

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

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In the Matter of: )  
)  
)

James J. Decoulos,  
Respondent )  
)  
\_\_\_\_\_

Docket No.: LSP-10AP-01

**DIRECT SUPPLEMENTAL REBUTTAL TESTIMONY NO. 1  
OF JAMES J. DECOULOS**

1       1.    My names is James J. Decoulos and my business address is Decoulos & Company,  
2    LLC, 185 Alewife Brook Parkway, Cambridge, MA 02138.

3       2.    All of the testimony and exhibits presented by the Board and myself are posted at  
4    <http://www.decoulos.com/LSPBoard10AP01.htm> (the “Web Page”). The exhibits cited within  
5    this Direct Supplemental Rebuttal Testimony No. 1 contain the prefix RR (to signify Respondent  
6    Rebuttal) and begin with this supplemental testimony as RR-48.

7       3.    On October 19, 2010, I reviewed public records at the Southeast Regional office of the  
8    Massachusetts Department of Environmental Protection (the “Department” or “MassDEP”).

9       4.    My public records request to MassDEP was to review:

10           All email communications, telephone notes or meeting notes by or between DEP  
11           representatives Cynthia Baran and Jonathan Hobill regarding the Eagle Gas Site  
12           at 131 Main Street in Carver.  
13

14       5.    I scanned every document in the file that Irene Lavoie, the keeper-of-the-records of  
15    MassDEP, made available to me on October 19, 2010 (the “MassDEP File”).

16       6.    It is my belief that there are additional documents I requested from Ms. Baran which  
17    were not made available for my review.

1       7.     The records I reviewed on October 19<sup>th</sup> did not include emails that Ms. Baran sent to  
2     me on the following dates regarding the Eagle Gas Site at 131 Main Street in Carver: March 12,  
3     2004; March 30, 2004; April 7, 2004; April 23, 2004; May 20, 2004; July 9, 2004; July 15, 2004;  
4     November 26, 2004 and February 3, 2005.

5       8.     The records I reviewed on October 19<sup>th</sup> did not include any emails I would have  
6     expected that Ms. Baran or Mr. Hobill would have sent to Hazardous Waste Site Cleanup  
7     Professionals or Licensed Site Professionals (“LSPs”) Theodore J. Kaegael or David C. Bennett,  
8     who represented Richard Nantais, a responsible party who caused a release of gasoline at the  
9     Eagle Gas Site in 1997.

10      9.     The records I reviewed on October 19<sup>th</sup> did not include any emails I would have  
11     expected that Ms. Baran or Mr. Hobill would have sent to LSP Daniel W. Felten, who  
12     represented Eagle Gas, Inc. after my work at the Eagle Gas Site was completed in July of 2005.

13      10.    The records I reviewed on October 19<sup>th</sup> did not include any emails I would have  
14     expected that Ms. Baran and Mr. Hobill would have sent between themselves prior to March 30,  
15     2004.

16      11.    The records I reviewed on October 19<sup>th</sup> did not include any emails I would have  
17     expected that Ms. Baran and Mr. Hobill would have sent between themselves after November  
18     17, 2005.

19      12.    The records I reviewed on October 19<sup>th</sup> did not include any meeting notes that I  
20     witnessed Ms. Baran and Mr. Hobill generate during meetings at their office for the Eagle Gas  
21     Site.

22      13.    The MassDEP File contained a Meeting Participant List for the Project Name/Town:  
23     Eagle Gas Station, Carver, with Release Tracking Numbers (RTNs) 4-12848, 4-13333, 4-17582,

1 4-17825; Date: April 21, 2004; with a Contact Name: Cynthia Baran. Immediately after the  
2 Meeting Participant List was a two-page summary of the four RTNs. *See* Exhibit RR-49.

3 14. The summary of RTN 4-12848 in Exhibit RR-49 states under the heading “Data  
4 Gaps/Additional Information Required” that:

5 IRA Plan required to provide permanent potable water to Holmes residence  
6 (installation of new drinking water supply well) and to address condition of SRM  
7 from Eagle Gasoline.  
8

9 15. As of April 21, 2004, MassDEP acknowledged that an historic release of petroleum at  
10 the Eagle Gas Site had caused a condition of Substantial Release Migration<sup>1</sup> (or “SRM”), which  
11 was impacting the private residence at 132 Main Street owned by William Holmes.

12 16. The release of petroleum at the residence of Mr. Holmes was first reported on February  
13 14, 1997 and was assigned RTN 4-12848.

14 17. The summary of RTN 4-17825 in Exhibit RR-49 states under the heading “Data  
15 Gaps/Additional Information Required” that:

16 IRA Plan to assess potential SRM/CEP for private wells, surface water,  
17 sediments and indoor air.  
18

19 18. The summary of RTN 4-17825 in Exhibit RR-49 further states under the heading “Data  
20 Gaps/Additional Information Required” that:

21 (Storm drain is ~10' to 15' BGS (?) All soil samples were collected at 4'-8')  
22

23 19. I identified the release of petroleum on the surface waters of South Meadow Brook on  
24 May 16, 2003, which MassDEP assigned RTN 4-17825.

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<sup>1</sup> See definition of Substantial Release Migration at 310 CMR 40.0006.

1        20. As of April 21, 2004, MassDEP acknowledged that the prior releases of petroleum from  
2 the Eagle Gas Site had the **potential** to cause an SRM or CEP<sup>2</sup> condition to impact the surface  
3 waters of South Meadow Brook, private wells and indoor air.

4        21. As I stated in my Direct Testimony of September 22, 2010, I object to any accusation  
5 that a SRM condition existed at South Meadow Brook from the subsurface diesel release  
6 identified as RTN 4-17582 through the end of 2004. The evidence I relied on to make the  
7 determination included visual observations of the stormwater collection system in the Main  
8 Street right-of-way on May 16, 2003, September 4, 2003, June 24, 2004 and December 10, 2004;  
9 a knowledge as to how the stormwater collection system functioned; Photo Ionization Detector  
10 (PID) readings of various stormwater control structures; analytical results from soil borings and  
11 groundwater monitoring wells along the pervious backfill of the stormwater piping; and  
12 observations of storage and handling practices at the Eagle Gas Site.

13        22. As of April 21, 2004, MassDEP had no evidence that an SRM condition existed to  
14 impact the surface waters of South Meadow Brook.

15        23. Based upon my extensive surveying and engineering experience, I knew that the inverts  
16 of the two drainage manhole structures in front of the Eagle Gas Site were no more than eight (8)  
17 feet below grade.

18        24. In December of 2004, I measured the invert of the upgradient drainage manhole in front  
19 of the Eagle Gas Site at 5.34 feet below grade and the invert of the downgradient drainage  
20 manhole in front of the Eagle Gas Site at 5.88 feet below grade. *See Exhibit RR-11.*

21        25. The MassDEP two-page summary of the four RTNs presented in Exhibit RR-49, which  
22 assumed that the stormwater collection system piping in front of the Eagle Gas Site was 10 to 15  
23 feet below grade, was a significant erroneous assumption.

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<sup>2</sup> See 310 CMR of Critical Exposure Pathway at 310 CMR 40.0006.

1        26. Based upon my public records review of the MassDEP File, I assume that Ms. Baran  
2 was the individual who prepared the summary and made the erroneous uncertain statement about  
3 the inaccurate depth of the stormwater collection system.

4        27. The MassDEP File contained an email from Ms. Baran to Mr. Hobill dated September  
5 16, 2004 which stated that:

6                    FYI...the air sample collected from the apartment above the Eagle Gas Station  
7                    appears clean.

8  
9                    *See Exhibit RR-50.*

10  
11        28. Exhibit RR-50 from the MassDEP File further stated that:

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

14  
15        29. The statements identified in Paragraphs 27 and 28 appear to contradict the direct  
16 testimony of Ms. Baran dated August 25, 2010.

17        30. The MassDEP File contained an email from Ms. Baran to Mr. Hobill dated December  
18 7, 2004 which stated that:

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

21  
22                    *See Exhibit RR-51.*

23        31. Exhibit RR-51 includes an email I sent to Ms. Baran on December 6, 2004, in which I  
24 described the need to:

25                    Continue to evaluate the threat of the NAPL plume flow becoming a condition of  
26                    Substantial Release Migration.

27  
28        32. Ms. Baran never questioned my description of the **potential** of a SRM in 2004. As  
29 stated in my direct testimony of September 22, 2010, I never identified any confirmed SRM  
30 condition in 2004 from the subsurface diesel release identified as RTN 4-17582.

1        33. My email to Ms. Baran, presented in Exhibit RR-51, also includes the following  
2 statement at item number 10:

3                Negotiate an access agreement with the owner of the land at the stormwater  
4                outlet area following the provisions of Site Access Authorization at 301 CMR  
5                40.0173.  
6

7        34. The MassDEP File contained an email from Ms. Baran to Mr. Hobill dated December  
8 15, 2004 which included plans, soil boring logs, a health and safety plan and a license agreement  
9 with the town of Carver. *See* Exhibit RR-52.

10       35. The information presented in Exhibit RR-52 appears to contradict the direct testimony  
11 of Ms. Baran dated August 25, 2010.

12       36. The MassDEP File contained an email from Mr. Hobill to Ms. Baran dated October 31,  
13 2005 in which it was stated that:

14               Does that go against the "onsite is Eagle Gas/Najib, offsite is Nantais"  
15               understanding. Didn't Decoulous address this in on of his IRAs?  
16

17               *See* Exhibit RR-53.

18       37. The email from Mr. Hobill to Ms. Baran presented as Exhibit RR-53 goes on to state  
19 that:

20               The private well at the gas station remains a CEP that was present in the historic  
21               gasoline release RTN 4-13333 (and was one of the COCs actually reported in  
22               the RLF and RNF (4000 ppb MtBE in a MW ~40'-50' from private well). The  
23               private well contamination was present prior to the diesel release and low levels  
24               of MtBE are still present in the well as of the last sampling round.  
25  
26

27       38. The statements highlighted in Exhibit RR-53 support my consistent position that there  
28 was significant pre-existing petroleum contamination in the surrounding Eagle Gas Site area that  
29 was inadequately addressed before my involvement in 2003.  
30



I, James J. Decoulos, under the pains and penalties of perjury, adopt this direct testimony and state that it is true to the best of my knowledge, information and belief. I further state that if asked questions in this testimony, I would provide the same answers.

Dated: November 5, 2010

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James J. Decoulos", written in a cursive style.

James J. Decoulos



## STATEMENT OF SERVICE

I, James J. Decoulos, do hereby certify that I caused a copy of the DIRECT TESTIMONY OF JAMES J. DECOULOS dated November 5, 2010 to be served on the following parties by electronic mail:

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Lynn Peterson Read, Esq.                              BOARD  
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Signed under the penalties of perjury this 5<sup>th</sup> day of November, 2010.



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