

John J. Fitzgerald
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

RE: Public Records Request

Dear Mr. Fitzgerald:

This is a formal request to the Massachusetts Department of Environmental Protection ("DEP") pursuant to the Massachusetts Public Records Law, G. L. c. 66, § 10, and the Public Records Access Regulations, 950 CMR 32.00, *et seq.*, for access to, inspection and examination of your involvement with the DEP Light Non-Aqueous Phase Liquid Workgroup (the "LNAPL Workgroup"). Information on the LNAPL Workgroup has been posted at <http://www.mass.gov/dep/cleanup/lnaplwg.htm>

I respectfully request to access, inspect and examine the following public documents:

1. All notes and internal DEP communication you have generated or received related in any way to the work of the LNAPL Workgroup.

Without limitation, the above information includes documents, including all drafts, (written, printed, typed or graphic matter of any kind or nature); mechanical and electronic sound recordings or transcripts of such recordings; letters; agreements; correspondence; communications; memoranda; written comments; notes; affidavits; telegrams; summaries or recordings of telephone conversations; electronic mail; personal communications; conversations, meetings, and interviews; pamphlets; publications; diaries; photographs; reports; charts; work sheets; data sheets; data processing sheets; plans; summaries or records of investigations; opinions or reports of consultants; circulars; press releases; drafts; studies; calculations; analyses; models; computer models; marginalia; and any other writings.

Should you maintain that any of the requested materials are exempt from disclosure under the Public Records Statute, please describe those materials in detail. However, if exceptions are claimed for certain materials, I expect to be allowed prompt access to the rest of the requested materials while the claimed exceptions are being evaluated.

I await your reply within ten (10) days, as the statute provides.

Page 2 of 2
John J. Fitzgerald
Massachusetts Department of Environmental Protection
Wednesday, September 1, 2010

Thank you in advance for your anticipated cooperation in this matter. I will call you tomorrow to discuss this request and to arrange for the inspection and copying. Please feel free to contact me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "James J. Decoulos". The signature is fluid and cursive, with the first name "James" and last name "Decoulos" clearly distinguishable.

James J. Decoulos, PE, LSP
jamesj@decoulos.com

EXHIBIT B

DECOULOS & COMPANY

ENVIRONMENTAL ENGINEERING & LAND PLANNING

VIA EMAIL AND FACSIMILE

Wednesday, September 1, 2010

Irene Lavoie, Keeper of the Records
Massachusetts Department of Environmental Protection
20 Riverside Drive
Lakeville, MA 02347

RE: Public Records Request

Dear Ms. Lavoie:

This is a formal request to the Massachusetts Department of Environmental Protection ("DEP") pursuant to the Massachusetts Public Records Law, G. L. c. 66, § 10, and the Public Records Access Regulations, 950 CMR 32.00, *et seq.*, for access to, inspection and examination of DEP's oversight of a hazardous waste site identified as the Eagle Gas Station, located at 131 Main Street in Carver, Massachusetts (the "Eagle Gas Site"). "Eagle Gas Site" as used herein shall mean the real property at or near 131 Main Street in Carver, Massachusetts and any work related to DEP Release Tracking Numbers (RTNs) 4-13333, 4-17582 or 4-17852.

I respectfully request to access, inspect and examine the following public documents:

1. All communication between DEP representatives Cynthia Baran or Jonathan Hobill and myself regarding the Eagle Gas Site;
2. All communication between DEP representatives Cynthia Baran and Jonathan Hobill regarding the Eagle Gas Site; and
3. All communication between DEP representative Cynthia Baran and Licensed Site Professional David C. Bennett regarding the Eagle Gas Site.

Without limitation, the above information includes documents, including all drafts, (written, printed, typed or graphic matter of any kind or nature); mechanical and electronic sound recordings or transcripts of such recordings; letters; agreements; correspondence; communications; memoranda; written comments; notes; affidavits; telegrams; summaries or recordings of telephone conversations; electronic mail; personal communications; conversations, meetings, and interviews; pamphlets; publications; diaries; photographs; reports; charts; work sheets; data sheets; data processing sheets; plans; summaries or records of investigations; opinions or reports of consultants; circulars; press releases; drafts; studies; calculations; analyses; models; computer models; marginalia; and any other writings.

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Irene Lavoie, Keeper of the Records
Massachusetts Department of Environmental Protection
Wednesday, September 1, 2010

Should you maintain that any of the requested materials are exempt from disclosure under the Public Records Statute, please describe those materials in detail. However, if exceptions are claimed for certain materials, I expect to be allowed prompt access to the rest of the requested materials while the claimed exceptions are being evaluated.

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Thank you in advance for your anticipated cooperation in this matter. I will call you tomorrow to discuss this request and to arrange for the inspection and copying. Please feel free to contact me if you have any questions.

Very truly yours,

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James J. Decoulos, PE, LSP
jamesj@decoulos.com

cc: Cynthia Baran *via email*