



# IOWA UNDERGROUND STORAGE TANK FUND

Douglas M. Beech, *Chairperson*

Dale T. Cira, *Administrator*

*Board Members:* Michael L. Fitzgerald    Joseph D. Barry    Jeff. W. Robinson    Karen E. Andeweg    Chuck Gipp  
Timothy L. Gartin    Dawn M. Carlson    Patricia J. Beck    N. Kurt Mumm

September 30, 2014

Mr. Glen Dickinson  
Legislative Council  
State Capitol Building  
Des Moines, IA 50319

We are pleased to provide the attached report regarding the Iowa Comprehensive Underground Storage Tank Fund (UST Fund) progress for activities through the end of the 4<sup>th</sup> quarter of FY2014. The report is submitted pursuant to Iowa Code Section 455G.4(6) titled "Reporting".

The code section calls for the report to include the following items:

- Total open claims, including identification of the number of new claims
- IDNR risk classification associated with open claims
- Total reserve figures
- Summary of budgets approved during the reporting period
- Breakdown of categories of claim payment expenditures during the reporting period

Some of the information in the attached report tables is obtained from the Department of Natural Resources (IDNR), but the report numbers deal with UST Fund claims and therefore do not include all IDNR reported releases since not all meet the eligibility criteria of Iowa Code Section 455G.

Included in this report are two tables; the first provides a summary of the program status areas, while the second provides a comparison of facts for the last three fiscal years. I have also attached the annual Program Overview Report which is presented to the UST Fund Board during the annual planning meeting.

This report will be submitted following the close of each quarter throughout the year to both this council and the Chair and Ranking members of the House Environmental Protection Committee and the Senate committee on Natural Resources and the Environment consistent with Iowa Code Section 455G.4.

Please note that during this reporting period, the named Administrator for the UST Fund Program was changed to Mr. Dale Cira. Mr. Cira can best be reached by his cell phone at (314) 443-4776.

If you would like to discuss the enclosed report or other issues associated the UST Fund, please call the Fund Administrator, or you can call me at the Administrator's office at 515/440-7016.

Sincerely,

James Gastineau  
Deputy Administrator

## UST Fund Program Status Areas 4QFY2014 (June 30, 2014)

### 1. Financial

#### Balances

	End - FY 2014	Jun 30, 2013	Jun 30, 2012	Jun 30, 2011
Revenue Fund	\$524,210	\$14,470,480	\$16,326,235	\$ 9,290,721
Unassigned Revenue	\$11,681,366	\$ 8,133,085	\$745,123	\$ 4,701,810
Remedial Fund	\$8,681,846	\$ 4,347,071	\$3,510,808	\$ 2,476,236
Marketability	\$ 755,308	\$ 742,024	\$730,433	\$ 717,264
Innocent Landowner	\$8,604,467	\$ 2,176,164	\$2,963,372	\$3,789,762
Loan Guarantee	\$ -0-	\$ -0-	\$277,723	\$ 276,905
Capital Reserve Funds	\$ -0-	\$ -0-	\$ -0-	\$ -0-
<b>Total</b>	<b>\$30,247,200</b>	<b>\$29,868,825</b>	<b>\$24,553,694</b>	<b>\$ 21,252,698</b>

#### Previous and Pending Transfers

*\$108.3 Million Breakdown*

FY2001--\$11+ million

FY2002--\$18 million

FY2003--\$30 million

FY2005--\$5 million

FY2007--\$3.5 million

FY2008--\$6.5 million

FY2009--\$4.9 million

FY2011--\$26.4 million

FY2012--\$3 million

#### Paid on Claims

\$22.8 million FY2005

\$18.2 million FY2006

\$12.1 million FY2007

\$ 9.5 million FY2008

\$ 6.6 million FY2009

\$ 7.0 million FY2010

\$ 5.8 million FY2011

\$ 6.6 million FY2012

\$ 7.6 million FY2013

\$10.3 million FY2014

### 2. Operational

#### Changes

- Claim counts trending downward
- Negotiating closure of commingled claims through transfer to counterparty
- Focus on remaining mission—close state liabilities for old cleanups with finality for claimants and property owners

#### Expected Results

- Continued reduction of claim count
- Progress toward closure within current funding sunset parameters (June 30, 2016)

### 3. Results

#### LUST Sites and Classifications by IDNR

	03/31/2014	%	<u>Remedial</u>	<u>Retroactive</u>	<u>Innocent LO</u>	<u>Total</u>
Total LUST Sites:	6,599					
Total Active LUST Sites:	971	15%	422	32	148	602
Total Low Risk LUST Sites:	225		111	5	36	152
Total High Risk Sites:	499		249	23	71	343
Total NFA Sites:	5,489	84%				

#### UST Fund Open Claim Files

	Jun 2014 with Liability	Jun 2013	Jun 2012	Jun 2011	Jun 2010	Jun 2009	Jun 2008
Retro Claims	31--\$ 1.7 million	36	39	44	54	61	68
Remed Claims	414--\$ 21.1 million	481	532	609	712	767	845
ILO Claims	140--\$ 4.8 million	153	162	187	206	217	235
<b>Totals</b>	<b>585--\$ 27.6 million</b>	<b>670</b>	<b>733</b>	<b>840</b>	<b>972</b>	<b>1,045</b>	<b>1,148</b>

**COMPARISON FY 2012 - 2013 - 2014**

Claims	Open Claims June 2012 Ending	Open Claims June 2013 Ending	Open Claims June 2014 Ending
<b>RETROACTIVE</b>			
number	39	36	31
reserve	\$1,577,391.00	\$2,071,441.48	\$1,682,588.42
paid	\$6,792,609.00	\$6,598,419.88	\$6,487,273.24
	\$8,370,000.00	\$8,669,861.36	\$8,169,861.66
<b>REMEDIAL</b>			
number	532	481	414
reserve	\$25,138,937.92	\$22,612,130.34	\$21,068,796.45
paid	\$78,537,950.40	\$77,290,855.97	\$74,256,940.45
total	\$103,676,888.32	\$99,902,986.31	\$95,325,736.90
<b>INNOCENT LANDOWNER</b>			
number	162	153	140
reserve	\$6,847,223.50	\$6,443,202.22	\$4,778,187.28
paid	\$11,555,636.50	\$11,167,819.92	\$11,448,924.36
total	\$18,402,860.00	\$17,611,022.14	\$16,227,111.64
<b>GLOBAL OPT-IN</b>			
number	140	120	95
reserve	\$803,910.79	\$663,469.74	\$477,419.22
paid	\$1,097,627.02	\$949,373.37	\$782,602.21
total	\$1,901,537.81	\$1,612,843.11	\$1,260,021.43
<b>UNASSIGNED REVENUE FUND PROJECTS</b>			
number	0	21	42
reserve	\$0.00	\$509,105.56	\$865,020.89
paid	\$0.00	\$70,894.44	\$310,979.11
total	\$0.00	\$580,000.00	\$1,176,000.00
<b>NFA RE-EVALUATIONS</b>			
number	18	21	19
reserve	\$399,659.37	\$533,653.69	\$400,957.04
paid	\$323,050.63	\$313,346.31	\$364,042.96
total	\$722,710.00	\$847,000.00	\$765,000.00
<b>TANK PULLS</b>			
number	33	36	38
reserve	\$365,616.00	\$421,921.00	\$492,358.00
paid	\$0.00	\$0.00	\$0.00
total	\$365,616.00	\$421,921.00	\$492,358.00

Corrective Action Mtgs (FY11-14)	
FY14 meetings	51
FY13 meetings	68
FY12 meetings	57
FY11 meetings	65

UST Operator Training	
A/B trained (total)	2,759
A/B trained (FY14)	156
Class C System	328

Open Claims FY13: FY14 Change	
RT Claims	#
New	0
Reopened	0
Closed	5
RM Claims	#
New	3
Reopened	15
Closed	85
ILO Claims	#
New	10
Reopened	4
Closed	25
GS Claims	#
New	0
Reopened	3
Closed	28
USTCA	#
New	26
Reopened	3
Closed	7
NFA Re-Eval	#
New	8
Reopened	0
Closed	5
Tank Pull	#
New	74
Reopened	3
Closed	74

Invoice Type Totals	FY 12	FY 13	FY 14	Program to Date
Aon - Admin	743,121.00	727,208.00	704,443.36	
Aon - Claims	507,000.00	468,000.00	429,000.00	
Government	2,752,802.74	855,428.30	2,061,813.53	
2004 Tank Pull	0.00	0.00	0.00	\$ 1,761,013
2010 Tank Pull	1,136,428.27	1,181,981.52	938,532.01	\$ 3,508,860
American Soils	0.00	0.00	0.00	\$ 5,678,423
AST Removal	0.00	0.00	0.00	\$ 3,306,435
AST Upgrade	0.00	0.00	0.00	\$ 7,911,497
CADR Charges	64,874.42	47,916.13	212,193.44	\$ 4,517,553
Corrective Action	53,303.02	266,471.12	1,042,625.22	\$ 52,331,079
Expenses (OT)	72,120.00	10,640.00	16,100.00	\$ 266,760
Free Prod Recover	463,167.34	647,641.23	642,124.05	\$ 10,544,414
Monitoring	1,603,339.72	1,752,167.58	1,785,487.23	\$ 29,255,496
Operations/Maint	434,323.70	478,724.77	421,742.61	\$ 9,893,814
Over-excavation	1,168,108.72	1,499,579.96	2,478,237.07	\$ 30,377,495
Plastic Water Lines	206,207.90	125,598.58	191,669.04	\$ 2,214,305
Post RBCA Evalts	13,923.57	20,801.24	11,863.82	\$ 216,237
RBCA	247,810.08	182,930.58	353,428.50	\$ 26,136,371
Remed Imp/Const	654,586.96	997,308.47	1,671,658.85	\$ 28,146,884
SCR Charges	0.00	0.00	9,071.85	\$ 54,217,410
Site Check	3,517.76	2,582.50	0.00	\$ 140,053
Soil Disposal	0.00	13,878.91	53,680.40	\$ 738,387
Tank (UST) Pull	5,487.00	0.00	0.00	\$ 3,961,384
Tank (UST) Upgrade	0.00	0.00	0.00	\$ 3,440,850
Tier III	66,015.21	18,109.08	52,721.18	\$ 1,324,162
Utilities	180,182.87	169,462.36	150,816.96	\$ 1,968,097
Well Closure	210,913.10	163,693.13	287,072.33	\$ 3,612,954
Total Invoice Types	6,584,309.64	7,579,487.16	10,319,024.56	\$ 284,519,638
<b>Remediation Budgets Approved</b>				
FY 2014	52	\$3,441,020		
FY2013	44	\$3,123,546		
FY2012	34	\$1,930,503		
Total Since Jan 2003	1,130	\$46,443,707		

USTCA Projects	
Current:	42
Fund eligible:	25
Non-eligible:	17

## THE IOWA COMPREHENSIVE PETROLEUM UST FUND PROGRAM PROGRAM OVERVIEW AND STATUS

### I. BACKGROUND

The Iowa Comprehensive Petroleum Underground Storage Tank Fund was created in 1989 to assist owners and operators of USTs to comply with state and federal environmental regulations. The program, which was created in HF 447, was codified under Iowa Code 455G. Iowa's legislature established a Board to oversee three (3) separate programs under the state fund - a remedial program, loan guarantee program, and an insurance program. The Board promulgated rules under IAC 591 to administer and implement the programs.

The legislative intent identified in the preamble of HF 447 was to assist owner/operators, especially small businesses, to comply with minimum federal technical and financial responsibility standards. The legislature noted that implementation and interpretation of HF 447 shall recognize the following topics:

- adequate and reliable financial assurance for the costs of cleanup on pre-existing releases
- create financial responsibility assurance mechanism (insurance) to pay for future releases
- fund designed to be interim measure
- minimize societal costs and environmental damage
- maintain Iowa's rural petroleum distribution network

#### The Remedial Program

The remedial program was established to provide funding for the cleanup of past releases from USTs. To qualify for remedial benefits, releases had to be reported to DNR between January 1, 1985, and October 26, 1990 and to the Board by February 26, 1994. In addition, sites with active tanks must demonstrate financial responsibility to maintain eligibility. The remedial program reimburses up to \$20,000 for a Site Cleanup Report (SCR) or Risk Based Corrective Action (RBCA) report, 82% of corrective action costs up to \$80,000, and 100% of remaining corrective action costs up to \$1 million. As of June 30, 2014 there were 445 open eligible claims for reimbursement under the remedial program (includes both remedial and retroactive claims). To date, \$231,393,047.68 has been paid under the remedial program. In addition, \$19,005,195.26 has been paid on claims under the retroactive provisions; \$34,565,020.74 has been paid on claims under the innocent landowner program. These figures are for all open or closed claims over the entire life of the program to date.

#### Loan Guarantee Program

The loan guarantee program provided up to a 90% guarantee to lenders to assist operators to pay for remedial expenditures and to assist them in upgrading their UST systems. This guarantee mechanism allowed operators to obtain necessary financing, even though their

property (collateral) may have been contaminated. The loan guarantee program was not a direct loan program; rather it was a guarantee to the lender, which allowed lending institutions to provide the financing. The loan program ceased accepting new applications for loans effective 12/31/99 and the existing portfolio is in runoff. The last loan guarantee was paid in full in fiscal year 2011.

### Insurance Program

The insurance program was designed to provide a separate fund for all releases, which occurred after October 26, 1990, and to satisfy federally mandated financial responsibility requirements. It was an EPA approved financial responsibility mechanism. The program was established with a nominal tank premium fee established by the legislature. The fee increased each year until 1995 when actuarially sound premiums were established. The money initially transferred to start the insurance fund was repaid to the general UST fund with interest. The balance of the fund after 1995 was the result of premiums and interest on those premiums charged to tank owners.

On November 8, 2000 the balance of the Insurance Fund was transferred to Petroleum Marketers' Mutual Insurance Company (PMMIC), a not-for-profit mutual insurer domiciled in Iowa. The UST Fund Board entered into a Memorandum of Understanding (MOU) to transfer the funds upon satisfaction of the MOU by PMMIC. This transfer took the UST Board out of the insurance program. The MOU also placed certain restrictions on the new company to place assurances that PMMIC would continue to operate and provide an acceptable mechanism for providing financial responsibility for tank owners. Should these restrictions be violated, the money transferred will revert back to the UST Fund Board. This provision of the MOU sunset on July 1, 2004. At the time of transfer, 2,280 sites were insured and all were fully upgraded.

In the original Insurance Program administered by the State, for LUST sites to be eligible for the insurance, the site must have been eligible for remedial benefits, or the responsible party was required to sign an affidavit that they had the ability to and would cleanup the pre-existing contamination. The insurance program only covered releases, which occurred after the retroactive date of the policy and during the insured period. In addition to UST insurance, the program also offered UST installer/inspector insurance and UST property transfer insurance. The program ceased offering installer/inspector insurance due to widespread availability in the private marketplace.

## **II. PROGRAM FUNDING**

The program currently receives moneys credited to it in accordance with Iowa Code 455G.3, 455G.8, and 455G.9, with the primary source being those revenues from the statutory allocation fund created in Iowa Code Section 321.145. The program, prior to fiscal year 2011, also previously received 77% of the annual tank management fees collected by the Iowa Department of Natural Resources. Additional monies into the fund include cost recovery monies, and interest or other income earned by the fund.

Initially, the legislature authorized approximately \$12 million per year to be allocated to the Program from the Environmental Protection Charge (EPC). In 1990, the EPC was replaced with 25% of the Motor Vehicle Use Tax up to a maximum of \$12 million annually. The legislature authorized the Board to issue tax-exempt bonds, which allowed funds to be immediately

available for remediation. The bonds were secured by the program's allocation of funds from the Motor Vehicle Use Tax and tank management fees. Based upon bonding requirements, original revenues were estimated to provide bonding capacity of \$145 million over the life of the program.

In 1991, the cap on the Motor Vehicle Use Tax was increased to \$15.3 million annually. The projected bond capacity increased to approximately \$188 million. In 1996, funding increased to \$17 million annually, and an additional \$105 million would be transferred from the Motor Vehicle Use Tax over the next seven (7) years. With this additional funding, total program funding available for corrective action expenses would exceed \$325 million.

In 2003 the Legislature placed a sunset date on the collection of the EPC of June 30, 2014. This date coincided with the Board's final debt payment of July 1, 2014. During the 2004 Legislative session, the sunset date on the collection of the EPC was extended two years until June 30, 2016.

To date, almost \$180 million in tax-exempt bonds have been issued. This total includes \$42.6 million in refunding bonds issued in July of 1997 and \$19.7 million in refunding bonds issued in November 2004. The refundings saved the program \$1.5 million and \$1.2 million respectively in net present value interest expense. Changes in statute resulting from the 2008 Legislative Session had left the security of the Iowa UST Fund bonds in jeopardy; therefore the Iowa UST Fund paid off the 1997A Series bonds totaling \$18,687,894.06 and the 2004A Series bonds were defeased in June 2008. An escrow account to make regular 2004A Series bond payments has been set up with \$15,034,580 from Iowa UST Funds, and \$24,515.25 in fees were paid from the Unassigned Revenue Fund to facilitate the defeasance.

Beginning Fiscal Year 2012 the quarterly allocation to the UST Fund from the statutory allocations fund was reduced from \$4.25 million to \$3.5 million or \$14 million annually. The difference was diverted to the Renewable Fuel Infrastructure Board to fund a grant program.

#### UST Revenue Fund

The Program's share of the statutory allocations fund and associated interest income are deposited into the UST Revenue Fund. The Fund's required debt service payments were transferred to the UST Bond Fund for payment to the bondholders and excess funds were then transferred to the Unassigned Revenue Fund. This fund was pledged to secure the UST bonds, which now have been called or defeased as of June 30, 2008. On June 17, 2008, \$8,500,000.00 was paid from the Revenue Fund to pay off 1997A Series bonds. The balance of the Revenue Fund as of May 31, 2014 is \$520,996.62.

#### Comprehensive UST Fund

The Environmental Protection Charges (EPC) collected in 1989 and 1990 were deposited to this fund. Proceeds in this fund could be used for any Board approved expenditure. In addition to the initial EPC collections, various licensing and copying fees were deposited in this fund. The balance of the Comprehensive Fund (\$20,486,995.00) was transferred to the Unassigned Revenue Fund in August of 1996.

#### UST Unassigned Revenue Fund

The UST Unassigned Revenue Fund was the recipient of funds in excess of the Program's annual debt service requirement on the outstanding bonds. The Program's administrative expenses, as well as underground storage tank closure contract payments, are paid from this account. Proceeds from this account can be used for any Board-approved expenditure. On June 17, 2008, \$5,825,187.84 was paid from the Unassigned Revenue Fund to pay off 1997A Series bonds. The balance of the Unassigned Revenue Fund as of June 30, 2014, was \$11,677,338.11.

#### UST Remedial Fund

The Remedial account was primarily funded from proceeds from UST revenue bonds. The Remedial Fund provides funding for outstanding remedial and retroactive claims. It had a balance of \$9,298,929.12 as of June 30, 2014. When necessary, the Board can access the Revenue Fund for additional revenue to reimburse remedial claims.

#### UST Marketability Fund

In 1995, the legislature established the Marketability Fund with allocations from the Motor Vehicle Use Tax. The Marketability Fund provided additional funding for remedial claim payments. Over the course of several months in fiscal year 2005, the entire balance of the Marketability Fund was transferred to the Aboveground Storage Tank (AST) Fund to provide funding to AST claims. The Marketability Fund still accrues interest, and its entire balance of \$3,327,726.83 was used to payoff the 1997A Series bonds on June 17, 2008. The Marketability Fund had a balance of \$755,308.99.11 as of June 30, 2014.

#### UST Innocent Landowner Fund

The Innocent Landowner (ILO) Fund was initially to be funded by net cost recovery proceeds and an additional \$5 million per year of the Motor Vehicle Use Tax funds, as appropriated by the 1995 legislature. Since the receipt of the large global settlements from several major oil companies between 1996 and 2003, the entire \$17 million per year of Motor Vehicle Use Tax funds had been deposited into the Revenue Fund, the balance of which was transferred to the Unassigned Revenue Fund after bond payments were made. On June 17, 2008, \$8,797,080.00 was paid from the ILO Fund to defease 2004A Series bonds. Proceeds from cost recovery sources are still deposited into the ILO Fund. Cleanup costs for claimants not eligible for remedial program benefits can be paid from this account. The ILO Fund had a balance of \$8,668,825.63 as of June 30, 2014.

#### No Further Action Fund

In 1998, the legislature established the No Further Action (NFA) Fund with a one-time allocation of \$10 million from the comprehensive petroleum UST fund. The NFA Fund was used to reimburse the Department of Natural Resources for corrective action completed on a site for which they had issued a No Further Action Certificate (on or after January 31, 1997) and the high risk condition had not been caused by a release subsequent to the certificate issuance. The legislature eliminated this fund in the 2000 session with the balance being transferred to the pooled technology account for the State of Iowa. The liability for this fund transferred to the UST remedial account. The NFA Fund had a balance of \$11,088,099.52 at the time of transfer. There had been no claims to date reserved against this fund at the time of transfer.

### UST Loan Guarantee Fund

The Loan Guarantee account was funded from the Comprehensive UST Fund. On June 17, 2008, \$1,034,979.39 was paid from the Loan Guarantee Fund to pay off 1997A Series bonds. The last outstanding loan was paid in FY 2011 and the remaining balance of the fund, \$278,508.95, was transferred to the Innocent Landowner fund in FY 2013. The fund has a balance of \$0.00 as of May 31, 2014.

### UST Insurance Fund

The Insurance account was funded through yearly UST premiums, installer/inspector premiums and property transfer coverage premiums. The balance of the insurance fund as of November 8, 2000, was \$35,969,570.07. This amount plus unpaid interest was transferred to Petroleum Marketers Mutual Insurance Company.

### Aboveground Storage Tank Fund

The Aboveground Storage Tank account was funded by a transfer of monies from the Marketability Fund and the Unassigned Revenue Fund. The AST Program ended with a total of \$11,217,932.11 paid, and all AST claims were closed during FY07.

### UST Bond Fund (90A, 91A, 94A, 97A, 2004A)

The Bond Fund had received monies from the Revenue Fund for making the Program's debt service payments on the outstanding UST bonds.

### UST Capital Reserve Fund (90A, 91A, 94A, 97A, 2004A)

The Capital Reserve Fund was established by the revenue bond indenture agreement and was pledged as security for the outstanding bonds. The entire balance of \$6,237,500.00 of the Capital Reserve Fund was paid to defease the 2004A Series bonds in June 2008. The Capital Reserve Fund balance was \$0.00 on May 31, 2014.

## **III. OPERATIONAL ISSUES**

The Board has implemented policies and procedures, authorized by the legislature, to increase the cost effectiveness of the program. Its actions have included entering into 28E agreements with other state agencies, utilizing its cost containment authority to affect contracts, implementation of certification for contractors, implementation of the Community Remediation Program, assisting the Attorney General's Office with cost recovery, promotion of innovative technology, providing additional funding and oversight to communities with drinking water impacts, and supporting risk-based cleanup standards.

### **A. Prior Contract Approval**

455G.12A has allowed the Board to invalidate contracts for services which otherwise would be reimbursable, if the contract did not receive pre-approval from the Administrator. To receive pre-approval, costs must be reasonable based upon the services required, and the services must be necessary for the owner/operator to comply with program or regulatory standards. This



authority has resulted in large savings and forces contractors to get pre-approval and submit justification for all anticipated services.

#### B. 28E Agreements

To assist in streamlining the regulatory process, the Board has assisted the DNR with the development of a geographical information system to facilitate the coordination of assessment and corrective action activities at commingled or potentially commingled sites. Assistance has been provided for the automation of DNR's ability-to-pay review and for integration of DNR databases, as well as, its groundwater professional certification program. It has also funded additional personnel to assist in reviewing reports, developing and implementing RBCA procedures, and cooperated with DNR to obtain additional federal funds for assessment and corrective action costs. The Board is currently funding activities at non-eligible UST/LUST sites at DNR's request. In addition, the Board has provided funding assistance to operate DNR's UST Section for fiscal years 2005-2013. 28E agreements have also been utilized to cooperate with the Attorney General's office on cost recovery activities and to work with the Department of Revenue for the collection of EPC.

#### C. Community Remediation Program

Community remediation projects (CRP's) were used in the mid-1990's to address contamination from a regional standpoint by combining a number of sites into one project. In these projects, costs were greatly reduced by eliminating the duplication of efforts through combined mobilization and reporting. In these projects, a single contractor assessed every eligible site in a city and completed a site cleanup report (SCR), as required by the DNR. In addition, one report covering the entire city was submitted. The community-wide CRP's ended in 1996. Through the process, 1,675 sites were assessed with an average cost per site of \$9,628.00.

In the late 1990's, the Board CRP process changed from a community-wide assessment program to an oversight program involving assessment and corrective action on commingled sites or sites with viable responsible party issues when requested to do so by DNR. As of June 30, 2014 the Board was overseeing eight (8) CRP's, a decrease of 4 projects from the prior year.

#### D. Cost Recovery

The original legislation creating this program included cost recovery provisions which allow the Board to recover expenses from responsible parties who caused the contamination, if they are not the eligible claimants on that site. The Attorney General's office has reported that over \$40,824,419 has been cost recovered from settlements with responsible parties through their office. The last of the cost recovery payments from major oil companies was received in May 2003. To date, 1,299 eligible claimants have been reimbursed \$10,086,235.40 through these global settlements as of June 30, 2014.

Current cost recovery efforts are directed toward individual sites where the Board has spent money without an eligible claimant. Generally efforts have been limited to perfecting the Board's lien on the affected property with monies collected upon property transfers. No new liens were filed during fiscal year 2014.

#### E. Innovative Technology

The Board, through a 28E agreement with the DNR and a funding grant from the U.S. EPA, worked on an innovative technology project involving the U.S. EPA's Technology Innovation Office, Office of Underground Storage Tanks, Region VII Administrator's Office, and a public / private partnership with private companies representing large oil suppliers, distributors, and marketers. The private partners supplied the necessary expertise to design and implement innovative technology actions to demonstrate the cost effectiveness of the selected technologies at sites in Shenandoah and Council Bluffs. Four projects were initiated in 1997 involving 15 leaking underground storage tanks sites. To date, three of the four projects have been successfully closed. One project involving a single site remains open in Council Bluffs, Iowa. The U.S. EPA finalized closure of the grant project in May 2001 following a review of the financial records. However the EPA did not issue a final report evaluating the technologies that had been selected.

The Board continues to fund innovative technologies at single sites throughout the state. Recent technologies include the use of injection methods which are aimed at reducing contaminant levels in-situ without incurring costs for direct contaminant removal. The success of these technologies is being monitored to ensure that future uses of the technology fit the site for which it has been selected.

#### F. Risk Based Corrective Action (RBCA)

In 1995, the legislature required that leaking underground storage tank sites be addressed through a process known as risk based corrective action (RBCA). This process requires that each LUST site be evaluated to determine the risk presented to human health as a result of the release at that site. Corrective action responses must be designed to address and reduce that risk to human health. Through 28E agreements, the Board assisted DNR with the development and implementation of the RBCA procedures. Iowa State University was selected to assist DNR with the development of guidance documents and the development of software that would assist in the implementation of the RBCA process. Iowa State University was requested to assist with the evaluation of the new procedures and to provide input into the implementation process.

In 2006, the DNR began evaluating several operational efficiencies. One of these was the RBCA framework and potential for applying the actual experience in the state over the past 10 years to the existing RBCA modeling software. Such a recalibration would enable the current model and framework to more accurately screen for and assess relative risk at the sites that remain open as well as creating a more accurate tool for the DNR on new releases. A review of the Tier 2 model was undertaken and was completed in May 2007.

Recommendations from the advisory group, composed of technical and non technical stakeholders, were to make adjustments to the model to reflect a significantly greater statistical relevance between the model and actual conditions encountered at sites. Following numerous discussions, DNR agreed to the proposed changes to the model calibration. The model was modified and was put into use in March 2010.

Other areas in the RBCA framework have also been subject to review and calibration. These include cessation of monitoring at low risk sites after extended time, review of the plastic water line pathway, the entire vapor assessment including sampling and receptors and the surface water pathway based on current data gathered since the original implementation of the risk methodology.

In FY 2010, DNR protocol on reviews was modified placing a time limit on the review process

and allowing site closure under certain circumstances, regardless if steady and declining conditions are met. Legislation also requires DNR to accept the recommendation of the groundwater professional for submitted RBCA reports, unless material deficiencies are noted.

Also in FY 2010 discussions were initialized on the issue of addressing risk associated with vapor concerns. Discussions resulted in a draft memo with the recommendation that a larger committee be convened for considerations; however no action was carried forward at the time pending completion of a national study of the same issue. In FY 2014, the USEPA requested comments to a draft document for addressing petroleum vapor intrusion and is currently hoping to release the final document in the near future. Further evaluation of this concern is expected in the upcoming future.

#### G. Rural Distribution Network

The rural petroleum distribution network continues to be essential for the economic health of Iowa. Therefore, the financial impacts to sites located in rural communities were evaluated. There are 947 cities and communities in the State of Iowa. Of these, 331 communities, many with a population of less than 100, do not have a petroleum UST provider.

There were only three (3) communities with a population of greater than 1,000 that did not have a petroleum provider utilizing the Program's insurance at the time of transfer of the insurance fund. However, all communities had at least one (1) insured and upgraded petroleum UST provider within a 15-mile radius. By providing upgrade assistance and remediation benefits, the Program was able to assist many communities with only a single petroleum UST provider. As a result, there is a viable rural distribution network system existing in the State of Iowa today.

#### H. Small Business, Financial Hardship

The remedial program has provided additional benefits to those individuals who have small businesses faced with financial hardships which would not allow them to otherwise remain in business or to be able to address releases from their site. Those owners with a net worth of less than \$15,000 are eligible for 100% funding for their cleanup costs. All were eligible for up to \$10,000 in upgrade benefits.

#### I. Brownfield Redevelopment

Many sites with known petroleum contamination have been abandoned because of the fear associated with the costs to clean up the petroleum release. After releases are addressed, fear of residual contamination causes property values to decrease and reduces opportunities for redevelopment. Such properties are known as "brownfields." To address abandoned brownfields, the Program provides 100% funding to counties that acquire abandoned LUST sites through tax delinquent procedures or to cities or counties who acquire properties through eminent domain. Also, to assist with the transfer of those properties, a property transfer insurance program was established which provides benefits to any future owner if additional cleanup is ever required at the site. These processes, which are unique to the State of Iowa, are assisting many communities to redevelop abandoned LUST sites.

Beginning in 1997, the Board approved a process to allow prospective purchasers of property to obtain remedial funding for corrective action on sites not otherwise eligible for benefits. This concept allows contaminated property to be redeveloped without the county having to obtain it through tax delinquent procedures. It also reduces the state's expense by 18% to 35% while

expediting the redevelopment of the property.

#### J. Innocent Landowners

The remedial program provided benefits to those sites that met all of the criteria for eligibility. However, numerous sites were not eligible for funding because their tanks were not regulated, or because applications were not timely filed within the cutoff dates established by the original legislation. In 1995, the legislature created an innocent landowner fund to provide benefits to owners who were not otherwise eligible for benefits, and gave the Board the authority to adopt rules to provide benefits to those sites which present a higher degree of risk to public health and to deny benefits to individuals who did not make a good faith attempt to comply with other provisions of 455G. The Board has made benefits available to those individuals who complied with all technical regulations, but missed the original application deadlines. In addition, sites with tanks that were closed prior to July 1, 1985, or taken out of use prior to January 1, 1974, are also now eligible. Currently there are 140 open claims with reserve balances totaling \$4,778,187.28.

#### K. Privatization of Insurance Program

The legislature directed the formation of a separate Insurance Board to provide direction and recommendations for the privatization of the Insurance Program. A sunset date of July 1, 2004 was established in the legislation. Following a study of the private marketplace and available transition mechanisms available, the Insurance Board recommended the formation of a mutual captive insurance company be completed by March 1, 2000. The final transfer of funds occurred on November 8, 2000. Since that date the new insurer has been operating as a private entity with no involvement in the day-to-day activities from the State.

#### L. Technical Training

The Board was initially tasked with providing oversight over UST installers and inspectors to ensure that individuals comply with training requirements necessary to maintain their Iowa UST professional licenses. Effective July 1, 2007, the Board no longer has statutory responsibility to license tank installers and inspectors. The transfer of all materials including files was completed and DNR now provides for the licensing of installers, inspectors, liners and testers going forward. Additionally, with assistance from the Board and other stakeholders, DNR developed an additional licensed category—UST Compliance Inspector—to provide for the inspection of operating facilities to gather information regarding compliance with rules and regulations. The intent was to greatly enhance the level of information the DNR collects to both reduce and identify new releases across the State.

The Department requires groundwater professionals to take a continuing education course which cover all aspects of risk based corrective action and pass a test to become a certified groundwater professional. There are currently 130 certified groundwater professionals doing work in the State, this is a substantial decrease from June 2004 when there were 224 groundwater professionals and June 2009, when there were 168 groundwater professionals certified.

#### M. Owner/Operator Outreach

With Board approval, the Administrator held five (5) public meetings throughout the State in the late 1990's to explain the status and changes to the program and answer questions and

address concerns from affected parties. Public meetings were held in Storm Lake, Decorah, Des Moines, Muscatine and Shenandoah. In addition, the Administrator addressed the Petroleum Marketers Convention concerning redevelopment of petroleum-impacted properties and continues to work with cities and counties to explain the program.

Additional meetings were held in West Des Moines, Cedar Falls, Ottumwa and Denison during 2002 to discuss prioritization concepts in the event that claim payments exceed fund balances.

In February 2012, the Administrator, along with representatives from the Department of Natural Resources, Petroleum Marketers and Convenience Stores of Iowa, and Petroleum Marketers Management Insurance Company, held a forum to discuss topics relative to addressing leaking underground storage tank sites in Iowa. The intent of the forum was to provide information to owners and operators so that they could fully understand the parties that may be involved in addressing work at their site, and to understand the various processes and avenues available to get their sites to closure. More than 50 people, including property owners, consultants, and UST Fund Board members, attended the meeting.

#### N. Rule Review

In accordance with Executive Order #8, the UST Fund Board undertook a review of the entirety of their Administrative Rules in 2002. The process resulted in the streamlining of the rules. Over the 15 years the program has been in existence many facets of the program have been sunset. The Insurance Program, Loan Guarantee Program and Upgrade Claims have all been sunset during the life of the program. The rules associated with these programs were amended to reflect these changes. In addition there have been changes to the relevant statutes, both the UST Fund's and the Iowa Department of Natural Resources', which prompted rule revisions or deletions. Public meetings were held in Clive, Denison and Iowa City to solicit input from the public. Those comments were utilized in the review of the Administrative Code. The changes did not change the substantive operation of the program.

#### O. Aboveground Storage Tanks (ASTs)

The Board was given authority to reimburse for the removal of AST's or the upgrade to meet EPA requirements in 40 CFR 112 for work completed between January 1, 2004 and February 18, 2005. Rules were adopted allowing reimbursement to AST owners registered with the State Fire Marshal by January 1, 2004. The maximum benefit payable is \$25,000 per site and \$100,000 per owner. In 2005, rules were adopted to change the work completion deadline for AST removals and upgrades to December 31, 2005 to comply with a statutory change of the work completion deadline. All claims were paid and closed during FY 07. The total paid on AST claims was \$11,217,932.11 on a total of 414 claims filed.

#### P. Loss Portfolio Transfer

The Board agreed to and entered into an agreement to transfer open claims to a third party in March 2007. The Board and PMMIC agreed to a transfer of liability on a group of sites where both had open claims. In 2007, the Board paid \$511,224.29 to PMMIC; in exchange for the payment PMMIC assumed all liability associated with any past or future claim against the UST Board on 10 sites. Claimants for each site also released the Board against any future liability. The Board negotiated this agreement directly with PMMIC with no requirement for additional bids because of the unique circumstance of existing shared liability at this group of sites. In 2011, PMMIC approach the Board to consider a second set of sites sharing common claims and

in early 2013 the Board approved terms for a settlement. The Board paid \$197,954.84 to PMMIC in this transaction. PMMIC again assumed all liability for any past or future claim against the Board for 11 sites.

Board rules allow for future transactions with third parties to reach the Board's goals, but generally require competitive bidding for such transactions.

Q. UST Operator Training

2010 Legislation required the Board administer a program to provide training to UST operators at an equal and reasonable cost in the State of Iowa, with no more than \$250,000 to be spent each fiscal year. To facilitate this, the Board entered into agreements with all vendors approved by the DNR to provide such training, allowing for reimbursement of the training at a set rate of \$100 for those who are trained as a combined Level A & B operator, or \$80 for those trained as a Level A or B operator. As of June 20, 2014, the names of 2,759 individuals have been submitted as Level A and/or Level B operators, and \$265,760 has been paid to date for the training.

In fiscal year 2012, the Board authorized a 28E agreement to retain the services of Iowa State University's Department of Environmental Safety & Health to develop a data management system that could be utilized by owners and operators to track their staff who have been trained as an Iowa UST Operator and to obtain Class C Operator training for their staff at no cost to themselves. In FY2014, the Board re-authorized the agreement by extending the database operation and training module through January 15, 2015. The cost of the management system and training module since inception has been \$57,390.00. As of June 30, 2014, 328 individuals have sign up for Class C Operator training; an increase of 266 since June 30, 2013.