



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

20 RIVERSIDE DRIVE, LAKEVILLE, MA 02347 508-946-2700

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COPY

**URGENT LEGAL MATTER: PROMPT ACTION NECESSARY**  
**CERTIFIED MAIL**

June 13, 2003

Eagle Gas Inc.  
131 Main Street  
Carver, MA 02330

RE: CARVER - BWSC  
131 Main Street  
RTN# 4-17825

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

ATTENTION: Najib Badaoui

On May 16, 2003 at 12:30 pm the Department of Environmental Protection (the "Department") received oral notification of a release and/or threat of release of oil and/or hazardous material at the above referenced property, which requires one or more response actions. At the time of notification, an oil sheen was observed on the surface water of South Meadow Brook. A site inspection by a Department representative determined that oil was emanating from a storm drain that discharges to the brook, which is connected to catch basins located within Main Street. Observations within the manholes determined that an oil sheen was noted on the stormwater flowing within the culvert. Air sampling conducted within the manholes determined that vapor concentrations were within the range of diesel fuel. Observations and air sampling of manholes upgradient and downgradient of the gas station determined that a release of diesel fuel was occurring at 131 Main Street.

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" refers to Eagle Gas Inc.) 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

This information is available in alternate format. Call April McCabe, ADA Coordinator at 1-617-556-1171. TDD Service - 1-800-298-2207.

DEP on the World Wide Web: <http://www.mass.gov/dep>

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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.

At the time of oral notification to the Department, the following response actions were approved as an Immediate Response Action (IRA):

- Assessment only:
- Deployment of Absorbent/Containment Materials.
- All Remediation Waste must be properly stored/handled and disposed of within 120 days from the date of generation per 310 CMR 40.0030.

#### ACTIONS REQUIRED

Additional submittals are necessary with regard to this notification including, but not limited to, the filing of a written IRA Plan, IRA Completion Statement and/or an 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) pursuant to 310 CMR 40.0420 and 310 CMR 40.0443, respectively. Assessment activities, the construction of a fence and/or the posting of signs are actions that are exempt from this approval requirement.

In addition to oral notification, 310 CMR 40.0333 requires that a completed Release Notification Form (BWSC-103, attached) be submitted to the Department within sixty (60) calendar days of May 16, 2003.

You must employ or engage a Licensed Site Professional (LSP) to manage, supervise or actually perform the necessary response actions at this site. You may obtain a list of the names and addresses of these licensed professionals from the Board of Registration of Hazardous Waste Site Cleanup Professionals by calling (617) 556-1145 or visiting <http://www.state.ma.us/lsp>.

In addition, the Department requires that you submit a written IRA Plan to this office which addresses remedial actions to be taken at this location within 60 days from receipt of this Notice. This deadline constitutes an enforceable interim deadline established pursuant to 310 CMR 40.0167. The written IRA Plan must include, but is not limited to, the following as specified in the field NOR: eliminate

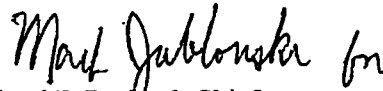
source from leaking diesel fuel underground storage tank spill bucket and piping; initiate active collection of non-aqueous phase liquid from impacted monitoring well; construct remedial system as necessary to stop diesel fuel discharge to storm drain. .

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 May 16, 2004. 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 Mark Jablonski at the letterhead address or at (508) 946-2819. All future communications regarding this release must reference the following Release Tracking Number: 4-17825.

Very truly yours,



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

P/MAJ/re

Eagle Gas-Carver (4-17825).doc

CERTIFIED MAIL #7002 2030 0006 4994 8215

Attachments: Release Notification Form; BWSC-103 and Instructions  
Summary of Liability under M.G.L. c.21E  
Department's guide to hiring a Licensed Site Professional.

cc: Board of Health  
Board of Selectmen  
Fire Dept