



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

Bruno L. Pigott
Commissioner

January 5, 2022

Clear Creek Crossing LLC
Attn: Whitney Gates, Registered Agent
542 S College Ave
Bloomington, IN 47403

Kroger Limited Partnership I
c/o Corporation Service Company
135 N Pennsylvania St., Suite 1610
Indianapolis, IN 46204

Re: Violation Letter
Kroger J 900
4025 S Old SR 37
Bloomington, Monroe County
UST Facility ID # **24631**

Dear Mses. Gates, Bilyeu, Ross and McKinney:

An inspector from the Indiana Department of Environmental Management (IDEM), Underground Storage Tank (UST) Section, conducted an inspection of the site referenced above on December 10, 2021.

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.

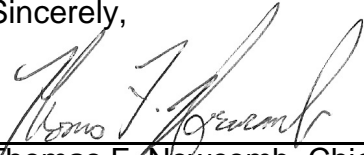
Thank you for your attention to this matter. Please submit the required documents to the UST Section via email at USTCompliance@idem.in.gov. Include in the subject line of the response the UST Facility ID # **24631**.

Inspector: Tristan Voge
Phone: (317) 719-2574

Direct any questions regarding the inspection to:

Compliance Manager: Carrie Maniet
Phone: (317) 233-3533

Sincerely,



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

cc: Carrie Maniet
Tristan Voge
UST Facility ID File # 24631
Kroger Limited Partnership
Attn: Donnesa Bilyeu, donnesa.bilyeu@kroger.com
Attn: Shenevelyn Ross, shenevelyn.ross@kroger.com
Attn: Teresa McKinney, teresa.mckinney@kroger.com

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: Kroger J 900	UST FACILITY ID: 24631
ADDRESS: 4025 S Old SR 37, Bloomington, Monroe County	INSPECTION DATE: 12/10/2021

VIOLATIONS NOTED IN THIS INSPECTION

§ 280.41(b)(1)(i)(A) – Failure to equip piping with or test automatic leak detectors

Citation:

Pursuant to 40 CFR 280.41(b)(1)(i)(A), 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 be equipped with an automatic line leak detector conducted in accordance with § 280.44(a).

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because testing was completed by a technician not certified in Indiana to work on USTs.

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 its automatic leak detector tested 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.

§ 280.40(a)(3)(i) – Failure to perform annual tests of ATG**Citation:**

Pursuant to 40 CFR 280.40(a)(3)(i), owners and operators of UST systems must provide a method, or combination of methods, of release detection that beginning on October 13, 2018, is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the implementing agency to be no less protective of human health and the environment than the two options listed in paragraphs (a)(1) and (2) of this section. A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria:

(i) Automatic tank gauge and other controllers: test alarm; verify system configuration; test battery backup.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because testing was completed by a technician not certified in Indiana to work on USTs.

Corrective Action:

The owner and/or operator of the UST systems at this site shall have all components of the automatic tank gauge or other controllers tested for proper operation within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of receipt of this notice.

§ 280.40(a)(3)(ii) – Failure to perform annual tests of probes & sensors**Citation:**

Pursuant to 40 CFR 280.40(a)(3)(ii), owners and operators of UST systems must provide a method, or combination of methods, of release detection that beginning on October 13, 2018, is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the implementing agency to be no less protective of human health and the environment than the two options listed in paragraphs (a)(1) and (2) of this section. A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria:

(ii) Probes and sensors: inspect for residual buildup; ensure floats move freely; ensure shaft is not damaged; ensure cables are free of kinks and breaks; test alarm operability and communication with controller.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because testing was completed by a technician not certified in Indiana to work on USTs.

Corrective Action:

The owner and/or operator of the UST systems at this site shall have all components of the automatic tank gauging probes and sensors tested for proper operation within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of receipt of this notice.

§ 280.35(a)(1) – Failure to perform periodic testing of spill prevention equipment and containment sumps used for IM

Citation:

Pursuant to 40 CFR 280.35(a)(1), owners and operators of UST systems with spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping must meet these requirements to ensure the equipment is operating properly and will prevent releases to the environment:

(1) Spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) and containment sumps used for interstitial monitoring of piping must prevent releases to the environment.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because periodic spill prevention equipment testing was not provided and testing for STP sumps and UDCs used for interstitial monitoring was completed by a technician not certified in Indiana to work on USTs.

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 inspect, repair and test all spill prevention equipment and containment sumps. Documentation, to include photographs, inspection, repair and testing results, showing the spill prevention equipment and containment sumps are liquid tight must be submitted within forty five (45) days of the receipt of this notice.

§ 280.35(a)(2) – Failure to perform periodic testing of overfill prevention equipment

Citation:

Pursuant to 40 CFR 280.35(a)(2), overfill prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level specified in § 280.20(c) and will activate when regulated substance reaches that level.

Inspections must be conducted in accordance with one of the criteria in paragraph (a)(1)(ii)(A) through (C) of this section.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because a periodic overfill prevention equipment test report was not provided.

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 inspect, repair and test all overfill prevention equipment. Documentation, to include photographs, inspection, repair, measurements and testing results, showing the overfill prevention equipment is fully functional and set at the correct level must be submitted within forty five (45) days of the receipt of this notice.



UNDERGROUND STORAGE TANK INSPECTION REPORT

INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

UST FAC ID: **24631**

Inspector's Name:	Tristan Voge
Date:	December 10, 2021
Time In:	12:40 pm
Time Out:	1:25 pm
Inspection Type:	Initial



FACILITY NAME / LOCATION								
FACILITY NAME Kroger J 900		FACILITY ADDRESS (number and street) 4025 S Old SR 37						
ADDRESS (line 2)	CITY Bloomington	STATE IN	ZIP CODE 47401	COUNTY Monroe				
UST OWNER								
UST Owner Name (Business Name as registered with the Secretary of State) Kroger Limited Partnership I			BUSINESS ID (From the Secretary of State) LP97110042					
PREFIX	FIRST NAME Donnesa	MI	LAST NAME Bilyeu		SUFFIX			
TELEPHONE NUMBER		EMAIL ADDRESS donnesa.bilyeu@kroger.com						
UST OPERATOR								
UST Operator Name (Business Name as registered with the Secretary of State) Kroger Limited Partnership I			BUSINESS ID (From the Secretary of State) LP97110042					
PREFIX	FIRST NAME Shenevelyn	MI	LAST NAME Ross		SUFFIX			
TELEPHONE NUMBER		EMAIL ADDRESS shenevelyn.ross@kroger.com						
PROPERTY OWNER								
UST Property Owner Name (Business Name as registered with the Secretary of State) Clear Creek Crossing LLC			BUSINESS ID (From the Secretary of State) 2001110600091					
PREFIX	FIRST NAME Whitney	MI	LAST NAME Gates		SUFFIX			
TELEPHONE NUMBER		EMAIL ADDRESS						
COMPLIANCE ELEMENTS								
All USTs properly registered, on file and fees paid		<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	UNK	
O/O is in compliance with reporting & record keeping requirements		<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	UNK	
O/O is in compliance with release reporting or investigation		<input type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>	N/A	UNK
O/O is in compliance with all UST closure requirements		<input type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>	N/A	UNK
O/O has met all financial responsibility requirements		<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	N/A	UNK
A mechanism of financial responsibility was not provided.								
40 CFR 280, Subpart A installation requirements (partially excluded) met		<input type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>	N/A	UNK
40 CFR 280, Subpart B installation and upgrade requirements met		<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	UNK	
During the inspection dated 12/10/2021 auto shout/ball float overfill coincidence was observed.								
40 CFR 280, Subpart C spill/overfill control requirements met		<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	N/A	UNK
40 CFR 280, Subpart C compatibility requirements met		<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	N/A	UNK
40 CFR 280, Subpart C O&M and testing requirements met		<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	UNK	
Spill/overfill equipment test reports and 07/2021-12/2021 monthly walkthrough inspections are needed.								
40 CFR 280, Subpart D release detection requirements met		<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	UNK	
Twelve (12) months of UST and piping release detection records needed.								
40 CFR 280, Subpart J operator training requirements met		<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	UNK	
A, B and C operator certificates were not available.								

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 two (2) USTs - DW FG - Installed 6/6/2002

One (1) 20K GSL (Compartment 1)

One (1) 8K GSL (Compartment 2)

Piping - DW Flex - Pressurized

RD UST - ATG - IM

RD Piping - ATG - IM - LTT - LD

Spill protection/Overfill - Spill bucket - Flapper & Ball floats & Alarm

ATG Certification = Y 7/6/2021

Overfill Protection Test = N

Spill bucket Test = N

Containment Sumps Test Required Y - (Completed by non IN certified technician)

Site is an active gas station

Any Site history or concerns - Midwest provided confirmation ball floats have been removed.

Documentation received -

Notification form - 8/26/2014

RD UST monthly results IM - 11/2020-11/2021 (Received 12/10/2021)

RD Piping IM - 11/2020-11/2021 (Received 12/10/2021)

LD - 7/6/2021 (Chris Howard not UST certified in IN)

Annual ATG with probe test - 7/6/2021 (Chris Howard not UST certified in IN)

Containment sump testing required for IM - 3/5/2021 (Chris Howard not UST certified in IN)

Monthly walk through 11/2020 - 11/2021

Ball float removal

Operator certificate - A-B-C

FR Insurance policy expires 5/1/2022

Documentation needed -

Overfill test required every 3 years

Spill bucket test required every 3 years

Inspection Notes

- If INT is the form of RD for the piping, sump testing is required periodically.

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:

- ALL UDCs and STP containment sumps were observed to have secure booting that appears to be loose and should be secured and tightened as needed.

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. Leak detector test completed 7/6/2021 was completed by Chris Howard who is not UST certified in IN.
2. Annual ATG test completed 7/6/2021 by Chris Howard who is not UST certified in IN.
3. 2. Annual ATG probe test completed 7/6/2021 by Chris Howard who is not UST certified in IN.
4. No 3 year test of spill buckets was provided.
5. Containment sump testing was completed 3/5/2021 by Chris Howard who is not UST certified in IN.
6. No 3 year overfill test was provided.

The following are RECORDS to be submitted to USTCompliance@idem.IN.gov with FID in subject line within 30 days of receipt of this inspection report to avoid further action and achieve compliance with the state underground storage tank program (update accordingly):

- A leak detector test completed by Indiana certified technician
- ATG test completed by Indiana UST certified technician
- ATG probes test completed by Indiana UST certified technician
- A periodic spill prevention equipment test report
- Periodic testing of STP sumps and UDCs used for interstitial monitoring.
- A periodic overfill prevention equipment test report