

Ms. Raquel A. Regalado, Board Member

SUBJECT: REQUESTING AUTHORIZATION TO JOIN LIMITATION PROCEEDINGS IN THE CASE OF THE EXPLOSION OF THE DEEPWATER HORIZON OIL RIG AND THE SUBSEQUENT OIL SPILL

COMMITTEE: INNOVATION, EFFICIENCY AND GOVERNMENTAL RELATIONS

LINK TO STRATEGIC FRAMEWORK: FINANCIAL EFFICIENCY/STABILITY

On April 20, 2010 there was an explosion of the Deepwater Horizon oil rig on and a subsequent oil spill. At present in the U.S. District Court for the Eastern District of Louisiana in New Orleans there is a litigation involving the above mentioned incident and its subsequent effects. Specifically the litigation, which is set for trial on February 2012, is a limitations proceeding wherein the Defendants seek a limitation of liability pursuant to Maritime law.

The Defendants are BP, Transocean, Halliburton and other companies involved in the drilling of the Macondo Well, the operation of the Deepwater Horizon oil rig, or the oil spill response. Pursuant to Maritime law the limitation proceeding requires all persons who have Maritime or State Law claims resulting from the oil spill to bring those claims against the Defendants. The Plaintiffs therefore are people, businesses, and government entities who claim that they were injured in the explosion, exposed to oil or dispersants, or suffered property damages, loss of income, or other economic losses as a result of the oil spill.

Given the nature of the proceeding, the Court may go beyond the original request to limit the Defendants' liability to a dollar amount and determine other issues such as gross negligence and the allocation of fault among the Defendants. There also exists the possibility that complex and largely *res nova* issues of preemption, presentment, preclusion, mandatory joinder, claim-splitting, choice-of-law, statute of limitations, collateral estoppel, and *res judicata* will also be determined in this litigation.

As such, the findings in this case will likely impact all other litigations and/or settlements arising from the Deepwater Horizon oil spill. For this reason it is recommended that the Miami-Dade County School Board participate in this litigation.

Specifically, a determination of participation is necessitated because the deadline to join the limitation proceedings is on April 20, 2011.

After several meetings with counsel for this litigation and our School Board Attorney it is this Board Member's belief that the Miami-Dade County School District should join the limitation proceeding as a Plaintiff. And while there are some class action pleadings filed within the Deepwater Horizon litigation, the Court has not considered or approved any class action. Such consideration has been stayed by the Court, and will not likely occur until after the February 2012 trial. If and when a class action is ever considered or approved by the Court, the Miami Dade County School Board will then be able to decide whether it wishes to be a "class member." Finally, since legal representation in this litigation is on a contingency basis, participation will be at no cost to the District.

Therefore to protect the Miami-Dade County School Board's interest and pursuant to §1001.41(4), whereby the School Board is authorized to "contract, sue, and be sued," the School Board asks the Board Attorney to take all the necessary legal action to join the limitations proceeding in the case of the explosion of the Deepwater Horizon oil rig on April 20, 2010 and the subsequent oil spill and to engage the firm of Morgan & Morgan PA to represent the Miami-Dade County School Board in this litigation.

**ACTION PROPOSED BY
MS. RAQUEL A. REGALADO:**

That The School Board of Miami-Dade County, Florida, authorize the Board Attorney or his designee to initiate any and all necessary legal action(s) for the joinder as Plaintiff in the limitations proceeding in the Case 2:10-md-02179-CJB-SS dealing with the explosion of the Deepwater Horizon oil rig on April 20, 2010 and execute all documents necessary to engage the law firm of Morgan & Morgan PA to represent the School Board of Miami-Dade County.