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ONE HUNDRED EIGHTH CONGRESS

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

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CHAIRMAN

November 17, 2004

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BUD ALBRIGHT, STAFF DIRECTOR

The Honorable David M. Walker  
Comptroller General  
Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Comptroller General Walker:

According to the Environmental Protection Agency (EPA), there are 136,000 unaddressed releases from Leaking Underground Storage Tanks (LUST). Many of these also involve contamination from Methyl Tertiary Butyl Ether (MTBE), as well as petroleum, and are very expensive to clean up. Most states detect MTBE at 60 to 80 percent of their LUST tank sites. In addition, new releases continue to be reported annually by the states.

Currently, available funding at both the federal and state levels falls far short of what is necessary to address critical cleanup needs. For example, the Michigan Department of Environmental Quality (DEQ) has estimated that in Michigan there is a public funding need of \$1.7 billion to address releases from leaking underground storage tanks where there is no financially viable liable party. A copy of the Michigan DEQ analysis is attached.

It is our expectation that a similar situation exists in other states. We are aware of at least ten states that have never had state tank assurance funds or had state tank assurance funds that stopped accepting new claims several years ago. Large states such as Washington, Texas, Florida, and New Jersey are in this group.

We further understand that states are receiving \$58 million per year from the federal LUST Trust Fund or approximately \$1 million per state. However, it appears that only one-third of these federal funds is actually being used for direct cleanup activities.

It is very important that Congress understand the magnitude of the state cleanup demands, and the funding shortfalls, if any, confronting state officials in addressing releases from leaking underground storage tanks. Therefore, we request that the Government Accountability Office survey each of the states to determine the scope and magnitude of their public funding needs to address cleanup of contamination from underground storage tanks, to identify the amount of

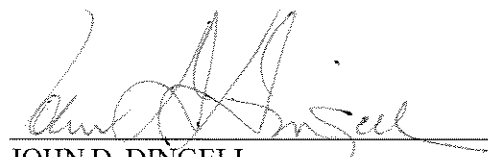
The Honorable David M. Walker  
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public funding currently available for tank cleanup purposes in each state, and describe the source of and expected future annual revenues that will be available to clean up contamination from leaking underground storage tanks that will need public funding. Please also identify the tank sites in each state where the cleanup is expected to need public funding because they are "orphan" sites or sites with no known financially viable party and the estimated cost of cleanup for these particular sites.

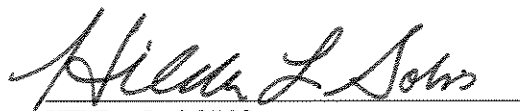
Finally, we have received reports that a number of states have diverted money from existing state tank assurance funds. Please identify situations where this has occurred and provide information on the amounts diverted and the effect on the financial well-being of the state assurance fund.

Thank you for your cooperation with this request. Should you have any questions please have your staff contact Richard A. Frandsen of the Committee Democratic staff at (202) 225-3641.

Sincerely,



JOHN D. DINGELL  
RANKING MEMBER



HILDA L. SOLIS  
RANKING MEMBER  
SUBCOMMITTEE ON ENVIRONMENT  
AND HAZARDOUS MATERIALS

cc: The Honorable Joe Barton, Chairman  
Committee on Energy and Commerce

The Honorable Paul E. Gillmor, Chairman  
Subcommittee on Environment and Hazardous Materials

Michigan Department of Environmental Quality  
Remediation and Redevelopment Division (RRD)

Site Funding Needs  
Environmental Remediation and Redevelopment

January 13, 2003

Currently available funding falls far short of what is needed to address critical cleanup and redevelopment needs that exist throughout the state.

Thousands of sites of environmental contamination exist throughout Michigan as the result of releases that have occurred, and continue to occur, from a variety of commercial, industrial, and government operations. For example: landfills, dry cleaners, gas stations, manufacturing operations, oil and gas exploration, mining, salt storage, pipelines, and transportation spills. Many have been identified, many have not. The hazards posed by these sites vary depending on the types and quantities of chemicals released, the water resources affected, and their proximity to population and sensitive ecological receptors. For example:

- MDEQ records indicate that there are about 1600 old landfills throughout the state, most of which have not been closed properly. Serious public health and safety hazards can result from such landfills: groundwater contamination, leachate runoff into surface waters, and migration of explosive levels of methane into nearby structures. As development pressures encroach on these landfills, the risks are intensified.
- Historical MDEQ records show that in October 1990, there were 55,000 regulated underground storage tanks (USTs) in use throughout the state. Although that number has now been reduced to 22,000, there are over 9000 facilities statewide with confirmed releases from USTs that have not been properly addressed.
- Current MDEQ records document the existence of more than 5400 sites of environmental contamination resulting from a variety of sources most commonly associated with industrial and commercial activities. In addition, the MDEQ learns of thousands of incidents each year where hazardous substances have been released into the environment. The majority of these releases are usually addressed in a timely manner, but in some instances give rise to significant new sites.
- A statewide emphasis on brownfield redevelopment has focused attention on preparing previously used properties for redevelopment. Many of these properties include abandoned structures that pose public health and safety hazards, as well as environmental hazards that impede redevelopment.

A variety of regulatory programs are in place to reduce the potential for new releases to occur and to require the parties that have caused releases to implement remedies. Part 201, Environmental Remediation, and Part 213, Leaking Underground Storage Tanks (LUST), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), are the primary statutory authorities that control cleanup of releases after they occur.

However, in many cases the liable parties no longer exist, cannot be identified, or are no longer viable. In such cases, the sites are prioritized and the most egregious sites are targeted for publicly funded response actions aimed at reducing the most significant risks. It is also frequently necessary to seek funding for the performance of response actions at some sites even when liable, viable parties are known to exist as a means of motivating those parties to proceed with the necessary work. Where possible, the RRD seeks funding assistance from the U. S. Environmental Protection Agency (EPA). However, these outside resources are very limited. Publicly funded response actions can include:

- Replacement of contaminated drinking water supplies
- Sampling of soil, groundwater, surface water, sediments, air, and wastes as part of investigations to determine the source and extent of the contamination
- Relocation of people where necessary
- Removal, treatment, or disposal of waste materials, containers, drums, tanks, and contaminated soils
- Treatment or control of contaminated groundwater and concentrated liquid product, such as gasoline floating on or in the groundwater.
- Capping or containment of wastes
- Demolition of structures
- Operation and maintenance of remedial systems (a continuing responsibility that grows as work at sites is completed.)

Each site is unique and the costs for response actions are highly variable, ranging from less than \$10,000 to more than \$20 million. Based upon MDEQ site expenditure experience, the number of known sites needing attention, and rates of identification of new sites, funding needs are projected as follows:

#### Part 213 Sites - Leaking Underground Storage Tanks

Of the 9000 previously mentioned facilities, liable parties are addressing about one-third. Of the remaining 6000, we estimate that 30% will eventually be addressed by liable parties and the rest will require public funding as follows:

- 15% at an average cost of \$60,000
- 40% at an average cost of \$300,000
- 15% at an average cost of \$1,000,000

This amounts to a **public funding need for identified Part 213 sites of \$1.7 billion.** In addition, approximately 450 new releases are reported annually, of which about 150 will need to be addressed with public funds. A listing that shows where the 6000 sites in question are located by county is attached (see Attachment 1). About 480 of these sites are currently being address with public funding already appropriated. A number of example LUST site project descriptions are also attached (see Attachment 2).

#### Part 201 Sites

The RRD has documented the existence of more than 5400 non-LUST sites of environmental contamination. These sites represent a broad range of risk and types of sources. Remedial costs are also highly variable with several sites posing needs in excess of \$10 million. At any one time, liable parties are performing some level of response action at approximately half of the identified sites, with the remainder

becoming the responsibility of the RRD. Reporting requirements for non-LUST releases are limited and ten of thousands of sites pose a potential for releases to be identified in the future. Therefore, the documented inventory of known sites is not a reliable indicator of the overall universe of sites that will require publicly funded response actions. Nonetheless, the MDEQ's experience since 1987 does allow reasonable inferences to be made regarding the probable total need.

Since the inception of the environmental remediation program, the RRD has performed response actions at 728 Part 201 sites at a cost of \$455 million. A summary of the available funding sources and accomplishments is attached (see Attachment 3). All of the appropriated funding is earmarked for sites where work is already proceeding, but it is not sufficient to complete the work at those sites.

The RRD has identified the following Part 201 site appropriation needs for the FY 04 project year:

• Alternate Water Supply (6 sites total, 2 new)	\$6.4 Million
• Federal Superfund Match (7 sites total, 1 new)	\$15.4 Million
• Operation & Maintenance (21 sites total, 1 new)	\$4.3 Million
• Site Investigation & Remediation (56 sites total, 6 new)	\$37.3 Million
• Contingency funds	\$2.0 Million
<b>TOTAL:</b>	<b>\$65.4 Million</b>

These projected needs for FY 04 are typical of what we can expect to experience for the foreseeable future. Site descriptions for two examples are attached (see Attachments 4 and 5). In order to assure that public health, safety, welfare and the environment are protected, the RRD needs a stable source of ongoing funding that will provide at least **\$50 million dollars each year for at least the next 20 years for Part 201 sites.**

Pursuant to the Clean Michigan Initiative (CMI), a variety of grants, loans, and other financial support tools have been developed that have played a significant role in making Michigan a national leader in brownfield redevelopment. These activities help prevent unnecessary greenfield development, revitalize urban core communities, leverage private investment, and facilitate the creation of new jobs. Of the original CMI brownfield funding, only \$ 119 million remains to be appropriated. By working with communities throughout the state, RRD has identified 117 high priority sites needing \$56.1 million for FY 03 and 04. CMI bond sales have been delayed and will need to be resumed for this work to move forward. Given a continued funding source, RRD could reasonably direct approximately **\$25 million annually toward brownfield projects for several years.**

Attachment 1  
 Department of Environmental Quality  
 Remediation and Redevelopment Division

Open LUST Facilities With Need for State Funded Corrective Actions  
 (Number per County)  
 January, 2003

<i>County Name</i>	<i># of Facilities</i>	<i>County Name</i>	<i># of Facilities</i>
Alcona	8	Lake	14
Alger	28	Lapeer	51
Allegan	54	Leelanau	12
Alpena	43	Lenawee	77
Antrim	20	Livingston	52
Arenac	20	Luce	18
Baraga	18	Mackinac	36
Barry	27	Macomb	316
Bay	95	Manistee	33
Benzie	15	Marquette	102
Berrien	143	Mason	44
Branch	30	Mecosta	29
Calhoun	85	Menominee	25
Cass	28	Midland	47
Charlevoix	22	Missaukee	15
Cheboygan	24	Monroe	84
Chippewa	75	Montcalm	55
Clare	11	Montmorency	25
Clinton	56	Muskegon	100
Crawford	10	Newaygo	30
Delta	53	Oakland	508
Dickinson	29	Oceana	26
Eaton	76	Ogemaw	35
Emmet	27	Ontonagon	10
Genesee	272	Osceola	28
Gladwin	22	Oscoda	5
Gogebic	30	Otsego	10
Grand Traverse	58	Ottawa	104
Gratiot	48	Presque Isle	26
Hillsdale	32	Roscommon	30
Houghton	38	Saginaw	172
Huron	36	Sanilac	50
Ingham	220	Schoolcraft	30
Ionia	51	Shiawassee	43
Iosco	40	St Clair	103
Iron	14	St Joseph	29
Isabella	36	Tuscola	50
Jackson	119	Van Buren	47
Kalamazoo	136	Washtenaw	86
Kalkaska	12	Wayne	991
Kent	281	Wexford	32
Keweenaw	7		
		<b>Total</b>	<b>6,029</b>

## Attachment 2

### Department of Environmental Quality Remediation and Redevelopment Division

#### EXAMPLES OF VARIOUS CORRECTIVE ACTION COST LEVELS FOR STATE FUNDED LEAKING UNDERGROUND STORAGE TANK SITES

##### Low Overall Corrective Action Cost:

**Site Name: Wert Pratt Property**  
210 Fifth Street  
Roscommon, MI

**County: Roscommon**  
**Facility ID #: 10967**  
**District: Cadillac**

Corrective actions at this involved the remedial investigation of a release of gasoline to soils. State funding was approved because potentially liable party refused to perform the necessary corrective actions and there existed a potential threat of free product discharge to nearby Tank Creek. The resulting investigation identified that the contamination is isolated to a small area within the property boundaries and the creek was not threatened. The site was closed following the approval of a village ordinance placing certain use restrictions on the property. Total cost: \$71,000.

**Site Name: George's Auto Center**  
208 S. Main  
Munith, MI

**County: Jackson**  
**Facility ID #: 1544**  
**District: 442906**

Corrective actions at this site involved the remedial investigation of a release of gasoline. State funding was approved because the liable party did not have the financial means to conduct the corrective actions and there was very little information known about the seriousness of the release or the endangerment to public health. The investigation revealed the existence of low levels of soil and groundwater contamination which were determined not to be significant enough of a threat to nearby environmental or residential receptors to continue to spend state funds on the cleanup. Total cost: \$47,000

##### Medium Overall Corrective Action Cost:

**Site Name: Shady Shores Restaurant**  
3610 Forest Dr.  
Lupton, MI

**County: Ogemaw**  
**Facility ID #: 2626**  
**District: Saginaw Bay**

Corrective actions at this site involved the remedial investigation of a gasoline release. State funding was approved because the liable party refused to perform the necessary corrective actions and a substantial threat was known to exist to nearby surface waters and drinking water supplies. The investigation revealed that heavily contaminated soils were acting as the source for groundwater contamination. The remedy involved: the excavation and off-site disposal of the contaminated soils; the introduction of oxygen releasing compound into the excavated area for the purpose of enhancing natural bioattenuation; the backfilling of the excavated area with clean soil; and subsequent monitoring of the contaminated groundwater. No free product was evident during the investigation. Total cost: \$400,000.

##### High Overall Corrective Action Cost:

**Site Name: Bellaire Bay Mart**  
1101 Cayuga  
Bellaire, MI

**County: Antrim**  
**Facility ID #: 33097**  
**District: Cadillac**

Corrective actions at this site include the completion of an extensive remedial investigation to determine the extent of a large area of soil and groundwater contamination, and a free product plume. State funding was approved because the liable party claimed a financial inability to perform the necessary work and an initial limited investigation identified the existence of a free product threat to local drinking water supplies and a sensitive wetland area. The selected remedy currently under construction includes an air sparge soil vapor extraction system to address contaminated soils, and a dual phase groundwater/free product extraction system where the free product is separated from the contaminated groundwater in the treatment process and then burned off in a gas oxidation unit. The contaminated groundwater is treated with an activated carbon unit and then discharged to a nearby surface water body through an NPDES permit. Contractual obligations to date: \$958,000.

**Attachment 2**

**Department of Environmental Quality  
Remediation and Redevelopment Division**

**EXAMPLES OF LEAKING UNDERGROUND STORAGE TANK SITES  
NOMINATED FOR FY04 CORRECTIVE ACTION FUNDING**

**Site Name: Former Duff's Shell  
261 E. Michigan  
Three Rivers**

**County: St. Joseph  
Facility ID #: 5137  
District: Kalamazoo**

This site has been identified as a priority for state funded corrective actions because limited remedial investigations have revealed the existence of a significant amount of free product on the property, with probable migration beyond the property boundaries. The site is located in a residential area, creating a potential for indoor air exposure risks. In addition, the St. Joseph River is located approximately one-quarter mile away. Appropriated funds will be used to perform a thorough remedial investigation to define the full extent of contamination and for free product recovery actions. Additional funding may be required in the future for additional corrective actions such as controlling and/or treating the groundwater plume and source soil excavation. The site requires state funding because the liable party is deceased.

Requested appropriation: \$200,000

**Site Name: B&T Properties Abandoned site  
7005 N. Lapeer Rd.  
Fostoria**

**County: Lapeer  
Facility: 5-0005231  
District: Lansing**

This site was discovered in the summer of 2002 by the Michigan Department of Transportation while constructing a new section of Highway M-24. The road right-of-way was revised because it would have cut through an area where evidence of at least six underground storage tanks was identified through the discovery of vent pipes and an old pump island hidden within overgrown brush. A confirmed release was documented through the identification of pooled petroleum product on the ground surface. Little else is known about the site; however, the existence of product on the surface creates an immediate direct contact risk. Appropriated funds will be used to excavate the abandoned tanks, remove contaminated soil as appropriate, and perform an initial site assessment to determine the risk to potential receptors and the need for performance of a complete remedial investigation. Additional funding may be required in future years depending on the results of the identification of the extent of contamination and the yet to be identified risk to receptors. The site requires state funding because the liable party filed bankruptcy in December 2002.

Requested appropriation: \$250,000