

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 RESPONDENT'S MOTION TO ADD EXHIBITS**

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

1. On July 28, 2010, I emailed a Request for Production of Documents to the Petitioner, the Board of Registration of Hazardous Waste Site Cleanup Professionals (the "Board"). *See* Exhibit A of my affidavit dated October 1, 2010 at

http://decoulos.com/lsp_complaint/Decoulos_Aff2_100110.pdf

2. On August 4, 2010, the Board responded to the Request for Production of Documents. *See* attached Exhibit B of my affidavit dated October 1, 2010 at

http://decoulos.com/lsp_complaint/Decoulos_Aff2_100110.pdf

3. The August 4th response from the Board was only partially honored. The Board failed to provide any document "in the possession, custody or control of MassDEP or any MassDEP employee" because they are "a separate agency from MassDEP." The Board also failed to provide any Notices of Noncompliance issued to LSPs because they were "not categorized in a manner that would allow the Board to locate them within a reasonable time, and therefore it

would be unduly burdensome to produce them, and they are public records in the possession of MassDEP.”

4. On September 1, 2010, I made a public records request to MassDEP employee John Fitzgerald 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 “All notes and internal DEP communication you have generated or received related in any way to the work of the LNAPL Workgroup.”

5. To date, I have not received any response from Mr. Fitzgerald or any representative of MassDEP to the request in Paragraph 4.

6. On September 1, 2010, I made a public records request to Irene Lavoie, the MassDEP employee who is the Keeper of the Records for the Southeast Regional office, 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 “All communication between DEP representatives Cynthia Baran or Jonathan Hobill and myself regarding the Eagle Gas Site; All communication between DEP representatives Cynthia Baran and Jonathan Hobill regarding the Eagle Gas Site; and, All communication between DEP representative Cynthia Baran and Licensed Site Professional David C. Bennett regarding the Eagle Gas Site.” A copy of the records request was also sent to Cynthia A. Baran of MassDEP via email.

7. After refining my records request to Ms. Lavoie to include “[A]ll email communications, telephone notes or meeting notes by or between DEP representatives Cynthia Baran and Jonathan Hobill regarding the Eagle Gas Site at 131 Main Street in Carver” she finally scheduled me for a file review on October 19, 2010.

8. I reviewed a file at Ms. Lavoie's office on October 19, 2010 that she had set aside for me and scanned all the documents in the file (the "MassDEP File").

9. On top of the MassDEP File was a sheet of paper, fastened to the manila folder with a paper clip. The cover sheet of the MassDEP File is attached hereto as Exhibit A.

10. The MassDEP File contained an email from Ms. Baran to MassDEP employees Jonathan Hobill, Richard Packard, Mark Jablonski and Lori Williamson dated March 5, 2004 seeking an internal strategy meeting on Tuesday, March 9, 2004 or Wednesday, March 10, 2004. *See* attached Exhibit PRR-48.

11. The MassDEP File did not contain meeting notes from any MassDEP meeting in March of 2004.

12. The MassDEP File contained an email from Ms. Baran to Mr. Hobill dated September 16, 2004 stating that "Eagle Gas still has not obtained access from the new property owner to the storm water outfall location". *See* attached Exhibit PRR-49.

13. The MassDEP File contained an email from Ms. Baran to Mr. Hobill dated December 7, 2004 which stated that "It looks like Eagle Gas and Jim Decoulos are beginning to understand our concerns". *See* attached Exhibit PRR-50.

14. The MassDEP File contained an email from Ms. Baran to Mr. Hobill dated December 15, 2004 which forwarded information I provided on "the proposed NAPL Recovery IRA at Eagle Gas". *See* attached Exhibit PRR-51.

15. The MassDEP File contained an email from Ms. Baran to myself dated January 19, 2005 at 3:19 pm which conditionally approved IRA Plan Modification #4. *See* attached Exhibit PRR-52.

16. The MassDEP File contained an email from Ms. Baran to myself dated January 19, 2005 at 4:22 pm which conditionally approved IRA Plan Modification #4. *See* attached Exhibit PRR-53.

17. The MassDEP File contained an email from Mr. Hobill to Ms. Baran dated October 31, 2005 which described how MassDEP considered all off-site contamination from the Eagle Gas property the responsibility of former owner Richard Nantais. *See* attached Exhibit PRR-54.

18. The MassDEP File contained an email from Ms. Baran to Mr. Hobill and Kevin Kiernan dated November 1, 2005. The document further contained an email from Mr. Kiernan to Donald P. Nagle which stated that “there is a CEP [Critical Exposure Pathway] out there that both your client and Eagle Gas are responsible for.” *See* attached Exhibit PRR-55.

19. CEPs are defined in the Massachusetts Contingency Plan at 310 CMR 40.0006 as follows:

Critical Exposure Pathways mean those routes by which oil and/or hazardous material(s) released at a disposal site are transported, or are likely to be transported, to human receptors via:

- (a) vapor-phase emissions of measurable concentrations of oil and/or hazardous materials into the living or working space of a pre-school, daycare, school or occupied residential dwelling; or
- (b) ingestion, dermal absorption or inhalation of measurable concentrations of oil and/or hazardous materials from drinking water supply wells located at and servicing a pre-school, daycare, school or occupied residential dwelling.

20. The MassDEP File contained an email from Ms. Baran to Mr. Hobill and Mr. Kiernan dated November 17, 2005 which described a surface gasoline spill reported by Carver Fire Chief Craig Weston at the Eagle Gas Site on November 7, 2005. Chief Weston described the efforts that were made to prevent the surface spill from entering the stormwater collection system in the Main Street right-of-way. *See* attached Exhibit PRR-56.

21. On October 7, 2010, I received an email from Board attorney Lynn Peterson Read which provided new evidence that I have been seeking for several months on Release Tracking Numbers (RTNs) 4-12848 and 4-13333 in Carver, Massachusetts.

22. The information I received from the Board on October 7, 2010 included a photograph of the Eagle property, which appears to have been taken in either 1997 or 1998. The photo has been posted on the dedicated Picasa web album for the Eagle Gas Station at 131 Main Street in Carver, Massachusetts (the “Eagle Site”) as photograph 163. *See*

http://picasaweb.google.com/lh/photo/2A3zHjA_nrbif39x1w7BAA?feat=directlink

23. Photograph 163 shows staining on the paved surface of the Eagle Site from the left front corner of the building, or the easterly corner of the building, onto the Main Street (Route 58) surface.

24. The staining of the paved surface appears indicative of oil spills that occurred on the easterly most portion of the Eagle Site. Any oil spills which occurred on the easterly most portion of the Eagle Site would have flowed by gravity, or been carried by stormwater, to the downgradient catch basin or stormwater inlet shown in Exhibit RR-8.¹

25. The information I received from the Board on October 7, 2010 included a Release Log Form Attachment from MassDEP dated March 12, 1997 prepared by Julie Hutcheson, which documented a telephone conversation with Ken Nantais, the son of former Eagle property owner Richard Nantais. It appears from the Release Log Form Attachment that the previous owner operated a junk yard at the Eagle Site. *See* attached Exhibit PRR-57.

26. The information I received from the Board on October 7, 2010 included a Notice of Responsibility dated August 11, 1997 issued to Richard Nantais (the “NOR”). Page 3 of the

¹ This catch basin was also described in my affidavit of September 29, 2010 as Catch Basin No. 4 or CB 4.

NOR states that the historic activities at the Eagle Site “are not well known but do include an auto junkyard operation.” *See* attached Exhibit PRR-58.

27. Based on the topography shown in the site plan presented as Exhibit RR-8, which was the same as that presented in the 24” x 36” site plan inserted in the Phase I Initial Site Investigation and Tier Classification (Exhibit B-30), oil spills and stormwater surface flows from an auto junkyard operation on the easterly and southeasterly areas of the Eagle Site would flow to the downgradient catch basin or stormwater inlet shown in Exhibit RR-8 (aka CB 4).

28. The information I received from the Board on October 7, 2010 included a letter from Bartlett W. Paulding, Jr. to Jonathan Hobill dated April 25, 1998 which sought to clarify the potentially responsible party for RTN 4-12848. *See* attached Exhibit PRR-59.

29. The information I received from the Board on October 7, 2010 included a newspaper article entitled “Gas station must clean up pollution”. A hand written note on the article shows the date as September 10, 1997. *See* attached Exhibit PRR-60.

30. The information I received from the Board on October 7, 2010 included notes and draft rider language on the negotiation to sell the Eagle Site in 1997. Addendum A-1 stated that:

The Seller warrants that Seller either has completed or will complete the following remedial actions:

(a) The removal of all surface and subsurface structures which may be or may have been the source of leakage;...

See attached Exhibit PRR-61.

31. The information I received from the Board on October 7, 2010 included a Release Log Form Attachment dated November 20, 1997 which stated that groundwater could be filtered for sampling at 132 Main Street (RTN 4-12848). *See* attached Exhibit PRR-62.

Signed under the pains and penalties of perjury this 21st 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

Lavoie, Irene (DEP)

From: decoulos@gmail.com on behalf of James J. Decoulos [jamesj@decoulos.com]
Sent: Monday, September 27, 2010 12:19 PM
To: Lavoie, Irene (DEP)
Subject: Re: DEP File Review

Irene,

Thank you for the follow up to our telephone discussion on September 14th. I was unable to respond before you left for vacation on September 17th.

My Public Records Request of September 1st is refined as follows:

I request all email communications, telephone notes or meeting notes by or between DEP representatives Cynthia Baran and Jonathan Hobill regarding the Eagle Gas Site at 131 Main Street in Carver.

Please feel free to contact me if you have any further questions.

Thank you.

James J. Decoulos, PE, LSP
Decoulos & Company, LLC
185 Alewife Brook Parkway
Cambridge, MA 02138

email: jamesj@decoulos.com
web: www.decoulos.com
tel: 617.489.7795
fax: 877.842.9629

This e-mail message and any attachments are confidential and may be attorney-client privileged or protected under a work product doctrine. If you are not the intended recipient please notify Decoulos & Company LLC immediately by telephone at (617) 489-7795 or by e-mail to jamesj@decoulos.com and destroy all copies of this message and any attachments.

On Mon, Sep 27, 2010 at 11:16 AM, Lavoie, Irene (DEP) <Irene.Lavoie@state.ma.us> wrote:

Hi James,

I spoke to you the beginning of the week of September 13, 2010 regarding your file review request for the Eagle Gas site located in Carver, MA. In our conversation you stated that you were going to narrow the scope of your request and submit an new file review request. As of today I have not received a new request to replace your previous request as we agreed. If you still want to review this file please submit your revised request, or if you no longer need to review this file please let me know as soon as possible.

EXHIBIT PRR-48

Baran, Cynthia (DEP)

From: Baran, Cynthia (DEP)
Sent: Friday, March 05, 2004 5:40 PM
To: Hobill, Jonathan (DEP); Packard, Richard (DEP); Jablonski, Mark (DEP); Williamson, Lori (DEP)
Subject: Eagle Gas Station Meeting

Hello everyone:

I have (tentatively) scheduled a meeting with Jim Decoulis on Thursday, March 11th at 9:00 a.m. here in SERO. I have signed out Conference Room 2. I am also trying to have Brain Clark from Kaegael Environmental attend as Ted Kaegael is the LSP of record for the earlier releases at this site. I asked Mr. Decoulis to be prepared to attend a site visit at Eagle Gas immediately following our meeting, if we feel it is warranted.

Is it possible to get together Tuesday afternoon or Wednesday for an internal strategy meeting? Please let me know if you can attend. Thanks.

EXHIBIT PRR-49

Baran, Cynthia (DEP)

From: Baran, Cynthia (DEP)
Sent: Thursday, September 16, 2004 1:21 PM
To: Hobill, Jonathan (DEP)
Subject: FW: Eagle Gas product and air analysis
Attachments: L0409661.pdf; Eagle Geolabs Air Data 082704.xls

Hi Jon:

FYI...the air sample collected from the apartment above Eagle Gas Station appears clean. Product from all three wells (including the well immediately adjacent to the abandoned 1000 gallon gasoline tanks) looks like diesel.

Eagle Gas still has not obtained access from the new property owner to the storm water outfall location.

-----Original Message-----

From: James J. Decoulos [mailto:jamesj@decoulos.com]
Sent: Thursday, September 16, 2004 12:24 PM
To: Baran, Cynthia (DEP)
Subject: Eagle Gas product and air analysis

Cynthia,

Attached is the fuel product analysis from Alpha Analytical and the APH analysis from Geolabs that we discussed yesterday.

Jim

>From: Alpha Analytical <seed2@alphalab.com>
>X-Mailer: MIME::Lite 2.117 (F2.6; A1.60; B2.12; Q2.03)
>Date: Fri, 10 Sep 2004 15:32:33 UT
>To: jamesj@decoulos.com
>Subject: Laboratory Results for L0409661
>X-NAS-Bayes: #0: 3.11053E-015; #1: 1
>X-NAS-Classification: 0
>X-NAS-MessageID: 5662
>X-NAS-Validation: {8FD35744-79E1-4653-A88A-3E736253B10C}
>
>Content-Disposition: inline
>Content-Length: 123
>Content-Transfer-Encoding: binary
>Content-Type: text/plain
>
>Alpha Analytical Labs
>If you have any questions or issues with this data, please contact
>Client
>Services at (508) 898-9220.

James J. Decoulos, PE, LSP
Decoulos & Company
3 Electronics Avenue
Danvers, MA 01923
web: www.decoulos.com

tel: 617-489-7795
fax: 877-842-9629

ALPHA ANALYTICAL LABORATORIES

Eight Walkup Drive
Westborough, Massachusetts 01581-1019
(508) 898-9220 www.alphalab.com

MA:M-MA086 NH:200301-A CT:PH-0574 ME:MA086 RI:65 NY:11148 NJ:MA935 Army:USACE

CERTIFICATE OF ANALYSIS

Client: Decoulos & Company

Laboratory Job Number: L0409661

Address: 3 Electronics Ave

Danvers, MA 01923

Date Received: 02-SEP-2004

Attn: Mr. Jim Decoulos

Date Reported: 10-SEP-2004

Project Number: 616

Delivery Method: Alpha

Site: EAGLE GAS

ALPHA SAMPLE NUMBER	CLIENT IDENTIFICATION	SAMPLE LOCATION
L0409661-01	DCW-7	131 MAIN, CARVER
L0409661-02	ERW-2	131 MAIN, CARVER
L0409661-03	BP-5RR	131 MAIN, CARVER

I, the undersigned, attest under the pains and penalties of perjury that, based upon my personal inquiry of those responsible for obtaining the information, the material contained in this report is, to the best of my knowledge and belief, accurate and complete. This certificate of analysis is not complete unless this page accompanies any and all pages of this report.

Authorized by: James Todaro

This document electronically signed

ALPHA ANALYTICAL LABORATORIES
NARRATIVE REPORT

Laboratory Job Number: L0409661

TPH-8100M

L0409661-01 through -03 and the associated Laboratory Duplicate have elevated limits of detection due to the 20x dilutions required by the elevated concentrations of target compounds in the sample. The Surrogate % Recoveries were not recovered due to the dilutions required to quantitate the samples.

ALPHA ANALYTICAL LABORATORIES
CERTIFICATE OF ANALYSIS

MA:M-MA086 NH:200301-A CT:PH-0574 ME:MA086 RI:65 NY:11148 NJ:MA935 Army:USACE

Laboratory Sample Number: L0409661-01
DCW-7

Sample Matrix: OIL

Condition of Sample: Satisfactory

Number & Type of Containers: 1-Glass

Date Collected: 26-AUG-2004 13:30

Date Received : 02-SEP-2004

Date Reported : 10-SEP-2004

Field Prep: None

PARAMETER	RESULT	UNITS	RDL	REF METHOD	DATE		ID
					PREP	ANAL	
Hydrocarbon Scan by GC 8100M							
				1 8100M	0903 16:30	0906 20:21	MS
Mineral Spirits	ND	mg/kg	200000				
Gasoline	ND	mg/kg	200000				
Fuel Oil #2/Diesel	940000	mg/kg	200000				
Fuel Oil #4	ND	mg/kg	200000				
Fuel Oil #6	ND	mg/kg	200000				
Motor Oil	ND	mg/kg	200000				
Kerosene	ND	mg/kg	200000				
Transformer Oil	ND	mg/kg	200000				
Unknown Hydrocarbon	ND	mg/kg	200000				
::							
Surrogate(s)	Recovery		QC Criteria				
o-Terphenyl	ND	%	40-140				

Comments: Complete list of References and Glossary of Terms found in Addendum I

ALPHA ANALYTICAL LABORATORIES
CERTIFICATE OF ANALYSIS

MA:M-MA086 NH:200301-A CT:PH-0574 ME:MA086 RI:65 NY:11148 NJ:MA935 Army:USACE

Laboratory Sample Number: L0409661-02
ERW-2
Sample Matrix: OIL
Condition of Sample: Satisfactory
Field Prep: None
Number & Type of Containers: 1-Glass
Date Collected: 26-AUG-2004 14:00
Date Received : 02-SEP-2004
Date Reported : 10-SEP-2004

PARAMETER	RESULT	UNITS	RDL	REF METHOD	DATE		ID
					PREP	ANAL	
<hr/>							
Hydrocarbon Scan by GC 8100M				1 8100M	0903 16:30	0906 21:25	MS
Mineral Spirits	ND	mg/kg	200000				
Gasoline	ND	mg/kg	200000				
Fuel Oil #2/Diesel	870000	mg/kg	200000				
Fuel Oil #4	ND	mg/kg	200000				
Fuel Oil #6	ND	mg/kg	200000				
Motor Oil	ND	mg/kg	200000				
Kerosene	ND	mg/kg	200000				
Transformer Oil	ND	mg/kg	200000				
Unknown Hydrocarbon	ND	mg/kg	200000				
<hr/>							
Surrogate(s)	Recovery		QC Criteria				
o-Terphenyl	ND	%	40-140				

Comments: Complete list of References and Glossary of Terms found in Addendum I

ALPHA ANALYTICAL LABORATORIES
CERTIFICATE OF ANALYSIS

MA:M-MA086 NH:200301-A CT:PH-0574 ME:MA086 RI:65 NY:11148 NJ:MA935 Army:USACE

Laboratory Sample Number: L0409661-03

BP-5RR

Sample Matrix:

OIL

Date Collected: 26-AUG-2004 14:30

Date Received : 02-SEP-2004

Date Reported : 10-SEP-2004

Condition of Sample: Satisfactory

Field Prep: None

Number & Type of Containers: 1-Glass

PARAMETER	RESULT	UNITS	RDL	REF METHOD	DATE		ID
					PREP	ANAL	
Hydrocarbon Scan by GC 8100M							
Mineral Spirits	ND	mg/kg	200000	1 8100M	0903 16:30	0906 22:29	MS
Gasoline	ND	mg/kg	200000				
Fuel Oil #2/Diesel	940000	mg/kg	200000				
Fuel Oil #4	ND	mg/kg	200000				
Fuel Oil #6	ND	mg/kg	200000				
Motor Oil	ND	mg/kg	200000				
Kerosene	ND	mg/kg	200000				
Transformer Oil	ND	mg/kg	200000				
Unknown Hydrocarbon	ND	mg/kg	200000				
Surrogate(s)	Recovery		QC Criteria				
o-Terphenyl	ND	%	40-140				

Comments: Complete list of References and Glossary of Terms found in Addendum I

ALPHA ANALYTICAL LABORATORIES
QUALITY ASSURANCE BATCH DUPLICATE ANALYSIS

Laboratory Job Number: L0409661

Parameter	Value 1	Value 2	Units	RPD	RPD Limits
Hydrocarbon Scan by GC 8100M for sample(s) 01-03 (L0409661-01, WG180056)					
Mineral Spirits	ND	ND	mg/kg	NC	40
Gasoline	ND	ND	mg/kg	NC	40
Fuel Oil #2/Diesel	940000	950000	mg/kg	1	40
Fuel Oil #4	ND	ND	mg/kg	NC	40
Fuel Oil #6	ND	ND	mg/kg	NC	40
Motor Oil	ND	ND	mg/kg	NC	40
Kerosene	ND	ND	mg/kg	NC	40
Transformer Oil	ND	ND	mg/kg	NC	40
Unknown Hydrocarbon	ND	ND	mg/kg	NC	40
Surrogate(s)	Recovery				QC Criteria
o-Terphenyl	ND	ND	%	NC	40-140

ALPHA ANALYTICAL LABORATORIES
QUALITY ASSURANCE BATCH SPIKE ANALYSES

Laboratory Job Number: L0409661

Parameter	% Recovery	QC Criteria
Hydrocarbon Scan by GC 8100M LCS for sample(s) 01-03 (WG180056)		
Petroleum Spike	119	40-140
Surrogate(s)		
o-Terphenyl	101	40-140

ALPHA ANALYTICAL LABORATORIES
QUALITY ASSURANCE BATCH BLANK ANALYSIS

Laboratory Job Number: L0409661

PARAMETER	RESULT	UNITS	RDL	REF METHOD	DATE		ID
					PREP	ANAL	
Blank Analysis for sample(s) 01-03 (WG180056-1)							
Hydrocarbon Scan by GC 8100M				1 8100M	0903 16:30	0905 00:50	MS
Mineral Spirits	ND	mg/kg	10000				
Gasoline	ND	mg/kg	10000				
Fuel Oil #2/Diesel	ND	mg/kg	10000				
Fuel Oil #4	ND	mg/kg	10000				
Fuel Oil #6	ND	mg/kg	10000				
Motor Oil	ND	mg/kg	10000				
Kerosene	ND	mg/kg	10000				
Transformer Oil	ND	mg/kg	10000				
Unknown Hydrocarbon	ND	mg/kg	10000				
Surrogate(s)	Recovery		QC Criteria				
o-Terphenyl	103.	%	40-140				

ALPHA ANALYTICAL LABORATORIES
ADDENDUM I

REFERENCES

1. Test Methods for Evaluating Solid Waste: Physical/Chemical Methods. EPA SW-846. Third Edition. Updates I - IIIA, 1997.

GLOSSARY OF TERMS AND SYMBOLS

REF Reference number in which test method may be found.
METHOD Method number by which analysis was performed.
ID Initials of the analyst.
ND Not detected in comparison to the reported detection limit.

Please note that all solid samples are reported on dry weight basis unless noted otherwise.

LIMITATION OF LIABILITIES

Alpha Analytical, Inc. performs services with reasonable care and diligence normal to the analytical testing laboratory industry. In the event of an error, the sole and exclusive responsibility of Alpha Analytical, Inc., shall be to re-perform the work at it's own expense. In no event shall Alpha Analytical, Inc. be held liable for any incidental consequential or special damages, including but not limited to, damages in any way connected with the use of, interpretation of, information or analysis provided by Alpha Analytical, Inc.

We strongly urge our clients to comply with EPA protocol regarding sample volume, preservation, cooling, containers, sampling procedures, holding times and splitting of samples in the field.

GeoLabs, Inc.
Environmental Laboratories

LABORATORY REPORT

PREPARED FOR:

Decoulos & Company
3 Electronics Avenue
Danvers, MA 01923

Attn: Jim Decoulos

PROJECT ID: 616
131 Main Street
Carver, MA

GEOLABS CERTIFICATION #: M-MA015

LABORATORY REPORT

SAMPLE NUMBER: 154340

DATE PREPARED: September 2, 2004

PREPARED BY: Karen Mullally

APPROVED BY:

Jim Chen, Laboratory Director

GeoLabs, Inc.
Environmental Laboratories

SAMPLE INFORMATION

Matrix	<input type="checkbox"/> Aqueous <input type="checkbox"/> Soil or Sediment <input checked="" type="checkbox"/> Other-Air		
Containers	<input checked="" type="checkbox"/> Satisfactory <input type="checkbox"/> Broken <input type="checkbox"/> Leaking		
Sample Preservative	Aqueous	<input type="checkbox"/> N/A <input type="checkbox"/> pH ≤ 2 <input type="checkbox"/> pH > 2 Comment:	
	Soil or	<input type="checkbox"/> N/A <input type="checkbox"/> Samples NOT preserved in MeOH or air-tight containers ml MeOH	
	Sediment	<input type="checkbox"/> Samples received in MeOH <input type="checkbox"/> Covering soil ? <input type="checkbox"/> Not <input type="checkbox"/> 1:1+25% <input checked="" type="checkbox"/> Received in air tight container-Summa Canister <input type="checkbox"/> Other	
Temperature	<input type="checkbox"/> Received on ice <input type="checkbox"/> Received at 4° C <input type="checkbox"/> Other		

APH ANALYTICAL RESULTS

Method for Ranges: MADEP APH

APH Surrogate Standards

PID (2,5-Dibromotoluene)

FID (2,5-Dibromotoluene)

Method for Target Analytes: EPA-TO14A

Client ID: EGA-1

Lab ID: 154340

Date Collected: 08/27/04

Date Received: 08/27/04

Date Fractions Analyzed: 08/30/04

Date Targets Analyzed: 08/30/04

Ranges Dilution Factor: 1.0

Targets Dilution Factor: 1.0

Range/Target Analyte	Elut. Range	RL (ppbv)	RL (ug/m3)	Units	
Unadjusted C5-C8 Aliphatic Hydrocarbons	N/A		78.0	ug/m ³	ND
Unadjusted C9-C12 Aliphatic Hydrocarbons	N/A		78.0	ug/m ³	ND
Benzene	C5-C8 Aliph	0.386	1.23	ppbv/ug/m3	ND
1,3-Butadiene	N/A	2.18	5.00	ppbv/ug/m3	ND
Ethylbenzene	C5-C8 Aliph	0.54	2.34	ppbv/ug/m3	ND
Methyl-tert-butyl ether	C5-C8 Aliph	1.39	5.00	ppbv/ug/m3	ND
2-Methylnaphthalene*	N/A	2.38	20.0	ppbv/ug/m3	ND
Naphthalene*	N/A	0.940	5.00	ppbv/ug/m3	ND
Toluene	C5-C8 Aliph	0.95	3.58	ppbv/ug/m3	ND
m-, p-Xylenes	C5-C8 Aliph	0.38	1.65	ppbv/ug/m3	ND
o-Xylene	C9-C12 Aliph	0.46	2.00	ppbv/ug/m3	ND
C5-C8 Aliphatic Hydrocarbons ¹	N/A		78.0	ug/m ³	ND
C9-C12 Aliphatic Hydrocarbons ²	N/A		78.0	ug/m ³	ND
C9-C10 Aromatic Hydrocarbons	N/A		78.0	ug/m ³	ND
2,5-Dibromotoluene (PID) Surrogate Recovery					
2,5-Dibromotoluene (FID) Surrogate Recovery					
Surrogate Acceptance Range					70-130%

¹C₅-C₈ Aliphatic Hydrocarbons exclude concentrations of Target Analytes eluting in that range

²C₉-C₁₂ Aliphatic HCs exclude concentrations of Target Analytes AND C₉-C₁₀ Aromatic Hydrocarbons eluting in that range

*Compounds quantitated by TICS

CERTIFICATION

Were all QA/QC procedures REQUIRED by the APH Method followed? ☒ Yes ☐ No - Details attached

Were all QA/QC performance /acceptance standards achieved? ☒ Yes ☐ No - Details attached
Were any significant modifications made to the APH method?? ☐ No ☒ Yes - Details below

Aliphatic and Aromatic ranges quantitated by GC PID/FID.

I attest under the pains and penalties of perjury that, based upon my inquiry of those individuals immediately responsible for obtaining the information, the material contained in this report is, to the best of my knowledge, accurate and complete.

SIGNATURE: _____

POSITION: Lab Director

PRINTED NAME: Jim Chen

DATE: 09/02/04

GEOLABS, INC.
45 JOHNSON LANE
BRAINTREE, MA 02184
M-MA015

LIMITATIONS & EXCLUSIONS

All the professional opinions presented in this report are based solely on the scope of work conducted and sources referred to in our report. The data presented by GeoLabs in this report was collected and analyzed using generally accepted industry methods and practices at the time the report was generated. This report represents the conditions, locations and materials that were observed at the time the work was conducted. No inferences regarding other conditions, locations or materials, at a later or earlier time may be made based on the contents of the report. No other warranty, express or implied is made.

This report was prepared for the sole use of our client. Portions of the report may not be used independent of the entire report.

All analyses were performed within required holding times, in accordance with EPA protocols and using accepted QA/QC procedures. All QA/QC meets acceptable limits unless otherwise noted. The information contained in this report is, to the best of my knowledge, accurate and complete.

Any and all subsequent pages of this report are chain(s) of custody.

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EXHIBIT PRR-50

Baran, Cynthia (DEP)

From: Baran, Cynthia (DEP)
Sent: Tuesday, December 07, 2004 9:43 AM
To: Hobill, Jonathan (DEP); Kiernan, Kevin (DEP)
Subject: FW: Eagle Gas, Carver, RTN 4-17582
Attachments: Reduced Eagle Site Plan 120604.pdf

Jon & Kevin:

FYI.

It looks like Eagle Gas and Jim Decoulos are beginning to understand our concerns.

Although I am hopeful that this is a sign that Eagle Gas will be back on track soon, what was REQUIRED in the IRA Plan Denial with Interim Deadline letter was that an IRA Plan Modification to continue to operate the unapproved passive recovery system (on an interim basis until an active recovery system is properly designed, approved and installed) be submitted by yesterday at 5 p.m. This plan was not submitted in accordance with 310 CMR 40.0424 nor is it addressed at all in the e-mail below (sent at 11:23 p.m. last night). How would you like to proceed?

Jon, do you feel that there are any additional substantial issues that we discussed last week that are not outlined below?

Please let me know.

Thanks. -Cynthia.

-----Original Message-----

From: James J. Decoulos [mailto:jamesj@decoulos.com]
Sent: Monday, December 06, 2004 11:23 PM
To: Baran, Cynthia (DEP)
Cc: Dave Bennett
Subject: Eagle Gas, Carver, RTN 4-17582

Cynthia,

Based upon our meeting last Thursday, December 2nd with Jon Hobill, deficiencies and action steps were identified that require immediate attention. These tasks are as follows:

1. Delineate the extent of NAPL to the northeast (under the Main Street right-of-way) and to the southeast (along the façade of the building and underneath the slab of the building).
2. Transport and dispose remediation waste from the station and brook outlet area. The waste stream includes recovered NAPL; contaminated soil generated from drilling in August (currently stored on the southeast side of the building under an awning); and, remove spent booms and pads from the outlet area (including spilled interior boom material on the ground).
3. Prepare an Imminent Hazard Evaluation pursuant to 310 CMR 40.0426. Continue to evaluate the threat of the NAPL plume flow becoming a condition of Substantial Release Migration.
4. Conduct a records review with the MA Highway Department – District 5 to determine if any field construction notes, as-built plans, contractor records or photographs are available from the construction of the stormwater collection system within the Main Street right-of-way. See <http://www.mhd.state.ma.us/mhd/dist/dist5.htm>
5. Evaluate regional, state and federal grant programs available to finance the remediation of the outlet area (and avoid last minute snags for proposal deadlines).
6. Evaluate brownfield loan and grant programs to redevelop the Site (Carver is listed as an Economically Distressed Area under the Brownfields Law). See <http://www.mass.gov/dep/bwsc/files/brown/eda.htm>
7. Prepare an IRA Completion Report to end RTN 4-17825 (see comments from your letter dated April 5, 2004).

8. Conduct a percolation test or obtain field notes of soil testing from Webby Engineering/Carver Board of Health to determine suitability of discharging treated groundwater into a subsurface leaching facility.
9. Control the sheen at the stormwater outlet with proper boom and pad placement. Booms need to be set to account for a minimum of three foot fluctuations in the brook surface water elevation. A schedule for replacement of the booms and pads must be submitted.
10. Negotiate an access agreement with the owner of the land at the stormwater outlet area following the provisions of Site Access Authorization at 310 CMR 40.0173.
11. Complete access agreement to conduct remedial actions within the Main Street right-of-way.
12. Provide at least two cross sections of the subsurface - perpendicular to the 15 inch concrete stormwater drain pipe in front of the Site.
13. Provide a Health and Safety Plan for NAPL recovery and the construction of any NAPL recovery trench.
14. Provide a groundwater sampling plan with procedures, protocols and a schedule.

After leaving your office on the 2nd, Najib and I visited Assistant Town Administrator Jean Bouchard and Carver DPW Superintendent Bill Halunen.

Jean informed us that the access agreement approved by the Selectmen referred to the IRA Plan dated June 15, 2004. If changes are proposed to the trench layout in that plan, I need to go before the Selectmen on December 14th to obtain their approval.

Bill provided us with a road opening permit and we discussed the logistics of constructing a trench within the roadway. By far, the greatest concern is the approaching inclement weather. We cannot be opening the roadway during icing or snow conditions and we must ensure that the asphalt plants remain open.

The area of further NAPL delineation was marked for DIGSAFE and drilling has been scheduled for Friday, December 10th with Technical Drilling Services (TDS). TDS will use a track mounted GeoProbe 54DT and we have scheduled a police detail with two officers.

Observations at the outfall area reveal that the source of the sheen is the heavily contaminated southwesterly bank in the outfall area – not the stormwater outflow. This condition was observed during dry conditions and may change during a wet flow.

A formal written response to your denial of the IRA Plan Modification dated November 26th shall be submitted to you on Monday, December 13th. The response will be our last effort to modify the IRA Plan and will incorporate your concerns from the denial as well as the issues reviewed during our meeting on December 2nd. Until that time, we propose sampling of the following groundwater monitoring wells on a quarterly basis (in order):

- BP-1, BP-2, DCW-6, DCW-5, DCW-2, DCW-4, DCW-1 and four new wells to be established on December 10th shall all be sampled for EPH.
- BP-1, BP-2, DCW-2 and DCW-1 and at least two new wells established on December 10th shall be sampled for VPH.

We anticipate sampling the groundwater on or about December 14th. Additional sampling shall occur the last weeks of March, June, September and December of 2005. Detailed procedures and protocols for sampling shall be provided in next week's formal modification.

Lastly, no surface water or sediment is proposed for sampling at the stormwater outfall. Three surface water

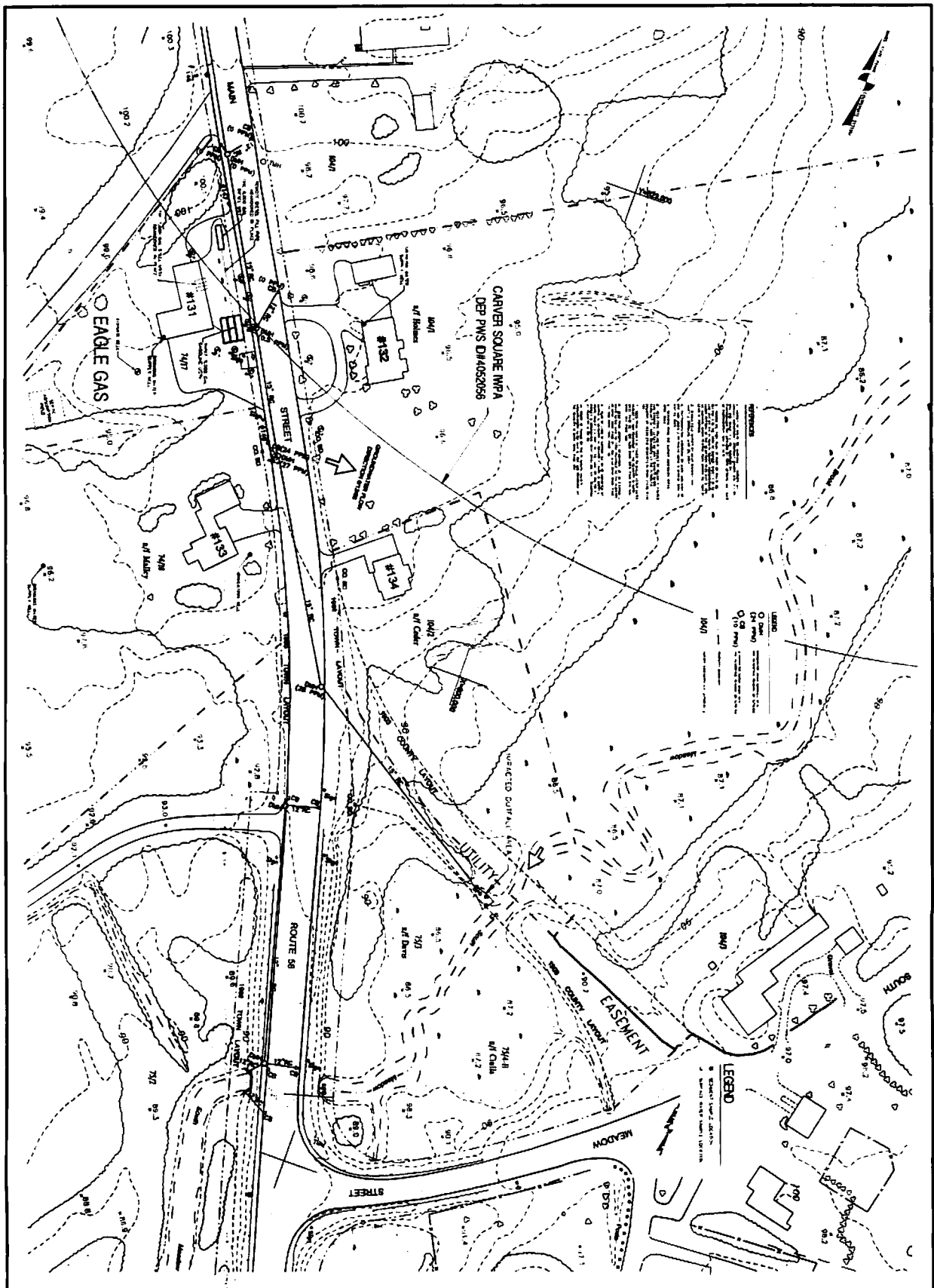
samples analyzed for EPH at the outfall in May of 2003 identified the C9-C18 Aliphatic fraction at an average concentration of over 2,000,000 ug/l. The benefit of additional sampling is questionable until a comprehensive remedial action can be conducted. Maintenance and replacement of absorbent booms and pads shall be the primary temporary response action at the outfall. We will need to discuss this issue further.

As you requested, attached is a reduced site plan (in tabloid size or 11x17 inches) of the main site plan saved in PDF format. I will provide extra copies of the revised 24x36 inch site plan next week.

Jim

James J. Decoulos, PE, LSP
Decoulos & Company
3 Electronics Avenue
Danvers, MA 01923
web: www.decoulos.com

tel: 617-489-7795
fax: 877-842-9629



**EXISTING CONDITIONS
EAGLE GAS STATION
CARVER, MASSACHUSETTS**

DECOULOS & COMPANY
3 ELECTRONICS AVE, DANVERS, MA 01923
WWW.DECOULOS.COM
977 488 7795

NO.		DATE		REVISION	

DATE	MAY 2004
SCALE	1" = 40'
DRAWN	JLM
CHECKED	JLM
APPROVED	JLM
SHEET NO.	1

EXHIBIT PRR-51

Baran, Cynthia (DEP)

From: Baran, Cynthia (DEP)
Sent: Wednesday, December 15, 2004 4:06 PM
To: Hobill, Jonathan (DEP)
Subject: FW: Eagle Revised Plans, HASP, Soil Data and License Agmt
Attachments: Carver BOH Soil Logs 120804.pdf; Eagle Gas HASP 121504.pdf; Eagle Gas IRA Mod Plan 121504 A.pdf; Eagle Gas Sections 121504 A.pdf; License Agreement with Carver 121504.pdf

Jon:

Here is the information submitted for the proposed NAPL Recovery IRA at Eagle Gas.

-----Original Message-----

From: James J. Decoulos [mailto:jamesj@decoulos.com]
Sent: Wednesday, December 15, 2004 12:01 PM
To: Baran, Cynthia (DEP)
Subject: Eagle Revised Plans, HASP, Soil Data and License Agmt

James J. Decoulos, PE, LSP
Decoulos & Company
3 Electronics Avenue
Danvers, MA 01923
web: www.decoulos.com

tel: 617-489-7795
fax: 877-842-9629

FAX Cover Sheet

Carver Board of Health
108 Main St.
Town Hall
Carver, MA 02330
508 866-3420
fax 508 866-3483

Date: Dec 8, 2004

Number of pages (including cover): 4

SENT TO: Name: Jim Decoulas

Company: _____

Phone Number: _____

FAX Number: 877-842-9629

SENT BY: Name: Debi Deneen

Phone Number: 508-866-3420

DESCRIPTION:

Jim -
If you need anything else,
give us a call.
Thank
Debi

- 131 Main St. -

CARVER BOARD OF HEALTH
SOIL EVALUATION AND PERC TEST REPORT

DATE: 5/27/98
 STREET: 131 Main St.
 ASSESSORS' MAP & LOT: 74117
 OWNER: Bodawei Bodawoi
 ENGINEER: W. B. B.
 SOIL EVALUATOR: W. B. B.
 BOARD OF HEALTH: T. B. B.
 TIME: 7:30
 WEATHER: W. B. B.
 NEW CONSTRUCTION: REPAIR

7-16
17-18

SUMMARY OF SOIL & PERC EXAMINATION

Pit # 1 Pit # 2
36" water 39'
156" table
156" pit 156"
— depth
— perc
— depth
— min/in rate — min/in

Land Use Commercial Slope (%) 2 Surface Stones Scattered
 Vegetation Tree's Landform Rolling Hills
 Position on landscape (sketch on the back)

Distances from:

Open Water Body 100' feet
 Possible Wet Area 75' feet
 Drinking Water Well 10' feet
 Drainingway — feet
 Property Line 502' feet
 Other —

Percolation Test

Start Presoak —
 End Presoak —
 Time at 12" or () —
 Time at 9" or () —
 Time at 6" or () —
 Elapsed Time 9"-6" —
 Elapsed Time () - () —
 Rate (Min/In) —

Percolation Test

Start Presoak —
 End Presoak —
 Time at 12" or () —
 Time at 9" or () —
 Time at 6" or () —
 Elapsed Time 9"-6" —
 Elapsed Time () - () —
 Rate (Min/In) —

Site Passed: — Site Failed: —
 Performed by: —
 Witnessed by: —
 Comments: —

Site Passed: — Site Failed: —
 Performed by: —
 Witnessed by: —
 Comments: —

DETERMINATION FOR SEASONAL HIGH WATER TABLE

Method used:

✓ Depth observed standing in observation hole: 36" inches
— Depth weeping from side of observation hole: — inches
— Depth to soil mottles: — inches
— Ground water adjustment: — feet

Index Well Number: — Reading Date: — Index Well Level: —
 Adjustment Factor: — Adjusted Ground Water Level: —

DEPTH OF NATURALLY OCCURRING PERVIOUS MATERIAL

Does at least four feet of naturally occurring pervious material exist in all areas observed throughout the area proposed for the soil absorption system? Yes If not, what is the depth of naturally occurring pervious material? —

DEEP OBSERVATION HOLE LOG

TEST PIT #

Depth from Surface (Inches)	Soil Horizon	Soil Texture (USDA)	Soil Color (Munsell)	Soil Moisture	Other
0 - 30"	F	—			
30 - 44"	A	SL	10YR3/3		F.b.l
44 - 76"	B	SL	7.5YR5/6		F.b.l
76 - 96"	C	F/SL	2.5Y5/1	H ₂ O	Firm
96 - 156"	C ₂	F/LS	2.5Y4/4	36"	Firm

Parent Material (geologic): Glacial Outwash Depth to Bedrock: N/ADepth to Groundwater: 36" Standing water in Hole: 36" Weeping from Pit Face: 36"Estimated Seasonal High Ground Water: 36"

DEEP OBSERVATION HOLE LOG

TEST PIT #

Depth from Surface (Inches)	Soil Horizon	Soil Texture (USDA)	Soil Color (Munsell)	Soil Moisture	Other
0 - 34"	F				
34 - 76"	A	SL	10YR3/3		F.b.l
76 - 100"	B	SL	7.5YR5/6		F.b.l
100 - 156"	C	F/LS	2.5Y4/4	H ₂ O	Firm

Parent Material (geologic): (G/L) Outwash Depth to Bedrock: N/ADepth to Groundwater: 39" Standing water in Hole: 39" Weeping from Pit Face: 39"Estimated Seasonal High Ground Water: 39"Kinds of Organic Material:
Fibric, Hemic, SapricSoil Structure:
Granular, Subangular Blocky, Platy
(structureless, weak, moderate)Geologic Origins / Parent Materials:
Glacial Till: Compact, or Ablation (loose)
Gl. Outwash: Proglacial (stratified), Ice Contact (irreg.)
Lakebed Sediments, Floodplain Deposits;
Shallow to BedrockParticle Sizes & Rock Fragments:
Fine: 0.1-0.25mm; Med: to 0.5mm
Coarse: to 1.0mm; V.Coarse: to 2mm
Gravel: 2mm to 3 in.
Cobbles: 3 to 10 in.
Stones: 10 in. to 2 ft.
Boulders: greater than 2 ft.

MOISTURE

Abundance:
Few: Mottles < 2% of surface
Common: Mottles 2-20% of surface
Many: Mottles > 20% of surface

Consistency: When Moist & Dry:

Loose / Firm Loose / Soil
V. Friable / V. Firm Slightly Hard
Friable / Extr. Firm Hard / V. HardSoil Textural Type Abbreviations:
S=Sands, LS=Loamy Sand, SL=Sandy Loam
SIL=Silty Loam, SCL=Silty Clay LoamSize Contrast
Fine: < 5 mm Faint
Medium: 5 - 15 mm Distinct
Coarse: > 15 mm Prominent

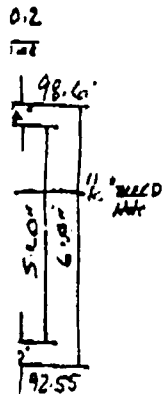
Textural Class Modifier (by volume)

< 15%: no modifier
15-35%: gravelly, cobbly, stony, etc.
35-60%: very gravelly
> 60%: extremely gravelly
mucky: organic cont. > 10% < 30%

Typical Landforms (and typ. geology)

Drumlin / Till Ridge (compact till)
Ground Moraine (loose & compact till)
Kame Terrace / Kame Plain (ice contact)
Outwash Plain (proglacial outwash)
Pitted Outwash (ice contact outwash)
Baker (ice contact outwash)

20 LOADING



(EAST) INV. INTO SEPTIC TANK
 (EAST) INV. OUT OF SEPTIC TANK
 INV. INTO DISTRIBUTION BOX
 INV. OUT OF DISTRIBUTION BOX
 INV. AT BEGINNING OF FIELD
 INV. AT END OF LEACHING FIELD
 BOTTOM OF STONE
 WATER TABLE

75.5	
97.70	
97.45	
100.42	100.61
100.15	100.30
100.15	100.14
100.00	99.90
99.50	99.99
95.4	

inch

49 GAL PER DOSE

PUMP CHAMBER
 = 16,848
 = 5,400
 = 16,593

T.P. 1

T.P. 2

T.P. 3

35"	A	FR	SL	75.4
44"	B	FR	SL	92.1
76"		FIRM	(11%)	
90"	C	F/SL	2.51 1/4	
96"		FIRM	F/LS	
85.4"			2.51 1/4	
150"				

35"	A	FR	SL	75.4
76"	B	FR	SL	92.1
100"		FIRM	(11%)	
		F/SL	2.51 1/4	
		FIRM	F/LS	
			2.51 1/4	
156"				

	A	
	B	

CLASS II SOIL

SOIL LOGS

USE RATE

USE Rate Of 30 Minutes/Inch
 Present During Tests On 5/27/98
 Agent: [Signature]
 Soil Evaluator: [Signature]

Bench Mark
 TOP COVERED
 DRI WELL
 ELEV. = 100

330 X 2: 1060 GAL. EXISTING 1000 GAL. S.T.

30 X 24 FIELD = 100

NUMBER OF BEDROOMS = 2 eo.
 GALLONS/ BEDROOM = 1.0 gal.
 REQUIRED GPD = 2.0 gal.
 REQUIRED LEACHING AREA = 1.0 / 0.33 (@ 30 min./inch) = 1000 s.f.
 LEACHING AREA PROVIDED = 1000 s.f. > 1000 s.f. (Minimum m. H.)
 LEACHING CAPACITY = 330 gpd. > 200 gpd. SYSTEM DESIGN

1/2 LIGHT

2x

3.00015

Issue	Date	Description	Drawn	Design	Check
#1	6/27/98	REPAIR OF SEWAGE SYSTEM	AAW	AAW	[Signature]
#2	07/13/00	"AS BUILT"	AAW		[Signature]

EAGLE GAS HEALTH AND SAFETY PLAN

131 MAIN STREET
CARVER, MA 02330

DEP RTN 4-17582

DECEMBER, 2004

ER. MA

1.0 PURPOSE AND ORGANIZATIONAL STRUCTURE

This Health and Safety Plan (HASP) describes the lines of authority, responsibility, and communication for health and safety functions at the job site defined as Eagle Gas Station located at 131 Main Street in Carver, MA. The property is owned by Eagle Gas, Inc. and is defined by the Carver Assessors as on Map 74, Parcel 17 (the Site). The work zone for the proposed work includes areas of the Site as shown on Figure 1 of the plan entitled "Proposed Product Recovery, Eagle Gas Station, Carver, Massachusetts; date: Dec 2004; Scale: 1"= 30'; prepared by Decoulos & Company." The work zone extends to the east of the Site into the Main Street right-of-way. Eagle has executed a license agreement with the Town of Carver to conduct work within the right-of-way.

The purpose of this HASP is to identify the personnel involved in the development and implementation of the site health and safety plan and to describe their roles and responsibilities. This section also identifies other contractors and subcontractors involved in work operations and establishes the lines of communication among them for safety and health matters.

The organizational structure of this site's safety and health program is consistent with OSHA requirements in 29 CFR 1910.120(b)(2) and provides the following site-specific information:

- * the general supervisor who has the responsibility and authority to direct all hazardous waste cleanup operations
- * the site safety and health officer who has the responsibility and authority to develop and implement this HASP and verify compliance
- * other personnel needed for cleanup operations and emergency response and their general functions and responsibilities
- * the lines of authority, responsibility, and communication for safety and health functions

This chapter is reviewed and updated as necessary to reflect the current organizational structure at this Site.

1.1 Roles and Responsibilities

All personnel and visitors on this site must comply with the requirements of this HASP. The specific responsibilities and authority of management, safety and health, and other personnel on this site are detailed in the following paragraphs.

Project Manager (PM)

The PM has responsibility and authority to direct all work operations. The PM coordinates safety and health functions with the Site Safety

James J. Decoulos, PE, LSP Tel: 617-489-7795

and Health Officer (SSHO), has the authority to oversee and monitor the performance of the SSHO, and bears ultimate responsibility for the proper implementation of this HASP. The specific duties of the PM are:

Preparing and coordinating the site work plan; providing site supervisor(s) with work assignments and overseeing their performance; coordinating safety and health efforts with the SSHO; ensuring effective emergency response through coordination with the Emergency Response Coordinator (ERC); serving as primary site liaison with public agencies and officials and site contractors.

Site Safety and Health Officer (SSHO)

The SSHO has full responsibility and authority to develop and implement this HASP and to verify compliance. The SSHO reports to the Project Manager. The SSHO is on site or readily accessible to the site during all work operations and has the authority to halt site work if unsafe conditions are detected. The specific responsibilities of the SSHO are:

Managing the safety and health functions on this site; serving as the site's point of contact for safety and health matters; ensuring site monitoring, worker training, medical surveillance, and effective selection and use of PPE; assessing site conditions for unsafe acts and conditions and providing corrective action; assisting the preparation and review of this HASP; maintaining effective safety and health records as described in this HASP; coordinating with the Emergency Response Coordinator (ERC), Site Supervisor(s), and others as necessary for safety and health efforts.

Site Supervisor

The Site Supervisor is responsible for field operations and reports to the Project Manager (PM). The Site Supervisor ensures the implementation of the HASP requirements and procedures in the field. The specific responsibilities of the Site Supervisor are:

Executing the work plan and schedule as detailed by the PM; coordination with the Site Safety and Health Officer (SSHO) on safety and health; ensuring site work compliance with the requirements of this HASP.

Site Workers

Site workers are responsible for complying with this HASP, using the proper PPE, reporting unsafe acts and conditions, and following the lines of authority established for this project site.

1.2 Local/State/Federal Agency Representatives and Their Roles & Responsibilities

DEP Representative

The government representative for this site is Cynthia Baran. Ms. Baran is responsible for project administration and oversight for the Massachusetts Department of Environmental Protection (DEP), and can be reached at 508-946-2887.

2.0 SITE CHARACTERIZATION AND JOB HAZARD ANALYSIS

This section of the HASP identifies and describes safety and health hazards associated with site work. The purpose of characterization and job hazard analysis is to identify and quantify the health and safety hazards associated with each site task and operation, and to evaluate the risks to workers. With this information, risks are then eliminated if possible, or effectively controlled. The information contained in this section of the HASP is essential to effective preparation of all other sections of the HASP. This section of the HASP includes:

- * site history
- * job hazard analysis
- * chemical and biological hazard information
- * employee notification of hazards

The person responsible for ongoing site characterization and job hazard analysis at this site is **Jim Decoulos**.

2.1 Site History

On September 8, 1997, a release of petroleum was reported on Site to DEP. The release, reported by Bartlett W. Paulding, Jr., LSP, identified total petroleum hydrocarbons (TPHs), benzene and methyl tert-butyl ether (MTBE) in a monitoring well located south of the gasoline UST concrete pad. The petroleum constituents exceeded reportable concentrations for groundwater identified in the MCP at 310 CMR 40.0000. Mr. Paulding provided a response to the release on September 13, 1997 and a copy of his report is provided in Appendix I.

The installation of the monitoring well and groundwater sampling was triggered by actions at 132 Main Street and the subsequent notification assigned RTN 4-12848.

The Paulding Company, Inc. (PCI) subsequently filed an Immediate Response Action (IRA) Plan for the Site on September 16, 1997. The IRA Plan provided a history of UST storage on Site and a summary of groundwater sampling from residential drinking water supply wells located downgradient of the Site. Eight groundwater microwells were installed on the Site and surrounding area as

proposed in the IRA Plan. The borings for the wells identified elevated petroleum constituents in the soil that exceeded the S-3/GW-1 Method 1 cleanup standard in the MCP.

Groundwater sampling subsequently conducted by PCI revealed elevated levels of volatile petroleum hydrocarbon (VPH) fractions. The VPH analysis did not provide suitable accuracy for the determination of GW-1 Method 1 exceedances in the MCP as the method detection limits (MDLs) for analysis were not low enough.

Without submitting a Phase I Initial Site Investigation, PCI filed with DEP a Phase II Comprehensive Site Assessment, a Phase III Comprehensive Remedial Action Plan and a Class C Response Action Outcome (RAO) report on February 4, 1998.

On April 25, 1998, PCI submitted a report to the former owner of the Site, Richard S. Nantais, Trustee of Nantais Realty Trust (Nantais RT) describing the circumstances of the abandonment of two 1,000 gallon USTs beneath the building on Site (see Appendix I). The USTs are shown on Sheet 1.

DEP subsequently audited the RAO and on December 8, 1998, issued a Notice of Noncompliance (NON) to Nantais RT. The NON identified a number of MCP violations with the RAO and report submissions. Shortly thereafter, Mr. Paulding withdrew as the LSP of record for the Site.

On March 18, 1999, Kaegael Environmental, Inc. (KEI) filed a Phase I Initial Site Investigation Report and Tier Classification for the Site. DEP reviewed the submittal and on April 26, 1999 notified Nantais RT that the Phase I report was incomplete and that section of the Numerical Ranking Scoresheet (NRS) needed to be modified. On July 21, 1999, KEI responded to DEP's April 26th notification and addressed all the issues that DEP had raised.

On November 27, 2001, KEI oversaw the advancement of the one-inch microwell BP-5RR on Site. The well was installed to address the loss of monitoring well BP-5 on Site from a concrete pad reconstruction. Also on that day, borings BP-4R and BP-5R were advanced.

KEI subsequently sampled groundwater monitoring wells on Site on December 17, 2002. Due to elevated petroleum readings at BP-5RR, KEI conducted a non-aqueous phase liquid (NAPL) measurement at the well on January 15, 2003. Approximately 10 inches of NAPL was observed. As a result of this finding, KEI contacted Eagle Gas and informed them that a reportable condition under the MCP existed. On January 21, 2003, Eagle notified DEP of the NAPL finding.

During the middle of May, 2003, a discovery was made by Eagle that the diesel supply fuel line, which runs from the southerly portion of the concrete pad to the northerly location (where the diesel UST resides), was not secure (see location of line on Sheet 1). It appeared that the unsecured line was releasing a small amount of diesel product to the ground - every time a diesel fuel delivery was made to fill the 5,000 gallon UST. Upon obtaining knowledge of this condition, all deliveries to the diesel UST were ceased.

The purpose of the remote diesel fill line was to restrict tanker deliveries to the southerly portion of the Site. Eagle Gas had designed the delivery line in this location to provide extra safety for its customers as they entered and exited the Site during a diesel fuel delivery.

At the end of May, 2003 the remote diesel delivery line was taken out of service. All diesel deliveries are now made directly over the fill manhole on top of the UST.

During a site inspection on May 16, 2003, James J. Decoulos inspected potential surrounding receptors to the NAPL impacted well BP-5RR. Due to the close proximity of the well to the stormwater drainage system on Main Street, an immediate concern of the NAPL discovery was that the product may travel underground along the exterior of the stormwater drainage piping. This potential preferential pathway outside the stormwater drainage pipes could pose an Imminent Hazard (IH) as described in 310 CMR 40.0950 of the MCP.

IH Evaluations are required to be performed as part of an Immediate Response Action. See 310 CMR 40.0426. Due to the GW-1 classification of the general area and the sensitive agricultural use of wetland resources in the Carver area, the IH Evaluation included an inspection of South Meadow Brook.

The South Meadow Brook inspection on May 16, 2003 revealed the presence of a sheen on the surface of the brook. The sheen was observed from Main Street on both the easterly (upgradient) and westerly (downgradient) portions of the brook.

Upon observation of the sheen and the apparent lack of connection with Eagle Gas, Decoulos reported the condition to the Carver Board of Health and the Carver Conservation Commission at Town Hall. Further inquiry resulted in a telephone call to the Carver Fire Department.

Chief Dana E. Harriman and Deputy Chief Craig F. Weston met Decoulos on Pond Street at the intersection with South Meadow Brook. This point was approximately 1.5 miles upgradient of the brook from the observed sheen location.

With the assistance of Chief Harriman and Deputy Chief Weston, the source of the sheen was identified as a stormwater outfall located approximately 300 feet north of the intersection of Main Street and South Meadow Street. Water emanating from the outfall appeared to be impacted from diesel fuel, home heating oil or waste oil.

DEP was contacted and Mark Jablonski from the Department responded to the scene at approximately 2:30 PM on May 16th. With the support of the Carver Department of Public Works, drainage structures in Main Street were removed and the headspace within each drainage structure was field screened for VOCs. The results of the headspace screening are presented on Sheet 1.

Although the drainage structures in front of the Site did not show any signs of petroleum impact, DEP issued a Notice of Responsibility (NOR) on May 16, 2003 to Eagle due to the likelihood that the source of the outfall contamination originated from the Site.

Absorbent booms have been placed at the outfall and the surrounding surface water pool. Pads and booms are required to be continuously monitored and replaced by Eagle as necessary.

2.2 Job Hazard Analysis

For a list of chemical hazards, please see tables 2 and 3 of the Phase I report dated April 30, 2004 prepared by Decoulos & Company. Based on the task /operation at the particular location, anticipated physical hazards have also been identified. Based on the best available knowledge of how that task/operation shall be performed, the likelihood of exposure to the hazards identified for the task/operation of constructing the diesel product recovery trench is expected to be minimal.

A recent soil boring program conducted on Friday, December 10, 2004 has revealed that headspace concentrations in the area of the proposed trench are not likely to exceed 50 parts per million (ppm). The information provided here is designed to satisfy the job hazard analysis requirements of 1910.120(b)(4)(ii)(A) and the workplace hazard assessment requirements of 1910.132(d).

Job Hazards shall be reevaluated when:

- * the Scope of Work is changed by adding, eliminating, or modifying tasks;
- * new methods of performing site tasks are selected;
- * observation of the performance of site tasks results in a revised characterization of the hazards;
- * new chemical, biological, or physical hazards are identified;
- * exposure data indicate changes in the concentration and/or likelihood of exposure; and,
- * new/different control measures are selected.

5.0 PERSONAL PROTECTIVE EQUIPMENT

This section describes the Personal Protective Equipment (PPE) program. This chapter of the HASP describes how PPE is selected and used to protect workers from exposure to hazardous substances and hazardous conditions on this Site.

5.1 PPE Selection Criteria

Site safety and health hazards are eliminated or reduced to the greatest extent possible through engineering controls and work practices. Where hazards are still present, a combination of an initial level of PPE is assigned to each task to provide an adequate barrier to exposure hazards. Initial PPE ensembles are selected based on the anticipated route(s) of entry of biological and chemical hazards and their concentration. Ensemble materials are selected using permeation data supplied by individual manufacturers. Materials providing the greatest duration of protection have been chosen. Tear and seam strength of the PPE are also considered to ensure ensemble durability while work is performed. When necessary, multiple layers of protection are used to accommodate the range of hazards that may be encountered. Where possible, employees are provided with a range of component sizes to ensure properly fitted PPE.

The following PPE levels shall be required at this Site.

Level D Protection

Employees shall use Level D protection during tasks that have the following characteristics:

During tasks where the atmosphere contains no known hazard and work functions preclude splashes, immersion, or the potential for unexpected inhalation of or contact with hazardous levels of any biological or chemical substances.

Criteria for PPE Upgrades and Downgrades

Jim Decoulos has authority to upgrade or downgrade PPE in a timely manner to respond to changing site conditions and to protect worker health and safety. Routine evaluation of the PPE program shall be conducted on a continuous basis.

8.0 DECONTAMINATION

This section describes how personnel and equipment are decontaminated when they leave the work zone of the proposed product recovery trench area. This chapter also describes how residual waste from decontamination processes is disposed. Decontamination procedures are designed to achieve an orderly, controlled removal or neutralization of contaminants that may accumulate on personnel or equipment. These procedures minimize worker contact with contaminants and protect against the transfer of contaminants outside designated work zones. They also extend the useful life of PPE by reducing the amount of time that contaminants contact and permeate PPE surfaces. The decontamination procedures described below are designed to meet the requirements of 1910.120(k) and include project-specific information about:

- * the location and type of project decontamination facilities
- * general and specific decontamination procedures for personnel and PPE
- * general and specific decontamination procedures for equipment
- * disposal of residual waste from decontamination
- * decontamination equipment and solutions
- * the monitoring procedures used to evaluate the effectiveness of decontamination

8.1 Decontamination Facilities

Decontamination is conducted in the contamination reduction zone (CRZ) shown on Figure 1. The area is located on the westerly side of the stockade fence, north of the existing building on Site. The location and design of the decontamination station minimizes the spread of contamination beyond this station.

8.2 Decontamination Procedures for Personnel and PPE

Decontamination procedures are designed for the level of PPE used. Project-specific procedures for personnel and PPE decontamination minimize the potential for hazardous skin or inhalation exposure, cross-contamination, and chemical incompatibilities.

The entire area overlies a drinking water aquifer that is used for public and private water supply. All decontamination procedures shall reflect the care necessary to protect the underlying aquifer.

8.3 Decontamination Procedures for Equipment

All tools, equipment, and machinery from the work zone are decontaminated in the CRZ prior to removal. Equipment decontamination procedures are designed to minimize the potential for hazardous skin or inhalation exposure, cross-contamination, and chemical incompatibilities.

The following are general equipment decontamination procedures established and implemented during this project.

General Equipment Decontamination Procedures:

- * Equipment in the work zone that can be used again, that is still operable, and that will not pose an increased exposure hazard during re-use is left in the work zone until it is no longer needed. This eliminates unnecessary decontamination and reduces the potential for physical transfer of contaminants outside the work zone.
- * Decontamination is required for all equipment exiting a contaminated area. Equipment may re-enter the work zone only after undergoing equipment decontamination procedures.
- * Equipment that is transported regularly between the contaminated and clean areas of the facility (e.g., monitoring equipment) is carefully decontaminated each time it is removed from the work zone and the effectiveness of decontamination is monitored to reduce the likelihood that contamination will be spread outside designated work zones.
- * Equipment that cannot be successfully decontaminated is disposed of as hazardous waste in designated containers.

8.4 Monitoring the Effectiveness of Decontamination Procedures

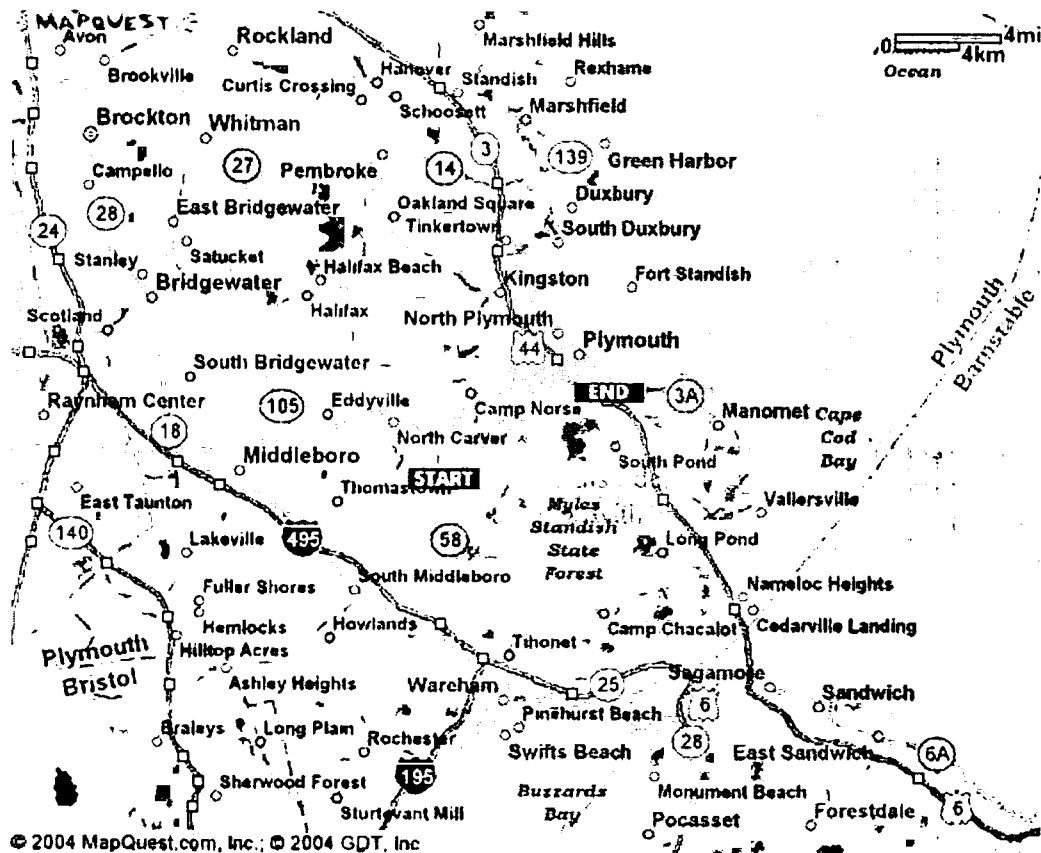
Visual examination and sampling are used to evaluate the effectiveness of decontamination procedures, in compliance with 29 CFR 1910.120(k)(2)(iv). Visual examination is used to ensure that procedures are implemented as described and that they appear to control the spread of contaminants under changing conditions. Where feasible, visual examination is also used to inspect for signs of residual contamination or for contaminant permeation of PPE.

Both air sampling and surface sampling are used to verify the effectiveness of decontamination. Air samples are taken in the clean zone to ensure that airborne contaminants have not spread to clean areas of the facility. Surface samples are taken from the inside surfaces of PPE, from decontaminated equipment, and from surfaces within clean areas of the facility to ensure that decontamination and control procedures are performing as anticipated.

Personnel who work in contaminated areas, either the Contamination Reduction Zone (CRZ) or the work zone, are trained in the principles and practices of decontamination described in this chapter of the HASP and in related SOPs. If procedures are changed as a result of inspection and monitoring, all affected employees are notified of these changes.

9.0 EMERGENCY RESPONSE PLAN

This is the site-specific emergency response plan. This chapter of the HASP describes potential emergencies at this Site, procedures for responding to those emergencies, roles and responsibilities during emergency response, and training that workers must receive in order to follow emergency procedures. This chapter also describes the provisions this site has made to coordinate its emergency response planning with other contractors on site and with off-site emergency response organizations.



Driving Route to Jordan Hospital

DRIVING DIRECTIONS TO JORDAN HOSPITAL

START: 131 Main St

Carver, MA 02330-1374

FINISH: 275 Sandwich St

Plymouth, MA 02360-2183

Total Est. Time: 23 minutes Total Est. Distance: 8.88 miles

1:

Start out going SOUTHEAST on MA-58/MAIN ST toward S MEADOW RD.
<0.1 miles

2:

Turn LEFT onto S MEADOW RD.
4.9 miles

3:

Turn SLIGHT LEFT onto FEDERAL FURNACE RD.
0.8 miles

4:

FEDERAL FURNACE RD becomes SUMMER ST.
1.6 miles

5:

Turn SLIGHT RIGHT onto PLEASANT ST.
<0.1 miles

6:

Turn LEFT onto SANDWICH ST.
1.0 miles

7:

Turn RIGHT to stay on SANDWICH ST.
0.3 miles

8:

End at 275 Sandwich St, Plymouth, MA 02360-2183 US

Table 9-4 Emergency Contact Information**SITE PERSONNEL**

Title	Contact	Telephone	
Project Manager	Jim Decoulos	617-489-7795	
OUTSIDE ASSISTANCE	Contact	Address/Location	Telephone
Chemtrec			800-424-9300
Ambulance/EMS			508-866-3433
Police			508-866-2121
Fire			508-866-2121
State Police			508-866-2121
Local Emergency Response Agency			508-866-2121
Primary Medical Facility			508-746-9161
DEP Emergency Response Team			888-304-1133
National Response Center			800-424-8802

SIGNATURE PAGE

I have read, understood and agree to comply with the provisions set forth in this Health and Safety Plan and as reviewed in the Health and Safety Briefing by the Site Safety Officer.

Approved:

Site Safety Officer

Date

Site Personnel

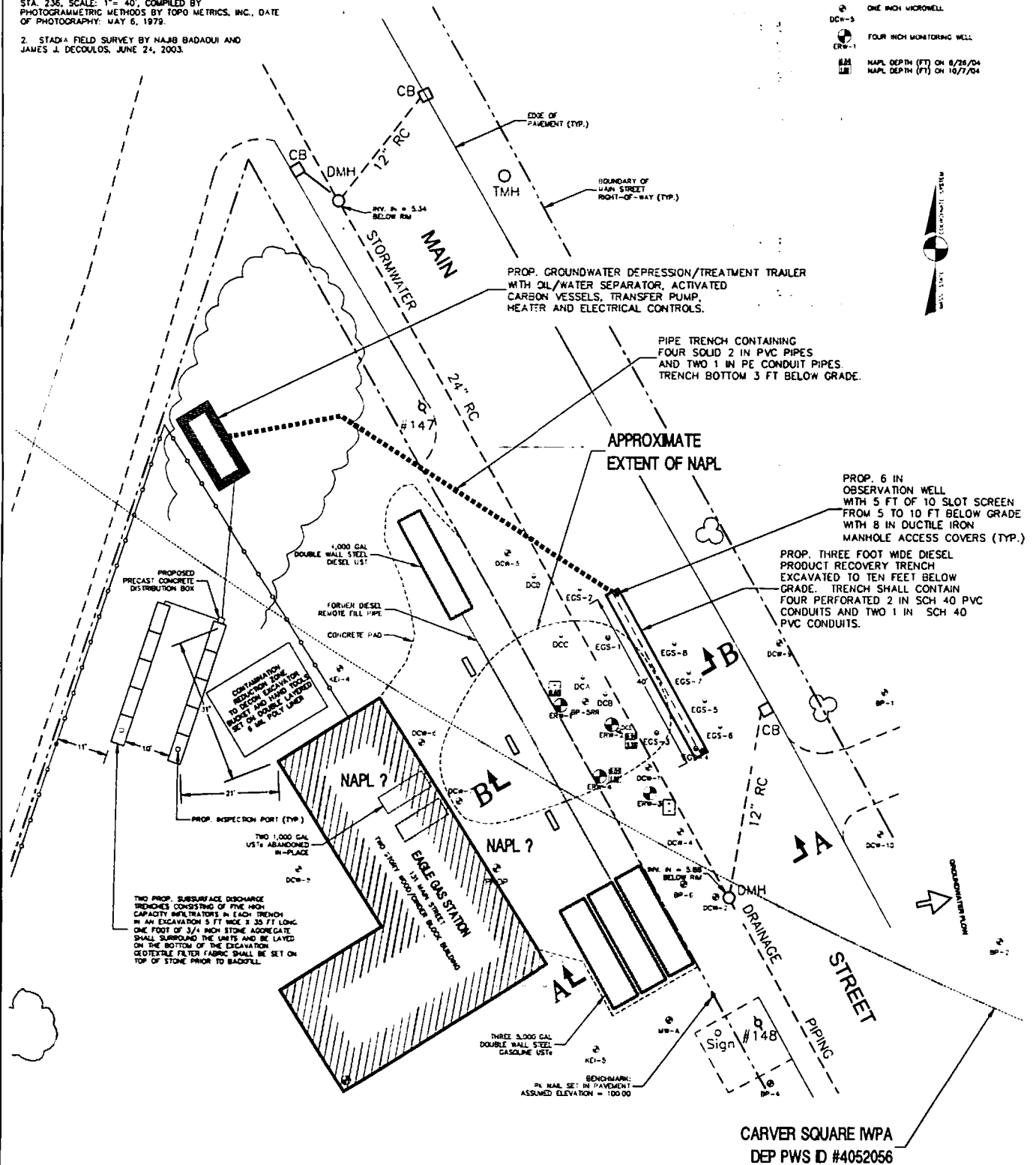
<u>Signature</u>	<u>Affiliation</u>	<u>Date</u>
_____	_____	_____
_____	_____	_____
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_____	_____	_____
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_____	_____	_____
_____	_____	_____
_____	_____	_____

REFERENCES

- LAYOUT OF ROUTE 58, WARDHAM - CARVER, MA
HIGHWAY DEPARTMENT, CONTRACT #20907, STA. 213 TO
STA. 236, SCALE: 1" = 40', COMPILED BY
PHOTOGRAMMETRIC METHODS BY TOPO METRICS, INC., DATE
OF PHOTOGRAPHY: MAY 6, 1979.
- STADIA FIELD SURVEY BY NAJB BADAUI AND
JAMES J. DECOULOS, JUNE 24, 2003.

LEGEND

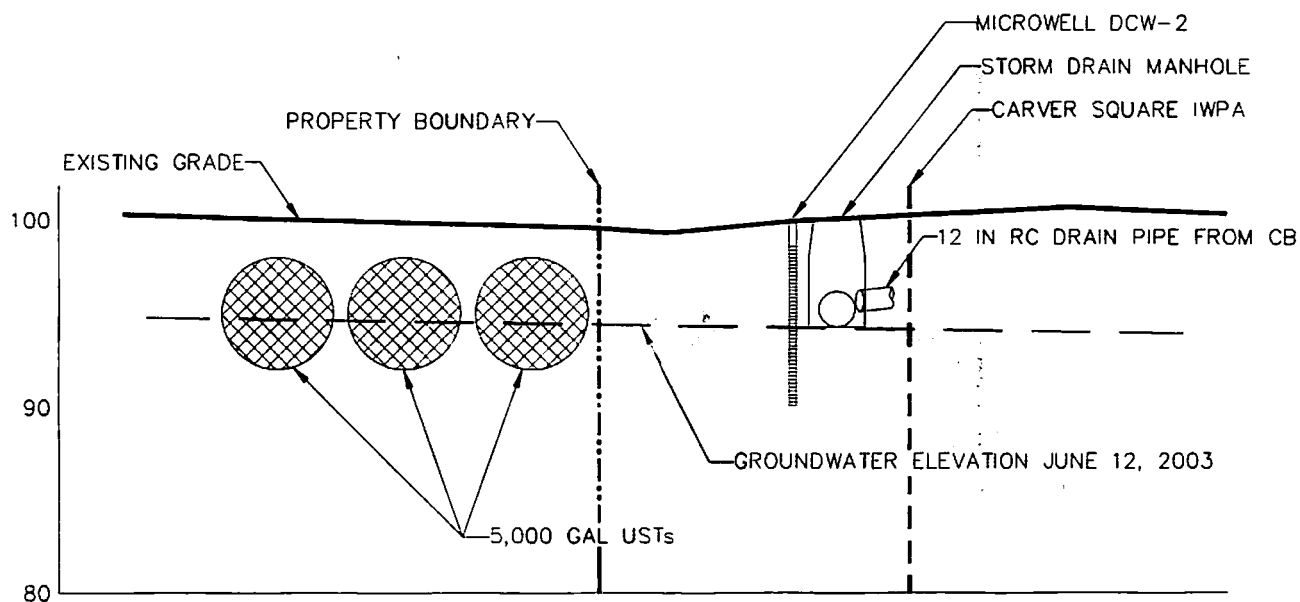
- ONE INCH SOIL BORING
- ⊙ ONE INCH MICRONELL
- ⊙-5 FOUR INCH MONITORING WELL
- ⊙-1 FOUR INCH MONITORING WELL
- ⊙ NAPL DEPTH (FT) ON 8/26/04
- ⊙ NAPL DEPTH (FT) ON 10/7/04



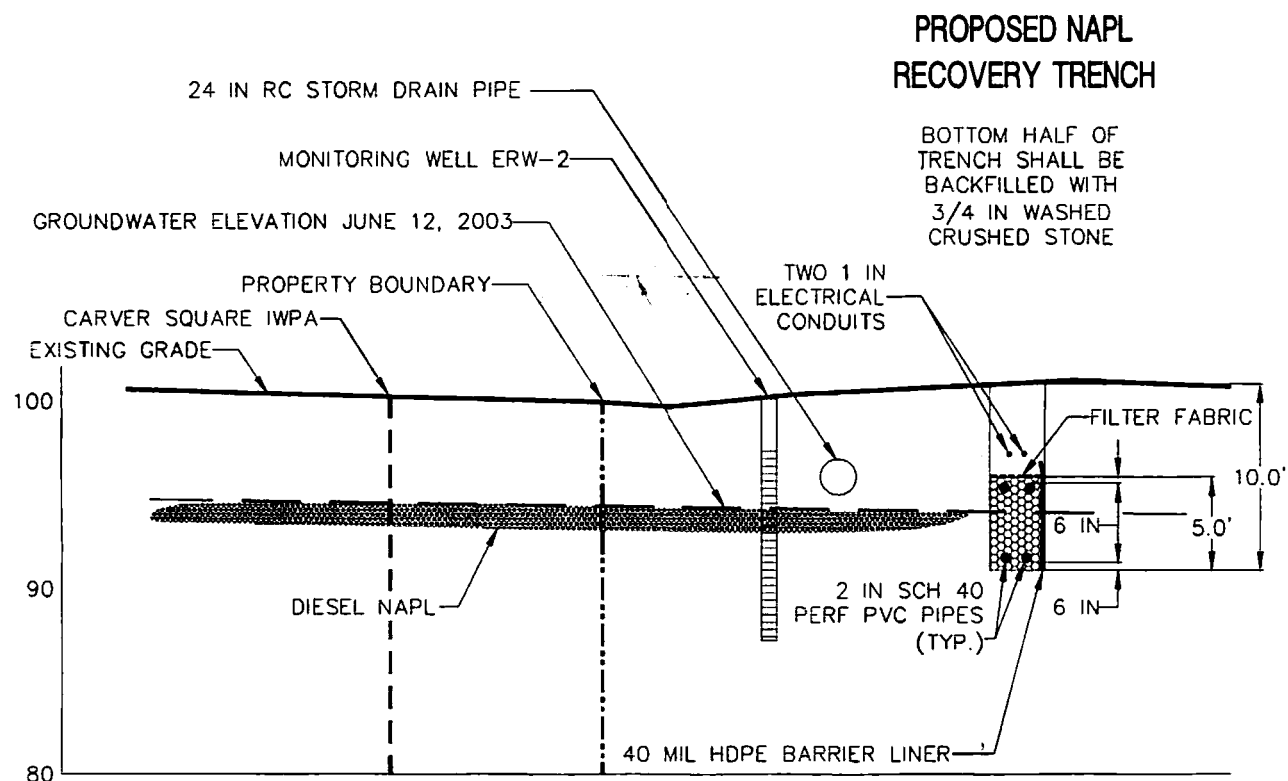
DECOULOS & COMPANY
3 ELECTRONICS AVE, DANVERS, MA 01923
WWW.DECOULOS.COM
617.489.7795

**PROPOSED PRODUCT RECOVERY
EAGLE GAS STATION
CARVER, MASSACHUSETTS**

DATE
DEC 2004
SCALE
1" = 30'
FIGURE NO.
1



SECTION A-A



SECTION B-B

DECOULOS & COMPANY
 3 ELECTRONICS AVE, DANVERS, MA 01923
 WWW.DECOULOS.COM
 877.489.7795

**CROSS SECTIONS
 EAGLE GAS STATION
 CARVER, MASSACHUSETTS**

DATE
 DEC 2004
 SCALE
 1" = 10'
 FIGURE NO.
 2

LICENSE TO ENTER AND USE REAL PROPERTY

This instrument is a license by and between the Inhabitants of the Town of Carver, Massachusetts, acting by and through its Board of Selectmen ("Licensor") and Eagle Gas, Inc., duly formed pursuant to the laws of the Commonwealth of Massachusetts, a corporation with a place of business at 131 Main Street, Carver, Massachusetts ("Licensee").

Whereas, Licensor is the owner in fee of a certain right-of-way known as Main Street as layed out by the Plymouth County Commissioners under petition of the Carver Board of Selectmen on May 8, 1951, and as amended under a petition filed on March 26, 1963. Main Street was formerly under the control of the Massachusetts Highway Department and was known as Route 58. Said layout is on file with the Plymouth County Commissioners as decree no. 1124, which is part of the Route 58 layout, Section 3, (the "Property"); and

Whereas, the Licensor is responsible for the care, custody, control and maintenance of said Property; and

Whereas, the Licensee has submitted an Immediate Response Action ("IRA") Plan Modification dated December 14, 2004 to the Massachusetts Department of Environmental Protection ("DEP") to fulfill its obligations for addressing a release of oil to the ground in accordance with the Massachusetts Oil and Hazardous Material Release Prevention Act, G.L. c. 21E and the regulation promulgated thereunder (the "IRA Plan"); and

Whereas, the Licensee desires to enter upon that portion of the Property owned by the Licensor as shown on the IRA Plan (the "Premises") in an area deemed suitable for excavating, boring, digging, and extracting materials or specimens located at the Premises for the purpose of assessing, inspecting, securing, and removing from time to time all or a portion of oil or hazardous materials during normal business hours and upon reasonable (24 hours) notice. The storage of materials during the term hereof and the access to the materials at the Property or Premises in favor of the Licensee shall be without cost or expense to the Licensor.

Now, therefore, Licensor hereby grants to Licensee the non-exclusive right to enter and use the Premises and to access the Premises from the Property subject to the following terms and conditions:

1. REFERENCE DATA

Date of License:

December 14, 2004

Mailing Address of Licensor:

Board of Selectmen
Carver Town Hall
108 Main Street
Carver, MA 02330

Mailing Address of Licensee:

Eagle Gas, Inc.
131 Main Street
Carver, MA 02330

Permitted Use:

Excavating, boring, digging, and extracting oil or hazardous materials located at the Premises for the purpose of inspecting, assessing, securing, and removing from time to time oil or hazardous materials during normal business hours and upon reasonable (24 hours) notice and for analysis of the specimens.

Term of License:

Six (6) months from the date of this License

Consideration to be paid by
Licensee:

\$1.00

2. RIGHTS APPURTENANT

The Licensee shall have, as appurtenant to the License hereby granted, the non-exclusive use, in common with others entitled thereto, of the Premises for the period of this License and only for the purposes of the Permitted Use defined in Section 1.

3. CONDITION OF PREMISES

Licensee acknowledges and agrees that it accepts the Premises in "as is" condition for the purpose of this License, and that Licensor has made no representation or warranty regarding the fitness of the Premises for the Permitted Use.

4. PERMITS

This agreement and all obligations hereunder are specifically dependent upon the issuance to the Licensee of all permits and licenses required to undertake the Permitted Use at the Premises in accordance with all applicable laws, regulations and governmental requirements from those governmental agencies having jurisdiction, and compliance by the Licensee with such permits and licenses.

6. ALTERATION OF THE PROPERTY

Licensee shall not make any alterations or improvements upon the Premises except to undertake the Permitted Use under this License, and except to restore the Premises as closely as practical to their condition prior to the exercise of Licensee's rights, immediately after they are disturbed by said Permitted Use.

page 2 of 6

7. LICENSEE'S EQUIPMENT

Licensee may bring such vehicles and other equipment upon the Premises as would ordinarily be used to undertake the Permitted Use.

8. UTILITIES

Licensor makes no representation as to the operation, presence or adequacy of any utilities for the construction and maintenance purposes of Licensee and Licensor has no obligation to supply any such utilities to the Premises.

9. CONDUCT OF LICENSEE

Non-interference with Licensor's Operations

Licensee shall at all times conduct itself so as not to interfere in any way with the operation of the Property or Premises by Licensor.

Compliance with Laws

Licensee shall at all times perform the Permitted Use in accordance with all applicable laws, statutes, ordinances, regulations, permits, licenses, orders and requirements of governmental authorities and with all requirements of its insurance policies.

Repair of Damage

Licensee shall neither cause nor suffer any waste of the Premises, and shall maintain the Premises in good order at all times. The Licensee's responsibilities shall include the restoration or repair of any and all damage to the Premises or the Property resulting from any act, failure to act or negligence of the Licensee. This obligation shall survive the termination of the License.

Sanitation

Licensee shall maintain the Premises in a sanitary condition and shall follow all directions of Licensor with regard to the collection and disposal of refuse or construction debris.

Security

Licensor is not responsible for the security of the Premises, which shall be the sole responsibility of Licensee, during the times that Licensee is using or occupying the Premises under this License.

Costs of Operations

Licensee shall be solely responsible for any and all costs, expenses, damages and liabilities associated with the exercise of its rights under this License.

Operations Limited to Permitted Use

Licensee shall not conduct any operations upon the Premises except for the Permitted Use under Section 1 of this License and except for any requirement set forth in this License. Licensee shall exercise of its rights under this license in such a manner as to minimize impacts on third parties operating over the Property and the Premises, and shall provide twenty-four hour written notification to Licensor of any anticipated interference with such operation by third parties.

10. RISK OF LOSS

Licensee agrees that it shall use and occupy the Premises at its own risk, and the Licensor shall not be liable to Licensee for any injury or death to persons entering the Premises pursuant to the License, or loss or damage to vehicles, equipment, structures or other personal property of any nature whatsoever of the Licensee, or of anyone claiming by or through any of them, that are brought upon the Premises pursuant to the License, except if such injury, death, loss or damages is caused by the willful act or gross negligence of Licensor, or its employees, agents, contractors or invitees.

11. INDEMNIFICATION

Licensee agrees to indemnify, defend and hold harmless Licensor against any claim by any person for any injury or death to persons or loss or damage to or diminution in value of any property occurring upon the Premises or the Property or relating in any way to Licensee's exercise of its rights under this License. In particular, Licensee shall indemnify, defend and hold harmless Licensor with regard to any claim or action brought by and private party or regulatory with regard to the release or threat of release of oil and/or hazardous material at or from the Premises as a result of Licensee's exercise of its rights under this License.

12. INSURANCE

The Licensee shall keep in force, at its sole cost and expense, during the full term of this License, comprehensive public liability insurance, in the amount of one million dollars (\$1,000,000), insuring the Licensee and the Licensor against all claims and demands for personal injury or damage to or diminution in value of any property which may be claimed to have occurred upon the Premises or as a result of the exercise by Licensee of the rights granted by this License and naming the Licensor as a named insured. Failure to obtain and keep in force said insurance, and failure to provide the Licensor with proof of same, shall automatically terminate this License and any rights granted herein.

13. RIGHTS OF LICENSOR TO ENTER

The Licensor reserves the right and the Licensee shall permit the Licensor and its employees, contractors, agents and invitees to enter upon and use the Premises at any time and for any and all purposes at Licensor's sole discretion, provided that Licensor's use shall not interfere with Licensee's Permitted Use.

14. TERMINATION

This License is terminable at any time by the Licensor or the Licensee following notice by certified U.S. Mail, return receipt requested, to the other party. This License shall expire on the date specified in such notice.

15. NO ESTATE CREATED

This License shall not be construed as creating or vesting in Licensee any estate in the Premises or Property or any interest in real property.

16. LICENSEE TO PROVIDE ALL INFORMATION OBTAINED

The Licensee shall provide to the Licensor all information, including but not limited to reports, data, and test results obtained by the Licensee, its employees, agents, and/or contractors resulting from the use described in section 1 of this License. This information shall be made available to the Licensor at the same time it is made available to the Licensee.

17. MISCELLANEOUS

This License may not be modified except in writing, duly executed by both parties.

This License contains the entire agreement of the parties and there are no other agreements or understandings between the parties regarding the subject matter of the License.

The Licensee is not authorized to bind or involve the Licensor in any contract or to incur any liability for or on the part of the Licensor; likewise, the Licensor, its employees, agents, contractors or invitees, is not authorized to bind or involve the Licensee in any contract or to incur any liability for or on the part of the Licensee.

If any portion of this License is declared to be illegal, unenforceable or void, then all parties to this License shall be relieved of all obligations under that portion; provided, however, that the remainder of this License shall be enforced to the fullest extent permitted by law.

The captions in this License are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this License or any of the provisions thereof.

This License shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, and any and all legal actions brought in connection with this License shall be brought in courts within the Commonwealth of Massachusetts.

This License is to take effect as a sealed instrument.

LICENSOR: TOWN OF CARVER
BOARD OF SELECTMEN

James M. Quinn
James P. Quinn
Robert H. Wright

12/14/04
Date

LICENSEE: EAGLE GAS, INC.

oil
Authorized Signature

President
Title

NASSIR BADAOU
Print Name

12/15/04
Date

EXHIBIT PRR-52

Baran, Cynthia (DEP)

From: Baran, Cynthia (DEP)
Sent: Wednesday, January 19, 2005 3:19 PM
To: 'James J. Decoulos'
Cc: Hobill, Jonathan (DEP)
Subject: RE: Eagle IRA Mod No. 4 RTN 4-17582

Jim:

In order to collect the data needed to support or modify the proposed design of groundwater and LNAPL recovery and treatment system outlined in IRA Modification #3, the Department approves IRA Plan Modification #4 with the following conditions:

1.) The proposed LNAPL collection will be performed only by OSHA Certified Personnel in accordance with the procedures outlined in in IRA Modification #3.

Please note, as we discussed today, that the Department can not approve IRA Modification #3 without additional information to support the design/treatment capacity of the proposed system.

Please feel free to contact me if you have any questions.

Thank you,

-Cynthia.

-----Original Message-----

From: James J. Decoulos [mailto:jamesj@decoulos.com]

Sent: Tuesday, January 18, 2005 9:13 AM

To: Baran, Cynthia (DEP)

Subject: Eagle IRA Mod No. 4 RTN 4-17582

Cynthia,

Attached is the IRA Mod Plan we discussed on Friday. It is being filed now with eDEP and I will forward receipt to you.

Jim

James J. Decoulos, PE, LSP

Decoulos & Company

3 Electronics Avenue

Danvers, MA 01923

web: www.decoulos.com

tel: 617-489-7795

fax: 877-842-9629

EXHIBIT PRR-53

Baran, Cynthia (DEP)

From: Baran, Cynthia (DEP)
Sent: Wednesday, January 19, 2005 4:22 PM
To: 'James J. Decoulos'
Cc: Paul Wright; Hobill, Jonathan (DEP)
Subject: RE: Eagle IRA Mod No. 4 RTN 4-17582

Jim:

Please consider this e-mail approval to pump the interceptor trench as outlined in your request below.

-----Original Message-----

From: James J. Decoulos [mailto:jamesj@decoulos.com]
Sent: Wednesday, January 19, 2005 3:45 PM
To: Baran, Cynthia (DEP)
Cc: Paul Wright
Subject: RE: Eagle IRA Mod No. 4 RTN 4-17582

Cynthia,

Due to the need to extend the approval of IRA Mod No. 3, we request that the interceptor trench be pumped with a 3500 gallon press vacuum truck operated by Lighthouse Environmental on February 2nd and 9th. The fluid will be properly manifested and disposed of at an approved facility. Based upon our past test, we expect that between 1,000 and 1,500 gallons of fluid will be pumped per event.

The request is made to minimize the threat of petroleum hydrocarbons migrating past the interceptor trench until the treatment system is fully operational. Thank you.

Jim

At 03:19 PM 1/19/2005, you wrote:

>Jim:

>

>In order to collect the data needed to support or modify the proposed
>design of groundwater and LNAPL recovery and treatment system outlined
>in IRA Modification #3, the Department approves IRA Plan Modification
>#4 with the following conditions:

>1.) The proposed LNAPL collection will be performed only by OSHA
>Certified Personnel in accordance with the procedures outlined in in
>IRA Modification #3.

>

>Please note, as we discussed today, that the Department can not approve
>IRA Modification #3 without additional information to support the
>design/treatment capacity of the proposed system.

>

>Please feel free to contact me if you have any questions.

>Thank you,

>-Cynthia.

>-----Original Message-----

>From: James J. Decoulos [mailto:jamesj@decoulos.com]
>Sent: Tuesday, January 18, 2005 9:13 AM
>To: Baran, Cynthia (DEP)

>Subject: Eagle IRA Mod No. 4 RTN 4-17582

>

>Cynthia,

>

>Attached is the IRA Mod Plan we discussed on Friday. It is being filed
>now with eDEP and I will forward receipt to you.

>

>Jim

>

>James J. Decoulos, PE, LSP

>Decoulos & Company

>3 Electronics Avenue

>Danvers, MA 01923

>web: www.decoulos.com

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>tel: 617-489-7795

>fax: 877-842-9629

James J. Decoulos, PE, LSP

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Danvers, MA 01923

web: www.decoulos.com

tel: 617-489-7795

fax: 877-842-9629

EXHIBIT PRR-54

Baran, Cynthia (DEP)

From: Hobill, Jonathan (DEP)
Sent: Monday, October 31, 2005 9:59 AM
To: Baran, Cynthia (DEP)
Subject: RE: Nantais Revised Draft Consent Order

Does that go against the "onsite is Eagle Gas/Najib, offsite is Nantais" understanding. Didn't Decoulous address this in on of his IRAs?

"Not everything that can be counted counts, and not everything that counts can be counted."--Albert Einstein

From: Baran, Cynthia (DEP)
Sent: Friday, October 28, 2005 6:09 PM
To: 'Donald Nagle'; Hobill, Jonathan (DEP); Kiernan, Kevin (DEP)
Subject: Nantais Revised Draft Consent Order

<< File: Nantais Draft ACO rev 10-28-05.doc >>
Hello-

Here is the revised draft Consent Order. I have incorporated changes based on review of the IRAC and Class C RAO and discussions today with Don and Dave Bennett. Please review the changes. There is one outstanding issue that is not completely addressed by the IRAC/Class RAO or the ACO (at this point) that we need to resolve. The private well at the gas station remains a CEP that was present in the historic gasoline release RTN 4-13333 (and was one of the COCs actually reported in the RLF and RNF (4000 ppb MtBE in a MW ~ 40'-50' from private well)). The private well contamination was present prior to the diesel release and low levels of MtBE are still present in the well as of the last sampling round. In the IRAC/Class C RAO, Dave Bennett recommends that Eagle Gas provide bottled water to address the CEP. I do not have any documentation that Eagle Gas is currently providing bottled water to residents of the apartment. This issue is contemplated but not fully addressed in item # 28 in the ACO. We could add a requirement that Mr. Nantais provide bottled water or request assurance that Eagle Gas is and will continue to provide bottled water. I would like to discuss this issue prior to finalizing the ACO.

I have not yet corrected the formatting/numbering because I did not want to lose the edit tracking in the process.

Please review and forward me your comments.

Thank you.
-Cynthia.

EXHIBIT PRR-55

Baran, Cynthia (DEP)

From: Baran, Cynthia (DEP)
Sent: Tuesday, November 01, 2005 7:07 PM
To: Hobill, Jonathan (DEP); 'Kiernan, Kevin (DEP)'
Subject: FW: Nantais Revised Draft Consent Order

Hi Jon & Kevin:

I feel strongly that the CEP language should be kept in the document. I don't want it to appear that DEP is ignoring a CEP. By virtue of the Consent Order, we are "accepting" an IRAC that does not eliminate or mitigate a CEP condition as required. I believe the only way we can accept this is because Eagle Gas is currently independently evaluating (and addressing) the CEP and the Consent Order should reflect that fact. Other than that, I believe the draft Consent Order is ready to go. Thanks for all your help and input with this.

Kevin, thanks for offering to finalize the document when you and Jon have reached agreement on paragraph 28.
-Cynthia.

From: Kiernan, Kevin (DEP) [mailto:Kevin.Kiernan@state.ma.us]
Sent: Tuesday, November 01, 2005 1:57 PM
To: Donald Nagle; Baran, Cynthia (DEP); Hobill, Jonathan (DEP); Kiernan, Kevin (DEP)
Cc: David Bennett
Subject: RE: Nantais Revised Draft Consent Order

Don:

I thought you and Dave were completely all set with the CEP provision. What's the problem? We're not saying you have to provide bottled water. We're just saying there is a CEP out there that both your client and Eagle Gas are responsible for. We're leaving no doubt that it is currently being evaluated/addressed by Eagle Gas and that it's not being ignored.

Kevin.

From: Donald Nagle [mailto:nagle@dpnaglelaw.com]
Sent: Tuesday, November 01, 2005 1:25 PM
To: Baran, Cynthia (DEP); Hobill, Jonathan (DEP); Kiernan, Kevin (DEP)
Cc: David Bennett
Subject: RE: Nantais Revised Draft Consent Order

With the exception of paragraph 28, I would recommend to Mr. Nantais that he sign the attached Consent Order in final form.

Donald P. Nagle, Esq.
Law Office of Donald P. Nagle, P.C.
5 Main Street Extension, Suite 300
Plymouth, Massachusetts 02360
phone: (508) 732-8970
fax: (508) 732-8971
email: nagle@dpnaglelaw.com
website: www.dpnaglelaw.com

From: Baran, Cynthia (DEP) [mailto:Cynthia.Baran@state.ma.us]

Sent: Friday, October 28, 2005 6:16 PM

To: Donald Nagle; Hobill, Jonathan (DEP); Kiernan, Kevin (DEP)

Subject: Nantais Revised Draft Consent Order

<<Nantais Draft ACO rev 10-28-05.doc>>

Hello-

Here is the revised draft Consent Order. I have incorporated changes based on review of the IRAC and Class C RAO and discussions today with Don and Dave Bennett. Please review the changes. There is one outstanding issue that is not completely addressed by the IRAC/Class RAO or the ACO (at this point) that we need to resolve. The private well at the gas station remains a CEP that was present in the historic gasoline release RTN 4-13333 (and was one of the COCs actually reported in the RLF and RNF (4000 ppb MtBE in a MW ~ 40'-50' from private well). The private well contamination was present prior to the diesel release and low levels of MtBE are still present in the well as of the last sampling round. In the IRAC/Class C RAO, Dave Bennett recommends that Eagle Gas provide bottled water to address the CEP. I do not have any documentation that Eagle Gas is currently providing bottled water to residents of the apartment. This issue is contemplated but not fully addressed in item # 28 in the ACO. We could add a requirement that Mr. Nantais provide bottled water or request assurance that Eagle Gas is and will continue to provide bottled water. I would like to discuss this issue prior to finalizing the ACO.

I have not yet corrected the formatting/numbering because I did not want to lose the edit tracking in the process.

Please review and forward me your comments.

Thank you.

-Cynthia.

EXHIBIT PRR-56

Baran, Cynthia (DEP)

From: Baran, Cynthia (DEP)
Sent: Thursday, November 17, 2005 11:54 AM
To: Hobill, Jonathan (DEP); 'Kiernan, Kevin (DEP)'
Subject: FW: Eagle Gas

FYI...

From: Chief Craig Weston [mailto:craig.weston@carverfire.org]
Sent: Thursday, November 17, 2005 11:41 AM
To: Baran, Cynthia (DEP)
Subject: Eagle Gas

Cynthia,

This email is based upon our conversation from this morning regarding a fuel spill at 131 Main Street, Eagle Gas.

On November 7, 2005 at 15:26, the Carve Fire Department was notified of a reported Fuel Spill at 131 Main Street, Eagle Gas in Carver. I, Chief Craig Weston, responded to Eagle Gas, observing a large fuel truck, filling the underground gas tanks. A small gasoline spill was noticed next the the rear wheels of the fuel truck. I estimated the size of the spill to be less than 10 gallons, approximately 5 gallons of gasoline. DEP was not notified due to the size of the spill observed. The fuel truck delivery man was quickly cleaning up the spilled gasoline with speedy dry and absorbent pads. There was a drainage manhole in the area, but was diked off properly with no fuel product entering it. At 15:30 I cleared the scene, with the spill contained and half picked up.

Thank you ,
Craig Weston
Chief Craig Weston
Carver Fire Department
112A Main Street
Carver, Massachusetts 02330
<http://www.carverfire.org/>
On Call Professionals Serving Carver with Pride

EXHIBIT PRR-57



RELEASE LOG FORM ATTACHMENT

4 - 12848

E. LOG/RELEASE LOCATION INFORMATION: (complete if using only BWSC-102B)

City/Town: Carver Date: 3/12/97 Time: 1145 ☒ AM ☐ PM

Release Address: 132 Main St

Use of Attachment (check one): ☐ Field ☒ Office Follow-up ☐ Attachment Page(s): 1 of 2

F. ADDITIONAL DESCRIPTION:

Ken Nantais (son) | The Powerhouse
(owner of gas station) repair power equipment;
called to tell me I chainsaws, lawn mowers...
UST across street removed 1-1 1/2 months ago
by L J Trucking Co., Carver

didn't recall seeing E. Dept ... they were moving
bus. then about 3 1/2 mi down road, lease
station out now

veeder-root leak detection system installed w/ new
USTs in 1989. System provides printouts - no leaks detected
→ stated compliance inspector from state out recently
unclear who / where ??

purchased property 1978, no 21E done back then
removed tanks 1989 - Dennison Oil Co. found
no traces of leaks / leakage "Smelled the soil"
Water on site - well for the bldg - ~ 50' from USTs
was tested ~ 3mo ago by Ryder Well Co / Carver
"came up clean" - believes volatiles done
seemed to understand problem could be from old USTs
or other historic practices; previous owner - junk yard.
father wants to retire ~ got out of gas business ~

G. DEP ASSIGNMENT: (complete if using BWSC-102A and 102B or BWSC-102B only)

Preparer of RLFA (please print): Signature:

Staff Lead Assigned (if different from preparer):

☐ Check here if the Release or Threat of Release is unassigned.

☐ Check here if this RLFA records a change in staff lead.



Massachusetts Department of Environmental Protection
Bureau of Waste Site Cleanup

BWSC-102B

Release Tracking Number

4-12848

RELEASE LOG FORM ATTACHMENT

E. LOG/RELEASE LOCATION INFORMATION: (complete if using only BWSC-102B)

City/Town: Carver Date: 3/12/97 Time: 1145 ☒ AM ☐ PM

Release Address: 132 Main St

Use of Attachment (check one): ☐ Field ☒ Office Follow-up ☐ Attachment Page(s): 2 of: 2

F. ADDITIONAL DESCRIPTION:

rec'd call from
Ken Nantais (son)
→ father purchased in 1978, removed USTs
in 89 - no 2HE done @ time (either) →
could be previous tanks (admitted possible)
getting out of gasoline bus - have equipt
repair down road The Powerhouse
recall LT Trucking Co. Carver - removing
UST 1-1 1/2 mo ago cross street
- they were moving then | busy
existing weeder not | printouts | compliance
officer for state was out (?? who)
Dennison Oil Co removed USTs in 89
no traces leakage "smelled soil etc"
well water tested 3 mo ago
Ryder well Co - Carver
60' from tank "came up clean"

G. DEP ASSIGNMENT: (complete if using BWSC-102A and 102B or BWSC-102B only)

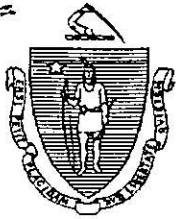
Preparer of RLFA (please print): Julie Hutcherson Signature: _____

Staff Lead Assigned (if different from preparer): _____

☐ Check here if the Release or Threat of Release is unassigned.

☐ Check here if this RLFA records a change in staff lead.

EXHIBIT PRR-58



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOUTHEAST REGIONAL OFFICE

SCANNED

ARGEO PAUL CELLUCCI
Governor

TRUDY COXE
Secretary

DAVID B. STRUHS
Commissioner

URGENT LEGAL MATTER: PROMPT ACTION NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

COPY

August 11, 1997

Mr. Richard Nantais
Post Office Box 478
Carver, Massachusetts 02330

RE: **CARVER--BWSC**
132 Main Street
RTN: **4-12848**

NOTICE OF RESPONSIBILITY
M.G.L. c. 21E, 310 CMR 40.0000

Dear Mr. Nantais:

On June 23, 1997, the Department of Environmental Protection (the "Department") received analytical data confirming that the private drinking water well at 132 Main Street has been impacted by Benzene. The Department also received a report entitled "Environmental Site Assessment of 132 Main Street, Carver MA" prepared by Norfolk Environmental, for the Our Lady of Lourdes Parish, Carver Square, Carver, Massachusetts, dated April 7, 1997. Information provided in the assessment report and collected during a March 12, 1997 site inspection indicates that the gasoline station located at 131 Main Street is a potential source for the Benzene contamination.

The Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c.21E, and the Massachusetts Contingency Plan (the "MCP"), 310 CMR 40.0000, require the performance of response actions to prevent harm to health, safety, public welfare and the environment which may result from this release and/or threat of release and govern the conduct of such actions. The purpose of this notice is to inform you of your legal responsibilities under State law for assessing and/or remediating the release at this property. For purposes of this Notice of Responsibility, the terms and phrases used herein shall have the meaning ascribed to such terms and phrases by the MCP unless the context clearly indicates otherwise.

The Department has reason to believe that the release and/or threat of release which has been reported is or may be a disposal site as defined by the M.C.P. The Department also has reason to believe that you (as used in this letter, "you" and "your" refers to Mr. Richard Nantais, as owner) are a Potentially Responsible Party (a "PRP") with liability under M.G.L. c.21E §5, for response action costs. This liability is "strict", meaning that it is not based on fault, but solely on your status as owner, operator, generator, transporter, disposer or other person specified in M.G.L. c.21E §5. This liability is also "joint and several", meaning that you may be liable for all response action costs incurred at a disposal site regardless of the existence of any other liable parties.

The Department encourages parties with liabilities under M.G.L. c.21E to take prompt and appropriate actions in response to releases and threats of release of oil and/or hazardous materials. By taking prompt action, you may significantly lower your assessment and cleanup costs and/or avoid liability for costs incurred by the Department in taking such actions. You may also avoid the imposition of, the amount of or reduce certain permit and/or annual compliance assurance fees payable under 310 CMR 4.00. Please refer to M.G.L. c.21E for a complete description of potential liability. For your convenience, a summary of liability under M.G.L. c.21E is attached to this notice.

You should be aware that you may have claims against third parties for damages, including claims for contribution or reimbursement for the costs of cleanup. Such claims do not exist indefinitely but are governed by laws which establish the time allowed for bringing litigation. The Department encourages you to take any action necessary to protect any such claims you may have against third parties.

The Department has compiled the following information relative to this site:

- 1.) The private well at 132 Main Street was tested for volatile organic compounds (VOCs) in January 1997 and retested in May 1997. The results were 14 ppb and 10 ppb of Benzene, respectively. Both results exceed the Reportable Concentration for Groundwater Category -1 for Benzene established at 5ppb.
- 2.) The local groundwater flow is presumed to be east/southeast toward the South Meadow Brook which would place you generally upgradient to the impacted well.
- 3.) During a March 12, 1997 telephone conversation with Kenneth Nantais the following information regarding the underground storage tanks (USTs) was provided. You purchased the gasoline station at 131 Main Street in 1978 and removed the existing USTs in 1989. A subsurface assessment of the property was not conducted at the time of purchase or relative to the removal of the USTs. The

historic activities are not well known but do include an auto junkyard operation.

- 4.) The resident at 132 Main Street stated to the Department that the well water has displayed an odd smell for over six years.
- 5.) A 500 gallon #2 fuel oil UST was removed from 132 Main Street in 1987. Soil samples were collected from this area during the assessment conducted by Norfolk Environmental in December 1996. The samples contained elevated concentrations of Total Petroleum Hydrocarbons (TPH). Seven (7) cubic yards of soil were excavated in January 1997. Confirmatory laboratory results were below the Method 1 Soil Category -1 (S-1) standard of 500 ppm.

ACTIONS REQUIRED

Licensed Site Professional

You must employ or engage a Licensed Site Professional to manage, supervise or actually perform all assessment activities and required response actions at this site. The LSP retained by you will be able to review the options available to you regarding the regulatory requirements and procedures. **Within ten (10) days of receipt of this Notice**, you shall provide the name of the LSP you have retained to conduct a subsurface assessment of the site. Please beware that failure to respond to this Notice can result in enforcement action. You may obtain a list of the names and addresses of LSPs from the Board of Registration of Hazardous Waste Site Cleanup Professionals at (617) 556-1145.

IMMEDIATE RESPONSE ACTION PLAN

In addition, **within twenty-one (21) days from receipt of this Notice** you must submit to the Department a written Immediate Response Action Plan (IRA Plan), pursuant to 310 CMR 40.0410, which evaluates the site for the existence of an Imminent Hazard or conditions of Substantial Release Migration. The IRA Plan shall include at a minimum the following:

1. A subsurface investigation including the installation of an adequate number of groundwater monitoring wells to delineate the extent of the groundwater contamination and verify the groundwater flow direction.
2. A site diagram identifying the location of all potential sources of the groundwater contamination including, but not limited to, floor drains and/or sinks which discharged to a UIC oil/water separator, former or current USTs and above ground storage tanks (ASTs), waste

storage areas. The locations of the groundwater monitoring wells must be indicated.

3. All available tank tightness testing records and waste manifests must be provided for the past five (5) years. Analytical results for the on-site drinking water well must also be provided.
4. All available information describing the past usage(s) of the property must be provided.

The IRA Plan must provide a schedule for the installation of the monitoring wells and the collection of the groundwater samples. These activities must commence within forty-five (45) days of receipt of this Notice.

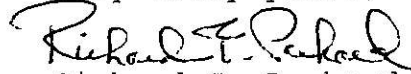
Additional submittals are required by the MCP including, but not limited to, the filing of a written IRA Plan, IRA Completion Statement and/or a Response Action Outcome (RAO) statement. The MCP requires that a fee of \$750.00 be submitted to the Department when an RAO statement is filed greater than 120 days from the date of initial notification. Specific approval is required from the Department for the implementation of all IRAs and Release Abatement Measures (RAMs). Assessment activities, the construction of a fence and/or the posting of signs are actions that are exempt from this approval requirement.

Unless otherwise provided by the Department, potentially responsible parties ("PRP's") have one year from the initial date of notification to the Department of a release or threat of a release, pursuant to 310 CMR 40.0300, or from the date the Department issues a Notice of Responsibility, whichever occurs earlier, to file with the Department one of the following submittals: (1) a completed Tier Classification Submittal; (2) a Response Action Outcome Statement or, if applicable, (3) a Downgradient Property Status. The deadline for either of the first two submittals for this disposal site is **February 14, 1998**. If required by the MCP, a completed Tier I Permit Application must also accompany a Tier Classification Submittal.

This site shall not be deemed to have had all the necessary and required response actions taken unless and until all substantial hazards presented by the release and/or threat of release 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.

If you have any questions relative to this notice, please contact Julie J. Hutcheson at the letterhead address or at 508-946-2852. All future communications regarding this release must reference the following Release Tracking Number: 4-12848.

Very truly yours,



Richard F. Packard, Chief
Emergency Response / Release
Notification Section

P/JH/re

CERTIFIED MAIL #P 256 385 885
RETURN RECEIPT REQUESTED

Attachments: Summary of Liability under M.G.L. c.21E

cc: Board of Selectmen
Town Hall, Main St.
Carver, MA 02330

Board of Health
Town Hall, Main St.
Carver, MA 02330

Fire Department
P.O. Box 92
112 Main St.
Carver, MA 02330

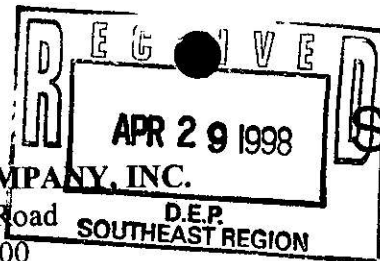
DEP - SERO
ATTN: Andrea Papadopoulos, Deputy Regional Director

DEP - SERO - BWSC
ATTN: Data Entry

EXHIBIT PRR-59

THE PAULDING COMPANY, INC.

18 Pepperell Road
P.O. Box 500
West Groton, MA 01472
978-448-2549



SCANNED

Project 96553
April 25, 1998

Department of Environmental Protection
Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02347

Attention: Jonathan Hobill
Acting Regional Engineer, BWSC

Ladies and Gentlemen:

This letter and enclosures are being sent to your office in response to a letter from Sarah Weinstein of your Boston office, dated April 16, 1998 to my client, Richard Nantais regarding the potential for a "default Tier IB" classification of the property at 132 Main Street in Carver, Mass., with RTN 4-12848.

As is stated by Mr. Nantais in the appended "Attachment 5" from Ms. Weinstein's letter, he has no connection with the property at 132 Main Street with RTN 4-12848. Although it was originally thought by the DEP that the occurrence of contamination in the drinking water well at 132 Main Street originated from the nearby gasoline station owned by Mr. Nantais, subsequent investigations, including a Phase II Comprehensive Site Investigation, has established that the contamination in the well at 132 Main Street did not originate from Mr. Nantais' property. This conclusion was reported to Julie Hutcheson of your office in a letter from me to her dated November 26, 1997 and again in the Phase II Report dated January 28, 1998.

I had attempted to resolve this matter in a letter addressed to you dated January 28, 1998. As can be seen from the appended copy of that letter, the designation for the site owned by Mr. Nantais at 131 Main Street is RTN 4-13333. Based on the results of the Phase II investigations noted above, Mr. Nantais has no responsibility for the site at 132 Main Street, which is designated RTN 4-12848.

I hope this will clarify the matter and eliminate the need for Mr. Nantais to be concerned about being responsible for RTN 4-12848. Both he and I would appreciate it if you remove his name as a responsible party or a potentially responsible party for the property at 132 Main Street, i.e., RTN 4-12848. If you have any questions or require additional information, do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "B. Paulding Jr.", written in black ink.

THE PAULDING COMPANY, INC.

Bartlett W. Paulding Jr., PhD

Consulting Geologist

Registered Professional Engineer (Mass. No. 24420)

Licensed Site Professional (Mass. No. 7266)

cc: Richard Nantais
P.O. Box 478
Carver, MA 02330

EXHIBIT PRR-60

HOMEOWNER'S WELL CONTAMINATED

Gas station must clean up pollution

By Tamara Race
The Patriot Ledger

9/10/97

CARVER — The state has ordered the owner of a Main Street gas station to clean up contamination suspected of polluting a residential well across the street.

The Department of Environmental Protection discovered benzene, a petroleum-based carcinogen, at three times acceptable levels in a residential well owned by William Holmes at 132 Main St.

Holmes formerly owned the gas station now suspected of polluting his well. He sold the business in 1980 to Richard Nantais, whom the DEP cited as the party responsible for assessing, monitoring, and cleaning up the pollution.

Tests conducted in January and May showed 14 parts per billion and 10 ppb respectively in Holmes' well. The accepted standard is 5 ppb, according to the DEP.

DEP spokeswoman Julie Hutcheson said there are few other residential wells in the area, and there was no evidence of pollution in a well that services the Carver Square shopping plaza, Our Lady of Lourdes' Catholic church and several office buildings in the area.

The state tests the shopping plaza well regularly during the year, but not necessarily for petroleum contamination, Hutcheson said.

Carver

"Once we know the extent of the contamination from the gas station, we will know what further well testing should be done in the area," Hutcheson said.

Carver has no municipal water system. All homes and businesses use private wells.

Holmes said his water has had an odd smell for more than six years, but he never bothered to have the water tested until this spring when the church next door offered to purchase the property for use as a rectory.

In preparation for the potential land purchase, Our Lady of the Lourdes hired Norfolk Environmental to conduct a site assessment of Holmes property and had the well tested.

Holmes said he relies on bottled water for drinking and cooking, but still uses the well for other water needs.

The purchase of Holmes' residence has been put on hold due to the impending retirement on Monday of Our Lady of Lourdes pastor Father Gallagher.

Church officials said they may still be interested in Holmes property if an alternative source of water can be found.

Nantais has hired a licensed professional to assess the site and will file an immediate response action plan as required by the DEP.

Hutcheson said Nantais has willingly complied with the state's regulations in a timely fashion.

She said contamination has turned up in groundwater test wells on the gas station property, but "I'm told the property's well tests clean although I haven't received the results yet," Hutcheson said. "It looks like we have identified the source of the pollution and that's the first step."

The DEP did not know Holmes was a former owner of the gas station and has not named him as a responsible party at this time, Hutcheson said.

"We don't know enough about the fuel spill yet," she said. "There are ways to determine how old a fuel spill is, but it's too soon to make any judgments. We're in the preliminary stages of the clean-up process."

Even if Holmes is able to secure an alternative water source such as the adjacent Carver Square well, the contamination would still have to be cleaned up, Hutcheson said.

"Since all of Carver is serviced by wells for water, it is important to capture the contaminant and get it cleaned up," Hutcheson said. "We wouldn't want to take any chances."

EXHIBIT PRR-61

Julie Hutcherson
508-946-2852

4-12848

SCANNED
4/18/11

Dick,

I can see two areas to be addressed

① Do the DEM/DEP provide you with a release or certificate in writing to end your responsibility for this ongoing clean-up?

② I feel this addendum needs another paragraph addressing the problem that could arise based upon the tenant's currently operating the gas station. What happens if you do not have a written release & the tenants have an oil spill or something of that nature? It needs to be spelled out that they would be responsible for any spillage that would occur prior to issuance of written approval that you'd completed the work spelled out by the DEM/DEP order to you.

D. H. H.

ADDENDUM A-1

ADDITIONAL WARRANTIES AND REPRESENTATIONS Seller Warrants Disclosure and Remedial Actions:

The premises have been used for the storage of petroleum products and Seller hereby advises Buyer that (1) discharge of such products into the soil and groundwater may have occurred from time to time in the past, and (2) soil and groundwater may have petroleum and its constituents or residuals therein. Buyer and Seller acknowledge that Seller has notified the Massachusetts Department of Environmental ~~Management that there is evidence of a release of oil or hazardous materials, as those terms are used in M. G. L. c. 21 E, on the premises. The Seller warrants that Seller either has completed or will complete the following remedial actions.~~

Protection
(DEP)

→ and the Massachusetts Contingency Plan, 310 CMR 40.0000
(MCP)

(a) The removal of all surface and subsurface structures which may be or may have been the source of leakage;

(b) The removal of all soil with petroleum hydrocarbons that may be required by the ~~DEM~~
under MCP

(c) The commencement of any pumping or treatment of groundwater on the premises that may be required by DEM; and

(d) Submittal to ~~DEM~~ of the necessary ~~reports~~ ^{DEP including} a Response Action Outcome (RAO)

the requirements of ~~DEM~~ and M.G. L. 21E and regulations thereunder. ^{statement}
the MCP

Seller Warrants Compliance and Assumes Cleanup Costs

All of the Remedial Actions above were done or shall be done, and shall be continued and completed in accordance with governmental requirements. All of the Remedial Actions were either done or shall be continued and completed under the supervision of either the ~~DEM~~ or an environmental consulting firm experienced and qualified in such Remedial Actions and applicable governmental regulations. All of the remedial actions either did or shall comply with the current regulations and policies of DEM under Chapter 21E and the Massachusetts Contingency Plan. All Remedial Actions which have not been completed by the time of the transfer of the deed to the buyer shall be completed within a reasonable period of time thereafter, by the Seller, at the expense of the Seller. In any event, the Remedial Actions shall be completed by the Seller.

The Buyer shall cooperate with the Seller in implementing any Remedial Actions. Buyer shall not be responsible for any expenses of Remedial Actions unless such actions are demonstrated to be required only as a result of releases occurring after the date of any site assessment, approved by DEM, that serves to absolve the Seller of further requirements under the Massachusetts Contingency Plan.

Seller

Buyer

EXHIBIT PRR-62



Massachusetts Department of Environmental Protection
Bureau of Waste Site Cleanup

BWSC-102B

RELEASE LOG FORM ATTACHMENT

Release Tracking Number

4-12848

E. LOG/RELEASE LOCATION INFORMATION: (complete if using only BWSC-102B)

City/Town: Carver Date: 11/20/97 Time: 950 ☒ AM ☐ PM

Release Address: 132 Main Street

Use of Attachment (check one): ☐ Field ☒ Office Follow-up ☐ Attachment Page(s): _____ of: _____

F. ADDITIONAL DESCRIPTION:

Bart Pauling LSP

sampled wells - after Thanksgiving
results due back

→ flow direction determined

→ Holmes well not directly down
gradient

→ flow parallel to street actually
old tanks @ bldg + p.vt well not
directly down gradient

2IE report church property

5-6 yrs ago

VOCs done then, OK
not re-done

did not filter samples - if problem can
do filtered next

G. DEP ASSIGNMENT: (complete if using BWSC-102A and 102B or BWSC-102B only)

Preparer of RLFA (please print): Hutcherson Signature: _____

Staff Lead Assigned (if different from preparer): _____

☐ Check here if the Release or Threat of Release is unassigned.

☐ Check here if this RLFA records a change in staff lead.