



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
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Secretary

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April 7, 2016

Laura Olah, Executive Director
Citizens for Safe Water Around Badger (CSWAB)
E12629 Weigand's Bay South
Merrimac, WI 53561

RE: Public Records Request
List of previously closed TCE sites

Dear Ms. Olah:

On February 18, 2016, MassDEP received the above-described public records request. As more fully set forth below, MassDEP has determined that there are records within its custody and control and that are responsive to your request, but are exempt from the definition of a public under M.G.L. c. 4, § 7(26)(d), the Deliberative Process Exemption. MassDEP is not releasing the exempt records.

Your February 18th request was for the "list of the names and addresses of the referenced approximately 200 [TCE] sites," which the "agency is planning to revisit ... to determine whether indoor air poses a risk of cardiac birth defects through vapor intrusion... to assure that this information is made immediately available to the public."

A full and complete list has not yet been developed and the draft "list of TCE sites" is based on MassDEP's preliminary review of site files. Until a more thorough review is conducted of these properties to determine what the current conditions are, it is unknown whether any of these properties present a potential concern. Since the information requested is draft and subject to further investigation, the draft list that currently exists is exempt from disclosure under the deliberative process exemption. Pursuant to the Massachusetts Public Records Law at M.G.L. c. 4, § 7(26)(d), under the Deliberative Process Exemption (d), draft, preliminary documents containing information subject to ongoing deliberation and have not yet been reasonably completed are not a public record.

If it is determined that a pathway of concern exists at any of the sites initially identified,

a written correspondence will be issued to the respective property owner and will be uploaded to our online site files. Please note that the online site files include all information from which MassDEP made its initial determinations, and is available to the public at the following link: <http://public.dep.state.ma.us/SearchableSites2/Search.aspx>

If you do not believe that MassDEP has responded to your request in accordance with the Public Records Law, you may appeal MassDEP's response to the Supervisor of Public Records within the Office of the Secretary of State. Any such appeal must be made in writing within ninety days and comply with the requirements of 950 CMR 32.08. (See M.G.L. c. 66 § 10(b) and 950 CMR 32.08 as to your appeal rights relative to MassDEP's denial of access to the exempt records.)

Please do not hesitate to contact me, if you have any questions. I can be reached by telephone at (617) 556-1092 or by email at Margaret.Shaw@state.ma.us.

Sincerely,



Margaret Shaw
Public Records Coordinator
Bureau of Waste Site Cleanup/Boston