



Engineering Sciences Section - 2013

C2 Caveat Emptor: What's a Residential Heating Oil Tank Owner to Do?

Carol A. Erikson, MSPH*, Trillium, Inc, 356 Farragut Crossing Dr, Knoxville, TN 37934; and Elizabeth K. Dickinson, 27 LaFayette Cir, Downingtown, PA 19335

After attending this presentation, attendees will understand the pitfalls faced by a homeowner with an underground storage tank who tries to do the right thing.

This presentation will impact the forensic science community by pointing out the non-technical perspectives to the issue of residential underground storage tanks.

You've lived in Westchester County, New York, for 10 years, and it's time to move back to Pennsylvania. So, you put your house on the market, find a buyer, and work out a sales agreement that includes performing a leak test of the Underground Storage Tank (UST) that has reliably held your heating oil since you moved in, and which, for the record, passed a similar leak test when you moved in. This time, though, it fails the test.

It's an old tank, so you decide to avoid potential future liability by removing it and replacing it with an above-ground tank in the garage. You call the contractor recommended to you by the company supplying your home heating oil. You are told it will cost you \$2,800 to remove the UST and install an above-ground tank in the garage, and you pay half up front. The contractor comes out and digs a shallow ditch around the top of the tank. Now you are told there is discolored soil, and, based on a "sniff test," leaking oil was likely. The contractor collects a soil sample and tells you it will cost you an additional \$3,000 for them to take care of the (alleged) contamination.

What? This is starting to feel uncomfortable, so you call your sister, who happens to be an environmental consultant. On her advice, you contact the New York State Department of Conservation (DEC) and learn that DEC had concerns about possible contractor irregularities related to UST work in Westchester County. *What?* The DEC representative comes to your house on the scheduled day for your contractor's next visit, but is left hanging when the contractor does not show. He talks to your contractor about the work on the phone and tells you the contractor is competent, but he can't come back the next day when the contractor has promised to be there. *What?!*

The contractor does show up the next day, and excavates down to the bottom of the tank. It is clear the tank is intact, and there is no evidence of contamination, by sight or smell. You are now told you will get your \$3,000 back. The oil remaining in the UST is removed and transferred to the new storage tank in the garage. The contractor collects a soil sample from the excavation, re-buries the now-empty UST, and promises to return with the laboratory analysis results. *Whew ... maybe it'll be okay after all.* Except that now he won't return your calls, and you can't proceed with settlement on the sale of your house.

Now you contact the Westchester County Department of Health (DOH) and tell your story, only to learn that the contractor has not followed their rules for this type of work. Settlement is delayed more while you wait for your contractor to provide the necessary paperwork and do things right.

When he finally returns to actually remove the UST, you are there, too, with your environmental consultant brother-in-law and an inspector for the Westchester County DOH. Now you learn that the only reason the UST failed the leak test was because the original, but long-since inactive, fill pipe had never been properly disconnected. There was never any problem with the UST.

By the time the contractor files all the necessary paperwork, a 2-week project has dragged on for two months, costing you, among other things, two additional mortgage payments. You have not been reimbursed the additional \$1,600 you paid, nor have you seen any laboratory results. Now what?!

We've all gotten the runaround at one time or another—dealing with health insurance companies is but one example. For the average homeowner, environmental issues are even harder to navigate. *Did it really have to be this hard? How much worse might it have been if there weren't two environmental consultants in the family?* Let the buyer beware.

UST, Residential, NYSDEC