

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**DEFERRED PROSECUTION AGREEMENT FOR VIOLATION OF CLEAN AIR ACT**

<b>UNITED STATES OF AMERICA</b>	*	<b>CRIMINAL NO. 14-220</b>
v.	*	<b>SECTION: "I"</b>
<b>WASHINGTON PARISH SCHOOL BOARD</b>	*	<b>VIOLATION: 42 U.S.C. § 7413(c)(2)(B)</b>

\* \* \*

Defendant **WASHINGTON PARISH SCHOOL BOARD** (“the Board”), by its undersigned officer and through its attorney, Michael Walsh, and the United States Attorney’s Office for the Eastern District of Louisiana (“USAO”), hereby enter into this Deferred Prosecution Agreement (“the Agreement”). The USAO enters into this Agreement based upon the following facts and circumstances: (a) the Board’s willingness to accept responsibility for the conduct of its present and former officers and employees; (b) the Board’s agreement to undertake measures that will ensure future compliance with environmental laws and regulations; and (c) the collateral consequences a felony conviction could have on the Board’s ability to provide services to its constituents who were not a party to the wrongdoing upon which this Agreement is based. Except as specifically provided below, the Agreement shall be in effect for a period of two years from the date it is fully executed (hereinafter, “the Agreement period”).

1. The Board accepts and acknowledges responsibility for the acts of its employees and/or agents for failing to notify the Louisiana Department of Environmental Quality of the demolition of a school that contained regulated asbestos containing material in violation of the federal Clean Air Act, 42 U.S.C. §7413(c)(2)(B).



2. The Board accepts and acknowledges responsibility for the conduct described above as set forth in the Factual Basis attached hereto and incorporated by reference as Exhibit A (hereinafter, "Factual Basis").

3. The Board expressly agrees that it shall not publicly deny any statement of fact contained in the Factual Basis. The decision of whether any statement by any agent or employee of the Board contradicting a fact contained in the Factual Basis will be imputed to the Board for the purpose of determining whether the Board has breached this Agreement shall be in the sole and reasonable discretion of the USAO. Upon the USAO's notification to the Board of a public statement by any agent or employee of the Board that in whole or in part contradicts a statement of fact contained in the Factual Basis, the Board may avoid breach of this Agreement by publicly repudiating such statement within 48 hours after notification by the USAO. The Board may take good faith positions in litigation involving any private party.

4. Within the first ninety days of the Agreement period, the Board shall conduct an environmental awareness training with all Board and contract employees assigned to the maintenance division, or with ancillary maintenance duties, to include lead/head janitors or custodians, to be led by a qualified subject matter expert in state and federal environmental laws to include training on the Clean Air Act and NESHAPs. A copy of the training agenda and the qualifications of the instructor shall be provided to the USAO and the Louisiana Department of Environmental Quality prior to the commencement of the training. Should the USAO or LDEQ disapprove of a component of the training agenda or the instructor, the Board shall be notified in writing and will have an additional thirty days to remedy the deficiency.

5. Within the first forty-five days of the Agreement period, the Board shall appoint an Internal Compliance Officer who will for the period of this Agreement create a reporting and

documentation protocol regarding the maintenance, construction, demolition plans and projects for each school which the Board governs, and create and implement specific standard operating procedures (SOPs) for handling confirmed and suspected asbestos containing material wherever found during regular maintenance of facilities as well as during construction and demolition of the Board's properties.

6. Within the first ninety days of the Agreement period, the Compliance Officer shall submit for approval to the USAO and the Louisiana Department of Environmental Quality, the SOPs for handling confirmed and suspected asbestos containing material. The SOPs shall require the following:

- (a) consultation with the Board's Asbestos Management Planner and all Board personnel involved in demolitions, renovations, construction or other projects wherein there is or suspected to be asbestos containing material to ensure proper handling of known or suspected asbestos containing material;
- (b) treat all suspected asbestos containing material as RACM until an inspection by a certified Asbestos Inspector determines the material to not contain asbestos;
- (c) require all contracts for demolition, renovation, and construction to specifically address environmental concerns and detail obligations of the contractor and the Board in ensuring that all environmental regulations and laws are followed; this includes but is not limited to Title 40 Code of Federal Regulations, Part 61 (National Emission Standards for Hazardous Air Pollutants);
- (d) annual asbestos awareness training of all maintenance personnel and lead/head janitors or custodians;
- (e) any removal of asbestos containing materials must be conducted by trained personnel and documented in the Asbestos Management Plan;
- (f) the removal, transportation and disposal of asbestos containing material shall be done per regulations after proper notification to the Louisiana Department of Environmental Quality;
- (g) specify the individual responsible for making notification of demolition and renovation activities to the Louisiana Department of Environmental Quality
- (h) provide the Board's Asbestos Management Planner and any other Board employee with authority to investigate and when necessary halt projects, when potential environmental concerns, to include asbestos related issues, arise;
- (i) require any employee with knowledge of violations of state or federal environmental laws to report violations to state or federal authorities;
- (j) prohibit retaliation against any employee who reports a violation of state or federal environmental law.

7. During the period of this Agreement, any contract for construction, renovation, remediation, demolition, or project that implicates environmental regulations or laws shall be let in accordance with the applicable Louisiana Revised Statutes. Any and all solicitations for bid or proposal shall set forth specifically all environmental concerns and obligations of the contractor and of the Board. Any and all contracts awarded in response to bid or proposal shall ensure that all applicable Federal and State laws and environmental regulations are met during work under the contract, including, without limitation, all requirements under Title 40 Code of Federal Regulations, Part 61 (National Emission Standards for Hazardous Air Pollutants).

8. The Board agrees that should the USAO determine that it has committed a willful and material breach of any provision of this Agreement, the USAO shall provide a written notice to the Board of the alleged breach and provide the Board with a two week period or longer at the reasonable discretion of the USAO in which to make a presentation to the United States Attorney to demonstrate that no breach has occurred or, to the extent applicable, that the breach is not willful or material or has been cured. The parties expressly understand and agree that should the Board fail to make a presentation to the United States Attorney within such time period, it shall be presumed that the Board is in willful and material breach of the Agreement. The parties further understand and agree that the USAO and the United States Attorney's exercise of reasonable discretion under this paragraph is not subject to review in any court or tribunal.

9. It is understood that the Board: (a) shall cooperate fully with this USAO, Louisiana Department of Environmental Quality and the Environmental Protection Agency, and any other law enforcement agency designated by this Office; (b) shall, at this USAO's request, use its best efforts promptly to secure the attendance and truthful statements or testimony of any officer,

agent, or employee at any meeting or interview or before the grand jury or at any trial or any court proceedings; (c) shall use its best efforts promptly to provide this USAO, upon request, any document, record, or other tangible evidence relating to matters or conduct about which this USAO or any designated law enforcement agency inquires; and (d) shall bring to this USAO's attention all criminal conduct by or criminal investigations of the Board or its respective senior managerial employees that comes to the attention of the Board, as well as any administrative proceeding or civil action brought by any governmental authority that alleges environmental violations by the Board.

10. It is understood that if it is determined that the Board has committed any crime after signing this Agreement or that the Board or any of its representatives have given false, incomplete, or misleading testimony or information, or have otherwise violated any provision of this Agreement, (a) all statements made by the Board's representatives to the USAO, Louisiana Department of Environmental Quality, or the Environmental Protection Agency, or other designated law enforcement agents, and any testimony given by the Board's representatives before a grand jury or other tribunal, whether prior to or subsequent to the signing of this Agreement, and any leads from such statement or testimony shall be admissible in evidence in any criminal proceeding brought against the Board; (b) the Board shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or any leads therefrom should be suppressed; and (c) the Factual Basis accompanying this Agreement shall be admissible as evidence in any criminal proceeding against the Board. It is the intent of this Agreement to waive all rights in the foregoing respects.

11. The Board agrees that the time period of this Agreement (two years) will be excluded

from any Speedy Trial Act calculation pursuant to 18 U.S.C. § 3161(h)(2). The Board agrees that the time period of this Agreement (two years) will be excluded from the calculation of any statute of limitations for the Clean Air Act violation charged in the Bill of Information.

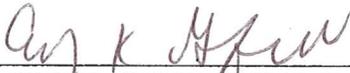
12. It is further understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this USAO.

13. It is further understood that the Board and/or this USAO may disclose this Agreement to the public.

14. The USAO agrees that if the Board is in full compliance with all of its obligations under this Agreement and has not committed any negligent or knowing violations state or federal criminal law at the conclusion of this Agreement's term, the USAO will request that the Court dismiss the underlying information in this matter, United States v. Washington Parish School Board, Case No. 14-220 "I", with prejudice.

Sincerely,

KENNETH ALLEN POLITE, JR.  
UNITED STATES ATTORNEY

  
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EMILY K. GREENFIELD (LA 28587)  
Assistant United States Attorney

AGREED AND CONSENTED TO



Washington Parish School Board  
By: Matthew Tate, President

10/9/14  
Date

  
\_\_\_\_\_  
Mike Walsh ( 503 8500 )  
Attorney for Washington Parish School Board

10/30/14  
Date

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

<b>UNITED STATES OF AMERICA</b>	*	<b>CRIMINAL NO. 14-220</b>
<b>v.</b>	*	<b>SECTION: "I"</b>
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**EXHIBIT A—FACTUAL BASIS**

In any criminal prosecution or regulatory action brought by the United States, the following Factual Basis shall be admissible against defendant, **WASHINGTON PARISH SCHOOL BOARD**, (hereafter, "the Board") and/or any of its subsidiaries. Beginning at time unknown but not later than 1988, the Board owned and was in control of the vacant Washington Parish High School known as the former Pine High School located at 27164 Highway 62 in Franklinton, Louisiana, in the Eastern District of Louisiana. In 2011, due to persistent vandalism and an inability to sell the vacant former Pine High School, the Board, by and through its agents and employees acting within the scope of their agency and employment and for the intended benefit of the Board, decided to demolish the school and clear the site.

Beginning at a time unknown, but no later than on or about November 15, 2011, employees of the Board privately met with a contractor to negotiate the cost and plan for the demolition of the former Pine High School. The demolition was not let for a public bid. On or about November 15, 2011, the contractor and the Board agreed in a purchase order that for a price of \$47,800.00, the contractor would "demolish the buildings, pile concrete, burn and haul off other materials" at the former Pine High School. Following the agreement to the purchase

order, the contractor began demolition.

Despite the fact that the Board had an asbestos management plan for the former Pine High School which showed that at the time of the last inspection in 2007 there was greater than 31,000 square feet of floor tiles suspected of containing asbestos material, the Board failed to make any notification or report to the Louisiana Department of Environmental Quality that it intended to demolish the school. The Board had made the requisite notifications to the Louisiana Department of Environmental Quality for past demolitions including one in 2008 for the former Franklinton High School football stadium. However, for the former Pine High School, no one from the Board notified the Louisiana Department of Environmental Quality nor did anyone from the Board contract for or request that the demolition contractor notify the Louisiana Department of Environmental Quality about the demolition.

Despite having a full time certified asbestos inspector and planner in its employ in 2011, the Board did not take any measures to ensure that its demolition contractor protected or prevented the asbestos containing floor tiles in the former Pine High School from sanding, grinding, cutting and abrading during the demolition nor did it stop the demolition debris from being burned.

READ AND APPROVED:

  
\_\_\_\_\_  
EMILY K. GREENFIELD (LA 28587)  
Assistant United States Attorney

10/31/14  
Date

  
\_\_\_\_\_  
WASHINGTON PARISH SCHOOL BOARD  
By: Matthew Tate, President

10/9/14  
Date

  
\_\_\_\_\_  
Mike Walsh  
Attorney for Washington Parish School Board

10/31/14  
Date

LSBA # 8500  
(225) 387-3221