



MINIMIS

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)

Florida Petroleum Reprocessors Site)
Davie, Florida)

Proceeding under Section 122(g)(4))
of the Comprehensive Environmental)
Response, Compensation, and Liability)
Act of 1980, as amended,)
42 U.S.C. § 9622(g)(4))

**ADMINISTRATIVE ORDER
ON CONSENT**

Docket No.: CER 04-2004-3789

I. JURISDICTION

1. This Administrative Order on Consent ("Consent Order" or "Order") is issued pursuant to the authority vested in the President of the United States by Section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9622(g)(4), to reach settlements in actions under Section 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607. The authority vested in the President has been delegated to the Administrator of the United States Environmental Protection Agency ("EPA") by Executive Order 12580, 52 Fed. Reg. 2923 (Jan. 29, 1987), and further delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-E. Authority was re-delegated to the Director, Waste Management Division, EPA, Region 4, and further re-delegated to the Chief of the Waste Programs Branch by EPA Region 4 Delegation No. 14-14-E. The Waste Programs Branch has been renamed and is currently known as the Superfund Enforcement & Information Management Branch.
2. This Consent Order is entered into voluntarily by and between EPA, the City of Fort Lauderdale, Florida ("City"), and the persons, corporations, or other entities identified in Appendix A ("Respondents"). The City and each Respondent agree to undertake all actions required of such party by this Consent Order. The City and each Respondent further consent to and will not contest the authority of the United States to issue this Consent Order or to implement or enforce its terms.
3. The Parties agree that the actions undertaken in accordance with this Consent Order do not constitute an admission of any liability by the City or any Respondent. The City and the Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Consent Order, the

validity of the Statement of Facts or Determinations contained in Sections IV and V, respectively, of this Consent Order.

II. STATEMENT OF PURPOSE

4. By entering into this Consent Order, the mutual objectives of the Parties are:
- a. to avoid the potential for difficult, prolonged and complicated litigation between the City, the Respondents and/or EPA;
 - b. to reach a final settlement between EPA and the Respondents with respect to the Site pursuant to Section 122(g) of CERCLA, 42 U.S.C. § 9622(g), that allows each Respondent to make a cash payment, including a premium, to resolve each Respondent's alleged civil liability under Sections 106 and 107 of CERCLA, 42 U.S.C. § 9606 and 9607, for injunctive relief with regard to the Site and for response costs incurred or to be incurred at or in connection with the Site, subject to reservations of rights contained herein;
 - c. to simplify any remaining administrative and judicial enforcement activities concerning the Site by eliminating a substantial number of potentially responsible parties from further involvement at the Site, thereby reducing litigation relating to the Site;
 - d. to obtain a final settlement among the Parties for the Respondents' fair share of response costs incurred and to be incurred at or in connection with the Site by the EPA Hazardous Substance Superfund and by private and governmental parties, and to provide for full and complete contribution protection for the Respondents, including protection from claims among the Parties, with regard to the Site pursuant to Sections 113(f)(2) and 122(g)(5) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(g)(5); and
 - e. to obtain a final settlement among the Parties for the City's fair share of response costs incurred and to be incurred at or in connection with the Site by the EPA Hazardous Substance Superfund and by private and governmental parties.

III. DEFINITIONS

5. Unless otherwise expressly provided herein, terms used in this Consent Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in the statute or regulations. Whenever the terms listed below are used in this Consent Order, the following definitions shall apply:
- a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*
 - b. "Consent Order" or "Order" shall mean this Administrative Order on Consent and

all appendices attached hereto. In the event of conflict between this Order and any appendix, the Order shall control.

- c. "City" or "City of Fort Lauderdale" shall mean the City of Fort Lauderdale, Florida its departments, agents and instrumentalities.
- d. "Day" shall mean a calendar day. In computing any period of time under this Consent Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
- e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities.
- f. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.
- g. "FPR Facility" shall mean the former Florida Petroleum Reprocessors facility located at 3211 S.W. 50th Avenue, Davie, Broward County, Florida, immediately east of the Florida Turnpike, about ½ mile south of Interstate 595, which operations included waste oil reprocessing.
- h. "Interest" shall mean interest at the current rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).
- i. "Paragraph" shall mean a portion of this Consent Order identified by an Arabic numeral.
- j. "Parties" shall mean EPA, the City of Fort Lauderdale, and the Respondents.
- k. "Respondents" shall mean those persons, corporations, or other entities listed in Appendix A.
- l. "Response costs" shall mean all costs of "response" as that term is defined by Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).
- m. "Section" shall mean a portion of this Consent Order identified by a Roman numeral.
- n. "Site" shall mean the Florida Petroleum Reprocessors Superfund Site, which includes the FPR Facility property which formerly contained a waste oil recycling operation approximately one acre in size located at 3211 SW 50th Avenue in Davie, Broward County, Florida, south of Fort Lauderdale. The Site also includes an area along the south side of I-595, and east of the Florida Turnpike, which is

now owned by the Florida Department of Transportation. The Site also includes the groundwater contamination originating from these two source areas, which is documented by the data as depicted in Figures 4-20 and 4-21 of the Record of Decision issued by EPA for the Site. At the time of the Record of Decision, this Site covered an area of approximately 870 acres in size and was generally bounded to the north by Peters Road, that divides the northern and southern portion of the current Peele-Dixie Wellfield, to the east by U.S. Route 441, to the south by Orange Drive, and to the west by the Florida Turnpike. The Site is depicted generally on the map attached as Appendix B.

- o. "United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

IV. STATEMENT OF FACTS

6. The Florida Petroleum Reprocessors (FPR) Facility, located at 3211 S.W. 50th Avenue, Davie, Broward County, Florida, was a former waste oil reprocessing facility. Operations at the FPR Facility were conducted under a variety of names, including Barry's Waste Oil, Oil Conservationists, Inc., Florida Petroleum Reprocessors, and South Florida Fuels. Operations principally included the temporary storage and reprocessing of waste oil. Current records indicate that more than 15 million gallons of waste oil were collected at the FPR Facility from many sources, including the Respondents listed in Appendix A and the City.
7. This waste oil leaked from tanks and spilled onto the ground causing extensive soil and groundwater contamination during operations at the FPR Facility. The waste oil contained hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), including volatile organic compounds (VOCs).
8. In the Spring of 1996, EPA's Emergency Response and Removal program conducted an assessment of the FPR Facility. The FPR Facility was abandoned at that time. There were several above-ground tanks and drums in poor condition, containing waste oil and wastewater at the FPR Facility. The secondary containment structures around these tanks and drums had deteriorated. The contents of the tanks and drums were sampled, and the results indicated the presence of VOCs and other hazardous substances. EPA determined that an immediate response action was warranted to address the imminent threat posed by the tanks and drums and to stabilize the FPR Facility pending further evaluation.
9. As a result, removal activities were undertaken and all tanks and an estimated 13,000 gallons of waste oil and 26,000 gallons of wastewater were removed from the Site. This work was completed in 1997 pursuant to an Administrative Order on Consent with Florida Petroleum Reprocessors Steering Committee, whose member(s) are currently part of the major FPR potentially responsible party group ("major FPR PRP group").
10. EPA's contractor completed the field work for the remedial investigation (RI) for the FPR

Site in April 1997 and issued a RI and feasibility study (FS) report in June 1998.

11. The Site was placed on the National Priorities List on March 6, 1998.
12. A second round of removal activities was conducted by the major FPR PRP group in 1999, pursuant to a second Administrative Order on Consent, to address the highly contaminated soils ranging from ground surface to a depth of approximately 12 feet below ground surface. Contaminants removed included chlorinated VOCs and petroleum-related compounds. Approximately 6,000 tons of soil were removed for off-Site disposal. The excavated areas were filled in with clean soil.
13. A third round of removal activities is currently on-going, and was started by the major FPR PRP group in November 2000, pursuant to a third Administrative Order on Consent, to address deep soil contamination and a zone of residual dense nonaqueous-phase liquid (DNAPL) in the northwestern portion of the FPR Facility, at a depth from 34 to 43 feet below ground surface. This material was believed to represent a continual source of contamination to the Biscayne aquifer, the sole source of drinking water for Dade and Broward counties. The work to treat the residual DNAPL contamination is being performed using a technique known as chemical oxidation. The treatment process involves the injection of chemicals into the zone of contamination, which produces a chemical reaction to transform the contaminants into nontoxic compounds.
14. In addition to the contaminants that have been released from the FPR Facility, a second source of groundwater contamination is located along the south side of I-595, and east of the Florida Turnpike. This second source is the location of a former junkyard known as Starta Sales & Salvage that operated at the location from 1965 until 1974. Approximately 1,600 junk cars had been stored on the property at one time, with some of the junk cars being dumped into a water-filled borrow pit along the west side of the property. *Automobile salvage and service businesses continued to operate at this location until 1984.* The property was subsequently acquired by the Florida Department of Transportation (FDOT) in 1984 in advance of the construction of I-595 at this location in the late 1980's.
15. The three rounds of removal activities described above were performed by the major FPR PRP group. EPA anticipates that the major FPR PRP group will also perform the remaining work that needs to be done at or in connection with the Site. EPA is currently negotiating a Remedial Design/Remedial Action Consent Decree (Consent Decree) with the major FPR PRP group and several other parties to implement a remedy for the Site that is protective of human health and the environment.
16. In performing the response actions, EPA has incurred and will continue to incur response costs at or in connection with the Site. The amount of EPA's unreimbursed response costs at the Site totaled \$5,587,798.14 as of August 19, 2003.

17. The City has also undertaken response activities at the Site under an Administrative Order on Consent with EPA dated February 11, 1994, docket number 93-34-C (AOC). In complying with the AOC, the City incurred over \$1,224,381.78 in response costs in designing, constructing, and operating an air stripper system to remove Site-related VOCs now believed to have migrated to the southern portion of the City's Peele Dixie Wellfield. Under the AOC, the City owed \$83,271.88 for EPA's oversight costs. In addition, the City owed \$24,381.78 for the 6,366 gallons of waste oil it sent to the FPR Facility.

Pursuant to a Consent Order dated March 31, 2004 ("First Consent Order"), EPA, the City and various de minimis parties entered into a settlement to reimburse EPA and the City for a portion of their respective response costs. Under that First Consent Order, the City was to be reimbursed for some of its over \$1,224,381.78 in response costs and was relieved of its obligations under Section VIII of the AOC to pay EPA's \$83,271.88 in oversight costs. The reimbursement to the City under this Consent Order was also reduced to reflect the \$24,381.78 owed by the City for the 6,366 gallons of waste oil it sent to the FPR Facility. The proceeds from the First Consent Order did not, however, fully reimburse EPA or the City for their respective response costs, nor did the First Consent Order settle the EPA's or the City's potential claims against the Respondents to this Consent Order for recovery of those unrecovered response costs.

18. Attached hereto as Appendix C and incorporated by reference herein is the De Minimis Cost Matrix, which lists the total volume in gallons that each Respondent contributed to the Site, based on records currently available to EPA. The De Minimis Cost Matrix also lists the amount each Respondent must pay to EPA and to the City to settle under this Consent Order. The volume attributed to each Respondent is based on records of the owner or operator of the FPR Facility, records such as spread sheets and driver tickets containing information on how much and from whom waste oil was picked up and delivered to the Site. Based on these sources of information, EPA has determined that each Respondent listed in Appendix A: arranged for disposal or treatment of a hazardous substance owned or possessed by such Respondent, to the Site; or arranged with a transporter for the transport for disposal or treatment, of a hazardous substance owned or possessed by such Respondent, to the Site; or accepted hazardous substances for transport to the Site which was selected by such Respondent.
19. The amount of hazardous substances contributed to the Site by each Respondent is more than 110 gallons but not more than 10,000 gallons of materials containing hazardous substances, and the hazardous substances contributed by each Respondent to the Site are not significantly more toxic or of significantly greater hazardous effect than other hazardous substances at the Site.
20. EPA estimates that the total response costs incurred and to be incurred at or in connection with the Site by the EPA Hazardous Substance Superfund and by private and governmental parties is \$14,832,741.81. The payment required to be made by each Respondent pursuant to this Consent Order is a minor portion of this total amount.

V. DETERMINATIONS

21. Based upon the Statement of Facts set forth above and on the administrative record for this Site, EPA has determined that:
- a. The Florida Petroleum Reprocessors Superfund Site is a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
 - b. Each Respondent is a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
 - c. Each Respondent is a "potentially responsible party" under Section 122(g)(1) of CERCLA, 42 U.S.C. § 9622(g)(1).
 - d. There has been an actual or threatened "release" of a "hazardous substance" from the Site as those terms are defined in Section 101(22) and (14) of CERCLA, 42 U.S.C. § 9601(22) and (14).
 - e. The actual or threatened "release" caused the incurrence of response costs.
 - f. Prompt settlement with each Respondent is practicable and in the public interest within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. § 9622(g)(1).
 - g. As to each Respondent, this Consent Order involves only a minor portion of the response costs at the Site within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. § 9622(g)(1).
 - h. The amount of hazardous substances contributed to the Site by each Respondent, and the toxic or other hazardous effects of the hazardous substances contributed to the Site by each Respondent are minimal in comparison to other hazardous substances at the Site within the meaning of Section 122(g)(1)(A) of CERCLA, 42 U.S.C. § 9622(g)(1)(A).

VI. ORDER

22. Based upon the administrative record for the Site and the Statement of Facts and Determinations set forth above, and in consideration of the promises and covenants set forth herein, the following is hereby AGREED TO AND ORDERED:

VII. PAYMENT

23. To enter into this Consent Order and settle each Respondent's CERCLA liability to the United States for the Site, (subject to the Reservations of Rights by the United States in Section XI.), each Respondent must make two separate payments, one to EPA and one to

the City of Fort Lauderdale. The payment amounts for each Respondent are listed in Appendix C.

Payment One shall be made to the "EPA Hazardous Substance Superfund", in the amount set forth in Appendix C, column labeled "PAYMENT TO EPA (75% OF TOTAL)"; and

Payment Two shall be made to the "City of Fort Lauderdale, care of City Manager," in the amount set forth in Appendix C, column labeled "PAYMENT TO CITY (25% OF TOTAL)."

NO PAYMENT IS DUE AT THIS TIME. In approximately 90 to 120 days, EPA will send you a separate letter telling you when to make your payments and where to send them. The letter will give you 30 days from the date of the letter to send your two payments to the addresses provided in the letter.

24. The City shall submit written notice to EPA of the payments it has received under this Consent Order within 60 days of the date upon which payments to the City under this Consent Order are due. The City covenants and agrees to make payment to the EPA Hazardous Substance Superfund of all amounts in excess of \$1,200,000.00 that the City receives cumulatively under this Consent Order and the First Consent Order. The City's payment, if any, shall be submitted within 90 days of the date upon which payments to the City under this Consent Order are due.
25. All payments due under this Consent Order shall be made by certified or cashier's check. Each check shall reference the name and address of the party making payment, the Site name (Florida Petroleum Reprocessors Site), the Site Spill ID Number, (A416), and the EPA docket number for this action, (CER 04-2004-3789).
26. Each Respondent's payment includes an amount for:
 - a. all past response costs incurred at or in connection with the Site;
 - b. projected future response costs to be incurred at or in connection with the Site; and
 - c. a premium to cover the risks and uncertainties associated with this settlement, including but not limited to, the risk that total response costs incurred or to be incurred at or in connection with the Site by the EPA Hazardous Substance Superfund, any private party, or any governmental party, will exceed the estimated total response costs upon which each Respondent's payment on Appendix C is based.

VIII. FAILURE TO MAKE PAYMENT

27. If any Respondent fails to make full payment within the time required by this Consent Order, that Respondent shall pay Interest on the unpaid balance at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). In addition, if any Respondent fails to make full payment as required by this Consent Order, the United States, may, in addition to any other available remedies or sanctions, bring an action against that Respondent seeking injunctive relief to compel payment and/or seeking civil penalties under Section 122(l) of CERCLA, 42 U.S.C. § 9622(l) for failure to make timely payment.

IX. CERTIFICATION OF RESPONDENTS

28. By signing this Consent Order, each Respondent certifies, individually, that, to the best of its knowledge and belief, it has:
- a. conducted a thorough, comprehensive, good faith search for documents, and has fully and accurately disclosed to EPA, all documents and information currently in its possession, or in the possession of its officers, directors, employees, contractors or agents, which relates in any way to the ownership, operation, or control of the Site, or to the ownership, possession, generation, treatment, transportation, storage or disposal of a hazardous substance, pollutant, or contaminant at or in connection with the Site;
 - b. not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents, or other information relating to its potential liability regarding the Site after notification of potential liability or the filing of a suit against it regarding the Site; and
 - c. fully complied with any and all EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e).

X. COVENANT NOT TO SUE BY UNITED STATES

29. In consideration of the payments that will be made by Respondents under the terms of this Consent Order, and except as specifically provided in Section XI (Reservations of Rights by United States), the United States covenants not to sue or take administrative action against any of the Respondents pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, relating to the Site. With respect to present and future liability, this covenant not to sue shall take effect for each Respondent upon receipt by the United States of that Respondent's payment to the United States as is required by Section VII. With respect to each Respondent, individually, this covenant not to sue is conditioned upon: a) the satisfactory performance by Respondent of all obligations under this Consent

Order, including valid certification in Section IX; and b) the veracity of the information provided to EPA by Respondent relating to Respondent's involvement with the Site. This covenant not to sue extends only to Respondents and does not extend to any other person.

XI. RESERVATIONS OF RIGHTS BY UNITED STATES

30. The covenant not to sue by the United States set forth in this Consent Order does not pertain to any matters other than those expressly specified in Section X. The United States reserves, and this Consent Order is without prejudice to, all rights against Respondents with respect to all other matters including, but not limited to:
- a. liability for failure to meet a requirement of this Consent Order;
 - b. criminal liability;
 - c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments; or
 - d. liability arising from any future arrangement for disposal or treatment of a hazardous substance, pollutant or contaminant at the Site after the effective date of this Consent Order.
31. If information not known to EPA as of the effective date of this Consent Order is discovered which indicates that the volume of waste oil contributed to the Site by any Respondent exceeds the volume which Respondent has certified as accurate under this Consent Order, but where the total amount contributed by such Respondent is less than 10,000 gallons, EPA, in its discretion, may require such Respondent to make payment(s) to account for the additional volume. EPA will calculate the additional payment(s) using the same payment formula that was used in determining Respondent's initial payment amount reflected on Appendix C. By signing this Consent Order, each Respondent agrees to pay the additional payment(s) within 15 days of demand by EPA. In the event that any Respondent fails to make the additional payment(s) within 15 days of EPA's demand, EPA may, by written notice to the nonpaying Respondent, void this Consent Order as between EPA and the nonpaying Respondent. In the event that any Respondent fails to make the additional payment(s) within 15 days of EPA's demand, notwithstanding any other provision of this Consent Order, the United States, including EPA, reserves, and this Consent Order is without prejudice to, the right to institute judicial proceedings seeking to compel such nonpaying Respondent to reimburse EPA for a higher share of response costs than such Respondent is paying under this Consent Order.
32. If information not known to EPA as of the effective date of this Consent Order is discovered which indicates that the volume of waste oil contributed to the Site by any Respondent exceeds 10,000 gallons, or which indicates that the hazardous substances contributed by any Respondent are of such greater toxic or other hazardous effects

compared to the other hazardous substances at the Site, EPA, in its discretion, may determine that the Respondent is no longer eligible for this settlement, and, by written notice to such ineligible party, may void this Consent Order as between EPA and such ineligible party. In such case, notwithstanding any other provision in this Consent Order, the United States, including EPA, reserves, and this Consent Order is without prejudice to, the right to institute judicial or administrative proceedings, including an administrative order, against any Respondent seeking to compel that Respondent to perform response actions relating to the Site, and/or to reimburse the United States for additional response costs at the Site.

XII. COVENANTS BY THE CITY AND RESPONDENTS

33. Respondents covenant not to sue and agree not to assert any claims, demands, or causes of action against the United States, or its contractors or employees relating in any way to the Site or this Consent Order, including, but not limited to:
- a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
 - b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Constitution of the State of Florida, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; and
 - c. any claim against the United States pursuant to Sections 107, 113 or 123 of CERCLA, 42 U.S.C. §§ 9607, 9613, or 9623 relating to the Site.

Except as provided in Paragraph 35 (Waiver of Claims) and Paragraph 38 (Waiver of Claim-Splitting Defenses), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 30 (c) or (d) or Paragraph 32, but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

34. The City covenants not to sue and agrees not to assert any claims, demands, or causes of action pursuant to Sections 107 and/or 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site, against any Respondent who complies with the payment terms of this Consent Order.
35. Respondents agree not to assert any claims or causes of action (including claims for contribution under CERCLA) that they may have for all matters relating to the Site against each other, the City or any other person who is a potentially responsible party under CERCLA at the Site. This waiver shall not apply with respect to any defense.

claim, or cause of action that a Respondent may have against any person if such person asserts or has asserted a claim or cause of action relating to the Site against such Respondent.

36. Nothing in this Consent Order shall be deemed to constitute preauthorization or approval of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

XIII. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

37. Nothing in this Consent Order shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Order. The United States, the City, and Respondents each reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto, except as otherwise provided in Section XII of this Consent Order.
38. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, the City and the Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant action; provided, however, that nothing in this Paragraph affects the enforceability of the covenant not to sue included in Section X.
39. The Parties agree that each Respondent is entitled, as of the date of such Respondent's compliance with the payment terms of this Consent Order, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(g)(5) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(g)(5), for "Matters Addressed" in this Consent Order. The "Matters Addressed" in this Consent Order are all response actions taken or to be taken, by the United States, the City, other government entities and private parties, and all response costs incurred and to be incurred by the United States, the City, other government entities, and private parties, at or in connection with the Site.

XIV. PARTIES BOUND

40. This Consent Order shall apply to and be binding upon EPA, the City, the Respondents and their heirs, successors and assigns. Any change in ownership or corporate or other legal status of a Respondent or the City, including but not limited to, any transfer of assets or real or personal property, shall in no way alter such Respondent's or the City's responsibilities under this Consent Order. Each signatory to this Consent Order certifies that he or she is authorized to enter into the terms and conditions of this Consent Order and to execute and bind legally the party represented by him or her.

XV. INTEGRATION/APPENDICES

41. This Consent Order and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Order. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Order. The following appendices are attached to and incorporated into this Consent Order:

"Appendix A" is [the list of Respondents].

"Appendix B" is [the map of the Site].

"Appendix C" is [the de minimis cost matrix].

XVI. PUBLIC COMMENT

42. This Consent Order shall be subject to a public comment period of not less than 30 days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, 42 U.S.C. § 9622(i)(3), EPA may withdraw or withhold its consent to this Consent Order if comments received disclose facts or considerations which indicate that this Consent Order is inappropriate, improper, or inadequate.

XVII. ATTORNEY GENERAL APPROVAL

43. The Attorney General or his designee has approved the settlement embodied in this Consent Order in accordance with Section 122(g)(4) of CERCLA, 42 U.S.C. § 9622(g)(4).

XVIII. EFFECTIVE DATE

44. The effective date of this Consent Order shall be the date upon which EPA issues written notice that the public comment period pursuant to Section XVI has closed and that comments received, if any, do not require modification of or EPA withdrawal from this Consent Order.

45. Each Respondent and the City shall enter into this Consent Order by signing the signature page found at the end of this Consent Order. Signature pages shall be sent to:

Andy Hey
U.S. Environmental Protection Agency
Environmental Accountability Division
61 Forsyth Street S.W.
Atlanta, GA 30303

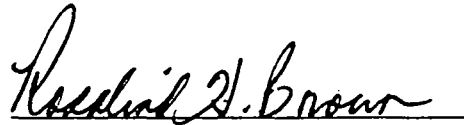
IT IS SO AGREED AND ORDERED:

IN THE MATTER OF:

Florida Petroleum Reprocessors Superfund Site, Davie, Florida
De Minimis Administrative Order on Consent
U.S. EPA Docket No. CER 04-2004-3789

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By:



Rosalind H. Brown, Chief
Superfund Enforcement and Information Management Branch
Waste Management Division
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Date:

9-30-04

IN THE MATTER OF:

Florida Petroleum Reprocessors Superfund Site, Davie, Florida

De Minimis Administrative Order on Consent

U.S. EPA Docket No. CER 04-2004- 3789

THE UNDERSIGNED enters into this Consent Order in the matter of Docket number CER 04-2004- 3789 relating to the Florida Petroleum Reprocessors Site in Davie, Broward County Florida

FOR THE CITY OF FORT LAUDERDALE, FLORIDA

By:



Date: September 30, 2004

HARRY A. STEWART, ESQ.
Florida Bar No. 0176376
City Attorney
City of Fort Lauderdale
100 North Andrews Ave.
Fort Lauderdale, FL 33301
Telephone: 954-828-5037
Facsimile: 954-828-5915

IN THE MATTER OF:

**Florida Petroleum Reprocessors Superfund Site, Davie, Florida
De Minimis Administrative Order on Consent
U.S. EPA Docket No. CER 04-2004-3789**

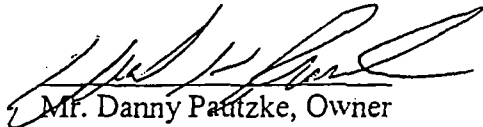
Signature Page for Respondent: Action Transmission

THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of Docket number CER 04-2004-3789, relating to the Florida Petroleum Reprocessors Site in Davie, Broward County Florida, and hereby agrees to make the following payments as indicated in Appendix C to this Consent Order:

PAYMENT DUE

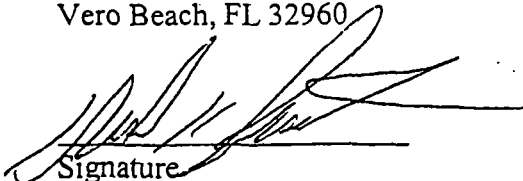
Payment to EPA	\$8689.31
Payment to City of Ft. Lauderdale	\$2896.44

FOR RESPONDENT:


Mr. Danny Pautzke, Owner

9/22/04
Date

Action Transmission
a.k.a Action Transmission & AC
Service
1041 US Highway One
Vero Beach, FL 32960


Signature

Daniel H. Pautzke
Print Name

We would like to make quarterly payments over a two year period.

IN THE MATTER OF:
Florida Petroleum Reprocessors Superfund Site, Davie, Florida
De Minimis Administrative Order on Consent
U.S. EPA Docket No. CER 04-2004-3789

Signature Page for Respondent: Island Automotive, Inc

THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of Docket number CER 04-2004-3789, relating to the Florida Petroleum Reprocessors Site in Davie, Broward County Florida, and hereby agrees to make the following payments as indicated in Appendix C to this Consent Order:

PAYMENT DUE

<u>Payment to EPA</u>	\$4466.74
<u>Payment to City of Ft. Lauderdale</u>	\$1488.91

FOR RESPONDENT:

Mr Keith Pershing, President
Mr. Keith Pershing, President

9/25/04
Date

Island Automotive Inc
Island Automotive, Inc.
801 Elkcam Circle
Marco Island, FL 34145

Keith Pershing
Signature

KEITH PERSHING
Print Name

- I sign this form with no admission of guilt or liability. I need to make the payments quarterly over a two year period. Keith Pershing Pres

IN THE MATTER OF:
Florida Petroleum Reprocessors Superfund Site, Davie, Florida
De Minimis Administrative Order on Consent
U.S. EPA Docket No. CER 04-2004-3789

Signature Page for Respondent: Johnson Chrysler-~~North~~, Inc.

THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of Docket number CER 04-2004-3789, relating to the Florida Petroleum Reprocessors Site in Davie, Broward County Florida, and hereby agrees to make the following payments as indicated in Appendix C to this Consent Order:

PAYMENT DUE

Payment to EPA	\$7913.74
Payment to City of Ft. Lauderdale	\$2637.91

FOR RESPONDENT:

Mary Ellen Johnson
Ms. Mary Ellen Johnson, President

10/29/04
Date

Johnson Chrysler-~~North~~, Inc.
2633 South US 1, PO Box 14199
Fort Pierce, FL 34979

Linda Dickens
Signature office mgr.

Linda Dickens
Print Name

IN THE MATTER OF:

Florida Petroleum Reprocessors Superfund Site, Davie, Florida

De Minimis Administrative Order on Consent

U.S. EPA Docket No. CER 04-2004-3789

Signature Page for Respondent: Milt's Car Care

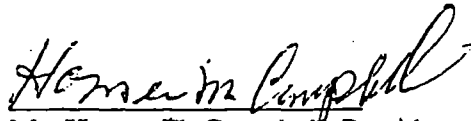
THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of Docket number CER 04-2004-3789, relating to the Florida Petroleum Reprocessors Site in Davie, Broward County Florida, and hereby agrees to make the following payments as indicated in Appendix C to this Consent Order:

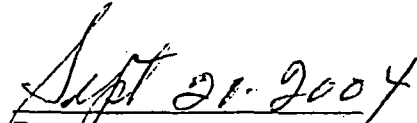
PAYMENT DUE

Payment to EPA \$5213.59

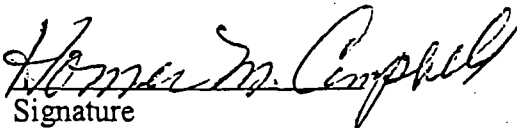
Payment to City of Ft. Lauderdale \$1737.86

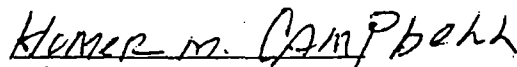
FOR RESPONDENT:


Mr. Homer M. Campbell, President
M


Date

Milt's Car Care
803 13th Street
St. Cloud, FL 34769


Signature


Print Name

IN THE MATTER OF:

**Florida Petroleum Reprocessors Superfund Site, Davie, Florida
De Minimis Administrative Order on Consent
U.S. EPA Docket No. CER 04-2004-3789**


Signature Page for Respondent: OK Transmission, Inc.

THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of Docket number CER 04-2004-3789, relating to the Florida Petroleum Reprocessors Site in Davie, Broward County Florida, and hereby agrees to make the following payments as indicated in Appendix C to this Consent Order:

PAYMENT DUE

<u>Payment to EPA</u>	\$12337.39
<u>Payment to City of Ft. Lauderdale</u>	\$4112.46

FOR RESPONDENT:

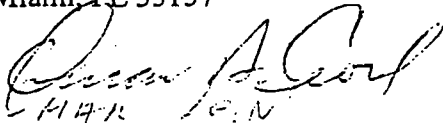


Mr. Omar Leon

9-27-02

Date

OK Transmission, Inc.
10508 SW 185 Terrace
Miami, FL 33157



Signature

Omar Leon

Print Name

Will like to pay
settlement amount
over time by making
payments over a
two year period or
longer.

IN THE MATTER OF:

Florida Petroleum Reprocessors Superfund Site, Davie, Florida

De Minimis Administrative Order on Consent

U.S. EPA Docket No. CER 04-2004-3789

Signature Page for Respondent: Only Mercedes

THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of Docket number CER 04-2004-3789, relating to the Florida Petroleum Reprocessors Site in Davie, Broward County Florida, and hereby agrees to make the following payments as indicated in Appendix C to this Consent Order:

PAYMENT DUE

Payment to EPA	\$2240.55
Payment to City of Ft. Lauderdale	\$746.85

FOR RESPONDENT:

Gerald Utt
Mr. Gerald Utt

9-23-04
Date

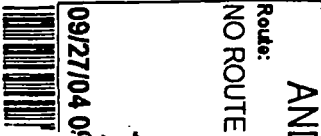
Same
Only Mercedes
3816 SW 69th Way
Miramar, FL 33023

Gerald Utt
Signature

GERALD UTT
Print Name

*I would like to
PAY, 24 payment.
every Quarterly.*

R & D SOD FARMS, INC.
674 N.W. 113th Drive
Okeechobee, Florida 34972



Processors Superfund Site, Davie, Florida

De Minimis Administrative Order on Consent
U.S. EPA Docket No. CER 04-2004-3789

Signature Page for Respondent: R & D Sod Farms

THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of Docket number CER 04-2004-3789, relating to the Florida Petroleum Reprocessors Site in Davie, Broward County Florida, and hereby agrees to make the following payments as indicated in Appendix C to this Consent Order:

PAYMENT DUE

Payment to EPA \$3231.56

Payment to City of Ft. Lauderdale \$1077.19

Quarter payments

FOR RESPONDENT:

Edward H. Davis, Pres
Mr. Edward H. Davis

9-24-04
Date

Edward H. Davis, Pres
R & D Sod Farms
674 NW 113th Dr.
Okeechobee, FL 34972

Edward H. Davis, Pres
Signature

Edward H. Davis
Print Name

APPENDIX A
LIST OF RESPONDENTS

**FLORIDA PETROLEUM REPROCESSORS SUPERFUND SITE/DAVIE, FLORIDA
DE MINIMIS SETTLEMENT COST MATRIX**

<i>PRP NAME</i>	<i>VOLUME (GALLONS)</i>	<i>TOTAL SETTLEMENT AMOUNT \$3.83/GALLON</i>	<i>PAYMENT TO EPA (75% TOTAL)</i>	<i>PAYMENT TO CITY (25% TOTAL)</i>
Action Transmission	3,025	\$11,585.75	\$8,689.31	\$2,896.44
Island Automotive	1,555	\$5,955.65	\$4,466.74	\$1,488.91
Johnson Chrysler Plymouth	2,755	\$10,551.65	\$7,913.74	\$2,637.91
Milts Car Care	1,815	\$6,951.45	\$5,213.59	\$1,737.86
OK Transmission	4,295	\$16,449.65	\$12,337.39	\$4,112.46
Only Mercedes	780	\$2,987.40	\$2,240.55	\$746.85
R & D Sod Farm	1,125	\$4,308.75	\$3,231.56	\$1,077.19

APPENDIX B
SITE MAP

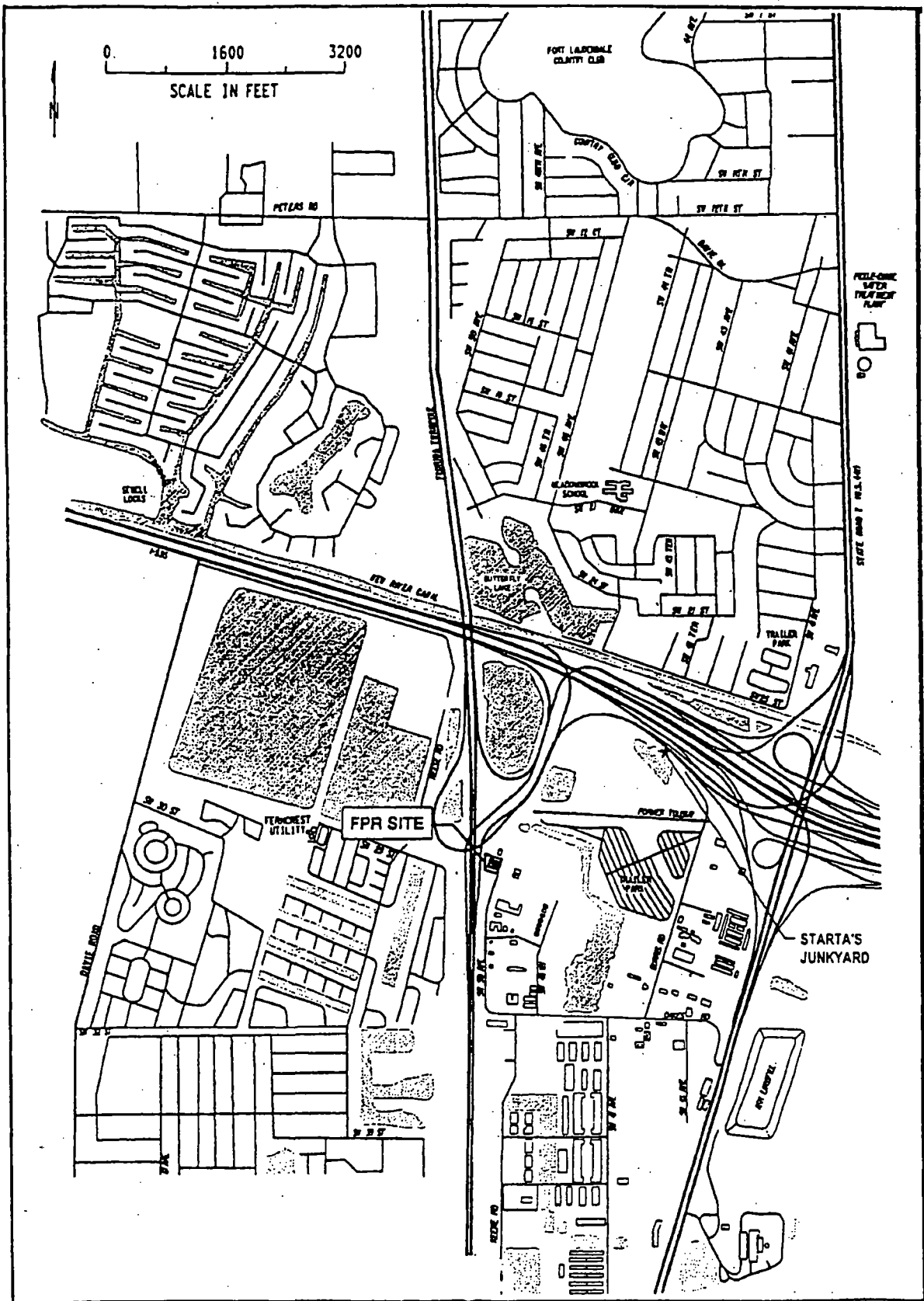


Figure 1-1
 Site Location Map
 Florida Petroleum Reprocessors, Davie, Florida



APPENDIX C
DE MINIMIS COST MATRIX

**FLORIDA PETROLEUM REPROCESSORS SUPERFUND SITE/DAVIE, FLORIDA
DE MINIMIS SETTLEMENT COST MATRIX**

<i>PRP NAME</i>	<i>VOLUME (GALLONS)</i>	<i>TOTAL SETTLEMENT AMOUNT \$3.83/GALLON</i>	<i>PAYMENT TO EPA (75% TOTAL)</i>	<i>PAYMENT TO CITY (25% TOTAL)</i>
Action Transmission	3,025	\$11,585.75	\$8,689.31	\$2,896.44
Island Automotive	1,555	\$5,955.65	\$4,466.74	\$1,488.91
Johnson Chrysler Plymouth	2,755	\$10,551.65	\$7,913.74	\$2,637.91
Milts Car Care	1,815	\$6,951.45	\$5,213.59	\$1,737.86
OK Transmission	4,295	\$16,449.85	\$12,337.39	\$4,112.46
Only Mercedes	780	\$2,987.40	\$2,240.55	\$746.85
Pence Septic	9,865	\$37,782.95	\$28,337.21	\$9,445.74
R & D Sod Farm	1,125	\$4,308.75	\$3,231.56	\$1,077.19
The Swedish Solution	1,055	\$4,040.65	\$3,030.49	\$1,010.16