



**Stuart Rabner, Attorney General**

**For Immediate Release:**  
December 11, 2006

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## **Attorney General Announces Lawsuit Seeking Recovery of School Site Clean-Up Costs; Complaint on Behalf of SCC Seeks Reimbursement from Getty Petroleum, Realty Firm**

**TRENTON** – Attorney General Stuart Rabner announced today the filing of a lawsuit on behalf of the state Schools Construction Corporation (SCC) seeking to recover costs incurred by the agency in cleaning up a contaminated Getty service station property, as well as an adjoining parcel, acquired for a school construction project in Elizabeth.

Filed with the New Jersey Superior Court in Union County, the two-count SCC lawsuit focuses on petroleum-product-related contamination found in the soil and groundwater at the site for what became Public School #30 in Elizabeth. To date, the SCC has incurred approximately \$885,000 in costs related to the site clean-up.

“Substantial public dollars have been invested in cleaning up these properties,” said Attorney General Rabner. “We are committed to ensuring, through litigation, that those public dollars are recovered from the responsible parties – those who allowed these properties to become contaminated and failed to meet their legal responsibility to remove the contamination.”

Named as defendants in the SCC lawsuit are Getty Petroleum Marketing, Inc., of East Meadow, N.Y., Getty Properties Corp., of Jericho, N.Y. and Power Test Realty, also of Jericho. Power Test Realty acquired the service station property from another major petroleum company in 1985, and subsequently leased it to Getty.

The SCC is launching a concerted effort to sue for the recovery costs of environmental cleanup from responsible parties and insurers.

“This is the start of an important initiative for the SCC,” said Scott Weiner, CEO of the Schools Construction Corporation. “We expect to file more such lawsuits in upcoming months, standing as clear evidence of the SCC’s resolve to recover money on behalf of New Jersey taxpayers.”

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According to the state's lawsuit, a Getty service station property on Newark Avenue that SCC acquired for \$650,000 became polluted over a span of years by the discharge of hazardous materials, and by the underground storage of petroleum products in massive tanks. An adjoining former restaurant property on Pennsylvania Avenue, also acquired by the SCC for Elizabeth School #30 at a cost of \$1.2 million, showed evidence of contamination with petroleum-related materials as well.

The SCC acquired the Getty service station property and the adjoining former restaurant property via condemnation in October 2003. In 2004, separate testing efforts by Getty and the SCC revealed the presence of a variety of hazardous substances in the soil and groundwater of the Getty property including benzene, xylene, ethyl benzene and methyl tertiary butyl ether.

In April 2004, additional investigation at the School #30 site uncovered two 3,000-gallon underground storage tanks for unleaded gasoline, and a 4,000-gallon underground storage tank for leaded gasoline. Subsequent soil testing revealed the presence of numerous hazardous pollutants where the tanks had been found, including total petroleum hydrocarbons.

The SCC subsequently had 6,300 cubic yards of petroleum-contaminated soil removed from the Getty property, and also removed a total of eight underground fuel storage tanks - including a 550-gallon oil storage tank that had been found underground on the adjoining former restaurant property.

Costs incurred by the SCC to date at the School #30 site include more than \$631,000 for removal of petroleum-contaminated soil and \$179,000 for environmental engineering services. In addition, the SCC has incurred about \$75,000 worth of administrative costs related to oversight and coordination of the site remediation work. The SCC also continues to monitor groundwater conditions at the site, and it is projected that monitoring-related costs will eventually total approximately \$79,000.

In its lawsuit, the state contends that SCC's claim for recovery of clean-up and contaminant removal costs relative to the School #30 site is authorized by the New Jersey Spill Act. Count one of the suit asks the court to order that Getty and Power Test Realty reimburse the SCC for all costs related to the property clean-up, as well as all fees and costs related to the litigation.

Count two of the lawsuit contends that Power Test Realty and the Getty companies have benefited from "unjust enrichment" because the state paid fair-market value for the Getty service station property (as if it were pollutant free) and to date the SCC - not the defendants -- has borne all costs associated with cleaning up the property.

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