

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

AFFIDAVIT OF LYNN P. READ

I, Lynn Peterson Read, under the pains and penalties of perjury, submit this Affidavit in support of the Opposition of the LSP Board to Respondent's Motion to Dismiss. My statements in this Affidavit are made from my personal knowledge to the best of my recollection, except to the extent that I have relied on documents identified in this Affidavit.

1. I am employed as Assistant General Counsel to the Board of Registration of Hazardous Waste Site Cleanup Professionals ("Board"). I have held that position since July 2006.

2. On May 23, 2007, the Board assigned me to serve as staff attorney on the Complaint Review Team investigating Compliant No. 05C-07 against the Respondent James J. Decoulos. The other members of the CRT were Robert Luhrs, LSP, and Deborah Farnsworth, who are both members of the Board.

3. In July 2010 I asked for assistance from Allen Wyman, the Staff Investigator for the LSP Board, in obtaining copies of the documents that Mr. Decoulos had listed as Exhibits in his Supplemental Pre-Hearing Statement dated July 13, 2010. At the time, I was working on the prepared direct testimony of the Board's witnesses, and I

intended to review the requested documents after I submitted that testimony on August 25, 2010.

4. Mr. Wyman made requests on my behalf to a keeper of records at the Southeast Regional Office (SERO) of MassDEP for electronic copies of the files for the two sites at issue in the hearing.

5. When I filed the Board's direct testimony in this matter on August 25, 2010, I had not received the requested records from SERO.

6. On or after September 3, 2010, Mr. Wyman informed me that he had received a disc from SERO containing some but not all of the electronic documents that he had requested for me. A copy of the directory of files on that disc is attached as **Attachment 1** and it shows that the files on the disc were created on July 20, 2010 and August 25, 2010. I was on vacation from August 26, 2010 until September 2, 2010. Therefore, I did not receive this disc until September 3, 2010 at the earliest.

7. I did not review the first disc from SERO because Mr. Wyman informed me that it did not contain all of the electronic documents that he had requested for me. I did not remember to determine whether the documents on the disc would be responsive to Mr. Decoulos's document requests and should be produced.

8. Mr. Decoulos filed prepared direct and rebuttal testimony on September 22, 2010, in accordance with the pre-hearing schedule.

9. Mr. Wyman informed me during approximately the week of September 27 that he had received a second disc with additional documents from SERO. A copy of the directory of files on that disc is attached as **Attachment 2** and it shows that the files on the disc were created on September 21, 2010.

10. At the time I received the second disc from Mr. Wyman, I had received direct and rebuttal testimony and exhibits from Mr. Decoulos and thus I was occupied in collecting and transcribing the rebuttal testimony of the Board's witnesses. Therefore, I did not review either of the discs and I did not remember to determine whether the documents on the disc would be responsive to Mr. Decoulos's document requests and should be produced.

11. On October 6, 2010, I remembered that the Board should produce the MassDEP documents on the discs to Mr. Decoulos. I asked Mr. Wyman to prepare a memorandum that would make the documents electronically accessible to Mr. Decoulos and I reviewed the documents on the discs for the first time. Mr. Wyman prepared the memorandum and I sent the memorandum by e-mail to Mr. Decoulos on the morning of October 7, 2010.

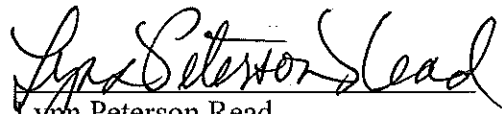
12. I did not intend to withhold the MassDEP documents on the discs from Mr. Decoulos, and I forwarded them to him as soon as I remembered that the Board was in possession of documents from MassDEP that I had not yet provided to him. I did not intend to impede his preparation for the hearing.

13. I regret that I did not forward the MassDEP documents to Mr. Decoulos as soon as I received them, and I regret any inconvenience this has caused him or this tribunal.

14. It is my understanding that all of the documents on the discs from SERO were available directly from MassDEP in hard copy by the normal file review process available to members of the public.

15. In addition, the documents that Mr. Decoulos characterizes as new evidence date from 1997 and 1998. I believe such documents are irrelevant because Mr. Decoulos began his work at the Eagle Gas site in 2003, and the issue for decision in this case is whether he collected adequate data and information to support his opinions.

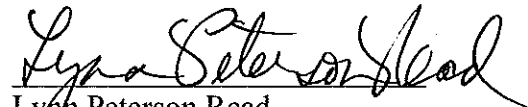
Signed under the pains and penalties of perjury this 14th day of October, 2010.


Lynn Peterson Read

CERTIFICATE OF SERVICE

I hereby certify that on this date a true copy of the Affidavit of Lynn P. Read was served upon each party in this action by electronic mail, to the following address:

jamesj@decoulos.com.


Lynn Peterson Read
BBO No. 551671
Board of Registration of Hazardous
Waste Site Cleanup Professionals
One Winter Street, 3rd Floor
Boston, MA 02108
Phone: 617-348-4032

Date: October 14, 2010

Name	Size	Type	Date Modified
4-0012848-ADDENDUM TO APRIL 7 1997 ENVIRON...	10,022 KB	Adobe Acrobat Doc...	7/20/2010 12:05 PM
4-0012848-ENVIRONMENTAL SITE ASSESSMENT-1...	10,852 KB	Adobe Acrobat Doc...	7/20/2010 12:05 PM
4-3015653-CORRESPONDENCE.PDF	18,147 KB	Adobe Acrobat Doc...	8/25/2010 12:41 PM
4-0017582-RESULTS OF GROUNDWATER SAMPLIN...	18,699 KB	Adobe Acrobat Doc...	7/20/2010 12:04 PM
4-0012848-PHASE II COMPREHENSIVE SITE ASSES...	22,650 KB	Adobe Acrobat Doc...	7/20/2010 12:05 PM
4-3014630-RAO STATEMENT-1997-04-09.PDF	28,995 KB	Adobe Acrobat Doc...	8/25/2010 12:40 PM
4-0017582-CORRESPONDENCE.PDF	30,748 KB	Adobe Acrobat Doc...	7/20/2010 12:05 PM
4-3015188-RAO-2002-06-14.PDF	30,820 KB	Adobe Acrobat Doc...	8/25/2010 12:40 PM
4-3015188-CORRESPONDENCE.PDF	39,561 KB	Adobe Acrobat Doc...	8/25/2010 12:40 PM
4-3015653-PHASE I ENVIRONMENTAL SITE ASSESS...	41,020 KB	Adobe Acrobat Doc...	8/25/2010 12:41 PM
4-3015188-RAO-2004-06-18.PDF	43,712 KB	Adobe Acrobat Doc...	8/25/2010 12:40 PM
4-3015653-IMMEDIATE RESPONSE ACTION STATE...	50,019 KB	Adobe Acrobat Doc...	8/25/2010 12:41 PM
4-0013333-IRA STATUS REPORT-2004-09-30.PDF	55,675 KB	Adobe Acrobat Doc...	7/20/2010 12:05 PM
4-0012848-CORRESPONDENCE.PDF	69,983 KB	Adobe Acrobat Doc...	7/20/2010 12:04 PM

ATTACHMENT 1 TO AFFIDAVIT
OF LYNN P. READ

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File Edit View Favorites Tools Help

Back

Search

Folders

Address

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Name	Size	Type	Date Modified
4-0013333-PERIODIC EVALUATION OF A TEMPOR...	1,627 KB	Adobe Acrobat Doc...	9/21/2010 3:13 PM
4-0013333-IRA COMPLETION STATEMENT WITH P...	7,342 KB	Adobe Acrobat Doc...	9/21/2010 3:13 PM
4-0013333-PERIODIC EVALUATION OF A TEMPOR...	66,393 KB	Adobe Acrobat Doc...	9/21/2010 3:13 PM
4-0013333-IRA COMPLETION STATEMENT WITH P...	98,702 KB	Adobe Acrobat Doc...	9/21/2010 3:14 PM

File and Folder Tasks

Other Places

Details

ATTACHMENT 2 TO AFFIDAVIT
OF LYNN P. READ

4 objects

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Inbox - Micr...

FW: - Mess...

ALL STORIES...

2 Adobe A...

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169 MB

My Computer

4:33 PM