June 29, 2009

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Re: Idaho Petroleum Clean Water Trust Fund

Dear Members of the Legislative Task Force:

I am the Chairman of the Idaho Petroleum Clean Water Trust Fund (Trust Fund) Board of Trustees (Board). The Board is responsible for managing the Trust Fund and implementing the Idaho Petroleum Clean Water Trust Fund Act which was created in 1990 by the Idaho legislature. The Trust Fund provides insurance for owners and operators of aboveground and underground storage tanks containing petroleum products in order to meet the U.S. Environmental Protection Agency's (EPA) financial assurance requirements that funds are available to clean up spills or leaks from petroleum tanks. The Trust Fund provides liability insurance coverage for petroleum storage tank owners and operators. The Trust Fund is a non-profit insurance company regulated by the Department of Insurance which issues insurance contracts to petroleum storage tank owners or operators such as gas station operators.

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The Trust Fund has approximately 871 insurance contracts in force, all of which are legally binding. The Trust Fund insures both small and large gas station operators providing them with one million dollars in insurance coverage for environmental clean up from any leaking underground storage tank. Over 90% of the insurance contracts are issued to smaller gas stations throughout the state of Idaho. Without this insurance, rural and smaller gas stations would have to close. All others would have to raise the price of gasoline.

Idaho's program has been highly successful and is solvent due to its careful management as an insurance company and not a clean up fund. As an insurance company the Trust Fund must, by law, keep insurance reserves in the form of monies or high quality bonds in reserve to pay for clean ups.

The legislature's rationale for creating this insurance mechanism was to protect the environment and Idaho's clean surface and ground waters. It was also to insure that Idaho citizens have access to gas stations. The Trust Fund insures approximately 90% of all gas stations in Idaho with the overwhelming majority of those (over 80%) being single sites or one owner gas stations. The vast majority of tanks insured by the Trust Fund are owned by individuals or small owners and operators who likely would not be able to sell fuel or obtain insurance if the state program was placed in jeopardy.

It is important to remember that when the federal financial assurance requirements took effect in 1988, Idaho had approximately 12,000 tanks in operation. Today there are 3,000, meaning that over 75% of tanks existing in 1988 were pulled out of service and closed.

The Trust Fund is financed by a transfer fee and income from the money currently held in trust. The transfer fee is two-tenths of a penny per gallon of gas. So, of the one penny charged, seventy-seven percent goes to the highway distribution account, 3% to the Idaho Park's Department and the remaining 20% to the Trust Fund. The fund has retained actuaries and investment advisors to keep it solvent and has remained so in spite of the tremendous economic conditions in 2008. The current transfer fee is absolutely necessary to maintain the solvency of the insurance policies issued by the Trust Fund. The monies held in trust for the insurance is working hard to protect Idaho's business and travelers, while protecting Idaho's ground and surface waters from the effects of leaking storage tanks.

As Chairman of the Board, I strongly encourage that the legislative task force identify alternative dedicated funding sources that will not interfere or take monies from the Trust Fund. This is a successful program and eliminating monies or jeopardizing the ability to collect funds would jeopardize the ability of Idaho's gas stations to stay in business. Reducing funding of the Trust Fund will have negative environmental consequences because there is no easily available insurance to clean up spills or leaks.

If you have any questions please give me a call.

Very truly yours,

Forde Johnson
Chairman of the Board of Trustees
Of the Idaho Petroleum Clean Water Trust Fund