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THE EROSION OF COMMUNITIES BY LEAKING UNDERGROUND STORAGE TANKS

HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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THE EROSION OF COMMUNITIES BY LEAKING UNDERGROUND STORAGE TANKS

Thursday, September 12, 2002

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:04 a.m., in Room 2128, Rayburn House Office Building, Hon. Mark Green [acting chairman of the subcommittee] presiding.

Present: Representatives Green, Kelly, and Frank.

Mr. GREEN. [Presiding.] The hearing of the Subcommittee on Housing and Community Opportunity will come to order. Without objection, we will proceed, even though we do not have a quorum at this time. Our understanding is there may be a vote as soon as at 10:15. At least this way, we could get through our first panel and then go on to our second panel.

Without objection, all members' opening statements will be made part of the record. And the chair will recognize himself for five minutes for purposes of making a brief opening statement, before introducing our first panel.

Today, the subcommittee meets to examine the effects of leaking underground storage tanks on homeowners and communities. In 1980, the Environmental Protection Agency determined that this country was facing a very serious problem in that area.

Many of the more than two million underground storage tanks in the U.S. were nearing the end of their useful life expectancy and were expected to leak in the near future. With over half of the United States relying on ground water for its drinking water, the fact that leaking tanks were the leading source of ground water contamination made finding a solution all that more critical.

In 1984, Congress established a Leak Prevention, Detection and Correction Action Program to address this nationwide problem of leaking storage tanks. And in 1986, Congress created the Leaking Underground Storage Tank Trust Fund to help states cover the cost of cleanup.

Much progress has been made in the cleanup efforts. The EPA estimates that since the Federal Underground Storage Tank Program began, 1.5 million of the roughly 2.2 million petroleum tanks under the program have been closed. As of September 30, 2001, 419,000 releases have been identified; more than 279,000 cleanups had been initiated; and nearly 269,000 cleanups had been completed; with 150,000 sites awaiting cleanup.

Despite this progress, however, several important issues have emerged. With the implementation of the 1998 regulation, the workload for states has increased significantly. States and localities are looking to the federal government to provide additional resources to assist them in the cleanup and cost.

The discovery of the chemical MTBE at several of the underground storage tank sites and its detection in drinking water supplies has further complicated cleanup efforts and added to the initial cost of the original program. Finally, many of the affected communities are looking to the federal government to help them deal with the effects that leaking underground storage tanks have on public health and home values in their community.

While there is a program in place to assist with the cleanup of these sites, the federal government has no program in place to assist the innocent homeowners affected by these leaking underground storage tanks. Many of these communities will likely face the evaporation of home equity, a lack of buyers for the contaminated property and a scarcity of financial institutions that are willing to make loans in the contaminated areas.

We all remember the well publicized relocation actions in Love Canal and Times Beach that were taken under special federal order or through the Superfund Program. Because Superfund explicitly excludes petroleum pollution, the residents in the communities affected by these tanks have little recourse.

At today's hearing, we will begin to examine this problem.

I will place the rest of my statement in my record. And at this time, we will recognize our first panel and invite Mr. Kanjorski, the Honorable Paul Kanjorski, to begin with his testimony.

Mr. Kanjorski, welcome. Sorry to put you under the gun. But welcome. It is good to hear from you.

STATEMENT OF HON. PAUL E. KANJORSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. KANJORSKI. First of all, I want to thank the committee for holding this hearing. It is an unusual problem. It is not unique to Pennsylvania. But I think the example that we will see in Laurel Gardens in Pennsylvania highlights some of the missing parts of the need for a federal program to address this issue.

I want to thank particularly Marge Roukema, the chairman of the subcommittee, for setting this hearing today and even under theunusual and strange circumstances, to have that type of compassion for these people.

To address the nationwide problem of leaking underground storage tanks, Congress established, as the chair has indicated, various programs, starting with the act in 1984. And then in 1986, setting up the fund to help the Environmental Protection Agency cover the costs of cleanup with the various states.

Since then, a great deal of progress has been made, mostly taking the potential leaking tanks out and replacing them and the technology of double barreling the tanks and devices—electronic devices—signaling leaking has certainly lessened the likelihood that leaking tanks in the future will have an impact.

But the impact that it has today is multi-sized. And the federal government's direction to this impact has only been to help the

states and the communities do the cleanup. What we have left out is probably the most important issues, and that is the issue of the effect on the community, the economic impact, the community impact, the fear and the dread and the desire for people to use usually their only and largest source of equity to either rearrange their lives and relocate or to refinance their properties.

And if you have ever had the experience, as my constituents have in Laurel Gardens, when you go to the bank, there are very few banks that want to lend money on properties that are clearly located by the EPA in a hazardous waste site or a contamination site. And furthermore, the efforts made in cleanup are the type of efforts that cannot have an absolute, 100 percent certainty that cleanup has occurred.

So there is a wide range of citizens—some that accept what the government has done in cleanup and they are perfectly satisfied to remain and stay within the community; others that are in dead fear that the community cleanup has not been successful and, in fact, they may be exposed to severe hazards. One of the great hazards, of course, under gas spills is Benzene.

Now when we saw this effort in Hazleton, Pennsylvania, we moved very quickly to bring the EPA on board after the Department of Environmental Protection of the Commonwealth had been onsite for more than 10 years. They did not take swift action. They did not move to remedy the situation.

But in the year 2000, EPA did step in. And I was fortunate enough to convince the Coast Guard to provide, out of the Coast Guard fund, under the Oil Pollution Act, $25 million to direct toward the cleanup effort here, that otherwise could not have occurred. And of course, that occurred only because, by stretches of imagination, this oil spill would eventually get to the Susquehanna River, which was a navigable waterway. And the Oil Pollutions Act covers potential spills for navigable waterways.

But it was, nevertheless, an extreme stress and compassion, expressed by the Coast Guard and the federal officials, that opened up the federal purse of $25 million to address this problem.

Most recently, because we have had other less than satisfactory results in the cleanup, we have now convinced the EPA to do the entire collection system, sewer system, in the area to prevent any further leakage, if that is possible. Our problem is the land is saturated. There are still several homes whose levels of Benzene are a concern for chronic exposure.

There have been studies made recently that have indicated Benzene-related cancer and higher than average cases of lupus in the Laurel Gardens area. All of these health hazards have certainly contributed to the anxiety of the residents.

And they have asked a simple question. And they have asked it of me. They have asked it of other elected officials who testify today. It is basically this: "Yes, we understand the response of the federal government, the state government, in cleaning up the hazardous area. But what do you do for us to allow us to get our lives back in order?"

And I think that is the plea that will be made here today. These people live in a contaminated area. Their price—value of their home has significantly plummeted, if not disappeared entirely.

They cannot get refinancing to reduce their mortgages, even though the rates are significantly lower, because no institution wants to provide that.

They cannot get a home equity loan, even though they had built up equity in their home over a period of years. They cannot even get a loan to take care of medical expenses, because of some of the illnesses that are least suggestively traced to this spill.

In effect, we have taken care of the cleanup for the general public. We have stood in for the bankrupt company that caused the damage. But the people that feel the effect—the homeowners in the community—have really not received any type of lenient treatment by the federal or state government in the nature of allowing them to get their lives back in order and on place.

As a matter of fact, further complicated with that, because we do not have an organized system, the Luzerne County, which is the base county for taxing purposes, in order to provide relief, did provide that relief and made the assessment zero. But what that caused is it took away any semblance of trying to find out what the financial value of these properties would be. So that even in the help of reducing the tax burden on the homeowners, it took away their capacity to argue what value or equity they had in their homes and how they could refinance to either leave, improve themselves or treat their diseases with the monies necessary from the mortgage or refinancing operation.

What we have here are a number of homes—more than 200—that have been affected, a number of people that are satisfied to remain, have gone back and reconstructed their lives, but a small portion of people that either are still getting very positive readings of Benzene and other pollutants. And they really want to have the capacity to relocate their families and take them out of harm's way. And we do not have a federal or state program that allows that to happen.

What I have presented in draft form to many of my colleagues and have circulated to the executive agencies of HUD and EPA is a draft form taking the concept of creating a master and then creating a program, whereby the federal government, under HUD, would insure the loans made by financial institutions to people in designated areas such as this. So that while lawsuits are pending, while situations are occurring that the people have to wait for their redress over a period of years, they can nevertheless refinance and relocate themselves and their families into a situation to allow them to get on with their lives.

I think it is absolutely essential that the Congress address this issue. It is not only a special issue that occurs in Hazleton, Pennsylvania, but is occurring throughout the United States. And as witnesses that will testify here further today will indicate, this is just the tip of the iceberg as to what will and is going to occur in the very near future. So we need a remedy.

Also today, Mr. Chairman, we will have the advantage of having testimony by two great public officials: a friend of mine, the Luzerne County Commissioner, Stephen Urban and Pennsylvania State Representative, Todd Eachus, who have both committed themselves to this program and have worked very hard with this neighborhood over the years to try and solve this problem.

Both gentlemen are expert in the field, as one could classify a political leadership as being expert. But they certainly are.

What I think we have to do together is to recognize that we can no longer ignore the plight of the people that are impacted by hazardous waste spills, such as leaky tanks. In order to do that, while they are waiting for whatever remedy the law allows, I think it is most essential that we create a program. And as a result, the Solid Waste Disposal Act to authorize the Housing and Urban Development to guarantee loans to homeowners living with the effects of leaky underground storage tank contamination has been circulated. I think it is one of the many remedies. I look forward to others.

Mr. GREEN. Mr. Kanjorski, I do not mean to cut you off. We have now five minutes remaining for you and I to get over and vote.

Mr. KANJORSKI. Okay.

Well, Mr. Chairman, I will ask that my remarks be admitted as part of the record.

Mr. GREEN. Without objection.

Mr. KANJORSKI. I urge the committee seriously—and I appreciate your attention to this. It is an issue that needs to be attended to. And the appreciation of this community and myself to this committee for taking it up at this time.

Thank you.

[The prepared statement of Hon. Paul E. Kanjorski can be found on page 32 in the appendix.]

Mr. GREEN. Thank you, Mr. Kanjorski. We will reconvene immediately after this vote. Thank you.

[Recess.]

Mr. GREEN. Call the subcommittee back to order. And we will introduce the next panel of witnesses.

Our panel includes the Honorable Todd Eachus, who has represented the 116th legislative district of Luzerne County in the Pennsylvania General Assembly for the past six years. He is a member of the Aging and Older Adult Services Committee, the Insurance Committee and the Labor Relations Committee.

Next, we have the Honorable Stephen Urban, who was elected in January of 2000 to the Luzerne County Board of Commissioners. Previously, he had served 24 years in the U.S. Army. Lt. Colonel Urban is a veteran of both the Vietnam and Persian Gulf wars.

Third, we have Mr. Charlie Bartsch, who is a senior policy analyst at the Northeast-Midwest Institute, specializing in economic development issues, including federal and state, technical and financial assistance, tax incentives and industrial site reuse. He has appeared before congressional committees in the past on the issues of economic development and recovery.

Mr. William Harvey is here today on behalf of the Appraisal Institute. He has been an appraiser in the Washington, DC metropolitan area for over 20 years and is the president of William C. Harvey and Associates. He is both a certified general real estate appraiser and a certified instructor for the Virginia Real Estate Appraisal Board.

Ms. Patricia Tomsho comes to us from the Laurel Gardens Community in Luzerne County, which has been affected by leaking underground storage tanks. Since 1985, she has served as the executive director of United Charities and the United Children's Homes.

Without objection, the written statements for each of our witnesses will be made part of the record. You will each be recognized for a five-minute summary of your testimony.

It is my understanding that the lights on your end do not work, in terms of notifying you as to when your time is running short. I will try my best to do that gently and let you know it is time to summarize your testimony. But again, your full written statement will be made part of the record for those of us on the subcommittee.

So without further ado, we will recognize Todd Eachus at this time.

Mr. Eachus, welcome.

STATEMENT OF TODD EACHUS, STATE REPRESENTATIVE, 116TH LEGISLATIVE DISTRICT (PA)

Mr. EACHUS. Thank you, Chairman Green. And I would like to thank Chairman Roukema for calling this committee before the Committee on Housing and Community Opportunity and allowing me to submit my testimony for the record.

I would personally like to thank Congressman Paul Kanjorski for his efforts on behalf of the citizens affected in my legislative district in the Tranguch gasoline spill and others nationally who are adversely affected by petroleum spills.

More than a decade ago, a minimum of 50,000 gallons of gasoline leaked into the Laurel Gardens neighborhood in my district, affecting about 400 homes and 1,500 residents. For more than 10 years, the residents of those homes have been living in a virtual nightmare. The government, both on and federal government, has continuously downplayed the severity of the situation, trying to reassure—or mislead, depending upon how you look at it—the people that there is nothing to worry about.

The reality for these citizens is quite different. Their homes are virtually worthless. They fear for their health. If they had the financial means to leave the neighborhood, I have no doubt that they would have done so.

Because a program to help people affected by environmental disasters is not included in the Oil Pollution Act, Congressman Kanjorski's legislation to provide low-interest loans to affected residents so that they may escape the pollution that cripples their health and the quality of their life is a good concept and one that is long overdue.

As you move forward in discussing its merits, I ask that you keep in mind the citizens that this legislation is designed to assist and protect. I have a few observations and recommendations and I urge the committee to consider on behalf of the residents of the spill that I represent, as well as people who are living in this country who are victims of gasoline spills, leaks and other environmentally related hazards.

As the concept of the low-interest program progressed, it was determined that the Department of Housing and Urban Development—HUD—would be the best equipped to administer these loan programs, as well as the forgiveness provisions within this bill. In addition to being an impartial party in this process, HUD is better equipped and has the knowledge necessary for this kind of assistance. I strongly urge the committee to keep HUD in this process.

Additionally, I believe the loan program should be available to everyone affected by environmental hazard, not based on family income. The spill in my district did not distinguish between rich and poor. It did not decide which families it would harm. Every family affected by this spill has suffered substantial hardship. Every family should qualify for assistance.

I also have some concerns in the bill's language relating to the low-interest loans. Although the bill puts the final decision on loan rates in the hands of the Secretary of HUD, who is expected to ensure the loans be at the lowest interest rate, the bill does not guarantee the rates will be at the lowest rate. Under the bill, the rates of the loans are agreed upon by the borrowers and the lenders and found reasonable by the secretary. However, it also says that the rate cannot exceed—quote—"the generally charged rates in the area for home mortgage loans not guaranteed or insured by any agency or instrumentality by the federal government."

Since these loans under this legislation are loans that are guaranteed by the federal government, why shouldn't the cap be based on rates generally charged for federally guaranteed loans? Those rates definitely would be lower than loans that are not guaranteed by the federal government.

Also under the bill, the borrower can obtain a loan to buy or lease new property or use the equity in the home for whatever purpose they chose. While the bill is clear that the loan amount can be 100 percent of the pre-release value, I would recommend clarifying that for loans based on the equity in the property as described on page three, line 12 of the bill, the equity is also determined based on the pre-release value. I also say that the market value—the equity in these homes—may be, at this point, zero.

Mr. GREEN. Mr. Eachus, if you could summarize your testimony?

Mr. EACHUS. I sure can.

Mr. Chairman, I say to you that the citizens in my district have been aggrieved by this process. And even though something is being done today, something done is better than nothing at all. And not only that, I say to you not only by providing residents of my district a relief from this horrible situation that has faced them for 10 years, but also for other Americans facing the same tragic situation. And I urge the committee's action.

[The prepared statement of Todd Eachus can be found on page 45 in the appendix.]

Mr. GREEN. Thank you, Mr. Eachus.

Mr. Urban?

STATEMENT OF STEPHEN URBAN, LUZERNE COUNTY (PA) COMMISSIONER

Mr. URBAN. Thank you.

Thank you, Chairman Green and other distinguished members of the House Financial Services Housing and Community Opportunity Subcommittee. Thank you for the opportunity for appearing before you to discuss our concerns in Luzerne County and specifically how leaking underground storage tanks located in Laurel Gardens, Hazle Township and Hazleton City have eroded the home values.

In my written testimony, I provided a brief description of the underground storage leak in the Hazleton area. This was described in

a Hazle Township health effect study that was provided by the University of Pittsburgh Graduate School of Public Health.

I will go right to my personal experiences in dealing with the problem, since this is in the written remarks.

In January 2001,the Luzerne County commissioners were informed through public meetings presented by the U.S. EPA that more than 400 residential properties were affected by the Tranguch gas spill, caused by leaking underground storage tanks. Upon notification of the magnitude of the gasoline spill, we also learned that very little immediate help was available for homeowners living in the spill site.

My immediate concerns were for the health and safety of our residents living in the gas spill and to determine if funds were available from the federal or state governments to assist homeowners to relocate outside the spill area. Through work with federal and state agencies, I learned that funds were not available for homeowners to move permanently outside the spill area.

I believe residents in the community are in favor of establishing a program to allow homeowners the opportunity of recovering the equity of their property. Over the past two years, my office has received numerous phone calls and letters from homeowners residing in the Tranguch gas spill site asking for help in gaining equity in their homes or to relocate outside the spill area. Also, in public meeting's with homeowners, many impacted homeowners asked for help in relocating from the spill site.

Many residents have cited health and safety concerns as a primary reason for wanting to leave the spill site and because fear of the unknown. Residents do not know how long the underground storage tanks have been leaking. Residents do not know the length of time that they were exposed to Benzene or other toxic byproducts of the gas spill. The government does not have data that can accurately predict what effect low dose, long-term exposure to Benzene and other toxic byproducts of gasoline will have on the health of people living in an area contaminated with gasoline. And the time period for cleanup of the Tranguch site is unknown.

Based upon a history of the Tranguch spill site, underground storage tanks were probably leaking as early as 1991, when homeowners first began smelling gas fumes. In my opinion, the health and safety of our homeowners should be of paramount concern and homeowners should be allowed to receive equity from their property and be given the opportunity to move on with their lives and live in a more safe and healthy environment.

Homeowners residing in the Tranguch site have not been treated fairly. Compare the magnitude of the Tranguch site spill 50,000 to 900,000 gallons of gasoline that traces its origin to 1991 and another oil spill that occurred in Jackson Township, Luzerne County in 2000.

In January 2000, a 5,500-gallon oil spill erupted in Jackson Township, Luzerne County. Of the 17 homes impacted by the 5,500-gas spill, all residents were offered buyouts. Of the 17 homes impacted, nine were settlements involving tenants who chose to stay on the property and eight were settlements that resulted in buyouts of property owners.

In addition, all impacted property owners received a minimum inconvenience payment of $50,000. And impacted tenants received a $10,000 payment. In addition, homeowners that chose to stay and live in the impacted homes were awarded a maximum of $95,000 in return for the release of claims, except personal injury, at the end of a five-year period.

In Jackson Township, Luzerne County, a responsible oil company made the right decision and provided equity to homeowners impacted by the oil spill. The oil company offered equity in the form of a buyout to homeowners.

Homeowners residing in the Tranguch spill site deserve the same type of treatment from the government as the homeowners in Jackson Township received from an oil company. Homeowners residing in the Tranguch site deserve the option of receiving equity from their homes because they are victims of this environmental disaster.

In response to the large number of families affected by the Tranguch spill, the Luzerne County commissioners implemented several measures to help homeowners in responding to the case of environmental contamination. On March the 7th, the Board of Commissioners adopted a resolution declaring a state of emergency within the city of Hazleton and Hazle Township, Luzerne County, Pennsylvania.

Our resolution stated that homeowners residing in the City of Hazleton and Hazle Township, Luzerne County are impacted by a gasoline spill, which has entered an underground mine in that section of the county. Luzerne County recognized that a potential serious health risk exists in the Tranguch gas spill area, caused by the exposure to Benzene and other toxic byproducts of the gas spill.

Also, our resolution supported a buyout of the affected residential real properties. This state of emergency still exists today.

On February 7, 2001,the Board of Commissioners, at a public meeting, unanimously approved a resolution requesting the Luzerne County Board of Assessment Appeals to requests to reduce to zero the value of realty properties of those real estate properties affected by the gas spill, as determined by the federal government for the period January 1, 2001 to December 31,2002.

In our resolution, the County Board of Commissioners again recognized that homeowners are subject to the potential serious health risks which exist due to the exposure to Benzene, as well as other toxic byproducts.

Mr. GREEN. Mr. Urban, if you could summarize, please. Thank you.

Mr. URBAN. What I am really here to say, Mr. Chairman, is that the citizens of Hazleton really need help. And we need the help of your committee. There is no legislation that is out there today that will offer buyouts or will create equity for homeowners living in this gas spill site. And the people of our community ask for your help.

Thank you, Mr. Chairman.

[The prepared statement of Stephan Urban can be found on page 62 in the appendix.]

Mr. GREEN. Thank you, Mr. Urban.

Welcome, Mr. Bartsch.

STATEMENT OF CHARLIE BARTSCH, EXECUTIVE DIRECTOR, NORTHEAST-MIDWEST INSTITUTE

Mr. BARTSCH. Thank you. Thank you for the opportunity to testify today.

The institute has worked closely with the bipartisan Northeast-Midwest Congressional Coalition, which is currently co-chaired by Representatives Jack Quinn and Marty Meehan. And I know that both of them have worked with the subcommittee, on different bills that have explored the relationship between environmental contamination and community development. And I think this is a natural next step.

My comments are going to focus on the broader aspects and concepts related to this bill, focusing more on some of the cleanup and reuse aspects. But clearly, these are important to owners because you need to do these activities to set the stage to restore value.

These comments are based on the findings of two recent reports that I have worked on. One is "Recycling America's Gas Stations." And the other one is "Using State Voluntary Cleanup Programs to Support Residential Redevelopment," done in cooperation with the National Association of Homebuilders.

Both of these really get at the question which is the focus of this hearing, and that is: how significant is the problem of leaking underground storage tanks or LUSTs? And what is its impact on communities?

There is no question that the sheer number of single and multifamily housing units affected by real or potential LUST contamination is unknown. But given the age of so many of these structures and their utility systems, there is no question that it is significant, potentially hundreds of thousands of units.

And Mr. Chairman, you gave us numbers in your statement that really convey the magnitude of this. And like other contaminated sites, LUST sites need to be addressed in a comprehensive way, in which contamination is not only detected and contained, but also where sites are cleaned up and put back into use. And this requires access to affordable resources.

My longer statement discusses in detail some of the specific issues that tank problems raise relative to housing and community development—concerns like local capacity for technical and financial support to help carry out LUST site activities, the lack of needed incentives, legal and situational constraints, such as the problems of applying existing federal and state resources to LUST cleanup and site reuse, and HUD's policy, which largely prohibits use of housing program resources for any residential project which includes institutional controls.

So what is currently being done to address the LUST issue? Well, states and communities have taken some limited, but important initial steps to address problems posed by UST sites. I just want to mention three quickly.

These initial actions, though, could play an important role in a HUD-driven homeowner-focused effort to grapple with housing site contamination. From an operational standpoint, some communities are starting to work to incorporate UST project approaches into various parts of their local government community development processes. This has led to some general site cleanup, new housing

and commercial development and restoration of property values to increase tax ratables.

And in terms of federal programs, cities in several states—notably those in places like Wisconsin and New York and New Jersey have suggested that it would be really important to bring a variety of federal program resources to bear on these projects. They require packaging. And you need to bring more programs into the mix. Programs offered by HUD and EDA and other agencies, which are targeted to distressed areas or markets, capital market imperfections, have the potential to play in a key role. And the bill under consideration by the subcommittee would enhance this.

A second approach is informational. We need to get information to private parties—both owners and lenders—to show them how to overcome the barriers, to instruct them about the economic benefits of cleaning and reusing these sites and about the various public incentives and private tools, such as environmental insurance, that can really help tie these projects together and minimize stigma and enhance site value.

And clearly, the third thing that is being done, slowly—and it is clearly the most critical, as the proposed bill suggests—we need financial support. It is a key activity. It is just now starting to be considered. A small but significant number of states and communities have started to address the LUST issue and its impact on housing through initiatives of their own.

Again, my statement talks about a number of these initiatives. But these are efforts that would really be enhanced by additional federal action.

There is no question that more needs to be done. In my recent work on tank sites, several states and cities urged an UST field connection to HUD, similar to the one that now exists for brownfield efforts, which is in fact a link which this subcommittee worked to put into place.

And I think in the case of expanding and clarifying ways in which HUD could encourage things like financing tank cleanup and restoring distressed properties to productive use, these are activities that really fit within HUD's basic mission. And this really gets to the heart of what this proposed legislation would do.

In establishing a HUD loan guarantee program—

Mr. GREEN. Mr. Bartsch, if you could summarize for us. Thank you.

Mr. BARTSCH. I will just close by pointing out that I think the bill is a good one. I would suggest a couple of minor modifications, including a finding that makes it clear that cleanup and reuse of housing, unused or abandoned because of LUST contamination, should be a clear goal of HUD.

I would allow public housing agencies to delegate the authorities that this bill gives them to other capable local agencies or non-profit organizations that might be better suited to deal with some of the management issues related to properties that are acquired through program. I would provide an additional incentive—perhaps a 100 percent guarantee—to lenders that agree to provide financing for cleanup of the original housing property as part of the financing package.

I would allow the guarantee to be extended to mixed-use properties that include commercial uses, as well as housing, because this is a good way to get value back into communities. And I think finally, I would direct HUD to allow appropriate and protective institutional controls to be used in conjunction with its other housing programs. HUD does not allow this very often now. And I think this could limit the effectiveness of this proposed bill.

I think this bill sets in motion the prospects of a really productive public-private partnership between homeowners, lenders and communities and HUD to make some of these properties better.

[The prepared statement of Charles Bartsch can be found on page 35 in the appendix.]

Mr. GREEN. Thank you. Thank you, Mr. Bartsch. Very interesting.

Mr. Harvey, would you please testify for us? Thank you.

STATEMENT OF WILLIAM C. HARVEY, PRESIDENT, WILLIAM C. HARVEY AND ASSOCIATES, INC., ON BEHALF OF THE APPRAISAL INSTITUTE

Mr. HARVEY. Mr. Chair, members of the subcommittee, thank you for the invitation to testify.

I am William C. Harvey, MAI. And I am here to address the issues of valuing pre-contaminated property and the effect of contamination from leaking storage tanks on the housing market.

Appraising contaminated property in its pre-contaminated condition requires that the appraiser invoke a hypothetical condition that the property is free of contamination and clearly indicate such in any report. Three categories of effective appraisal dates—retrospective, current or perspective—may then be used, according to the purpose and function of the appraisal assignment.

A retrospective appraisal occurs when the effective appraisal date is prior to the date of the report. This type of appraisal is most commonly developed for purposes of estate administration, condemnation proceedings and litigation to recover damages. Since a retrospective appraisal is complicated by the fact that the appraiser already knows what has occurred in the market after the effective appraisal date, it is critical that the appraiser establish a logical cut-off date for the consideration of subsequent data that no longer reflects the relevant market.

While this can be a difficult determination to make, studying the market conditions as of the effective appraisal date will aid the appraiser in judging where to make this cut-off. The effective appraisal date should be considered as the cut-off date for data considered by the appraiser, absent evidence that data subsequent to the effective appraisal date were consistent with the market expectations at that time.

Once the context of the appraisal is established, a retrospective appraisal is developed like any other appraisal through the proper development of the applicable approaches to value that are typically used to value vacant land and improved property. The reliability of an appraisal relates to the extent to which the valuation process yields the same results on repeated trials. To that end, retrospective appraisals can be as reliable as any other appraisal, so long as a complete appraisal process is utilized.

In developing a complete appraisal, the appraiser will use all applicable valuation procedures. And the value conclusion will reflect all known information relative to the subject property, market conditions and available data. By contrast, in a limited appraisal, the appraiser and the client agree before the commencement of the assignment that the appraiser will not use all applicable valuation procedures or that the value conclusion will not reflect all known information about the subject property, market conditions and available data.

Thus, to ensure the highest level of reliability, the process should involve a complete appraisal.

On the issue of the impact on the affected housing market, my personal experience in appraising properties affected by environmental contamination varies from a single residence with minor onsite releases to communities comprised of hundreds of homes sitting atop large plumes of hazardous materials. Notwithstanding the differences in the case studies, the effects on value generally follow what has become known as the Detrimental Condition Model. This model, a copy of which is attached to my written statement and appears in demonstrative form to your left, graphically illustrates the fundamental effects that environmental contamination can have on housing markets.

While the DC Model recognizes all possible stages, each detrimental condition must be analyzed on a case-by-case basis because of the potential for a variety of impacts on value during the property's life cycle. The first step with any detrimental condition analysis is to consider the unimpaired value of the property as if there is no detrimental condition. This is reflected as Point A on the model.

Upon the occurrence—or more likely, the discovery—of the detrimental condition, the value may fall to Point B if the facts and market data support such a decline. The value during this period is often the lowest. And in some instances, the value is unmarketable until the magnitude of the detrimental condition can be ascertained. Nevertheless, in a retrospective appraisal where all assessment, remediation and ongoing issues are studied, a reliable determination of Point B can be made.

Mr. GREEN. Mr. Harvey, if you could summarize your testimony for us? Thank you.

Mr. HARVEY. While the DC Model suggests an orderly process, each detrimental condition must be analyzed on a case-by-case basis due to the variety of impacts on value. Although my experience has shown no two cases are alike, the analysis of environmental contamination should begin with the DC Model.

Thank you for the opportunity to testify.

[The prepared statement of William C. Harvey can be found on page 48 in the appendix.]

Mr. GREEN. Thank you.

Now if we could hear from Ms. Tomsho. Welcome.

STATEMENT OF PATRICIA TOMSHO, RESIDENT, LAUREL GARDENS COMMUNITY, LUZERNE COUNTY, PA

Ms. TOMSHO. Thank you for having me. On behalf of the residents of Laurel Gardens, Hazleton City and Hazle Township,

Luzerne County, Pennsylvania, I thank you for allowing us the opportunity to express our serious concerns. I speak not only for our community, but also for the many other communities across the United States which are similarly affected.

In fact, in review of the EPA's web site on Leaking Underground Storage Tanks—LUSTs—they cite 418,918 leaking underground storage tanks across the country. And these are confirmed releases.

That averages out to about 80,500 per state. Clearly, our group is not the only affected group or residential area. And therefore, the work you are doing here is so important to all of us.

What I am trying to do is give you the personal side of this. That is my role. And that is what I do on behalf of our community.

Gasoline contains benzene, which is a known carcinogen, as well as toluene, ethyl benzene, xylene. They are called BTEX. And they are volatile organic compounds.

Also found in unleaded gasoline is MTBE, which is known to be hazardous to health and is extremely water soluble. The effects of MTBE are not still—they have not been widely tested, so they are not well known. However, benzene is well known.

We have the map up there, which shows you the plume across our neighborhood, the soil contamination. And underneath, it shows you the entire neighborhood.

The black crosses are the deaths from cancer, gentlemen and ladies. The red crosses are people who have cancer illnesses. And the green crosses are people who have other kinds of illnesses, like the autoimmune diseases.

Clearly, our area is loaded with cancer deaths and cancer illnesses. You will note the yellow outline. That is the mine that underlies our property. And that makes our particular spill more unique than any other in the country. We looked and we could not find another in the country that had an underground mine.

And it is a low point, so all the ground water goes into that underground mine. And the gasoline migrated there as well. And depending on the amount of rain, the gasoline fumes will go up and down and affect the homes.

So the remediation has been challenging.

In Hazleton Township, as Mr. Urban and Mr. Eachus have noted, we have completed a study from the University of Pittsburgh. And what they found is that we are 10 times more likely to contract leukemia, eight times more likely to contract stomach cancer and three times more likely to contract prostate cancer—provided we are males, of course.

And the Hazleton part of the group is completing the study now.

Additionally, we challenge the national average of lupus. Usually in the nation, there is one case in 1,000 people. We have five in 250 people—five cases of diagnosed lupus.

I am testifying today to convey to all of you the fear and the hopelessness and mostly the loss of control and personal choice that we as victims feel. We have to confront a spill on a daily basis.

And I would like to give you just a few case examples to help you understand. One such case is a family who started to build a home in the spill zone. The frame was completed, but the bank stopped the mortgage. It is now a skeleton of rotting wood, a visible reminder of property loss. When you live in a gasoline-impacted

neighborhood, the loss of freedom and control, on which this great country is founded, is absolute and very real.

There are areas over which we have no control—over our health, the use of equity in our property and the sale of our property. All of these have a financial impact on us. Health care is a primary concern. One week of chemotherapy costs $15,000. The cost to employers for healthcare for lost workers is great.

People who have small children who cannot leave their homes are really very traumatized. They are frightened for their children. Mine grew up in that area. I am very happy that they live out now. But it is traumatic for a mother to watch her children live in a known zone.

I am moving along.

Mr. GREEN. Thank you.

Ms. TOMSHO. There is a heart-wrenching case of a grandmother with MDS Leukemia who had to leave her home, but had to leave her son and her grandchildren living there. I do refer you to the booklets that we prepared. They are very well documented. It shows you many of the traumas that we went through.

But I want to finish by telling you that the legislation you are considering is crucial to us. It should be across the board and not income-related. The spill has been non-discriminatory, affecting young and old, rich and poor.

In cases like ours, it is very important to specify the forgiveness aspect and who will make that decision. In our experience, we have had to become adversarial with EPA in order to affect a serious cleanup. And then, that agency having control over forgiveness would be frightening to us.

All I can tell you is, please refer to the personal letters that are in the booklets and some of the information. And I thank you for your time and attention.

[The prepared statement of Patricia Tomsho can be found on page 60 in the appendix.]

Mr. GREEN. Thank you, Ms. Tomsho. I thank all the witnesses. That map and chart you have over there is truly astounding.

In terms of questions, Mr. Bartsch, I found your testimony and the written statement particularly interesting. You have listed some of the state programs—some of the state and local programs that have emerged in this area.

I would invite you to supply some additional documentation to the committee. I think we would be very interested to see, even in a more comprehensive way, what some of the states are doing. Because obviously, that is useful information to us.

Mr. BARTSCH. I can do that.

Mr. GREEN. So I would appreciate it if you could do that for us.

And I guess along that line, let me ask you, Representative Eachus, has the state of Pennsylvania taken a look at legislation in this area? And has it passed any legislation? And if not, why? What have been the forces of resistance?

Mr. EACHUS. Well, Chairman Green, we have not addressed the housing perspective of residential spills. But I did provide the committee—both minority and majority staff—a summary of all of the legislative framework in the state of Pennsylvania.

We do have an indemnification fund. But since this was an OPA site and the state handed the role over to the federal regulators to do the cleanup, they have been less than cooperative in taking financial responsibility for any aspect outside the agreed upon issues between the folks at EPA, the Coast Guard and the Department of Environmental Protection.

And I think that is an inhibitor. In these cases, the state was on the site from late 1989, 1988, when they first started to get concerns from citizens, but really did nothing except study the spill until 1999. In 1999, both myself and Congressman Kanjorski began to make inquiries. And all of a sudden, EPA came in, took over the site under OPA, made it an OPA site. And then the state folks from DEP were unwilling either to make this an emergency—a state of emergency—which we urged them to do and try to bring PEMA funds in for these citizens or use any of our tank indemnification fund with regard to dealing with housing or buyouts or any other kind of relocation strategies.

That is the problem. Once this is turned over to the federal government, I believe the states are going to take a walk with regard to responsibility.

Mr. GREEN. Yeah, I fear you are right. That is one of the reasons I posed that question.

In terms of our trying to get a more thorough understanding of the scope of the problem—and I do not mean in terms of the number of sites. I think we have some documentation with respect to that. And obviously, there are some programs that deal with these issues in the abstract.

What I think would be real interesting for us is to try to get a handle on the loss of value, try to measure some of the more human aspects that we have had testimony on, on a national level.

Do any of you have any suggestions as to how we can begin to accumulate that information, because I think it would be useful for us?

Mr. HARVEY. Mr. Chair, you are talking about a very broad database of properties and communities.

Mr. GREEN. I understand. I understand.

Mr. HARVEY. But by illustration, a local community here that has been a predecessor to this entire process is the Mantua community in Fairfax. To give you an idea of the loss in value, that spill, which affected 400 homes from a leaking storage tank at a tank farm, occurred in late 1990. And the full recovery of those home values took 12 years.

It was augmented by a private property value protection plan, introduced by the responsible party, who took liability for the cleanup. Your legislation parallels in pretty good form the attributes of that private property value protection plan.

Absent such a return of value, it is likely to be so far extended that it just turns the American dream of home ownership into a nightmare for the residents. So I think it is such a pervasive problem that you would be astounded by the numbers.

But I will be happy to introduce that request to my association to see what we could provide this committee.

Mr. GREEN. I think that would be helpful.

Mr. Eachus?

Mr. EACHUS. Yes, Chairman Green. I have one other issue. And that is relating to the issue of guaranteeing the loans under the Kanjorski bill, there is a requirement that 10 percent be guaranteed by either mortgage premium insurance or other state agencies or community programs.

I am unaware of anything at the county which would help to guarantee those kinds of properties, as well as the Commonwealth. And what I am concerned about is that if the committee can find out if the mortgage premium insurance industry, the guarantee sources, are available for these kinds of properties, I am unaware of any in the Commonwealth of Pennsylvania that would help to guarantee properties that would be contaminated under these sites. So I am concerned about that.

Mr. GREEN. Mr. Bartsch, can you help us find that information as well?

Mr. BARTSCH. I can help with that. And I think that raises a good issue.

Just in the sense—I mean, I understand the need that you do not want to have a full guarantee because you set the stage for projects that may not be so well underwritten. But clearly, there is a gap here that may need to be explored.

I know that there has been a lot of advances in environmental insurance. And I also know that the states are going to have access to some resources under the new brownfield law to promote environmental insurance. But again, I think there is going to be a lot of demands on those. And I would be glad to see what I can find out.

Mr. GREEN. Great. Much appreciate that.

The chair recognizes the ranking minority member, Barney Frank, for any questions he might have.

Mr. FRANK. It just strikes me, as we talk about that last thing, since we have passed legislation getting people out from under private mortgage insurance that they have been obligated to pay for when they do not need it, maybe we can find something more useful for that industry to do now that they are not insuring people who do not need the insurance and do not want it.

I am going to pass on to Mr. Kanjorski. I just want to acknowledge the fact that this is—we are here because of him. This is a subject which he has brought to our attention. He has made a very convincing case.

This hearing is a result of his efforts. And so I am going to yield to him.

I want to thank the witnesses and particularly Ms. Tomsho. I am always impressed—it does not happen a lot—when a citizen such as yourself becomes not just interested, but as knowledgeable as you are.

And my inference is that you gave yourself a late post-graduate chemistry and medical course. And the results are very impressive. And I thank you for the seriousness with which you have shared that.

And with that, I am going to yield my time, which would be in addition to his own time, to Mr. Kanjorski, because he really is the driving force on this.

Mr. KANJORSKI. Thank you very much, Mr. Frank.

I want to bring to the committee members an observation that I have made. And Pat, I am going to direct the question to you.

When this all started off, there was great sympathy in the very broad community of Hazleton and Hazle Township and some sort of an identification between all the residents and then the impacted residents. But over the course of years, I have sensed a narrowing of support from the unaffected community and sort of a feeling like the affected community is asking for something that they are not entitled to.

And Pat, do you sense that? And maybe you can shed some light on the idea of—since the people that live in Laurel Gardens had nothing to do with this spill, gained nothing economically from this spill, were totally innocent parties, why is it that, at some point, some of the rest of the community starts looking at the affected community with annoyance, if you will?

What is that dynamic that is out there? And do you sense it? Am I making an observation that is correct? And what is it?

Ms. TOMSHO. Actually, I have seen a dichotomy in that. Some people are very invested and still supporting us. But they tend to be the quiet majority.

What I would say is what—and this is my field. I am a social worker by trade. And what you are seeing is the victim phenomenon. When people are victimized, people think poorly of them and therefore, begin to dislike them. And then they resent them for what they get.

And I think that is an issue that America—that is a broader issue America maybe needs to study. But it applies even on a small issue like ours. People resent victims. They resent what victims get. And even if it is hard won and hard fought, they resent it.

Mr. KANJORSKI. One of the observations that we made and I want to draw to my colleagues' attention is that this is a process that has occurred over 10, 12, 14 years. And up until EPA's involvement in 2000, really nothing occurred, not even addressing the fix-up of the remedy situation.

I mean, for all intents and purposes, this was going to be solved by attrition, which probably is the least sympathetic methodology I could think of solving this problem. But over the course of the several years that I have been dealing with Mr. Eachus and Mr. Urban and Pat's group, it became eminently clear to me that tort law recovery for negligence or other remedies, which may be built into the law, just do not lend themselves to victims who are living in a community and have most of their assets or equity in their homes. They are literally prisoners to live in harm's way, subject to—hopefully—the cleanup process.

And if the cleanup process is not complete, they will have to carry the burden for the rest of their lives of the exposure to their children. I ran into so many families that are saying, "You know, if it were just me alone, I would stay and take the risk. But every time I look at my young children, I realize that it is my inadequacy to go out and buy a new home and to relocate and take them out of harm's way, that if they should get sick or if something happens to them in the future, it is my fault."

And that is a terrible burden to put on parents or grandparents. And that is occurring in this neighborhood because it is a neighbor-

hood of extended families. And very often, you will have two or three generations living in the same household or within the same neighborhood.

It is quite apparent, really, the solution to this is very simple. Let those people who are in great fear and anxiety find a way to recover their equity so that they go out and can relocate. And find a methodology, not through the long process of condemnation and acquisition that we all experience in redevelopment, but by putting in the special master, really adopted out of the concept of the World Trade Center, someone who could move very quickly, establish cost and expenses and have very broad latitude to give these people the appraised value of their equity so that they can move on.

And then allow the normal processes of the law to carry on for recovery or for cleanup. But they are in a situation where they are damned if they do and damned if they do not. And they are stuck there until all the federal and state agencies and county agencies and local municipal agencies take their time at bat and usually do not hit a home run.

But the people here are the ones that are scored against. They are the ones that lose.

I see Mr. Eachus wants to add to that.

Mr. EACHUS. I think Congressman Kanjorski is on the mark. But from a public policy perspective, I really see these gasoline spills as something that have to do with pre-regulation and post-regulation.

In Pennsylvania we have forced everybody who is business today selling either petroleum or gasoline products to put new tanks in that meet modern standards and federal standards. The releases that are the most egregious in our region are ones that are pre-releases due to a lack of regulation by the federal and state authorities.

So I really see some of these spills as we are in a time where the 1960s, 1970s and 1980s tanks that were installed are leaking and having an impact on communities, but the new tank technology—not to say that it will not be spilled—it is less likely that there will be spills. Plus, they have stronger indemnification requirements that put money in place to back up some of these spills, which could be used as a match toward housing credits or other kinds of things.

So I think we are in a unique time between pre-and post-regulation of gasoline tanks.

Mr. BARTSCH. And could I add one thing to that, too? Just getting at again, the issue of, again, as you suggested, ultimately cleanup and reuse. I think that this country has a long history of helping people in need. Clearly, this is the same situation.

And at the same time, I think what I like about the bill proposal is that you really set the stage for, you know, sort of ultimate reuse and cleanup of these things. I mean, you are not just moving people out and creating sort of uninhabitable wastelands, but you are setting the stage for cleanup.

And to that extent, you can really look at the resources in this bill as really an investment. And these investments will be recoverable as these homes are cleaned up and reused, as these sites are

cleaned up and reused. So it is an investment and not just a subsidy.

Mr. KANJORSKI. I have about three minutes, Pat. And since you are the person that has led this cause all the way through, I am going to ask you to, in your own words, spell out to the committee what you would like the Congress to do as a remedy for Laurel Gardens, but also for all the other Americans that are impacted, through no fault of their own, by leaky storage tanks.

Ms. TOMSHO. I would like the Congress to certainly pass a law or a bill, not my strong point, that will address the financial loss that all of our neighborhood has. I cannot explain in enough words how traumatic this has been for the neighborhood. And people truly have no choices.

They need to be able to access the equity in their homes and move if they feel unsafe. And at this point, we can do neither.

That is what we need. Thank you.

Mr. KANJORSKI. Thank you, Pat.

Mr. Chairman?

Mr. GREEN. Thank you.

The chair recognizes Mrs. Kelly for any questions that she might have.

Mrs. KELLY. Thank you very much. I will tell you, coming into this hearing, I was on the phone with my husband. And I told him I was coming to a LUST hearing. And he said, "What are you doing in Washington?"

[Laughter.]

He said, "Are you sure you are doing your job?" I said, "Yeah, this is a serious situation."

And it is a serious situation. In my area of New York, I have been working with a township next door to me where I have experienced firsthand with people a whole neighborhood that was contaminated by MTBE. And it went into their drinking wells from a nearby gas station.

Some of these people had little children. They were told they could not drink, could not cook, could not bathe and could not even smell the water. They were told not to turn on the taps in their sinks and their bathrooms. Flushing the toilet was not allowed because it put the MTBE in the air.

One of the serious things I think we have to look at with all of this though is the fact that there is not good scientific information on the environmental body contamination problems. It is just not well defined on what is in the environment and how it affects the body.

When I see a cluster like you have, this is terribly disturbing. It seems it really should be looked at further. And I am glad that we are having this hearing.

In another town near me, one also that I represent, there is a young mother who, when her husband died, moved in and altered the family bar so that she now has a convenience store and a gas station. And she is okay. Her gas station is okay.

But there is a gas station on the hill up above her. And that gas station has old tanks. It is leaking something down into hers. And now people think this mother, who is trying to clean up the neighborhood and make a better life for her kids, they have got a situa-

tion where their land is contaminated by the gas station up the hill.

And between the two gas stations is a farm. And the farmer is spraying that on—it is a truck farm. That is going on the crops.

So we are having big problems with this. This is a serious situation.

And I just want to go to you, Mr. Bartsch, to ask you a couple of questions. What areas—are doing the best job of cleaning up the LUST problem?

Mr. BARTSCH. Well, one of the cities that I am most familiar with that is doing that is Chicago. And again, it is because they have made a significant public sector effort to take on these sites. They aggressively take title to the sites.

Now this is more from a perspective of abandoned gas stations and less from the perspective of home heating tanks. And one of the things that they have done there that is an option that is not available to most places is they have basically just forbidden the use of ground water. You cannot drill a well. You cannot use any of it.

That is an option that is not available to most places. But I think what is important about what they have done there—they have done really good things in a couple of cities in New York that I am aware of, as well as, again, cities in Wisconsin—is they have really made an effort to figure out the pieces and bring to bear all the different kinds of resources that are needed. Because it is a patchwork. You cannot deal with one of these sites with one source. You need to be able to pull from not only a HUD, but perhaps an EDA and perhaps some other resources as well.

The state of Ohio has done a lot of work with the State Clean Water Revolving Fund to do some pretty innovative financing. So there are some things that can be done. And a big piece of this is just getting the information out there and also educating the federal agencies about what they really can do. Because again, depending on where you go and who you talk to, some will allow these kinds of activities and some will think that it is not in the mission, which is why I suggested putting that direct finding into HUD so that it is crystal clear that this should be one of their objectives.

Mrs. KELLY. Have you found that the agencies, when they are dealing with each other, are talking about not just remediation, but are they talking about affecting areas when they are looking at the totality of the environmental concerns? Like an underground aquifer—for instance, I am north of New Jersey. A lot of the area I represent supplies water down into New Jersey.

Mr. BARTSCH. I think my impression would be that those kinds of conversations are hit and miss. But I think there does need to be more effort to coordinate that, for the simple reason that, again, everybody brings information and resources to the table. And it is an expensive problem.

We have some—it is not only resources. It is also liability.

I know in the case of some of the gas station issues, you have some of the big oil companies that have really kind of chosen to basically mothball sites and not do anything because they are so afraid of what might happen should they start to take a good first

constructive step. I think it is better to get some of these resources used in sort of clean up and reuse than litigation.

Mrs. KELLY. Are the CDBG funds being used? And if they are, perhaps we can take a look at maybe helping to coordinate these efforts? Are they being used to fund the LUST cleanups?

Mr. BARTSCH. They are being used in some cases. Probably—again, to go back to the Wisconsin example, the state of Wisconsin, through its Small City CDBG, has funded some of these. Some entitlement cities have funded this. Again, it comes down to sometimes what your HUD area office decides is a good thing to do.

I have talked to people who really wanted to use the CDBG funds for something like this, but have decided that sort of the extra justification is just—they just cannot do it. They do not have the capacity. It is just easier to go rehab something than to try to take on something more innovative.

So again, I think that getting the body of case examples out there is a helpful way of making this happen.

Mrs. KELLY. I would like to ask unanimous consent. I had an opening statement. I was not able to be here. May I ask unanimous consent to put that statement in the record, please?

Mr. GREEN. Unanimous consent has already been granted.

Mrs. KELLY. Thank you.

[The prepared statement of Hon. Sue W. Kelly can be found on page 31 in the appendix.]

Mr. GREEN. Mr. Kanjorski, you were looking with great interest. Do you have something that you wish to add?

Mr. KANJORSKI. Ms. Kelly raised a very interesting question about using CDBG. Actually, you will find that it is not nearly significant enough in amounts to handle these problems. These problems are generally in the multimillions of dollars.

In communities like Pennsylvania—I say it with apology—we have 2,500 municipalities, 90 percent of which are under 3,500 in population. So they receive no direct CDBG money.

And the Commonwealth has a program of putting money out to these communities. But it amounts to sometimes $10,000, $50,000, at a maximum of $100,000.

Mrs. KELLY. If the gentleman would yield, I would respectfully say that we need to use every resource possible to do coordination and remediation. These people are stuck, especially if they are out there in rural communities.

I know Hazleton. I have known Hazleton for 40 years. And I know where it is.

And I understand that we have to do something. I am questioning how we can best position HUD and the monies that we have there to help in this problem.

This is a serious problem. And it is all across our nation.

Mr. KANJORSKI. Mrs. Kelly, the design of my legislation really is a public-private solution. Actually, we are not called upon here to put up all the money for relief. All we are really called upon is to put up some percentage of the money to allow these people to relocate and then to recover the real equity or value that they have in these homes.

I would tell you that my judgment is probably 20 percent of all of the money insured would ever be at risk from the federal govern-

ment. The other 80 percent will be recaptured when the cleanup is done, when the people are adequately relocated and their lives started.

But our problem is we cannot find that 20 percent. And the private market cannot be expected to take that risk in a contaminated area.

So we are between the devil and the deep blue sea, if you will.

Mr. GREEN. Well, I think that is a real good place to wrap this up, between the devil and the deep blue sea.

Thank you to all the members of the subcommittee. And my great appreciation to the members of the panel. I think you have given us a lot of very useful information.

There may be members who have additional questions that we may forward on to you for response. And again, please, if there is additional information you would like us to see, you have leave to provide it to us.

And thanks again. Travel safely.

[Whereupon, at 11:37 a.m., the subcommittee was adjourned.]

A P P E N D I X

September 12, 2002

Opening Statement

Chairman Michael G. Oxley

House Committee on Financial Services

Subcommittee on Housing and Community Opportunity

"The Erosion of Communities and Home Values by Leaking Underground Storage Tanks"

September 12, 2002

Today's hearing marks the continuation of this committee's interest in the overall issue of brownfields. These are lightly contaminated sites that, with the right incentives, could be redeveloped into productive properties that create jobs and generate tax revenue. Congressman Gary Miller has introduced a bill that would make HUD's brownfields programs more effective, and I remain hopeful that his proposals will be enacted into law before the end of the session.

Leaking underground storage tanks are a significant source of environmental contamination in our communities. It's estimated that of the half million brownfields sites across the country, nearly 200,000 are impacted by petroleum leaks from tanks. One of my prior legislative responsibilities involved oversight of the LUST program at the Environmental Protection Agency. I tried to make that program more responsive to states and localities, and I know that important work is continuing.

Congressman Paul Kanjorski today brings the subcommittee's attention to the impact that pollution from leaking tanks can have on residential housing. Housing is the bedrock of strong neighborhoods and vibrant communities. It's a concern when environmental contamination raises questions about personal health, housing values, and a community's quality of life.

I'm pleased that we will again be listening to testimony from Charlie Bartsch of the Northeast-Midwest Institute, who was a witness at our brownfields hearing. The Northeast-Midwest Institute and NALGEP, the National Association of Local Government Environmental Professionals, are the authors of a detailed study titled "Recycling America's Gas Stations." This report has a number of useful observations on how to accelerate the cleanup and redevelopment of properties impacted by petroleum contamination.

I again congratulate the subcommittee for its focus on important community development issues.

Opening Statement

Vice Chairman Mark Green

Subcommittee on Housing and Community Opportunity

"The Erosion of Communities and Home Values by Leaking Underground Storage Tanks"
September 12, 2002

Today the Subcommittee meets to examine the effects of leaking underground storage tanks on homeowners and communities. In 1980, the Environmental Protection Agency (EPA) determined that this country was facing a serious problem. Many of the more than 2 million underground storage tanks in the United States were nearing the end of their useful life expectancy and expected to leak in the near future. With over 50% of the United States relying on ground water for their drinking water, the fact that leaking tanks were the leading source of groundwater contamination made finding a solution even more critical. In 1984, Congress established a leak prevention, detection, and correction action program to address this nationwide problem of leaking storage tanks; and in 1986 Congress created the Leaking Underground Storage Tank Trust Fund to help states cover the cost of cleanup.

Much progress has been made in the clean-up efforts. EPA estimates that since the federal underground storage tank program began, 1.5 million of the roughly 2.2 million petroleum tanks under the program have been closed. As of September 30, 2001, 419,000 releases had been identified, more than 279,000 cleanups had been initiated, and nearly 269,000 cleanups had been completed with 150,000 sites awaiting cleanup.

Despite this progress, several issues have emerged. With the implementation of the 1998 regulation, the work load for states has increased significantly. States and localities are looking to the federal government to provide additional resources to assist them in the cleanup and cost. The discovery of the chemical MTBE at several of the LUST sites and its detection in drinking water supplies has further complicated cleanup efforts and added to the initial cost of the original program. Finally, many of the affected communities are looking to the federal government to help them deal with the effects that leaking underground storage tanks have on public health and home values in their community.

While there is a program in place to assist with the cleanup of these contaminated sites, the federal government has no program in place to assist the innocent homeowners affected by these leaking underground storage tanks. Many of these communities will likely face the evaporation of home equity, a lack of buyers for contaminated property, and a scarcity of financial institutions willing to make loans in contaminated areas. We all remember the well-publicized relocation actions in Love Canal, New York and Times Beach, Missouri which were taken under special Federal order or through the Superfund program. Because Superfund

specifically excludes petroleum pollution, the residents in the communities affected by these underground storage tanks have little recourse.

At today's hearing we will begin to examine this problem. It is important that we determine what affect this has had on home values. In addition, just how many communities have been affected, and what is the best way to go about assisting innocent homeowners whose lives have been devastated by these leaking underground storage tanks.

STATEMENT OF THE HONORABLE
WM. LACY CLAY
before the
Subcommittee on Housing and Community Opportunity

"The Erosion of Communities and Home Values by Leaking Underground Storage Tanks"

September 12, 2002

Thank you Madam Chairwoman. I appreciate you having this hearing today, and I look forward to the testimony we are about to hear.

We have a nationwide problem of leaking underground storage tanks. This problem has countless negative effects on both the physical communities and the people who live there. The leaks of PCBs and other known carcinogens result in cancer and a variety of other serious health problems. This affects not only the soil, it also affects the groundwater that often flows to larger streams and rivers and pollutes areas some distance from the initial polluted area.

When areas are polluted, there is a resulting negative impact on real estate values and home sales. Often times the investment in one's home is the biggest investment that one has. When this investment bottoms out, financial ruin is not long in following.

A situation occurred in Time Beach, Missouri between 1970 and 1972. Waste from a pharmaceutical and chemical company that produced hexachlorophene was mixed with waste oil. The mixture was used to spray roads in Time Beach and the surrounding area to control dust. A remedial investigation determined that soil was contaminated at 27 sites in the State of Missouri. During its operation, the incinerator at Time Beach processed 265,000 tons of soil and debris. The total cost of the project was $110,000,000. The total population of Time Beach was relocated.

We have had numerous problems with leaking storage tanks in St. Louis. Some of the areas have been classified as "brownfields". The problem of underground pollution does not go away for years. Too often time does not make the situation better, it makes it worse.

I do have some questions that I will address to the proper witnesses when I am recognized for questions.

Mr. Chairman, I ask unanimous consent to submit my statement to the record.

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Statement of Congressman Steve Israel
Subcommittee on Housing and Community Opportunity
Committee on Financial Services
Hearing Entitled:
"The Erosion of Communities and Home Values by Leaking Underground Storage Tanks"
September 12, 2002, 10:00 a.m.

Mister Chairman, thank you so much for holding this extremely important hearing.

Our witnesses today will detail some of the very real problems they face as a result of Leaking Underground Storage Tanks (LUSTs) and I look forward to hearing from them. I look forward to it because their problems illustrate what a massive problem this is around the country, with hundreds of thousands of LUSTs not just in Luzerne, but in Suffolk and almost every county in the nation.

The Federal Government rightly demands that LUSTs be cleaned up and provides money to help do so. But so far, we do not provide *any* help to communities or homeowners. Homeowners are out of luck. This is nothing short of shooting the patient to save him.

Congress acted in the 80's on this issue so that our communities could be cleaner. Not just for the theoretical sake of cleaning up the environment, but so that *people's* health would not be devastated by petroleum leaching into drinking water. Congress wanted to clean these tanks up so that people could continue to live in their communities.

And what do we see now? The very program meant to help people instead having devastating financial consequences.

Mr. Kanjorski, I thank you for your leadership on this issue and I hope that we all can work together to find a solution to this problem.

Statement of Congresswoman Sue Kelly; Housing Subcommittee Hearing on: The Erosion of Communities and Home Values by Leaking Underground Storage Tanks

Thursday, September 12, 2002 at 10:00 am in 2128 Rayburn

I want to thank Chairwoman Roukema, Ranking Member Frank and Vice Chairman Green for agreeing to hold this hearing on the problems Leaking Underground Storage Tanks cause homeowners. This is a serious problem that affects the health and safety of families around the nation and a good issue for us to consider before our Subcommittee.

In recent years since the discovery of the hazards of the MTBE additive to our automotive fuels we have seen a resurgence of concern of families who live near gas stations and other petroleum storage facilities. In my area of New York residents of the Town of Somers, experienced this first hand when MTBE leaked into their drinking wells from a nearby gas station contaminating their water supply. In another town, a mother of two who owns a new gas station is having similar problems with an older gas station up the hill from her. Further down toward the leaky tanks is a farm whose owner is facing his own problems with MTBE. I have discussed these issues extensively with some of these families. They suffered in many ways from this hazard, with MTBE, you can't wash, drink or even smell the water. One of the results is a real loss in property values. Since then with my positions on this committee and House Transportation I have explored both the programs currently in place and proposals to strengthen and improved the effectiveness of this program. Unfortunately, these issues are very complicated and cleanup options, especially for ground water contamination, are very limited. We must learn and do more.

I welcome this hearing and hope that our witnesses can share with us the details of their experience and knowledge in hopes of all of us getting a better understanding of the issues involved. I thank all our witnesses for taking the time out of their busy schedules and look forward to discussing these issues with them.

I yield back the balance of my time.

TESTIMONY OF
CONGRESSMAN PAUL E. KANJORSKI

BEFORE THE SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY
OF THE HOUSE COMMITTEE ON FINANCIAL SERVICES

HEARING ON THE EROSION OF COMMUNITIES AND HOME VALUES BY LEAKING UNDERGROUND STORAGE TANKS

THURSDAY, SEPTEMBER 12, 2002

Mr. Chairman, I welcome this opportunity to testify before you on an issue that has long been of particular concern to me and the citizens of Pennsylvania that I represent: the issue of leaking underground storage tanks and the effect this contamination has on communities. I commend you, Chairman Oxley, Chairwoman Roukema, Ranking Member Frank, and the entire Committee for arranging this hearing today and for your leadership in reviewing a situation that threatens our environment, endangers public health, and jeopardizes our communities and housing markets.

To address a nationwide problem of leaking underground storage tanks Congress established a prevention, detection, and corrective action program in 1984. In 1986, Congress subsequently created the Leaking Underground Storage Tank Trust Fund to help the Environmental Protection Agency (EPA) and states cover the costs of responding to leaking petroleum tanks where owners fail to do so, and to oversee tank cleanup activities. Since then, we have made much progress in improving the construction of underground storage tanks and in the identification and cleanup of leaking tanks, but several supplementary issues have also emerged. These issues include the public health and economic effects of leaking tanks on affected communities.

The case of a leaking underground storage tank in the Laurel Gardens neighborhood of Hazleton, Pennsylvania found in my congressional district highlights this problem. The situation in Laurel Gardens resulted from a leak in an underground petroleum storage tank at the Tranguch Tire and Auto Service Center. Since its discovery nearly a decade ago, the Pennsylvania Department of Environmental Protection sought to remediate this problem through a variety of initiatives until the EPA stepped in to undertake cleanup in 2000.

Through my own efforts, we have also secured $25 million from the Coast Guard to abate this problem because the contamination from the Tranguch site had leaked into the Susquehanna River. Under the Oil Pollution Act, the Coast Guard has the authority to address leaking tanks when their pollution contaminates navigable waters. Recently, I was also able to convince the EPA that total replacement of the sewer system in Laurel Gardens was warranted because of the continuing problems of fumes coming into people's homes.

As the EPA continues its work, many residents have continued to express concerns for their health and safety. Benzene, for example, was detected in several homes at levels representing a concern for chronic exposure. Recent studies have also suggested an increased occurrence of benzene-related cancer and higher than average cases of lupus in Laurel Gardens.

Additionally, the contamination has severely reduced home values in the affected community. The homeowners affected by the Tranguch spill, for example, have lost equity built up in their homes because of the pollution. Families, after all, often do not want to purchase a home in an area with known contamination, and this situation suppresses home values. Financial institutions also have concerns about making mortgage and home equity loans in polluted areas because of the contaminated nature of the collateral and difficulties in valuing the property.

The situation in Laurel Gardens has been further complicated by a decision by Luzerne County to provide tax relief for the affected homes by lowering their assessment to zero. With few home sales and no independent means of assessing the value of a home, financial institutions have become hesitant to make mortgage and home equity loans in the affected area. As a result, the residents of Laurel Gardens have found themselves trapped in a situation whereby they cannot sell their homes if they want to move, refinance their mortgage to take advantage of today's low-rate interest environment, or obtain equity loans.

Later today you will hear from several witnesses who have experienced the firsthand effects of this environmental and community problem. Ms. Patricia Tomsho is a resident of Laurel Gardens who has become a leader in calling attention to the neighborhood's plight and fighting for an equitable solution. Additionally, Luzerne County Commissioner Stephan Urban and Pennsylvania State Representative Todd Eachus represent this community and have played instrumental roles in identifying solutions to help the contaminated neighborhood and are very familiar with the economic damages caused by it. I commend all three of them for their leadership on this complicated issue and plan to continue to work with all of them in the future to resolve this long-standing problem.

Despite our collective efforts to address the environmental problems raised by this tank cleanup, however, the residents of Laurel Gardens still remain without true economic recourse. Because of health concerns, some would like to move either temporarily or permanently from the Tranguch spill area. Others would like to obtain equity loans against their property to make long-term purchases, complete home repairs, pay for a child's education, cover medical expenses, or fund a retirement. While a lawsuit is proceeding, recourse is complicated because the party primarily responsible for the contamination is bankrupt, and the degree of responsibility of several nearby small businesses that may have, but mostly did not, contribute to the problem remains unresolved.

Currently, the federal government has no program in place to assist the innocent homeowners affected by leaking underground storage tanks either to temporarily or permanently relocate from their contaminated property, or to guarantee access to home equity loans and mortgage refinances. Well-publicized relocation actions such as Love Canal in New York and Times Beach in Missouri were taken under special federal order or through the Superfund program. Because Superfund specifically excludes petroleum pollution, the residents of contaminated communities like Laurel Gardens have little recourse during the cleanup.

As a result of my concerns, I have drafted and circulated a bill that would amend the Solid Waste Disposal Act to authorize the Department of Housing and Urban Development (HUD) to guarantee loans to homeowners living with the effects of leaking underground storage tank contamination. This legislation represents one potential solution to the economic problems raised by leaking tanks. I look forward to hearing the views of experts on this proposal as well as to learning of other potential resolutions to this dilemma.

The federal program created by my draft legislation would allow homeowners affected by a leaking tank to temporarily leave their property until it is restored, permanently leave property they consider no longer livable, or otherwise obtain a low-interest equity loan up to the fair market value of their property. Delivered by local lending institutions, HUD would guarantee these loans and a special master would oversee the program. Perhaps most importantly, because many of these homeowners have suffered financial harm, the special master would have the authority to forgive the loans made under this program.

The understandable distress, frustration, and fear created by the environmental contamination from leaking underground storage tanks and the associated effects on home values and public health must be addressed. I look forward to advancing a dialogue at the national level today with all interested parties in order to reach a workable and equitable solution to meet the needs of Laurel Gardens and other communities with similar problems.

In closing, Mr. Chairman, thank you again for your leadership on this issue and for the opportunity to testify before you today. I would be pleased to answer any questions that you or others may have.

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Statement of Charles Bartsch
Senior Policy Analyst for Economic Development/Brownfields
Northeast-Midwest Institute

on
Public Health and Economic Problems Associated With
Leaking Underground Storage Tanks

before the
U.S. House of Representatives
Financial Services Committee
Subcommittee on Housing and Community Opportunity

September 12, 2002

Madame Chairman and members of the Housing and Community Opportunity Subcommittee, thank you for the opportunity to testify about the impact of leaking underground storage tanks on community development and revitalization – an issue just now gaining national attention, but one with on-going, serious consequences for potentially hundreds of thousands individual businesses and homeowners across the country.

I am Charles Bartsch, senior economic development policy analyst at the Northeast-Midwest Institute (NE-MW), and a specialist in brownfield and site contamination issues. Since 1991, the Institute — working closely with the bi-partisan Northeast-Midwest Congressional Coalition, currently co-chaired by Reps. Jack Quinn and Marty Meehan — has examined the relationship between environmental contamination and community development. A key part of that effort has been identifying ways in which existing federal programs could be more creatively and usefully linked with the resource needs of contaminated sites.

NE-MW has analyzed reuse activities at contaminated sites in more than 100 jurisdictions – large cities like Pittsburgh, Chicago, Los Angeles, and Cleveland; mid-sized cities like Trenton, Newark, Buffalo, Kansas City, Worcester, and Bridgeport; and small towns like Ocanto, Wisconsin, Glen Cove, New York, and Wyandotte, Michigan. Our research has indicated that, while the problems surrounding reuse of contaminated sites are crucial ones in the nation's traditional industrial centers, with aging infrastructure and housing stock, they are by no means confined to such communities. The issue is pervasive, having surfaced in every state across the country. To address it, communities need practical public-sector tools and approaches that are easy to access and easy to use.

The Subcommittee on Housing and Community Opportunity is to be commended for its continuing efforts to explore ways in which seemingly diverse environmental and community development challenges can be met with innovative approaches that address both sets of issues practically and efficiently. Earlier this year, the Subcommittee spearheaded legislation to open up HUD's Brownfield Economic Development Initiative (BEDI) program, an effort which will have significant impacts on commercial and industrial revitalization in cities and towns of all size. Now, the Subcommittee is examining ways to deal with environmental issues at residential sites, where the most common form of contamination stems from leaking underground storage tanks, or LUSTs.

This hearing is especially timely. Earlier this year, President Bush signed the Brownfield Revitalization and Environmental Restoration Act into law, which sets the stage for new public-private partnerships that can resolve thorny liability issues that impede site reuse; it also clarifies the state-federal relationship regarding cleanup finality. And most significantly – in the context of the proposed legislation before the Subcommittee – the new brownfield law permits EPA to recognize and direct resources to sites with petroleum contamination. These are solid steps forward, which need to be built upon to help residential brownfields, whose values are undermined by the stigma of contamination.

My comments are based on the findings of two recent research projects that I have undertaken at the Northeast-Midwest Institute which relate to the LUST issue – a report on **"Recycling America's Gas Stations: the Value and Promise of Revitalizing Petroleum Contaminated Properties"** prepared in partnership with the National Association for Local Government Environmental Professionals (NALGEP); and **"Brownfields and Housing: How are State Voluntary Cleanup Programs Encouraging Residential Development?"** carried out in cooperation with the National Association of Homebuilders. Both are available in their entirety, on-line and free of charge, at **nemw.org**.

How significant is the problem of leaking underground storage tanks (LUSTs) on communities, and what is its impact on communities?

The sheer number of single and multi-family housing units affected by actual or potential LUST contamination is unknown – but, given the age of so many of these structures and their utility systems, there is no question that it is significant. LUST-impacted housing is found in urban, suburban, and rural areas. By way of comparison, we do know that LUST sites comprise a significant subset of the brownfields universe; nearly 200,000 out of the estimated 500,000 brownfield sites contain tanks. In some locations, this percentage may be even higher; for example, in New Hampshire, officials estimate that 70 percent of the state's brownfields have a petroleum component. Many of these sites are gas stations that have shut down because they could not comply with 1998 UST upgrade requirements, often because their owners could not afford to investigate and clean up the contamination that was present. According to a May, 2001 study by the U.S. General Accounting Office, more than 200,000 tanks – almost 30 percent of the total – were not being operated or maintained properly, increasing the risk of addition petroleum contamination that could pose risks to human health and the environment. Clearly, if old gas station tank problems are used as a proxy for all tank situations, many homeowners with

old, often unused, heating oil tank systems face a similar situation. And like gas station revitalization strategies, residential LUST sites need to be addressed in a comprehensive way – in which contamination is not only detected and contained, but where sites are remediated and put to new uses consistent with that clean up.

What issues do LUST situations raise related to housing and community development?

Since land use and home ownership are basic locally driven functions, the immediate challenge that homeowners face is linking the real, dollars-and-cents impacts of LUST contamination with the programs and policies of states and communities that may not have made that crucial connection – but which will play a critical role in that process. NE-MW and NALGEP identified a number of key issues in their analysis of tank sites that also have relevance to housing sites.

Assessment and cleanup process. As with the initial situation that drove development of the brownfield program, process is a key issue that needs to be sorted out and addressed – in this case, determining how LUST sites can best be handled, what constitutes enough comfort for the private sector to be interested, when is the cleanup really completed. Effective partnerships must be in place that focus on UST site cleanup and reuse – driven by the state, but in a way which allows maximum local flexibility to deal with the multitude of tank issues. To this end: several issues were identified.

- a need exists to increase communication, coordination, and consistency with UST efforts across the state, among all types of stakeholders; and

- process-related incentives, such as reducing new owner's liability, can be significant in encouraging cleanup and reuse, and need to be better marketed

Existing brownfield programs – with their focus on process certainty and finality – have the potential to be significant UST site reuse tools, and in fact most state voluntary cleanup programs do allow sites with petroleum contamination to be addressed. But current state use of them in this manner varies significantly – some states, like New Jersey, use them essentially interchangeably and emphasize the certainty they can bring, while others rarely (or never) make that linkage.

Similarly, the use of risk-based corrective action (RBCA) or comparable approaches, along with cleanup pegged to future land use and incorporation of institutional controls as part of the cleanup remedy, are common state brownfield program approaches. However, these connections – and their important cost-saving advantages – may or may not be made in the case of an UST situation. Great potential exists if these two recognized and accepted brownfield tools are incorporated into an UST site reuse strategy.

Capacity. The ability to develop, promote, and carry out LUST cleanup and redevelopment is an issue that cuts across all implementation lines, and is impacted by funding constraints. Some states are trying to modify existing or define new agency processes to incorporate LUST efforts from a broader linked environmental/ economic development vantage

point, and in some places this involves a host of staffing issues and mindset changes regarding the issue of tanks and the barriers of contamination.

In some areas, "capacity" has emerged in as a two-prong issue. In Illinois, for example, state staff noted that site owners and prospective purchasers, as well as local officials, often lacked the technical experience – and the confidence – to proceed with UST projects, especially at residential locations where children could be at risk. And at the same time, most state and local agencies face staffing constraints and are not able to devote the personnel needed for UST sites, to address those concerns. This meant that activities like gaining property access and negotiating with tank owners, or even working with them more informally to alert them to reuse opportunities and processes – which could advance UST site reuse on a broader scale – could not be carried out.

Legal and situational constraints. A new emphasis on cleanup and reuse can bump up against constraints that stem from provisions in existing state and federal rules, or the practical constraints of working with an old, abandoned tank site. These include:

- availability and reliability of funding for LUST cleanup and site reuse, including applicability of existing federal and state redevelopment resources;
- back taxes on UST sites, which make many of these properties "upside down" in terms of how they cost out – a forgiveness strategy could be a good incentive;
- HUD's policy which largely prohibits use of agency housing program resources for any residential project which includes institutional controls (such as capping or paving) as part of the cleanup remedy, a situaiton which could limit the effectiveness of the proposed legislation before the Subcommittee – HUD has been studying this issue for a long time, and they should be directed to act;
- abandoned or orphan site issues, such as covering cleanup costs and addressing liability concerns;
- need for public tools to help with outreach and community information/participation activities to help in LUST situations; and
- local activities like title searches and the hunt for viable responsible parties, linked to basic cost recovery concerns – some states and cities are working with various agencies and adopting a more flexible interpretation of cost recovery requirements to enhance UST site cleanup and reuse strategies.

Cost recovery is a big issue that has been emphasized by numerous communities as a big issue in promoting tank site reuse. EPA requires that cost recovery be pursued, but the approach to cost recovery varies across the states, and nationally. In its cost recovery polies relating to USTs and the LUST trust fund, EPA has noted that "*STATES WILL IMPLEMENT THE COST RECOVERY PROGRAM, HAVE CONSIDERABLE DISCRETION IN OPERATING IT, AND BENEFIT DIRECTLY FROM THEIR SUCCESSFUL RECOVERIES.*"

With this direction in mind, some state agencies take a very strict view of cost recovery, which tends to hamper their flexibility when pursuing new UST site users and uses. The need to cost recover, or establish an owner's inability to pay, can create a lengthy up-front process before work can begin, which can deter new private users from taking on these sites. In practice, some states, like New Jersey and New Hampshire, find that cost recovery is working fairly well. New Hampshire officials there often use discretion when sites have a negative value, such as the typical gas station that cannot economically manage the average $70,000 cost for assessment and remediation. New Jersey does not see cost recovery as an impediment, because most of the site work there is done by the dischargers or developers using private funds.

Chicago has taken an innovative approach to cost recovery. Site owners there who do not have the money to proceed can get an advance from the city and set up a third-party escrow account, reimbursed later after cleanup and reuse are completed.

Incentives. Incentives play a critical role in any type of community development strategy, and a key issue identified in the NE-MW/NALGEP tank site analysis is making the connection between UST revitalization situations, and traditional economic development/ redevelopment tools and incentives that could support these types of projects. For example, Salt Lake City and Chicago both operate "vacant and abandoned" gas station programs, which facilitate the cleanup, marketing, and new use of this type of UST sites, often for housing purposes. Other cities are developing more informal approaches to accomplish the same objective, by working with private developers or community groups on targeted sites with important local impacts. And – as with traditional brownfield sites – a number of cities have started to tap other state and federal program resources, as well as devote some of their own, to help finance cleanup and reuse activities at former gas station corners and other UST sites.

Private sector outreach and participation. To date, cities and states have done very little tracking of the private sector role in UST site reuse, in terms of most suitable new uses, best approaches to site marketing, and similar situations – and virtually none in the context of individual homeowners grappling with LUST issues and stigma. Better tracking and outreach would allow states and cities to better shape their technical assistance and incentive offerings. Some states, like South Carolina, have tried to generate interest in UST sites by sending letters to county development offices, commercial realtors, and other potential partners.

What is currently being done to address the LUST issue?

NE-MW, along with its partners NALGEP and the National Association of Homebuilders, have made an effort to identify just what is being done to cope with the challenges of UST sites. These analyses have shown that states and communities have taken some limited, but important, initial steps to address concerns – and take advantage of opportunities – posed by UST sites. These initial actions could play an important role in a HUD-driven, homeowner focused effort to grapple with housing site contamination.

Activities to date have taken several forms, including operational, informational, and financial strategies. From an ***operational*** standpoint, some communities are starting to work to UST project approaches into various parts of their local government development process.

Those that are trying to tie them to related economic development activities – like small-scale commercial development or infill housing – are seeing greater benefits from their UST reuse strategies. For example, in cities like Trenton, tank site projects are being considered in the same way that a traditional brownfield would be, which includes tapping into a variety of state resources aimed at general site cleanup. In other cities, like Oakland, project coordination among state and local agencies and community groups is proving to be an important approach when it comes to attracting private participation at UST sites.

Oregon is working to improve tank owners' access to broader brownfield incentives within the state, and the governor's regionally focused Community Solutions Teams are trying to promote this as well, especially in smaller jurisdictions. Utah's UST program routinely interacts with all players in the process to encourage coordination – as officials noted, with "the regulated public, other regulatory agencies, environmental consultants, real estate agents, developers, interested buyers," and others. Utah extends this coordination to make sure that UST site responsibilities go to those entities with the greatest expertise; accordingly, the UST office leaves site marketing to local redevelopment agencies, because of their experience in this arena.

In terms of federal programs, cities in several states – notably New Jersey and California – have suggested that it will be important to bring a variety of federal program resources to bear on UST site projects. Programs offered by HUD, EDA, and other agencies – targeted to distressed areas or capital market imperfections – have the potential to play a key role in all types of UST site reuse. The bill under consideration by the Subcommittee could play a useful role in expanding federal awareness in this regard.

Clearly, it will be important for HUD and the states to enhance and encourage greater levels of all types of coordination and broader thinking about how UST sites are considered within a community's existing redevelopment framework and funding strategy.

A second key approach is ***informational;*** providing credible information on tank sites and tank issues can really facilitate the decision-making process and encourage owners to act. This role can be filled by various government agencies and levels of government or by quasi-public organizations, depending on local need and tradition. In Oregon, for example, officials have identified approximately 300 abandoned tank sites and are targeting those properties for an initial assessment to determine their exact level of contamination, on the premise that availability of that information will provided a development incentive. The state views this as an important informational role, to "get people past their hump of fear."

But big gaps still exist. This means that a variety of educational and outreach approaches are critically needed to advance the UST reuse effort – for the private sector in particular. Private parties need to be enlightened on the proven ways to overcome liability and other barriers to successfully redevelop and reuse tank sites, about the economic benefits of cleaning and reusing these sites, and about the public incentives (such as VCP releases) and private tools (such as environmental insurance) available that can help tie these projects together. And many owners, cities, and community organizations need basic information on the costs and impacts of contamination on reuse to determine how best they can participate in UST reuse efforts, minimize stigma and enhance site value, and promote project viability.

And third – and often most critical, as the proposed bill suggests – ***financial*** support is a key activity that is just now starting to be considered. Federal and state agencies can provide important technical assistance and guidance to help launch these efforts, as well as resources aimed at cleanup and reuse. For example, in the NE-MW/NALGEP USTfield analysis, New Hampshire presciently suggested an USTfield connection to HUD similar to the one that now exists for brownfield efforts – defining and publicizing ways in which HUD could encourage cities to use their block grant program and other HUD resources to do things like finance tank site cleanup and redevelopment, or capitalize a local loan fund for site revitalization in distressed areas – activities that would fit within tghe basic mission of several of HUD's programs.

A small but significant and growing number of states and communities have started to address the LUST issue and its impact on housing through initiatives of their own – efforts which could be enhanced by additional federal attention. In a survey of state brownfield efforts applicable to UST sites, NE-MW identified eight state initiatives that offered incentives available for housing development on contaminated sites. These include:

- **New Jersey** – $10,000 matching grants are available to help cover the cost of remedial actions at sites where the intent is to clean them for unrestricted use, a natural fit with housing projects.

- **Michigan** – brownfield redevelopment grants and revitalization loans are available for a range of brownfield activities, including housing; state-authorized brownfield redevelopment authorities may do a variety of site preparation activities, including demolition, supported through tax increment financing mechanisms.

- **Illinois** – from the financial side, encourages links of low-interest loans and remediation tax credits to brownfield projects; and from the technical perspective, links to incentives such as NFR letters that can ease the fears of capital sources.

- **Oregon** – local housing authorities have targeted some of their state and federal financial assistance earmarked for construction of low income and senior housing units; some has been used in mixed-use developments.

- **Wisconsin** – several programs (brownfields grant program, tax increment finance, land recycling loan program for local governments, and the Brownfields Environmental Assessment Program, or BEAP) have been used at sites converted into housing.

NE-MW and NALGEP, in their analysis of reuse of abandoned gas stations, identified a number of community-based examples of sites where tanks were removed and properties cleaned for subsequent reuse as housing. They could prove to be useful examples in the context of the proposed legislation.

- **Trenton**'s Canal Plaza project required removal of a leaking tank and 150 tons of contaminated soil; the site will be redeveloped by a faith-based developer with market rate housing – the first market rate housing constructed in Trenton in years.

- **Chicago** took title to an abandoned gas station site on Washington Street, to facilitate reuse in the city's distressed west side neighborhood, and removed eight USTs from the site. Together, the city and state developed and carried out a cleanup strategy for the property, and a local developer is working with the Chicago's Department of Housing to build affordable housing at the site.

- An abandoned gas station in **Oakland**'s Fruitvale district is the site of a Habitat for Humanity housing project, with four homes scheduled to begin construction this fall on the site.

- **Portland**, Oregon's REACH Community Development organization is building a three-story apartment building for 15 people with disabilities, on a former gas station site near the city's center and across from the county service facility for people with disabilities.

- **Rochester** worked with a private developer to convert a 2.2 acre former auto dealership and service garage and gas station into a mixed-use development featuring 77 new townhouses and apartments – the first new rental units in downtown Rocherster in 20 years; the art deco former auto showroom has been converted into a coffee shop.

What would the proposed legislation do?

In establishing a HUD loan guarantee program for homeowners affected by LUST situations, the bill would set an important new public-private partnership in motion. The bill would establish a critical avenue for lenders to participate in a more coordinated and comfortable way with homeowners to finance LUST-related improvements. Overall, the bill would provide a way to preserve the health of residents endangered by petroleum contamination, while encouraging a mechanism for cleanup to be identified and put in place – it would allow an important environmental-community development connection to take place. This is an important step.

To enhance the impacts of the bill, I would suggest several modifications:

- include a finding that makes it clear that cleanup and reuse of housing abandoned because of LUST contamination is a clear goal of this bill, and should be an objective of HUD;

- allow public housing agencies to delegate their authorities in this bill to other capable local agencies or non-profit organizations that might have more knowledge of contamination issues and thus be better suited to clean and manage housing properties acquired through this program;

- provide an additional incentive – perhaps a 100 percent guarantee – to lenders who agree to provide financing for cleanup of the original housing property as part of the financing package;

- allow the guarantee to be extended to mixed-use properties that include commercial uses as well as housing; and

- direct HUD to allow appropriate and protective institutional controls to be used in conjunction with all of its other housing programs – perhaps at sites that have been approved through a state voluntary cleanup program.

What else needs to be done to advance the worthwhile goal of the proposed legislation?

New federal legislation, involving HUD in a loan guarantee capacity, will prove helpful in advancing LUST site cleanup reuse and housing opportunities for families impacted by petroleum contamination. Other efforts, beyond the scope of HUD and the bill before this Subcommittee, can build on the new UST partnership it creates and help solidify a tank site reuse process, using appropriate tools.

- ***Technology and technical assistance,*** where states can help disseminate reliable information – in particular, to HUD and to lenders – about what works, how it works, the cost savings that can be realized, the role institutional controls can play in a technology context, and the benefits all this can achieve.

- ***Incentives,*** especially a new generation targeted and responsive to UST situations, such as subsidized insurance and financing intermediaries – these can meet more specialized local needs, and plug the holes that federal programs can not fill.

Every developer carries out some sort of analysis of both risks and benefits when thinking about taking on an USTfield site, and the role that incentives might play in making the project more feasible. Again, the bottom line on contaminated properties is that these are real estate projects of one sort or another that happen to have an environmental problem — and they need to meet basic financing criteria.

- ***New, innovative public-private partnerships*** can help homeowners and lenders, working with HUD, sort through UST issues and realize the value that cleaned up sites can have.

Private parties need to be enlightened on the proven ways to overcome liability and other barriers to successfully redevelop and market tank sites, about the economic benefits of cleaning and reusing these sites, and about the public incentives (such as voluntary cleanup program releases and related EPA "finality") and private tools (such as environmental insurance) available that can help tie these projects together.

- States could address a key barrier – ***certainty and finality*** – by integrating USTfield liability clarification tools with voluntary cleanup programs established to handle site cleanup and reuse.

Currently 48 states have programs in place to encourage site cleanups; with their focus on

process certainty and finality, they have the potential to be significant UST reuse tools. In fact, most state programs do allow sites with petroleum contamination to be addressed, providing an opportunity for sites that do not easily fit LUST trust fund or other requirements to be addressed nevertheless.

- State governments should be encouraged to ***target their own economic and community development programs and broaden their eligibility criteria*** to leverage federal, local and private sector resources that could support USTfield projects.

More than half the states have developed funding programs that can address the unique financing challenges that contaminated sites face. Virtually all states offer a panapoply of programs designed to foster economic and community development. Few of them carry restrictions that would limit their applicability to USTfield sites – as long as the UST-related project could meet the program's basic eligibility criteria.

To conclude – one theme frames all of these findings as they pertain to housing, and that is that LUST cleanup and site reuse will have the greatest local impacts when approached as a community development issue with an environmental twist, rather than only a pollution and public health problem. If contaminated tank sites are viewed only as pollution problems, disconnected from community revitalization goals and housing development strategies, then UST site reuse efforts will struggle. If, however, homeowners, localities, and their partners view tank site projects as real estate deals that further community development goals, then the environmental issues can be structured into an approach that creates value, attracts investment, and gathers support. This perspective on UST site redevelopment also reflects the emerging agenda of EPA, which will focus its waste cleanup efforts on a community revitalization and land use approach.

Overall, the success of efforts to clean and reuse housing sites and other properties contaminated by petroleum from LUSTs will be strengthened by the creation of strong redevelopment partnerships among localities, state agencies, and the private sector. The bill before the Subcommittee would foster an important collaboration between affected homeowners, HUD, and the lenders needed to make reuse happen.

Rep. Todd Eachus
Congressional hearing testimony
Sept. 12, 2002

Good Morning. My name is Todd Eachus and I represent the 116th Legislative District in the Pennsylvania Legislature. I would first like to thank Marge Roukema, Chairman of the House Sub-Committee on Housing and Community Opportunity under the House Committee on Financial Services for allowing me to be here and submit my remarks for the record. I would also like to thank Congressman Kanjorski for drafting this legislation, which attempts to help the people affected by the Tranguch gas spill.

We've worked side by side on this issue for many years and I applaud his efforts at the national level.

More than a decade ago, a minimum of 50,000 gallons of gasoline leaked into the Laurel Gardens neighborhood in my district, affecting about 400 homes. For more than 10 years, the residents of those homes have been living a nightmare. The government, both on the state and federal level, has continuously downplayed the severity of the situation, trying to reassure – or mislead depending upon how you look at it – these people that there is nothing to worry about.

The reality for these people is quite different. Their homes are virtually worthless. If they had the financial means to leave the neighborhood, I have no doubt they already would have done it.

Because a program to help people affected by such environmental disasters is not included in the Oil Pollution Act (OPA) or the EPA Superfund Act, Congressman Kanjorski's legislation to provide low-interest loans to affected residents so that they may escape from the pollution that cripples their health and quality of life is a good concept, and one that is long overdue.

As you move forward in discussing its merits, I ask that you keep in mind the citizens it is designed to assist and protect. I have a few observations and recommendations I urge you to consider on behalf of the residents of the spill area I represent, as well as on behalf of all people who are victims of a gas spill, leak or related environmental hazard.

As the concept for the low-interest program progressed, it was determined that Housing and Urban Development, and not the Environmental Protection Agency, would be better equipped to administer the loans, as well as the loan forgiveness provisions of the bill. In addition to being an impartial party in the process, HUD is better equipped and has a better knowledge of this kind of assistance. I strongly urge you to keep HUD in the process.

Additionally, I believe the loan program should be available to everyone affected by the environmental hazard and not based on a family's income. The spill in my district did not distinguish between the rich and the poor. It did not decide which families it would harm.

Every family affected by this spill has suffered substantial hardship. Every family should qualify for assistance.

I also have some concerns about the bill's language relating to the low-interest loans. Although the bill puts the final decision on loan rates in the Secretary of HUD who is expected to ensure the loans are at a low-interest rate, the bill itself does not guarantee the rates will be low. Under the bill, the rates of the loan are agreed upon by the borrower and lender, and found reasonable by the Secretary. However, it also says the rate cannot exceed "the rate generally charged in the area…for home mortgage loans ***not*** guaranteed or insured by any agency or instrumentality of the Federal government…". Since these ***are*** loans that will be guaranteed by the federal government, why shouldn't the cap be based on the rate generally charged for guaranteed loans? Those rates definitely would be lower than loans that are not guaranteed.

Also under the bill, the borrower can obtain a loan to buy or lease new property or to use the equity in the home for whatever purpose they chose. While the bill is clear that the loan can be for 100% of pre-release value, I would recommend clarifying that for loans based upon the "equity," in the property as described on Page 3, Line 12 of the bill, the equity is also determined based on the pre-release value of the property. In today's market, there may not be any equity in these homes.

I also believe the loan forgiveness provisions of the bill are particularly critical for people with existing mortgages. If they are using the proceeds to buy new property to live in, they will still have two mortgages to pay – the one existing on their current home and the new mortgage guaranteed by the federal government. The provisions that set forth the reasons the Secretary can consider for forgiving the loans do include financial hardship. It also includes the following reason: "the borrower…is unable to continue payments under the loan due to the nature and extent of the release affecting the qualified property…". This is not quite clear to me. Many of the people I represent may be unable to continue making payments because of two mortgages to pay, one of which is on property that has no value. This reason to allow forgiveness could be strengthened by adding language after "nature and extent of the release affecting the qualified property" to say "so that return to pre-release value is unlikely within a reasonable period of time."

My last point relates to the federal loan guarantee. Under the bill, the federal government would guarantee 90 percent of the loan. The borrower is required to obtain either private mortgage insurance or a guarantee from another government agency for the other 10 percent in order to qualify for the federal loan guarantee. I honestly don't know how readily available private mortgage insurance or other guarantees would be, so I would simply ask the committee to try to determine how available these would be and if they will not be readily available for these properties, then the bill should be changed to provide for a 100 percent guarantee by the federal government.

I realize this is a draft piece of legislation that will require additional work and further exploration. But it is a good bill; one that will improve the lives of hundreds if not thousands of Americans who are victims of gas spills and related environmental hazards.

I am a firm believer that something done on behalf of people who have been hurt is better done late than never. Not only would you be providing the residents in my district release from the horrible situation they've been forced to endure for more than 10 years, but also you would help to ensure that no one else across the country ever has to suffer the way these people have.

Thank you for your time and consideration.

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Testimony of
William C. Harvey, II, CCIM, MAI
On behalf of the Appraisal Institute

Before Subcommittee on Housing and Community Opportunity
Of the
House Committee on Financial Services
On

The Erosion of Communities and Home Values
by Leaking Underground Storage Tanks

Presented by
William C. Harvey, II, CCIM, MAI
President, William C. Harvey & Associates
Great Falls, Virginia

September 12, 2002

Testimony of William C. Harvey, II, CCIM, MAI
On Behalf of the Appraisal Institute
Before the
Subcommittee on Housing and Community Opportunity
of the
Committee on Financial Services
United States House of Representatives
September 12, 2002

Madam Chair and members of the Subcommittee, I am William C. Harvey, II, MAI, President of William C. Harvey & Associates in Great Falls, Virginia. I am pleased to be here today on behalf of the Appraisal Institute, the largest group of real estate appraisers in the United States. The Appraisal Institute is an international membership association of professional real estate appraisers, with more than 18,000 members and 99 chapters throughout the United States, Canada and abroad. Its mission is to support and advance its members as the choice for real estate solutions and uphold professional credentials, standards of professional practice and ethics consistent with the public good. The Appraisal Institute is an association of professionals who provide reliable information and analysis regarding real estate.

The association is the acknowledged worldwide leader in residential and commercial real estate appraisal education, research, publishing and professional membership designation programs. Its extensive curriculum of courses and specialty seminars provides a well-rounded education in valuation methodology for both the novice and seasoned practitioner. Members of the Appraisal Institute form a network of highly qualified professionals throughout the United States and abroad. They are identified by their experience in and knowledge of real estate valuation and by their adherence to a strictly enforced Code of Professional Ethics and Standards of Professional Appraisal Practice.

I want to thank you for holding this hearing. As we have witnessed in communities in many parts of the country, leaking underground storage tanks can have a wide-ranging impact on the health and productivity of our citizens and the economic condition of our communities.

The Appraisal Institute has had a great deal of experience and expertise with this issue. The Appraisal Institute has developed and continually teaches seminars relating to environmental issues impacting the value of real estate[1]. The Appraisal Institute has also published numerous academic articles addressing this issue. In addition, the Appraisal Institute has published a book entitled, *Environmental Site Assessments and Their Impact on Property Value: The Appraiser's Role,* which is viewed as the authoritative publication on the issue of valuation of contaminated properties.

A vast network of federal, state and local laws and regulations define the natural and man-made conditions that constitute environmental liabilities affecting property values. Natural areas to be protected include wetlands, aquifer replenishment areas, and habitats for endangered or threatened

[1] *Appraising Environmentally Contaminated Properties* and *Introduction to Environmental Issues for Real Estate Appraisers,* offered continually by the Appraisal Institute

species. Man-made liabilities may be indicated by the presence of leaking underground storage tanks, asbestos, PCBs or other hazardous materials.

While real estate appraisers are not expected to be experts in the detection or measurement of hazardous substances, like buyers and sellers in the open market, real estate appraisers must often rely on the advice of others. It is the responsibility of appraisers to analyze the impact of the hazardous materials on the value of the property being appraised. With this, the roles and responsibilities of real estate appraisers in detecting, measuring, and considering environmental substances affecting a property are set forth in Advisory Opinion 9 of the Uniform Standards of Professional Appraisal Practice and Guide Note 9 of the Appraisal Institute's Guide Notes to the Standards of Professional Appraisal Practice. These standards are commonly accepted and used by real estate appraisers throughout the United States.

Specifically, I am here to address the issues of valuing pre-contaminated property and the effect of contamination from leaking underground storage tanks on a housing market.

Appraising contaminated property in its pre-contaminated condition requires that the appraiser invoke a hypothetical condition that the property is free of contamination and clearly indicate such in any report. Three categories of effective appraisal dates—retrospective, current, or perspective—may then be used, according to the purpose and function of the appraisal assignment. A retrospective appraisal occurs when the effective appraisal date is prior to the date of the report. This type of appraisal is most commonly developed for purposes of estate administration, condemnation proceedings, and litigation to recover damages.

Since a retrospective appraisal is complicated by the fact that the appraiser knows what has occurred in the market after the effective appraisal date, it is critical that the appraiser establish a logical cut-off date for the consideration of subsequent data that no longer reflects the relevant market. While this can be a difficult determination to make, studying the market conditions as of the effective appraisal date will aid the appraiser in judging where to make this cut-off. The effective appraisal date should be considered as the cut-off date for data considered by the appraiser, absent evidence that data subsequent to the effective appraisal date were consistent with the market expectations at that time.

Once the context of the appraisal is established, a retrospective appraisal is developed like any other appraisal through the proper development of the applicable approaches to value that are typically used to value vacant land and improved property.

The reliability of an appraisal relates to the extent to which the valuation process yields the same results on repeated trials. To that end, retrospective appraisals can be as reliable as any other appraisal so long as a complete appraisal process is utilized. In developing a complete appraisal, the appraiser will use all applicable valuation procedures and the value conclusion will reflect all known information relative to the subject property, market conditions, and available data.

By contrast, in a limited appraisal, the appraiser and client agree before the commencement of the assignment that the appraiser *will not* use all applicable valuation procedures, or that the value

conclusion *will not* reflect all known information about the subject property, market conditions, and available data. Thus, to ensure the highest level of reliability, the process should involve a complete appraisal.

On the issue of impact on the affected housing market, my personal experience in appraising properties affected by environmental contamination varies from single residences with minor onsite releases to communities comprised of hundred of homes sitting atop large plumes of hazardous materials. Notwithstanding the differences in the case studies, the effects on value generally followed what has become known as the Detrimental Condition (DC) Model.[2] This model, a copy of which is attached hereto, graphically illustrates the fundamental effects that environmental contamination can have on local housing markets.

While the DC Model includes all possible stages, each detrimental condition must be analyzed on a case-by-case basis because of the potential for a variety of impacts on value during the property's life cycle. The first step with any detrimental condition analysis is to consider the *unimpaired value* of the property as if there is no detrimental condition. This is reflected as Point A on the model.

Upon the occurrence or more likely, discovery of the detrimental condition, the value may fall to Point B, if the facts and market data support such a decline. The value during this period is often the lowest, and in some instances the property is unmarketable until the magnitude of the detrimental condition can be ascertained. Nevertheless, in a retrospective appraisal where all assessment, remediation, and ongoing issues are studied, a reliable determination of Point B can be made.

Four stages of recovery generally occur along the time continuum. The assessment stage involves the empirical analysis of the detrimental condition, which usually results in a simple increase to Point C after greater awareness of the problem becomes known. If remediation is required, the value will generally increase upon its completion, as reflected by Point D. Point E reflects the value of the property during the ongoing stage when aftermath issues such as monitoring and continuing maintenance costs can be encountered. The last recovery stage recognizes that market resistance or risk may continue to impact the value of the property, which, like any value issue, can have a variety of impacts. Therefore, Point F is reflected with multiple arrows to illustrate the variety of stigma that may result.

While the DC Model suggests an orderly process, each detrimental condition must be analyzed on a case-by-case basis due to the variety of impacts on value. Although my experience has shown that no two cases are alike, the analysis of environmental contamination should begin with the DC Model.

Thank you for this opportunity to testify. I am pleased to answer any questions you may have.

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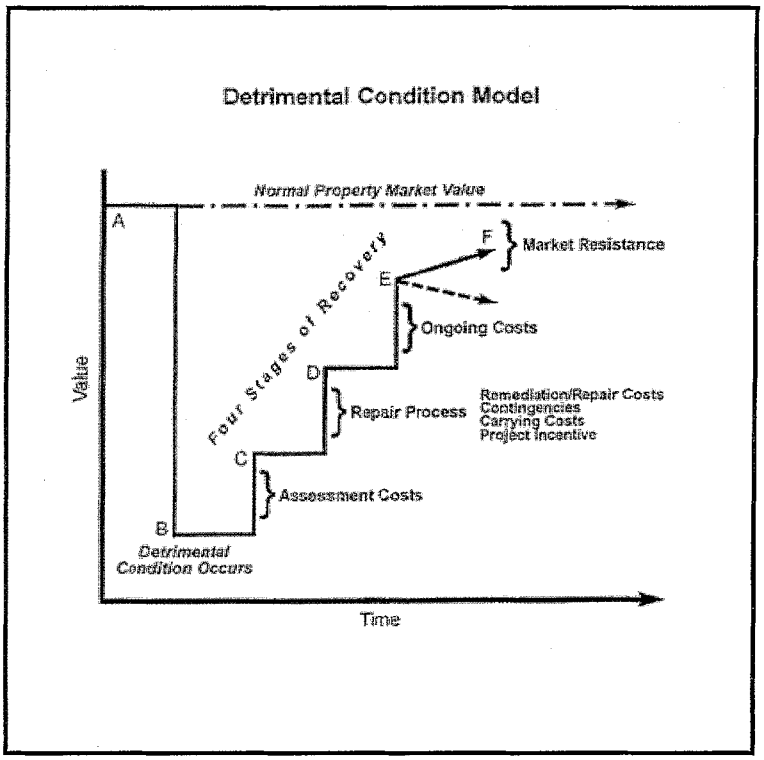
[2] Randall Bell, MAI, *Real Estate Damages: An Analysis of Detrimental Conditions* (Chicago: Appraisal Institute, 1999), 15.


Detrimental Condition Model
Normal Property Market Value
A
B
C
D
E
F
Four Stages of Recovery
Market Resistance
Ongoing Costs
Repair Process
Remediation/Repair Costs
Contingencies
Carrying Costs
Project Incentive
Assessment Costs
Detrimental Condition Occurs
Value
Time

Worksheet for Valuation of an Environmentally-impacted Property

V_{III}	= Value of a contaminated property		$_____
Equals:			
V_I	= Value as if not contaminated		$_____
Less:			
AC	= Property assessment costs		
	Site assessments	$_____	
	Phase I	$_____	
	Phase II	$_____	
	Intrusive testing	$_____	
	Well monitoring	$_____	
	Other	$_____	
	Subtotal		$_____
RC	= Remediation or repair costs		
	Administrative	$_____	
	Agency oversight	$_____	
	Backfill	$_____	
	Disposal	$_____	
	Engineering	$_____	
	Excavation	$_____	
	Insurance	$_____	
	Legal oversight	$_____	
	Permits	$_____	
	Remediation	$_____	
	Repairs	$_____	
	Samples and analysis	$_____	
	Soils compacting	$_____	
	Transport and hauling	$_____	
	Treatment	$_____	
	Trenching and backhoe	$_____	
	Other	$_____	
	Subtotal		$_____

Demolition and reconstruction costs

	Structure	$_____	
	Landscape	$_____	
	Paving	$_____	
	Utilities	$_____	
	Well-site removal	$_____	
	Moving	$_____	
	Other	$_____	
	Subtotal		$_____
CT =	Contingencies		$_____
CC =	Carrying costs		$_____
PI =	Project incentive		$_____
PV_{AC} =	Present value of absorption costs or loss of utility		
	Fixed operations	$_____	
	Lost rents	$_____	
	Tenant relocation	$_____	
	Leasing commissions	$_____	
	Other	$_____	
	Subtotal		$_____
PV_{OM} =	Present value of oversight and maintenance		
	Operations and maintenance program	$_____	
	Periodic reviews	$_____	
	Eventual repairs remediation	$_____	
	Reinstallation of wells	$_____	
	Post-remediation monitoring	$_____	
	Other	$_____	
	Subtotal		$_____
PV_{FI} =	Present value of excess financing and insurance		$_____
PV_{RU} =	Present value of restrictions on use		$_____
MR =	Market resistance		$_____

Plus:

PV_{IR} =	Present value of insurance and recoveries	

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APPRAISER'S QUALIFICATIONS - WILLIAM C. HARVEY, II, CCIM, MAI

PROFESSIONAL EDUCATION:

- Undergraduate:
  - Wesley Junior College; Dover, Delaware (9/71-5/72)
  - University of Maryland; College Park, Maryland (9/72-5/75)
- Appraisal Institute (AI):
  - Course 101, Residential Property Valuation (5/82)
  - Course 1A1, Real Estate Appraisal Principles (3/84)
  - Course 1A2, Basic Valuation Procedures (3/84)
  - Course 8-2, Residential Valuation (10/79)
  - Course 1B-A & B, Capitalization Theory and Techniques, Parts A & B (2/85)
  - Course 2-1, Case Studies in Real Estate Valuation (7/84)
  - Course 2-2, Valuation Analysis and Report Writing (7/84)
  - Course 510, Advanced Income Capitalization (9/95)
  - Course SPP-A & B, Standards of Professional Practice, Parts A & B (5/85, 3/89, 11/92 and 07/01 - Part B only)
  - Course SPP-C, Standards of Professional Practice, Part C (11/97)
- Commercial Investment Real Estate Institute (CIREI):
  - Course CI 101, Financial Analysis for Commercial Real Estate (3/97)
  - Course CI 201, Market Analysis for Commercial Investment Real Estate (2/98)
  - Course CI 301, Decision Analysis for Commercial Investment Real Estate (6/98)
- National Association of Securities Dealers (NASD):
  - Series 7 Exam, NASD/NYSE Registered Representative (4/84)
  - Series 63 Exam, NASD Uniform Securities Agent (4/84)
- Northern Virginia Community College (NOVA):
  - Principles of Real Estate I (7/75)
  - Principles of Real Estate II (9/75)
- Related Seminars:
  - Appraising Residential Condominiums (AI-6/83)
  - Subdivision Analysis (AI-10/86 and 4/92)
  - Appraisal of Fractional Interests (AI-6/91)
  - Appraising Residential and Commercial Real Estate in a Distressed Market (AI-6/91)
  - Marina Valuation Issues (AI-6/91)
  - Techniques of Residential Inspection (AI-6/91)
  - Discounted Cash Flow Analysis (AI-4/92)
  - Environmental Risk and the Real Estate Appraisal Process (AI-4/94)
  - Faculty Training Workshop-Level II Curriculum (AI-10/94)
  - Regression Analysis: The Appraisal Approach of the Future (4/95)
  - Mid-Year 1995 Real Estate Colloquium (AI-5/95)
  - Automated Valuation Models (AI-10/97)
  - Appraising High-Value and Historic Homes (AI-11/97)
  - Appraisal Instructor Training (4/98)

PROFESSIONAL EDUCATION (CONT.):

- Appraising From Blueprints and Specifications (AI-11/99)
- FHA and The Appraisal Process (AI-11/99)
- Internet Search Strategies for Real Estate Appraisers (AI-11/99)
- Valuation of Detrimental Conditions in Real Estate (AI-11/00)
- 2001 USPAP Update for Instructors & Regulators - DC (2/01)
- Eminent Domain and Condemnation (7/01)
- Linear Rights-of-Way: Federal Agency Rent Schedules Reforged (AI-12/01)
- 2002 USPAP Update for Instructors & Regulators - DC (1/02)

PROFESSIONAL EXPERIENCE - REAL ESTATE APPRAISAL:

- William C. Harvey & Associates, Inc., President, servicing client's real property appraisal and consulting needs throughout the Washington, D.C. metropolitan area, 1986-Present.

- Legg Mason Appraisal Group, a division of Legg Mason Realty, Inc., Vice President and Regional Manager, managed a commercial appraisal staff in the Tysons Corner, Virginia office, 1983-1986.

- Appraisal Service of America, Inc., a subsidiary of Trustbank Federal Savings, F.S.B., President and Director, set-up and supervised an appraisal firm with offices in McLean and Virginia Beach, Virginia, 1981-1983.

- Accredited Real Estate Appraisal Service, Inc., Staff Appraiser, performed various appraisal assignments throughout the Washington, D.C. metropolitan area, 1977-1980.

PROFESSIONAL EXPERIENCE - REAL ESTATE BROKERAGE:

- Harvey Realty Group, L.L.C., Realtor Associate, licensed real estate salesperson in the Commonwealth of Virginia, specializing in buyer agency for commercial, industrial and residential transactions, 1997-Present.

- Harper and Company, Realtors, Realtor Associate and Assistant Property Manager, licensed real estate salesperson in the Commonwealth of Virginia specializing in residential transactions, 1976-1997.

PROFESSIONAL MEMBERSHIP:

- Appraisal Institute (AI):
  - MAI, Member of the Appraisal Institute (No. 7367), 1986-Present.

PROFESSIONAL MEMBERSHIP (CONT.):

- Member, Ethics and Administration and Review and Counseling Divisions, Region VI; National Standards Panel, 1987-1998.

- Member, Experience Review Committee, General; Wash. D.C. Metropolitan Chapter, 1988-1998.
- Chair, Experience Review Committee, General; Wash. D.C. Metropolitan Chapter, 1990-1992.
- Director, Washington, D.C. Metropolitan Chapter, 1994-1998.
- Chair, Government Relations Committee; Wash. D.C. Metropolitan Chapter, 1995-1996.
- Regional Representative, Region VI Regional Committee, 1995-1999.
- Chair, National Experience Review Committee, General; Region VI, 1995-1999.
- Assistant Regional Member, Ethics and Administration Division, Region VI, 1996-1998.
- Secretary, Washington, D.C. Metropolitan Chapter, 1997.
- Member, National Government Relations Committee, Region VI, 1997-Present.
- Treasurer, Washington, D.C. Metropolitan Chapter, 1998.
- Member, National Appraisal Journal Review Panel, 1999-2001.
- Screener, National Experience Review Panel, 1999-Present.
- Member, National Public Affairs Committee, 2001-Present.
- Vice Chair, National Government Relations Committee, 2001-Present.

• Commercial Investment Real Estate Institute (CIREI):
  - Certified Commercial Investment Member (CCIM) designation (No. 8430), 1998-Present.
• District of Columbia Board of Appraisers (DCBA):
  - Certified General Real Estate Appraiser (No. GA10390), 1997-Present.
• International Association of Assessing Officers (IAAO):
  - Associate Member (No. 016486), 1994-Present.
• Maryland Real Estate Appraisers Commission (MREAC):
  - Certified General Real Estate Appraiser (No. 04-10182), 1992-Present.
• National Association of Realtors (NAR):
  - Member, 1976-Present.
• National Association of Securities Dealers (NASD):
  - Registered Representative, 1984-1986.
• New York Stock Exchange (NYSE):
  - Registered Representative, 1984-1986.
• Northern Virginia Association of Realtors (NVAR):
  - Member, 1976-Present.
• U.S. Dept. of Housing and Urban Development (HUD):
  - Direct Endorsement Lender Selection Roster of Appraisers-Richmond, Va. and Washington, D.C., 1994-2000.
• U.S. General Services Administration (GSA):
  - Panels 1, 2 and 3 for the Washington, D.C. Metropolitan Area, 1998-Present.

PROFESSIONAL MEMBERSHIP (CONT.):

• Virginia Real Estate Appraiser Board (VREAB):
  - Certified General Real Property Appraiser (No. 4001-000731), 1991-Present.
  - Certified Instructor (No. 4002-000076), 1996-Present.
• Virginia Real Estate Board (VREB):
  - Licensed Real Estate Salesperson (No. 0205-056843), 1976-Present.

ACADEMIC AFFILIATIONS AND ACTIVITIES:

- Appraisal Institute, Level II Faculty - Associate Instructor, Course 510 - *Advanced Income Capitalization*, 1995-Present.
- Northern Virginia Association of Realtors, Associate Instructor, *Environmental Influences and the Valuation Process Seminar*, 1994-1996.
- Northern Virginia Association of Realtors, Associate Instructor, *Environmental Issues, Agency and Fair Housing Seminar*, 1995-1996.
- William C. Harvey & Associates, Inc., Instructor, *Appraisals for Litigation: New Business Opportunities*, 1997-Present.
- William C. Harvey & Associates, Inc., Instructor, *Environmental Influences and the Valuation Process Seminar*, 1997-Present.
- William C. Harvey & Associates, Inc., Instructor, *Virginia State 3-Hour Board Mandated Seminar*, 1997-Present.

PROFESSIONAL LECTURES:

- 1994 NVAR Convention and Trade Show, Guest Lecturer, "*Environmental Issues in Appraising*," October 11, 1994.
- 1995 ASTSWMO Brownsfield Workshop, Guest Lecturer, "*Deed Restrictions, Institutional Controls, and Future Land Use Issues*," August 17, 1995.
- 1995 Appraisal Institute Region VI Fall Conference, Guest Lecturer, "*Environmental Influences & the Valuation Process*," October 19, 1995.
- U.S. Court of Federal Claims 12th Judicial Conference, Guest Panelist, "*Experts – Who Needs Them?*" November 16, 1999.

PUBLICATIONS:

- William C. Harvey, II, CCIM, MAI, *Appraisals for Litigation: New Business Opportunities Seminar Workbook* (Great Falls: William C. Harvey & Associates, Inc., 1997).
- William C. Harvey, II, CCIM, MAI, *Environmental Influences and the Valuation Process Seminar Workbook* (Great Falls: William C. Harvey & Associates, Inc., 1997).

- William C. Harvey, II, CCIM, MAI, "Appraisal Issues Relating to Wireless Telecommunication Facilities," *Telecom Land Management Law Report* (April 1999): 6-9.

REPRESENTATIVE CLIENTS:

Attorneys, banks, builders, corporations, developers, government agencies, insurance companies, private investors, and savings and loans.

APPRAISAL ASSIGNMENTS:

Mr. Harvey has twenty-four (25) years of commercial and residential real estate appraisal and consulting experience including, but not limited to, appraisals of apartment complexes, condominium projects (residential, commercial and industrial), cooperatives, hotels, industrial facilities, vacant land (raw and developed), mansions, motels, nursing homes, office buildings, planned unit developments, retail facilities, right-of-ways, shopping centers (neighborhood strips, community centers and regional malls), and special-purpose properties (fiber optic cables, high-tech facilities, etc.). Valuation appraisals as well as evaluation assignments (market studies, feasibility analyses, etc.) have been completed on existing, partially completed, and proposed improvements.

Mr. Harvey has testified as an expert witness on appraisal matters in the following courts: (1) Circuit Court for Arlington County, Virginia, (2) Circuit Court for Fairfax County, Virginia, (3) Circuit Court for Loudoun County, Virginia, (4) Circuit Court for Montgomery County, Maryland, (5) Circuit Court for Prince William County, Virginia, (6) General District Court for Loudoun County, Virginia, (7) U.S. Bankruptcy Court for the District of Maryland, (8) U.S. Bankruptcy Court for the Eastern District of Virginia, (9) U.S. Bankruptcy Court for the District of New Jersey, (10) U.S. Bankruptcy Court for the Southern District of New York, (11) U.S. Court of Federal Claims (court-appointed expert), and (12) U.S. District Court for the Eastern District of Virginia.

House of Representatives' Financial Services Committee
Subcommittee on Housing and Community Opportunity
Testimony of Patricia Tomsho – 09/12/02

On behalf of the residents of Laurel Gardens, Hazleton City and Hazle Township, Luzerne County, PA, I thank you for allowing us the opportunity to express our serious concerns. I speak not only for our community, but also for the many other communities, which are similarly affected. In fact, in review of the EPA's web site on Leaking Underground Storage Tanks, there are 418,918 confirmed releases. Clearly, our group is not the only affected residential area, so the work you do here will have profound impact on many of your constituents nationwide.

Documentation on the information I am providing you today can be verified in the packet that has been given to you.

Gasoline contains benzene, a known carcinogen, as well as toluene, ethyl benzene and xylene (BTEX), a combination of volatile organic compounds. Also found in unleaded gasoline is MTBE, which is extremely water soluble, but not completely documented in its effect on human health. Our neighborhood was exposed to these chemicals for over 10 years, so the extent of health problems and loss of life remain an enigma.

Map: Affected area; Mine; Xylene plume; Soil contamination; Cancer victims

In Hazle Township, the University of Pittsburgh has completed a health study of 84 homes. Results are pending from a similar study in Hazleton City. As Township residents, we are 10 times more likely to contract leukemia, a benzene-linked illness, 8 times more likely to contract stomach cancer, and 3 times more likely to have prostate cancer than the average Pennsylvanian. These results were verified at 95% validity. My neighborhood also challenges the national average of lupus, an autoimmune disease, with 5 cases per 250 people versus the nation's 1 case per 1000.

I am testifying today to convey to you the fear, hopelessness, and mostly, the loss of personal choice that we as victims of a spill must confront on a daily basis. One such case is a family who started to build a home in the spill zone. The frame is completed, but the bank stopped the mortgage. It is now a skeleton of rotting wood, a visible reminder of loss of property value. When you live in a gasoline-impacted neighborhood, the loss of freedom and control is absolute and very real. To understand the pain of this, please take the time to read the personal stories provided.

The areas over which we have no control include our health, the use of equity in our property and the sale of our property. All of these have a financial impact on the family and the community. Health care is a primary concern: the cost of treatment for cancer is high. One week of chemotherapy costs about $15,000. The cost to employers for health care continues to rise, not to mention the loss of productive, tax-paying citizens.

People who have small children cannot leave their homes, since they are locked into a mortgage. Others have been unable to obtain or increase a home equity loan,

which may be needed for repairs. Older citizens are unable to sell their homes and move to smaller homes or assisted care. A particularly heart-wrenching case is Mrs. Pauline, who has MDS Leukemia and is now out of remission for the 3rd time. She was recently featured in Mr. Weidenbach's film "Heroes of the Planet," which aired at the International Summit for Sustainable Development in Johannesburg. Mrs. P. was ordered to leave her home to minimize any additional contact with benzene. How must she feel knowing she has left her son and young grandchildren to live in a house next door? Another homeowner, who was denied a home equity loan by several banking institutions, asks the question, "If our houses are not safe, why should I raise my children here? If our house is safe, then why can't we get a loan?!" Please note that the bank's rejection letter specifying "Contamination" is contained in your packet.

The EPA did institute a cleanup effort; however, the Soil Vapor Extraction system will take 10's of years to affect a cleanup of the soil. The groundwater treatment will need to be operational for a similar period of time. In the meantime, our soil remains contaminated and our groundwater remains contaminated. The mine underlying our property poses additional risks, not present in many other spills. Last week an investigation of a mineshaft revealed gasoline product. This shaft is in a neighbor's back yard. Across the street from me, the monitoring wells in the resident's front yard have gasoline product of ¼" on top and continue to have high VOC readings. In short, the area remains polluted and the potential for re-contamination of the homes is probable. We remain at risk.

The Legislation you are considering is crucial in many ways; however, it should be across the board and not income-related. The spill is non-discriminatory, affecting old and young, rich and poor. In cases like ours, it is very important to specify the forgiveness aspect and who will make that decision. In our experience, we had to become adversarial with EPA in order to stimulate a serious cleanup effort. Our advocacy was not well received, so a loan program under their auspices would be concerning.

Thank you for your time and attention. The representative of our group and I are available to answer any questions.

House of Representatives' Financial Services Committee
Subcommittee on Housing and Community Opportunity
Testimony of Stephen A. Urban – 09/12/02
Commissioner, Luzerne County

Chairman Roukema, and other distinguished members of the House Financial Services Housing and Community Opportunity Subcommittee, thank you for this opportunity to appear before you to discuss our concerns in Luzerne County; and specifically how Leaking Underground Storage Tanks located in the Laurel Gardens, Hazel Township and Hazleton City have eroded home values in our communities.

A brief history of a large gasoline leak from underground storage tanks located in Luzerne County.

In 1991, the Pennsylvania Department of Environmental Protection began investigating complaints of gasoline fumes in the homes of several Hazle Township and Hazleton City residents in an area known as Laurel Gardens. Spurred by resident concerns, the Pennsylvania Department of Environmental Protection initially focused its efforts on identifying the cause of the fumes. An underground fuel leakage was believed to be the source of the fumes. Several activities and closed gasoline-service stations, auto body shops, and repair garages were identified as potential contributors to the spill. Subsequent evaluation by the Pennsylvania Department of Environmental Protection and the US Environmental Protection Agency led to the conclusion that the Tranguch Tire Service Station was the primary contributor to the underground fuel leakage, and the site was defined as the Tranguch Spill Site. In various reports, it has been estimated that between 50,000 to 900,000 gallons of Gasoline leaked from the underground storage tanks into the ground surrounding the service station. Once the fuel entered the ground, it migrated away from the underground storage tanks. Subsequently a large groundwater contamination plum was discovered emanating from the spill site. (Hazle Township Health Effects Study 1990-2000, University of Pittsburgh, Graduate School of Public Health).

Inspections of sewer systems from 1993-94 revealed that the gasoline had infiltrated the sewer system. The presence of gasoline in the sewer system suggested that the gasoline fumes might have entered the homes through the sewers surrounding the spill site. During the same time frame, the Pennsylvania Department of Environmental Protection began to monitor the indoor air quality of several homes. The levels of several organic solvents that are associated with gasoline were measured in 48 homes (PA Department of Environmental Protection 2001). Eighteen of these homes had elevated levels of benzene, toluene, and or xylene. These homes were equipped with vent traps designed to prevent gasoline fumes from entering the home. (Hazle Township Health Effects Study 1990-2000, University of Pittsburgh, Graduate School of Public Health).

A more comprehensive examination of the contaminated site revealed that gasoline had spread in a plume-like manner away from the initial spill site. Based on this examination, the boundaries of the affected area were delineated as follows: from the Tranguch service station south to 17th Street; north to 23rd Street; east to Meade Street; and west to Pennsylvania Routes 309/940. More recently, the northern boundary of the plume was extended to Black Creek and the western boundary to Evans Street (Environmental Protection Agency 2001).

All properties within the affected area were offered remediation venting. (Hazle Township Health Effects Study 1990-2000, University of Pittsburgh, Graduate School of Public Health).

In January 2001, the Luzerne County Commissioners were informed through public meetings presented by the US Environmental Protection Agency that more than 400 residential properties were affected by the Tranguch Gasoline Spill, caused by leaking underground storage tanks. Upon notification of the magnitude of the gasoline spill, we also learned that very little immediate help was available for homeowners living in the spill site. My immediate concerns were for the health and safety of our residents living in the gasoline spill area and to determine if funds were available from the Federal or State Government to assist homeowners to relocate outside the spill area. Through work with Federal and State Agencies, I learned that funds were not available for homeowners to move permanently outside the spill area.

I believe residents in our community are in favor of establishing a program to allow homeowners the option of recovering the equity from their property. Over the past two years, my office has received numerous phone calls and letters from homeowners residing in the Tranguch Spill Site asking for help in gaining equity in their homes, or to relocate outside of the spill area. Also, in public meeting with homeowners, many impacted homeowners asked for help in relocating from the spill site.

Many residents have cited health and safety concerns as a primary reason for wanting to leave the spill site, and because they fear the unknown. Residents do not know how long the underground storage tanks have been leaking. Residents do not know the length of time they have been exposed to Benzene, or other toxic by-products of the gasoline spill. The Government does not have data that can accurately predict what effect low dose; long-term exposure to Benzene and other toxic by-products of gasoline will have on the health of people living in an area environment contaminated with gasoline. And, the time period for cleaning up of the Tranguch Spill Site is unknown.

Based upon a history of the Tranguch Gasoline Spill, underground storage tanks were probably leaking as early as 1991, when homeowners first began to smell gasoline fumes. In my opinion, the health and safety of our homeowners should be our paramount concern, and homeowners should be allowed to receive equity from their property and be given the opportunity to move on with their lives and live in a more health environment.

Homeowners residing in the Tranguch Spill Site have not been treated fairly. Compare the magnitude of the Tranguch Gasoline spill 50,000 to 900,000-gallons of gasoline that traces its origin to 1991, with another oil spill that occurred in Jackson Township, Luzerne County in the year 2000.

In January 2000, a 5,500-gallon oil spill erupted in Jackson Township, Luzerne County. Of the 17 homes impacted by the 5,500-gallon spill all residents were offered buyouts. Of the 17 homes impacted, nine were settlements involving tenants who chose to say on the property and eight were settlements that resulted in a buyout of the property owner. In addition, all impacted property owners received a minimum inconvenience payment of $50,000 and impacted tenants received a $10,000 payment. In addition, homeowners that chose to continue to live in impacted homes were awarded a maximum amount of $95,000 in return for the release of all claims, except personal injury at the end of five years.

In Jackson Township, Luzerne County, a responsible Oil Company made the right decision and provided equity to homeowners impacted by an oil spill. The Oil Company offered equity in the form of a buyout to homeowners. Homeowners residing in the Tranguch Spill Site deserve the same type of treatment from the government as homeowners in Jackson Township received from an oil company. Homeowners residing in the Tranguch Spill Site deserve the option of receiving the equity from their property because they are victims of an environmental disaster.

In response to the large number of families affected by the Tranguch Gasoline Spill, the Luzerne County Commissioners implemented several measures to help homeowners in responding to this case of environmental contamination.

On March 7, 2001, The Luzerne County Commissioners adopted a Resolution Declaring a State of Emergency within the City of Hazleton and Hazle Township, Luzerne County, Pennsylvania. Our resolution stated that homeowners residing in the City of Hazleton and Hazle Township, Luzerne County are adversely affected by a gasoline spill which has entered into the underground mine system in that section of the County. Luzerne County recognized that a potentially serious health risk exists in Tranguch Gasoline Spill Area, caused by the exposure to Benzene, as well as other toxic by-products of the gasoline spill. Also, our resolution supported a buyout of the affected residential real estate. This State of Emergency remains in effect today.

On February 7, 2001, the Luzerne County Board of Commissioners at a public meeting, unanimously approved a Resolution requesting the Luzerne County Board of Assessment Appeals to approve requests, to reduce to zero value the realty assessments of those real estate properties adversely affected by the Tranguch Gasoline Spill, as determined by the Federal Government for a time period January 1, 2001 to December 31, 2002.

In our resolution, the Luzerne County Board of Commissioners recognized that homeowners are subject to a potentially serious health risk which exists due to exposure to Benzene, as well as other toxic by-products of the gas spill, and that homeowners continue to be unable to sell their properties, or to establish equity in their properties. The total taxes forgiven by Luzerne County, the Hazleton Area School District, Hazleton City and Hazle Township for tax years 2001 and 2002 was $1,287,207.20.

In June 2001, several homeowners and I met with the Honorable Tom Ridge, then Governor of Pennsylvania, to discuss resident health concerns and to request State assistance for homeowners living in the Tranguch Spill Site. At the conclusion of our meeting, Governor Ridge offered all homeowners living in the Tranguch Spill Site a Carbon Air Filtration System. Also, Governor Ridge agreed to fund a Health Study of homeowners living in Hazleton City, to help examine potential health risks that might be related with living in an area contaminated with gasoline.

On August, 21, 2002, the Luzerne County Board of Commissioners at a public meeting unanimously approved a Resolution requesting the Luzerne County Board of Assessment Appeals to approve requests, to reduce to zero value the realty assessments of those real estate properties adversely affected by the Tranguch Gasoline Spill, as determined by the Federal Government for a time period January 1, 2003 to December 31, 2003. The Luzerne County Commissioners recognized in our resolution that homeowners continue to be subject to a potentially serious health risk which exists due to exposure to Benzene, as well as other toxic by-products of the gas spill, and that homeowners continue to be unable to sell their properties, or to establish equity in their properties. The total taxes to be forgiven by Luzerne County, the Hazleton Area School District, Hazleton City and Hazle Township for tax year 2003 is expected to be $693,153.00.

Again, thank you for this opportunity to address you on this important issue. I would be happy to answer any questions you or any members of the Committee may have.

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