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ONE HUNDRED NINTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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April 4, 2006

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The Honorable Jerry Lewis
Chairman
House Appropriations Committee
H-218 Capitol
Washington, D.C. 20510

The Honorable David Obey
Ranking Member
House Appropriations Committee
1016 Longworth Building
Washington, D.C. 20515

Dear Chairman Lewis and Ranking Member Obey:

As the Chairmen and Ranking Members of the Committee on Energy and Commerce and the Subcommittee with jurisdiction over the Leaking Underground Storage Tank (LUST) program, we write to request a much needed increase in funding for this important program. Without additional funding for the coming fiscal year, we are concerned that States will be faced with a sizeable under-funded Federal mandate.

As you may know, the LUST Trust Fund provides money to States and the Environmental Protection Agency (EPA) to operate the Underground Storage Tank (UST) programs and to assist States in the remediation of releases from USTs when a responsible party cannot be found. The LUST Trust Fund is primarily funded by the 0.1 cent-per-gallon Federal motor fuels tax, which began in 1987 and was recently extended to 2011 in the Energy Policy Act of 2005 (P.L. 109-58; "EPAct 2005").

While a significant amount of LUST taxes are collected each year, only a portion are appropriated by Congress. For instance, while in FY 2005 over \$190 million in LUST taxes were collected, the Administration's FY 2006 request, however, was only \$72.5 million and Congress appropriated \$69.4 million. Further, because more LUST taxes have been collected than appropriated over the years, the Trust Fund balance that stood at \$2.349 billion in FY 2005 is now estimated to grow to \$2.764 billion in FY 2007. This balance in the Trust Fund also generated an extra \$82 million in interest in FY 2005.

The LUST program is in need of additional funding especially in light of the requirements included in the EPAct 2005. EPAct 2005 contains several reforms to the Federal UST program that expand the permitted uses of Federal LUST Trust Fund dollars and place substantial new responsibilities on the EPA and State UST agencies. The legislation authorized significant increases in appropriations to \$605 million annually to assure that EPA has the financial resources to implement these reforms, to assure that the new regulatory provisions do not represent an unreasonable burden on the States, and to allow EPA and States to expand their response to UST petroleum releases, including those containing methyl tertiary-butyl ether (MTBE).

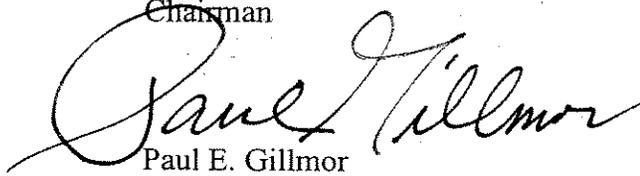
In addition to the numerous LUST reforms that were included in EPAct 2005, Congress also boosted future revenues that will be deposited into the LUST Trust Fund by clamping down on fuel fraud and ensuring that users of diesel and kerosene pay their fair share of taxes (Section 1362). In light of past Congressional efforts to ensure that all LUST taxes are collected from consumers, we are concerned that without additional funding for FY 2007, States will be unable to meet the new requirements that Congress put in place and the President signed into law. In EPAct 2005 Congress authorized substantial funding from the LUST Trust Fund to fund petroleum and MTBE cleanups to minimize the continuing impacts on drinking water supplies and the environment. The President's budget acknowledges that there is a national backlog of 119,240 confirmed UST releases whose cleanup is not yet completed. In addition, the budget documents indicate that new confirmed releases averaged 10,844 annually between FY 1999 and FY 2005.

In closing, should LUST funding remain unchanged, the practical effects will include forcing States to: insufficiently fund their programs, divert their resources from other public health programs, or risk turning their LUST programs back over to the Federal Government. Such an unnecessary budgetary conundrum should be avoided because fewer cleanups will be started or completed, inadequate and insufficient prevention and enforcement activities will occur, and more drinking water sources will be vulnerable to contamination in communities across the country.

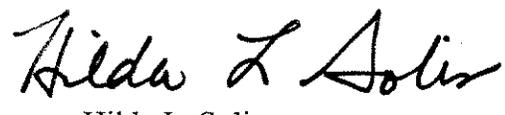
While we understand the budgetary environment that you face, we wanted to make you aware of the needs that exist for increased funding from the LUST Trust Fund. Again, we respectfully urge you to ensure this important environmental program, consistent with the directives in EPAct 2005, receives significant increased funding. Thank you for your consideration.

Sincerely,


Joe Barton
Chairman


Paul E. Gillmor
Chairman
Subcommittee on Environment
and Hazardous Materials


John D. Dingell
Ranking Member


Hilda L. Solis
Ranking Member
Subcommittee on Environment
and Hazardous Materials