

# THINK



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## FIRST Fund-amentals

by Frank Gavas

The Fund for the Inability to Rehabilitate Storage Tank sites, more cordially known as FIRST Fund, is the latest financial assistance program offered to the UST community by the UST Branch. The fund was developed to address the increasing number of orphaned USTs. To date, ten sites have been approved for FIRST fund work.

An UST site may qualify for FIRST Fund if lack of ownership can be proven or inability to pay can be proven by the UST owner. UST ownership is determined by a process called discovery in which all potential owners are issued a letter of discovery requiring them to answer various questions attesting to their knowledge of the UST system and submit documentation which corroborates their written testimony. The Department may use other resources such as property deeds, tax records, lease records, and database records to further determine ownership.

The availability of FIRST Fund should not be misconstrued as the opportunity to circumvent UST responsibility via property transfer. Sites will be FIRST Fund eligible in cases where current lack of ownership is determined and no previous owners are identifiable and solvent. Owner, as it is defined in the UST Regulations, is the last person to use the tank(s).

A site may be proven eligible for FIRST Funds when an owner proves an inability to fund required actions. Inability to pay may be proven at any point in the UST life cycle from discovery to corrective action and closure. A

site may transition into FIRST funding during an investigation or clean-up. An owner must submit a detailed Financial Analysis Application to prove inability to pay.

Upon approval, the UST owner will be issued a Letter of Intent and a Financial Responsibility Certification both requiring signature and notarization. The Letter of Intent provides the Department written permission to perform all activities associated with site rehabilitation using FIRST Funds which may include UST removal or abandonment, site assessment, corrective action, mitigation and emergency response, and site restoration. The Financial Responsibility Certification documents that no insurance or other financial mechanisms are available to fund required actions.

The FIRST Fund is limited and may be recapitalized once a year. All sites will be evaluated for fund eligibility on a first come first served basis. As more sites are approved for funding, site prioritization will likely be necessary to assure the solvency of the fund and provide for smooth site transition from approval through closure.

Should you prove ineligible for FIRST Fund, the Department has an alternative financial assistance program available called Program Loans for Underground Storage tanks (PLUS). The PLUS loan program offers low interest loans to UST owners and operators to assist them in complying with Delaware's UST Regulations. Please contact the UST Branch for information regarding FIRST Fund and the PLUS financial assistance program.

*An UST site may qualify for FIRST Fund if lack of ownership can be proven or inability to pay can be proven by the UST owner.*

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# Underground Injection Control (UIC) Permit Procedure

by Tripp Fischer

According to the United States EPA, the Safe Drinking Water Act established the UIC Program to "provide safeguards so that injection wells do not endanger current and future underground sources of drinking water." The program accomplishes this goal by requiring, on a state or federal level, complete documentation of the construction, purpose and location of each underground injection well.

The definition of an injection well, according to the UIC Program, is, "any bored, drilled or driven shaft or dug hole, where the depth is greater than the largest surface dimension that is used

to discharge fluids underground." Therefore, the injection of Oxygen Release Compounds (ORC), Hydrogen Release Compounds (HRC), bacteria slurries, and the re-injection of treated, but still contaminated, groundwater all require a UIC permit. Well then, how does one apply for a UIC permit?

On April 5, 1984, the U.S. EPA authorized the State of Delaware to have primary responsibility for the UIC Program for all classes of wells. Therefore, all UIC permit applications and inquiries may be sent directly to:

DNREC's Ground Water  
Discharges Section

UIC Program  
89 Kings Highway  
Dover, DE 19901  
302-739-4762

Currently, there is no charge for the UIC permit and application. The only cost incurred will be during the actual well-permitting stage (through the Well Permits Branch of the DNREC) for the installation of the well to be used for injection.

For additional information on the UIC Program from the EPA's Office of Water, visit: <http://www.epa.gov/safewater/uic.html>

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## What's new with Vapor Recovery?

by Colin Gomes

### IBB install "Harmony" System

On July 24, 2001, IBB Incorporated became the first facility in the State to install a Stage 2 system certified compatible with onboard refueling vapor recovery (ORVR). The company installed the Healy 600 ORVR/800 Nozzle Vapor Recovery System at its Concord Avenue, Wilmington location.

Starting with 40% in 1998, 80% in 1999 and 100% in 2000, the federal government mandated that passenger cars be equipped with devices which can recycle gasoline vapors during refueling. These devices were incompatible with all the "Assist" Vapor Recovery systems installed throughout the State, until now.

In August 1999, Healy Systems, Incorporated received certification for the system from the California Air Resources Board (CARB) though their Executive Order process. This made it possible to install the system in Delaware. Congratulations on being the first.

### Wawa installs first swivels

On June 6, 2001, Wawa Incorporated completed the installation of a vapor recovery system at their new location in Rehoboth. The CARB Executive Order for the system required Stage I devices, which prevent loosening or overtightening of the product and vapor adaptors. Complying with this requirement makes this facility the first in Delaware to install swivel adaptors.

CARB approved the first rotatable product adaptors in 1995. The device was designed to address the persistent problem of vapor leaks at the joint between the tank riser and the tight-fill adaptors. Product drops into the storage tank begin the process of breaking the seal. During the Stage 1 transfer, the delivery truck hoses shake the connections to the extent that the adaptors are loosened or overtightened. Overtightening causes the washer in the adaptor to be crushed or pushed out of its seat-



ing. Swivel adaptors solve this problem by allowing the top section to move with the hose while the lower section remains secured to the riser. This prevents air aspiration into the tank, gasoline vapor leaks into the atmosphere and maintains the efficiency of the Vapor Recovery System.

### Regulations under review

On July 24, 2001, DNREC Air Quality Management Section hosted a workshop on proposed changes to the Vapor Recovery Sections of the *Regulations Governing the Control of Air Pollution*. Some of the proposals include an annual Leak Test, installing vapor shear valve swivel adaptors and dual point systems. The entire proposal can be viewed on the Department web site at [http://www.dnrec.state.de.us/air/aqm\\_page/pro\\_regs.htm](http://www.dnrec.state.de.us/air/aqm_page/pro_regs.htm)

Any questions or comments should be forwarded to Deanna Morozowich at (302) 739-4791.

# Freedom of Information Act (FOIA)

by Emil Onuschak

**D**elaware's Freedom of Information Act (29 Del.C. 100) was enacted to ensure that public business is performed in an open and public manner and that citizens have easy access to public records. Facilities files of the Underground Storage Tank Branch are open and available to the public for review.

## Why would you be interested?

Obviously, if you're interested in buying and operating a service station, you would like to know the station's history. Is it in compliance with regulations? Has it experienced a release in the past? If so, has it been cleaned up? Better to know the answers to these and other questions before you make any firm financial commitments lest you end up as the Responsible Party for somebody else's leaks.

If you're planning to start a business and are looking for a site where you can operate, you would like to know if the property has been a service station or other petroleum-related facility in the past. And if so, what is its history? For all practical purposes, "pristine" sites are non-existent and every place has been used for something else in the past. Used for what? is the question you should ask. (Recycling environmentally-impacted sites that have been cleaned up—"brownfields" and "USTFields"—is an expanding activity aimed at returning such sites to productive use and to the tax rolls).

Finally, if you're interested in buying any property and want to know if there's a leaking underground storage tank site nearby—especially if your "target property" has its own water-supply well—you would like to review the histories of any nearby tank facilities.

## Gaining access

UST Branch files are organized by facility number, which is a 7-digit number beginning with 1-, 3- or 5- for facilities in Kent, New Castle and Sussex counties, respectively. Within each facility file, information is organized by certain general categories common to each facility—the "file code" noted at the top of any correspondence you may have received from the Branch.

A lot of time and money have been invested to organize Branch files so information can be retrieved as quickly as possible, which is to everyone's benefit. Organization is an ongoing process: each time a new document is added to a facility file, it is added to the document inventory for that facility. Clearly, unsupervised access to UST Branch facility files would result in the loss of this investment. The FOIA ("foi-yah") procedure is designed to provide public access to Branch files while still keeping them organized.

So, how do you get a file actually in your hands to look through?

## Easy as 1-2-3:

1. Tell us who you are.
2. Tell us what file you would like to see.
3. Tell us anything else that will help us find the information you're looking for.

Call or visit the UST Branch and tell the receptionist you would like to make a FOIA request. A Freedom of Information Request Form and a copy of the FOIA regulation will be mailed or given to you to make it easy to provide the information listed above. You can also submit a FOIA request via the Internet at: [http://www.dnrec.state.de.us/air/aqm\\_page/foia.htm](http://www.dnrec.state.de.us/air/aqm_page/foia.htm). The FOIA regulation describing

the whole procedure in detail is also located at this site.

The form will ask your name, address and phone number and will ask you to provide the name, address and present or previous owner (if known) of the site in which you're interested.

But, you say, I don't know that information for the site in which I'm interested. I just know where it is. No problem. Log onto the Internet at home, at a library or school or at a Department office and use the mapping program that allows you to select rectangular areas of interest, zoom in to almost any level of detail, identify individual sites and call up reports of their status. Go to DNREC (<http://www.dnrec.state.de.us/dnrec2000/>) and click on "Underground & Above Ground Tanks and then click on "DNREC ONLINE for Underground Storage Tanks."

(NOTE: The UST Branch does not have the capability to research sites by tax parcel numbers or site maps.)

When you are notified that your requested files are ready for review, you simply visit the UST Branch where a separate room is set aside for your convenience. (The files may not be removed from the premises.) Staff is also available to answer any questions you may have about technical terminology or other items.

You may request copies of anything in the files. You will be charged ten cents per page and copying will be done depending on staff availability. If you request more than 250 copies, you will have to bring in your own copying machine and do the copying yourself. Cost recovery for paralegal review of the files may apply to FOIA requests.

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# THINK TANK

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## Announcements

*Tara Chambers* - promoted to Senior Secretary - Tara has worked as a secretary for the UST Branch for four years.

*Barb McGuigan* - promoted to Application Support Specialist - Barb has worked for the UST Branch for 10 years and will be based in the Secretary's Office in Dover

*Peter Rollo* - promoted to Environmental Engineer III - Peter has worked in the UST Branch for two years.

*Linda Coleburn* - promoted to Mini Micro Computer Operator I - Linda has worked for the State 15 years and six years for the UST Branch.

## Odds 'N Ends

### New UST Web page

The UST Branch has a new web site address —

<http://www.dnrec.state.de.us/dnrec2000/Divisions/AWM/ust/>

### UST State Contracts

The Branch anticipates advertising in December, 2001, two Requests for Proposals for State-lead UST work. The first contract will be for removal/abandonment and overexcavation of tanks and will be open to Delaware certified contractors. The second contract will be for hydro-geologic site investigations. It is anticipated that contracts will be made with multiple vendors. Look for the two Requests for Proposals to be advertised in the *Delaware Capitol Review* and on the State of Delaware, Division of Purchasing web site —

[http://www.state.de.us/purchase/html/latest\\_bids.htm](http://www.state.de.us/purchase/html/latest_bids.htm).

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