

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

In the Matter of:

James J. Decoulos.

Respondent

Docket No.: LSP-10AP-01

**DIRECT TESTIMONY OF THEODORE L. BOSEN**

Q. Please state your name and address.

A. My names is Theodore L. Bosen and my business address is 69 Janebar Circle, Plymouth  
MA 02360.

Q. Please state your occupation.

A. Lawyer

Q. Please explain how you were involved with the real property located at 131 Main Street  
in Carver, Massachusetts, also identified by the Carver Assessors as Map 74, Parcel 17, which is  
now operated by Eagle Gas, Inc. (the "Site").

A. I represented Najib Badaoui and Eagle Gas, Inc. in the purchase of the property and  
related matters.

Q. Are you sponsoring any exhibits in addition to your direct testimony?

A. Yes, I am sponsoring Exhibit R-2, which is a one page figure that shows Photographs A,  
B, C and D of the Site sometime around 1997; and Exhibit R-3, which is a copy of the deed  
which conveyed title to the Site to Najib Badaoui on October 31, 1997.

1  
2 Q. Did you visit the Site prior to Badaoui taking title in 1997?

3 A. Yes, I not only visited the site immediately before the purchase, but I had been an  
4 occasional customer for gasoline when Mr. Nantais owned it and I drove by frequently in the  
5 years before it was purchased by Badaoui.  
6  
7

8 Q. Do the photographs of Exhibit R-2 present the existing conditions in the westerly portion  
9 of the Site - or behind the main building on Site - prior to Badaoui taking title in 1997?

10 A. Yes.  
11  
12

13 Q. Please explain the conditions of the Site on the eastern portion of the Site - or along the  
14 Main Street right-of-way - prior to Badaoui taking title in 1997.

15 A. The area along Main Street in the period before the Badaoui purchase looked like a junk  
16 yard, with lawn mowers, snowblowers, motor bikes, tractors, and various other vehicles.  
17  
18

19 Q. Please explain the conditions of the Site on the southern portion of the Site - or to the left  
20 side of the main building on Site - prior to Badaoui taking title in 1997.

21 A. The site in this area had more of the same types of vehicles as described above in my last  
22 answer, but compounded with barrels, mechanical parts, and junk of all kinds in extreme  
23 disarray.  
24  
25

26 Q. Please explain any agreement that may have existed with the seller of the Site, Richard S.  
27 Nantais, as he was trustee of the Nantais Realty Trust, to Badaoui as it was related to gasoline  
28 contamination at the Site that was reported to the Massachusetts Department of Environmental  
29 Protection in 1997 and identified as Release Tracking Number 4-13333.

30 A. MTBE was detected in the testing I had ordered on the drinking water on site just before  
31 closing, and the seller refused to agree to further action to address it. I reserve the remainder of

1 my answer at this time until I retrieve the file from archives to refresh my recollection as to any  
2 agreements relative to gasoline contamination. at which time I will supplement this response.

3  
4  
5  
6 Q. Did you observe any careless handling of oil or hazardous materials at the Site in 1997?

7 A. Not other than implied by the observed condition of the property while Nantais owned it,  
8 which was indicative of careless handing of oil and hazardous materials due to the clearly filthy  
9 state of the machines on the property as described above. That state existed in 1997 before the  
10 purchase, but not after.

11  
12  
13  
14 Q. Please explain why there were numerous gasoline lawn mowers, snow blowers and other  
15 gasoline powered equipment at the Site around 1997 as depicted in Photographs A and B of  
16 Exhibit R-2.

17 A. One would have to ask Mr. Nantais, the former owner, to be sure, but it appeared from  
18 my observation that Mr. Nantais was conducting a business in the reconditioning and repair of  
19 small engines and vehicles in addition to his gasoline business.

20  
21  
22 Q. Please estimate approximately how many gallons of gasoline and oil were stored in the  
23 lawn mowers, snow blowers and other powered equipment at the Site around 1997 as depicted in  
24 Photographs A and B of Exhibit R-2.

25 A. I have no basis from which to offer a reliable estimate, other than to say that the volume  
26 of machines and parts were significant and their condition was generally not clean in appearance.

27  
28  
29 Q. Please explain why there were 55 gallon drums stored on the Site as depicted in  
30 Photographs C and D.

31 A. One would have to ask Mr. Nantais that question as I do not know.

1  
2  
3 Q. Approximately how many 55 gallon drums were stored on Site around 1997?

4 A. I can not estimate beyond saying that I do remember seeing some.  
5  
6

7 Q. What liquids or solids did the 55 gallon drums store on Site?

8 A. I do not know.  
9  
10

11 Q. Does Photograph C in Exhibit R-2 depict a standard 275 gallon above ground storage  
12 tank that is typically used to store heating oil at residences and businesses in the Carver area?

13 A. I do not know.  
14  
15

16 Q. Approximately how many 275 gallon above ground storage tanks were on the Site around  
17 1997?

18 A. I do not know.  
19  
20

21 Q. Are you aware that Eagle Gas, Inc. owed Decoulos & Company, LLC over \$80,000 in  
22 2005?

23 A. I learned at that time from the parties that there was an outstanding balance, but I can  
24 not recall the amount.  
25  
26


27 Q. Do you know how Badaoui paid for environmental services at the Site provided by ECS  
28 Consulting, Inc. in 2005?

29 A. I did not represent Badaoui at that time and I can not recall if I knew of how he paid for  
30 those services, but I will reserve and supplement further response if, upon retrieval of my  
31 archived file, there is information therein that refreshes my recollection.

I, Theodore L. Bosen, under the pains and penalties of perjury, adopt these answers as my direct testimony in this proceeding. I further state that if asked the questions in this testimony, I would provide the same answers, and possibly supplement answers where indicated.

Dated: September 9, 2010

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Theodore L. Bosen". The signature is written in a cursive, flowing style with a large initial 'T'.

Theodore L. Bosen

## STATEMENT OF SERVICE

I, James J. Decoulos, do hereby certify that I caused a copy of the DIRECT TESTIMONY OF THEODORE L. BOSEN dated September 9, 2010 to be served on the following parties by electronic mail:

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Signed under the penalties of perjury this 22<sup>nd</sup> day of September, 2010.



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