

House Republican Press Release

February 14, 2007
Press Office: 860-240-8700

**Rep. Hamzy, Susan Ferreira of Plymouth: Family Suffering from
MTBE Contamination Deserves Compensation**



*Support Measure to Enable Ferreira Family to
Be Compensated from Underground Storage
Tank Fund*

State Representative William A. Hamzy and Susan Ferreira of Plymouth, whose family was exposed to MTBE-contaminated water that seeped into their well from a damaged underground gasoline storage tank located on a nearby property, today testified in favor of a bill that would enable them to be compensated for attorney's fees and costs they incurred for legal action they took relating to the damages they suffered because of the contamination.

The measure (House Bill 6559) would enable the Ferreira Family, of Plymouth, who lived near a property formerly owned by Dairy Mart, which used to operate a gasoline station there, to collect compensation for the attorneys fees and costs they incurred in a lawsuit against Dairy Mart and in attempts to recoup their losses from the state's Underground Storage Tank Fund (UST), said Representative Hamzy, R-78th District, who introduced the bill.

Enactment of the legislation "is absolutely critical to provide the relief the Ferreriras have been denied for far too long," Representative Hamzy said in testimony before the General Assembly's Environment Committee today (Wednesday, February 14, 2007).

"In 1997, Dairy Mart's underground storage tank leaked and contaminated the Ferreira's well with MTBE to the tune of 900 parts per billion. The Ferreriras and their four young children drank the water for a couple of years before the release was ever admitted by Dairy Mart or even discovered by the Department of Environmental Protection," Representative Hamzy said.

"We had been drinking this carcinogenic water for at least two years before anyone notified us. Dairy Mart officials knew about the contamination in 1997 but failed to report it," Mrs. Ferreira testified. "Not knowing what MTBE was, we researched it and discovered how poisonous it was. We then decided to hire an environmental attorney."

"We initially took action against Dairy Mart to recoup the costs that were incurred as a result of their negligence, to clean up our property and connect to water. Unfortunately ample time was allowed for Dairy Mart to declare bankruptcy, leaving us no recourse but to pursue compensation through the UST," Mrs. Ferreira said. "I was informed that most if not all my legal and other fees would be paid by this fund. I had no reason to doubt

otherwise. Unfortunately, a statute passed back in 2005 changed any hope we had that this would occur, leaving us with hundreds of thousands of dollars in legal fees and other expenses.”

“Ultimately, after a long battle, we were awarded \$70,000 to cover our costs. Obviously, this was nowhere near what we already had accrued in legal fees, leaving my family in a very precarious financial position,” Mrs. Ferreira said.

Mrs. Ferreira said that as a probable result of her family’s exposure to the MTBE-contaminated drinking water, her two youngest children suffer from asthma and dental problems; her youngest child developed “a mysterious head-to-toe body rash after taking a shower;” her husband suffers from frequent migraine headaches and severe respiratory illnesses; and she is “riddled with tumors throughout my body.”

“No parent ever should have to worry that their child may develop cancer. Unfortunately this is a cloud that lingers over our heads daily. I wish I could turn back the clock - hindsight is 20/20 vision - but unfortunately this worry will follow us the rest of our lives. I implore you to please support this bill to at least alleviate some of our fears and concerns,” Mrs. Ferreira told the committee.

“As you can imagine in a complex environmental case like this, the attorney’s fees have been substantial. The Ferreriras’ fees have been made even worse by how long their claim has taken. On a number of occasions, the Underground Storage Tank Petroleum Clean-Up Review Board postponed or tabled the Ferreriras’ claim. While the Ferreriras’ fees were eligible for payment from the fund when their claim was first submitted in 2001, subsequent changes in state law have not only made such eligibility questionable, there is now an explicit cap on the amount of attorney fees which could ever be paid from the fund,” Representative Hamzy said.

“Mr. and Mrs. Ferreira are already victims of Dairy Mart’s negligence. They should not be victimized a second time by the state. The fund was created expressly for the purpose of providing relief to those who are harmed by the illegal release of petroleum products into groundwater. It ought to be allowed to be used in this case to provide some relief to the Ferreriras,” said Representative Hamzy, adding the Department of Environmental Protection supports the bill.

The bill would allow persons who filed claims on or before March 31, 2003, against the underground storage tank fund to collect interest accrued on attorneys’ fees. It also would exempt applications filed on or before June 30, 2005, from the five and ten-thousand-dollar limits on attorneys’ fees currently imposed by state statute, Representative Hamzy said.