INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
We Protect Hoosiers and Our Environment.
100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

March 29, 2022

Thornton's LLC
c/o CT Corporation System
334 N Senate Ave
Indianapolis, IN 46204

Thornton's LLC
Attn: Maggie Sebaugh and Jeff Salmon
Via email: maggie.sebaugh@mythorntons.com
jeff.salmon@mythorntons.com

Re: Violation Letter
Thorntons 141
2115 Hartford Ave
Plainfield, Hendricks County
UST Facility ID # **22513**

Dear Ms. Sebaugh and Mr. Salmon:

An inspector from the Indiana Department of Environmental Management (IDEM), Underground Storage Tank (UST) Section, conducted an inspection of the site referenced above on February 28, 2022.

The inspection was conducted pursuant to Indiana Code (IC) 13-14-2-2 to determine compliance with the provisions of IC 13-23 and 329 IAC 9. In accordance with IC 13-14-5, a summary of the inspection is provided below:

Type of Inspection: Initial

Results of Inspection: Violations were discovered and require a submittal.

Within thirty (30) days of receipt of this letter, documentation demonstrating compliance with each of the requirements listed in the attached Inspection Report and Description of Violations (DOV) must be submitted to IDEM. Failure to submit this documentation may lead to this facility being referred for enforcement.

An enforcement action may include civil penalties of up to $10,000 per UST. Enforcement actions may also affect the owner's and/or operator's eligibility for reimbursement from the Excess Liability Trust Fund (ELTF). Additionally, IDEM may deem the UST's at this facility ineligible for delivery, deposit or acceptance of regulated substances pursuant to IC 13-23-1-4. Finally, federal and criminal penalties may apply for failure to provide required notification; or submitting false information pursuant to IC 13-23-14-2 and liable under IC 13-30-10.

Thank you for your attention to this matter. Please submit the required documents to the UST Section via email at USTCompliance@idem.in.gov. Include in the subject line of the response the UST Facility ID # **22513.**

Inspector: Brandon Davis
Phone: (317) 464-7666

Direct any questions regarding the inspection to:

Compliance Manager: Caitlin Shaffer
Phone: (317) 234-4112

Sincerely,

Thomas F. Newcomb, Chief
UST Compliance Section
Office of Land Quality

cc: Caitlin Shaffer
Brandon Davis
UST Facility ID File # 22513

DESCRIPTION OF VIOLATIONS

This inspection or records review revealed that the owner and/or operator of this facility is in violation of Indiana UST Rule 329 IAC 9. 329 Indiana Administrative Code ("IAC") 9 incorporates certain federal underground storage tank requirements found in 40 Code of Federal Regulations ("CFR") Part 280, including those identified below.The Description of Violations (DOV) and corrective measures are as follows:

FACILITY NAME: **Thornton Oil #141**	UST FACILITY ID: **22513**
ADDRESS: **2115 Hartford Avenue** **Plainfield, IN 46168 - Hendricks County**	INSPECTION DATE: **2/28/2022**

VIOLATIONS NOTED IN THIS INSPECTION

329 IAC 9-2-2(c) – Failure to register/notify with complete information

Citation:

Pursuant to 329 IAC 9-2-2(c), an owner required to submit a notification under this section shall provide:
(1) a notification for each UST owned;
(2) complete information required on the form for each UST owned; and
(3) if applicable, a separate notification form for each separate place of operation at which the USTs are located.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because an up to date Notification Form (45223) needs to be provided detailing the correct type of overfill equipment installed at the facility.

Corrective Action:

The owner and/or operator of the UST systems at this site shall fill out and submit to IDEM a correct and complete copy of the appropriate state form with required attachments, within fifteen (15) days of receipt of this notice.

§ 280.20(c)(1)(ii) – Failure to have overfill prevention equipment installed or installed properly
Citation:
Pursuant to 40 CFR 280.20(c)(1)(ii), to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment: (ii) Overfill prevention equipment that will: (A) Automatically shut off flow into the tank when the tank is no more than 95 percent full; or (B) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or (C) Restrict flow 30 minutes prior to overfilling, alert the transfer operator with a high level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.
Violation Details:
The owner and/or operator of the UST system(s) at this site are in violation of this rule because previous documents submitted detailed ball float valves were installed on each UST. At the time of inspection, flapper valves were installed with no documentation on ball float removal or compliance with the Coincident Use of Overfill Prevention factsheet.
Corrective Action:
The owner and/or operator of the UST systems at this site shall, within thirty (30) days of receipt of this notice, contract with a certified contractor to install or replace absent or substandard overfill prevention equipment that will operate as required. The UST owner and/or operator must submit proof that the overfill prevention equipment has been installed properly to the 90% or 95% fill level as required by the type of equipment within forty five (45) days of receipt of this notice. In the case where an owner has changed the overfill prevention equipment from a flow restrictor (ball float) to an auto-shutoff device, the owner must document the entire flow restrictor has been removed or that the automatic shut off device is installed at 90% or lower.

§ 280.32(b)(1) – Failure to demonstrate compatibility of entire UST system
Citation:
Pursuant to 40 CFR 280.32(b)(1), owners and operators with UST systems storing these regulated substances must demonstrate compatibility of the UST system (including the tank, piping, containment sumps, pumping equipment, release detection equipment, spill equipment, and overfill equipment).
Violation Details:
The owner and/or operator of the UST system(s) at this site are in violation of this rule because they need to provide documentation that the 12,000 gallon fiberglass UST storing E-85 is compatible with this fuel.
Corrective Action:
The owner and/or operator of the UST systems at this site shall, within fifteen (15) days of receipt of this notice submit documentation to IDEM proving the required UST system components are fully compantible with the product found stored in the tanks during the inspection. If the owner and/or operator cannot prove compatibility, they must immediately cease storing the substance in the UST system until such a time as they can prove compatibility, upgrade the UST system or switch the product to one that is compatible. The UST owner and/or operator must submit proof of compliance with these requirements within forty five (45) days of receipt of this notice.

329 IAC 9-2-2(f) – Failure to ensure work done by certified contractor
Citation:
Pursuant to 329 IAC 9-2-2(f), All owners and operators of UST systems shall ensure that the person who performs tank system installations, testing, upgrades, closures, removals, and change-in-service is certified by the department of homeland security, division of fire and building safety. The certified person who performs the work shall certify on the notification form that the work performed complies with methods specified in this article and 40 CFR 280, Subpart C.
Violation Details:
The owner and/or operator of the UST system(s) at this site are in violation of this rule because the contractors who performed the Overfill Prevention and Spill Prevention periodic testing were not certified on the date(s) this testing occurred. ***(see report for details)***
Corrective Action:
The owner and/or operator of the UST systems at this site shall provide documentation showing these contractors were certified to work within the state of Indiana at the each testing occurred OR have all testing that is invalid due to uncertified contractors completed by an Indiana certified contractor within 45 days of receipt of this notice.

§ 280.41(a)(1) – Failure to monitor tanks every 30 days if installed before 9/2/2009
Citation:
Pursuant to 40 CFR 280.41(a)(1), considering previous Indiana rule at 329 IAC 9-3-1.3 (repealed 2018), tanks installed on or before September 2, 2009 must be monitored for releases at least every 30 days using one of the methods listed in § 280.43(d) through (i).
Violation Details:
The owner and/or operator of the UST system(s) at this site are in violation of this rule because (12) months of release detection records for all tanks were not provided nor available on-site.
Corrective Action:
The owner and/or operator of the UST systems at this site shall have any UST or line that contains a regulated amount of product and found to not have been monitored every thirty (30) days tightness tested within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of receipt of this notice. The owner and/or operator shall continue to perform proper monthly release detection and submit the results monthly for a period of six (6) months after the receipt of this notice.

§ 280.41(b)(1)(i)(B) – Failure to perform annual piping LTT or monthly monitoring
Citation:
Pursuant to 40 CFR 280.41(b)(1)(i)(B), pressurized underground piping installed on or before April 11, 2016 (previously cited as September 2, 2009 under 329 IAC 9-2-1(2)(D)) that routinely contains regulated substances must have an annual line tightness test conducted in accordance with § 280.44(b) or have monthly monitoring conducted in accordance with § 280.44(c).
Violation Details:
The owner and/or operator of the UST system(s) at this site are in violation of this rule because (12) months of release detection records for the piping were not provided to IDEM nor available on-site.
Corrective Action:
The owner and/or operator of the UST systems at this site shall have any piping that contains a regulated amount of product and found to not have had appropriate monthly monitoring or an annual line tightness test within the (12) months prior to inspection tightness tested within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of receipt of this notice.

§ 280.241(a) – Failure to designate Class A, or Class B operators at each facility
Citation:
Pursuant to 40 CFR 280.241(a), UST system owners and operators must designate at least one Class A and one Class B operator for each UST or group of USTs at a facility.
Violation Details:
The owner and/or operator of the UST system(s) at this site are in violation of this rule because they did not provide A, B or C operator certificates.
Corrective Action:
The owner or operator of the UST systems at this site shall submit a list of those employees designated to be Class A and Class B operators. Those so designated must be trained and certification of that training submitted within thirty (30) days of receipt of this notice.

UNDERGROUND STORAGE TANK INSPECTION REPORT

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

UST FAC ID: 22513

Inspector's Name:	Brandon Davis
Date:	**February 28, 2022**
Time In:	09:51
Time Out:	11:36
Inspection Type:	Initial

FACILITY NAME / LOCATION

FACILITY NAME	FACILITY ADDRESS *(number and street)*			
Thornton Oil 141	2115 Hartford Avenue			
ADDRESS *(line 2)*	CITY	STATE	ZIP CODE	COUNTY
	Plainfield	IN	46168	Hendricks

UST OWNER

UST Owner Name (Business Name as registered with the Secretary of State)	BUSINESS ID *(From the Secretary of State)*
Thornton's LLC	197112-243

PREFIX	FIRST NAME	MI	LAST NAME	SUFFIX
Mr.	Jeff		Salmon	

TELEPHONE NUMBER	EMAIL ADDRESS
(502) 425-8022	jeff.salmon@mythorntons.com

UST OPERATOR

UST Operator Name (Business Name as registered with the Secretary of State)	BUSINESS ID *(From the Secretary of State)*
Thornton's LLC	197112-243

PREFIX	FIRST NAME	MI	LAST NAME	SUFFIX
Ms.	Maggie		Sebaugh	

TELEPHONE NUMBER	EMAIL ADDRESS
(502) 425-8022	maggie.sebaugh@mythorntons.com

PROPERTY OWNER

UST Property Owner Name (Business Name as registered with the Secretary of State)	BUSINESS ID *(From the Secretary of State)*
Thornton's LLC	197112-243

PREFIX	FIRST NAME	MI	LAST NAME	SUFFIX
Mr.	Jeff		Salmon	

TELEPHONE NUMBER	EMAIL ADDRESS
(502) 425-8022	jeff.salmon@mythorntons.com

COMPLIANCE ELEMENTS

		YES		NO		N/A		UNK
All USTs properly registered and up-to-date notification form on file			X					
Up to date Notification Form (45223) needs to be submitted detailing the overfill prevention equipment that was recently installed.								
O/O is in compliance with reporting & record keeping requirements	X							
O/O is in compliance with release reporting or investigation					X			
O/O is in compliance with all UST closure requirements					X			
O/O has met all financial responsibility requirements	X							
40 CFR 280, Subpart A installation requirements (partially excluded) met	X							
40 CFR 280, Subpart B installation and upgrade requirements met			X					
Documentation detailing the proper removal of ball float valves.								
40 CFR 280, Subpart C spill/overfill control requirements met	X							
40 CFR 280, Subpart C compatibility requirements met							X	
Documentation detailing compatibility of fiberglass UST storing E-85 needs to be provided.								
40 CFR 280, Subpart C O&M and testing requirements met			X					
The technicians who performed the overfill + spill prevention testing were not certified at time.								
40 CFR 280, Subpart D release detection requirements met			X					
(12) months of release detection records [Tanks + Piping] need to be provided.								
40 CFR 280, Subpart J operator training requirements met			X					
A, B and C operator certificates need to be provided.								

COMPLIANCE REVIEW AND COMMENTS

UST Facility ID **22513**

The information contained on this page is based upon a review of files related to this site and/or observations from an underground storage tank inspector. This page may contain information not specifically related to possible violations found during the review or inspection and is meant to give the owners and/or operator specific information to assist them.

Site Maintains:
Five (5) fiberglass USTs installed 4/17/1997
- One (1) 12k GSL
- One (1) 12k E85
- One (1) 12k GSL
- One (1) 6k DSL
- One (1) 6k KER

Section Chief Note: The normal operational lifespan of a UST before failing is 25 to 30 years old. The USTs at this site are now 25 years old and the owner should start planning on removing or replacing them soon.

Piping is fiberglass and pressurized

RD UST = ATG
RD Piping = ELLD, ATG
Overfill/Spill = Spill Buckets + Auto Shutoff + UDC
ATG Certification = Yes 6/10/2021
Overfill Protection Test = Yes 7/7/2020 & 9/21/2021
Spill Bucket Test = Yes 6/16/2021 - tech not certified

Site History:
- Tank 2 switched from Unleaded Plus to E85 in 2012
- All documentation in file lists overfill as ball floats. 2020 testing listed ball floats for (4) tanks and auto shutoff for the KER tank. Comment on report that the KER auto shutoff was newly installed. 2021 testing of all tanks except the KER was for auto shutoff, no documentation on removal of ball floats or when flappers were installed but it was sometime between 7/7/2020 and 9/21/2021

Documentation provided at the time of the file review:
- Notification Form received 10/14/2014
- FR - insurance policy
- ATG functionality, Probes, LDT, Pressure Decay, P/V Vent completed 6/10/2021 - all pass
- Overfill testing on all tanks completed 7/7/2020 - all pass
- Overfill testing on 4 tanks completed 9/21/2021 - all pass but tech was not certified until December 2021
- Spill Bucket testing completed 6/16/2021 - all pass but tech certification expired on 1/17/2021 and there is nothing indicating recertification
- Annual walkthrough inspection completed 2/27/2021
- Monthly walkthrough inspections Feb 2021 - Jan 2022

Inspector Notes:
- There was a padlock on the fill cap for the Kerosene UST. The attendant onsite gave inspector 10 keys to try, none of which unlocked the padlock. Inspector was unable to access the Kerosene drop tube.
- Automatic Shutoff devices (flapper valves) were observed in all accessible droptubes.
- ATG had passcode and the inspector could not access the Release Detection history or the Alarm history reports. Attendant did not know the passcode.

The information contained on this page is based upon a review of files related to this site and/or observations from an underground storage tank inspector. This page may contain information not specifically related to possible violations found during the review or inspection and is meant to give the owners and/or operator specific information to assist them.

The following are AREAS OF CONCERN found during the inspection that will need to be addressed by the owner and/or operator:

- There was a small amount of fuel within the RUL spill bucket. This should be removed and disposed of properly.
- There was a small amount of debris within the Premium spill bucket.
- There was a small amount of fuel within the Diesel spill bucket.
- There was a small amount of fuel within the Kerosene spill bucket.
- The STP sumps for the Premium and Diesel tanks contained a small amount of water.
- The UDC for dispensers [9/10] contained a small amount of fuel. The source of this fuel should be found and addressed.

The following are VIOLATIONS discovered during the inspection that will need to be corrected within 30 days of receipt of this inspection report to avoid further action and achieve compliance with the state underground storage tank program:

1. An up to date notification form (45223) needs to be submitted to IDEM detailing the overfill prevention equipment that was recently installed at the facility.

2. Based on the testing documents that were provided prior to the inspection, Automatic Shutoff devices were recently installed. Previous documentation detailed that ball float valves were installed. The UST owner needs to provide documentation showing that the Ball Float Valves were properly removed or documentation detailing that the ball float valves do not interfere with the Flapper Valves. Refer to the Coincident Use of Overfill Prevention Fact Sheet (attached) for more information.

3. In 2012, the product stored in one of the 12,000 gallon Fiberglass USTs was changed to E-85. The owner needs to provide documentation showing this UST is compatible with E-85.

4. The technician who performed the Overfill Prevention testing on 9/21/2021, Tim Holbert, was not certified within the State of Indiana. Additionally, the technician who performed the Spill Prevention equipment testing on 6/16/2021, Craig Walston's certification had expired on 1/17/2021. The UST owner should provide documentation showing that each technician was certified to perform testing within Indiana, OR have all equipment re-tested by a certified contractor and submit results to IDEM.

5. (12) months of release detection records for all tanks should be provided.

6. (12) months of release detection records for all piping should be provided.

7. A, B and C operator certificates should be provided.

FACT SHEET

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Coincident Use of Overfill Prevention Devices in Underground Storage Tanks

Office of Land Quality

(317) 234-4112 • (800) 451-6027 www.idem.IN.gov 100 N. Senate Ave., Indianapolis, IN 46204

Introduction:

Every owner or operator of regulated petroleum underground storage tanks (USTs) in Indiana must comply with state and federal requirements for overfill prevention equipment as required by the Indiana Code (*IC 13-23-1*), and the Code of Federal Regulations (*40 CFR, Part 280, Subparts B and C*). Owners and operators must follow these requirements:

- Use overfill prevention equipment that will do one of the following:
  - Automatically shut off flow into the tank when the tank is no more than 95% full; or
  - Alert the transfer operator when the tank is no more than 90% full by restricting the flow into the tank or triggering a high-level alarm; or
  - Restrict flow 30 minutes prior to overfilling, alert the transfer operator with a high level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.
- Ensure that releases due to spilling or overfilling do not occur. The owner and operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.

Some UST owners and operators have flow restrictor devices, commonly known as ball float vent valves, installed on UST systems as overfill prevention equipment. Some UST owners and operators have or will opt to use automatic shut off devices, commonly known as flapper valves, in place of ball float vent valves.

Ball float vent valves and flapper valves cannot be allowed to coexist on the same UST if they are installed according to industry practice. Ball float vent valves are required to be installed so they activate when the UST is 90% full or less. Flapper valves must be installed so they activate at 95% or less. Under certain conditions, the use of both devices could lead to a release of fuel from the top of the vent pipe, which can be more than ten feet above ground level and pose an extreme fire or explosion risk, as well as harm to the environment. This dual use can also cause fuel to flow into the vapor recovery line which can then cause the fuel to be spilled on the surface when the hose is removed from the vapor recovery port.

Ball float vent valves used as flow restrictors may need to be accessed or removed for required testing in accordance with 40 CFR 280.35. In order to alleviate difficult circumstances that would be imposed on UST owners and operators, and possible damage to existing UST systems in situations where a ball float vent valve cannot be accessed and/or removed, alternatives are allowed as long as the alternative complies with the requirements of the applicable rules.

Alternatives Allowed:

While some form of overfill prevention equipment must be utilized, owners and operators will only be required to operate and maintain the overfill prevention equipment identified as the “primary” form in use on a specific tank if:

- The primary form of overfill prevention equipment has been identified by submitting a new UST Notification Form; and
- The owners and operators verify through adequate documentation that the multiple forms of overfill prevention equipment cannot interfere with each other; and
- The owners and operators verify through adequate documentation that the primary form of overfill prevention equipment is installed in accordance with the rules and the manufacturer’s specifications.

UST owners and operators may install a flapper valve on the fill pipe of a UST while a ball float vent valve is also in use if:

- The owners and operators verify through adequate documentation that a ball float vent valve cannot be accessed and/or removed; and
- The owners and operators install a flapper valve set to activate at or below the level of the ball float vent valve installed on the same UST; normally at or below 90% full; and

* The owners and operators submit adequate documentation to IDEM, detailing at what level the flapper valve was installed, the diameter and length measurements of the UST, and that the flapper valve was installed in accordance with applicable national industry standards.

Any alternative utilized by an owner and/or operator, including installation and use of multiple overfill prevention mechanisms, must be installed, operated, and maintained in a manner that will prevent releases. The alternatives listed will be approved and permitted by the agency only as long as they continue to provide for adequate overfill prevention. Owners and operators must ensure an alternative applied at their site(s) functions as required to prevent releases due to overfilling of a UST.

Environmental Impacts:

* Indiana has over 4,100 operating UST sites that have over 12,000 USTs. If not managed properly, these sites can have negative impacts on human health and the environment from releases such as underground leaks and above ground spills.
* Refined petroleum products such as gasoline and diesel are a mixture of numerous compounds that have a detrimental effect on human health or the environment. These compounds are often toxic or carcinogenic.
* Contamination from leaking UST sites can migrate to streams or lakes, contaminate drinking water, or cause dangerous vapors in buildings and underground sewers.
* By ensuring that UST owners and operators operate and maintain appropriate overfill prevention equipment, releases can be prevented.

IDEM's Role:

IDEM is responsible for protecting human health and the environment while providing for safe industrial, agricultural, commercial, and governmental operations vital to a prosperous economy. IDEM's UST Compliance Section is responsible for inspecting all regulated UST systems in Indiana for compliance with applicable rules and regulations.

UST Owner or Operator's Role:

Owners and operators of petroleum USTs must ensure that a release, spill or overfill does not occur due to improper installation, operation or maintenance of overfill prevention equipment.

Owners and operators must be able to properly document all aspects of the physical characteristics of their UST systems and provide the documentation in accordance with 329 IAC 9 and 40 CFR, Part 280.

Additional Information:

* For questions regarding UST compliance, call the UST Program at (317) 234-4112 or (800) 451-6027, ext. 4-4112.
* Applicable laws are found at:
  - UST Rule- www.IN.gov/legislative/iac/T03290/A00090.PDF