

Office of School Board Attorney
Johnny Brown, Board Attorney

SUBJECT: APPROVAL AND ACCEPTANCE OF DE MINIMIS SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE SCHOOL BOARD WITH RESPECT TO THE FLORIDA PETROLEUM REPROCESSORS SUPERFUND SITE IN DAVIE, BROWARD COUNTY, FLORIDA

By certified mail dated January 18, 2005, the United States Environmental Protection Agency (hereinafter "EPA") submitted a De Minimis Settlement Agreement along with an Administrative Order on Consent to the School Board regarding the Florida Petroleum Reprocessors ("FPR") Superfund site in Davie, Broward County, Florida. The School Board was notified on December 5, 2003, by the EPA that it had been identified as a Potentially Responsible Party ("PRP") with respect to the hazardous waste contamination at the FPR site.

The EPA has already incurred over \$6 million in response costs at this site. The EPA's de minimis settlement offer allows the School Board to limit its liability for its share of the cleanup costs. The settlement offer is limited to those parties which contributed less than 10,000 gallons of waste oil to the site. The EPA's volumetric assessment of the School Board's contribution is 3,220 gallons.

The fact that the School Board was identified as a PRP does not imply that the School Board engaged in any illegal or prohibited activity. Federal law holds all parties who contributed or disposed of hazardous waste to a contaminated site strictly liable for the cleanup costs associated with the site regardless of their lack of culpability or of the lack of negligence on the PRP's part.

For the reasons more fully explained in the back-up memorandum submitted to Board members under separate cover, it is recommended that the School Board accept the EPA's de minimis settlement offer. Under the settlement agreement, the School Board will pay \$16,032.38, and obtain a release from further liability with regard to this site.

RECOMMENDED: That The School Board of Miami-Dade County, Florida approve and accept the United States Environmental Protection Agency's De Minimis Settlement Agreement with respect to the Florida Petroleum Reprocessors Superfund Site and submit the required payment of \$16,032.38 in accordance with the terms outlined in the Administrative Order on Consent.

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