



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

February 21, 2022

Patrick Strother, Property Owner
125 South Jefferson Street
Campbellsburg, IN 47108

Dear Mr. Strother:

Re: Notice and Order of the Commissioner
Effective Date
Commissioner of IDEM
v.
Patrick Strother
Case No. 2020-27111-U
FID No. 22456
Campbellsburg, Washington County

IDEM issued a Notice and Order of the Commissioner to Patrick Strother on October 7, 2021 and hand delivered the Notice and Order of the Commissioner on January 16, 2022. The Order provided 19 days from receipt to file an objection to the findings of fact and proposed terms of the Notice and Order, after which the Notice and Order would become effective and enforceable. IDEM did not receive a request for an administrative review of this matter; therefore, the Notice and Order of the Commissioner became effective and enforceable on February 5, 2022. As a result, you are required to comply with the terms of the enclosed Notice and Order.

If you have any questions, please contact Debbie Chesterson, Enforcement Case Manager, at (317) 234-8205 or via email at djcheste@idem.IN.gov, or Julie Lang, Attorney, at (317) 233-0406 or via email at jlang@idem.IN.gov. Thank you for your cooperation in this matter.

Sincerely,

Jennifer Reno, Section Chief
Enforcement Section
Office of Land Quality

Enclosure

cc: OLQ Public File
Washington County Health Department
Carrie Maniet, IDEM OLQ
Matt James, IDEM OLQ

Julie Lang, IDEM OLC



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Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

STATE OF INDIANA) SS: BEFORE THE INDIANA DEPARTMENT OF
)
COUNTY OF MARION) ENVIRONMENTAL MANAGEMENT

COMMISSIONER OF THE DEPARTMENT)
OF ENVIRONMENTAL MANAGEMENT,)
)
Complainant,)
)
v.) Case No. 2020-27111-U
)
PATRICK STROTHER,)
)
Respondent.)

NOTICE AND ORDER OF THE COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

VIA CERTIFIED MAIL: # 7017 2400 0000 0746 7652

To: Patrick Strother, Property Owner
125 South Jefferson Street
Campbellsburg, IN 47108

This Notice and Order of the Commissioner of the Department of Environmental Management ("Order") is issued against Respondent for violation of Indiana environmental rules. This Order is issued pursuant to Indiana Code ("IC") 13-30-3-4, IC 13-30-3-10, and IC 13-30-3-11, and is based on violations found during an investigation conducted by the Office of Land Quality on April 16, 2020.

FINDING OF VIOLATION

1. Respondent is Patrick Strother ("Respondent"), who owns the property Parcel # 88-12-03-112-010.000-011 located at 155 West Main Street in Campbellsburg, Washington County, Indiana with FID No. 22456 (the "Site").
2. Pursuant to 329 Indiana Administrative Code ("IAC") 9-2-2(b), the owner of a UST system, UST, or tank shall submit a notification form to register the UST system, UST, or tank to the department within thirty (30) days of becoming the owner of, or bringing into use, the UST system, UST, or tank.

As noted during the inspection, Respondent failed to submit a notification to IDEM within thirty (30) days of becoming the owner.

3. Pursuant to 329 IAC 9-8-4(a), an owner or operator of a petroleum underground storage tank shall demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum underground storage tank in a per occurrence amount of at least one million dollars (\$1,000,000).

As noted during the inspection, Respondent failed to demonstrate a current and acceptable Financial Responsibility mechanism.

4. Pursuant to 40 Code of Federal Regulations ("CFR") 280.40(a)(4), owners and operators of the UST systems must provide a method, or combination of methods, of release detection that meets the performance requirements in § 280.43, § 280.44, or Subpart K of this part, as applicable, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, the methods listed in § 280.43(b), (c), (d), (h), and (i), § 280.44(a) and (b), and Subpart K of this part, must be capable of detecting the leak rate or quantity specified for that method in the corresponding section of the rule with a probability of detection of 0.95 and a probability of false alarm of 0.05.

As noted during the inspection, Respondent failed to provide release detection on the UST system.

5. 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).

As noted during the inspection, Respondent failed to perform release detection at the Site.

6. Pursuant to 40 CFR 280.31(b), all UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:
 - (1) Frequency. All cathodic protection systems must be tested within 6 months of installation and at least every 3 years thereafter or according to another reasonable timeframe established by the implementing agency; and
 - (2) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this section must be in accordance with a code of practice developed by a nationally recognized association.

As noted during the inspection, Respondent failed to provide information on the actual UST material and records of cathodic protection testing were not provided.

7. Pursuant to IC 13-30-3-3, on September 9, 2020, the Indiana Department of Environmental Management ("IDEM") issued a Notice of Violation to Respondent for violation of rules.

8. Pursuant to IC 13-30-3-3, the Notice of Violation contained an offer to enter into an Agreed Order providing for the actions required to correct the violations and, if appropriate, the payment of a civil penalty.
9. Pursuant to IC 13-30-3-3, more than sixty (60) days have elapsed since Respondent was offered the opportunity to enter into an Agreed Order.
10. Respondent has not entered into an Agreed Order resolving the violations.

ORDER

1. Respondent shall immediately cease and desist violation of rules.
2. Within thirty (30) days of the Effective Date, Respondent shall comply with 329 IAC 9-2-2(b). Specifically, Respondent shall submit a Notification Form with complete and accurate information including required attachments.
3. Within thirty (30) days of the Effective Date, Respondent shall comply with 329 IAC 9-8-4(a). Respondent shall submit documentation of financial responsibility.
4. Within thirty (30) days of the Effective Date, Respondents shall comply with 40 CFR 280.31(b). Specifically, Respondents shall submit documentation of the material comprising the USTs. Additionally, if the material is steel, Respondent shall provide a certified contractor to fully inspect and test the cathodic protection system.
5. Within fort-five (45) days of the Effective Date, Respondents shall submit documentation including the technician's certificate and detailed report of the cathodic protection system test to IDEM.
6. Within thirty (30) days of the Effective Date, Respondent shall comply with 40 CFR 280.40(a)(4) and 40 CFR 280.41(a)(1). Respondent shall empty each UST of all sludge, liquid or other material, have the USTs tightness tested, and the associated piping product lines and leak detectors tested.
7. Within forty-five (45) days of the Effective Date, Respondent shall submit to IDEM documentation of the tightness testing and product line testing results performed on all USTs and associated piping. Respondent shall perform monthly leak detection in accordance with the Rule and shall submit the method utilized along with the results to IDEM on a monthly basis for six (6) months for compliance monitoring.
8. Within sixty (60) days of the Effective Date, Respondent shall permanently close the tank in accordance with the requirements of 329 IAC 9-6 if the inspections and testing required in Order paragraphs 5 and 7 indicate that the tank and associated piping do not meet the performance standards.
9. All submittals required by this Order, unless IDEM notifies the Respondent otherwise in writing, shall be sent to:

Debbie Chesterson, Enforcement Case Manager
Office of Land Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204-2251

10. Pursuant to IC 13-30-4-1, Respondent shall pay a civil penalty of Forty-Six Thousand Six Hundred Dollars (\$46,600). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the thirtieth day being the "Due Date."
11. Civil penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management
Accounts Receivable
IGCN, Room 1340
100 North Senate Avenue
Indianapolis, Indiana 46204

12. In the event that the monies due to IDEM pursuant to this Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. Such interest shall be payable to the Environmental Management Special Fund, and shall be payable to IDEM in the manner specified in Paragraph 11, above.
13. This Order shall apply to and be binding upon Respondent and all successors and assigns. Respondent shall provide a copy of this Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.
14. No change in ownership, corporate, or partnership status of Respondent shall in any way alter the Respondent's status or responsibilities under this Order.
15. Respondent shall ensure that all contractors, firms, and other persons performing work under this Order comply with the terms of this Order.
16. In the event that any terms of this Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Order did not contain the invalid terms.
17. Pursuant to IC 13-30-3-5, this Order shall take effect ("Effective Date") twenty (20) days after receipt unless before the twentieth day after receipt Respondent requests administrative review of the Order under IC 13-30-3-5, as described in the following section of this Order.

NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

If you wish to challenge this Order, you must file a Petition for Administrative Review with the Office of Environmental Adjudication ("OEA"), and serve a copy of the petition upon IDEM. The requirements for filing a Petition for Administrative Review are found in IC 4-21.5-3-7, IC 13-30-3-5, and 315 IAC 1-3-2. A summary of the requirements of these laws is provided below.

A Petition for Administrative Review must be filed with the OEA before the twentieth day after receipt of this notice, and a copy must be served upon IDEM and all persons to whom the order is directed. Addresses for OEA and IDEM are:

Director	Commissioner
Office of Environmental Adjudication	Indiana Department of Environmental Management
Indiana Government Center North	Indiana Government Center North
Room N103	Room 1301
100 North Senate Avenue	100 North Senate Avenue
Indianapolis, Indiana 46204	Indianapolis, Indiana 46204

The petition must contain the following information:

1. The name, address, and telephone number of each petitioner.
2. An identification of each petitioner's interest in the subject of the petition.
3. A statement of facts demonstrating that each petitioner is:
 - a. a person to whom the order is directed;
 - b. aggrieved or adversely affected by the determination; or
 - c. entitled to administrative review under any law.
4. The reasons for the request for administrative review.
5. The particular legal issues proposed for review.
6. The facts, terms, or conditions of the action for which the petitioner requests review.
7. The identity of any persons represented by the petitioner.
8. The identity of the person against whom administrative review is sought.
9. A copy of the action that is the basis of the petition.
10. A statement identifying petitioner's attorney or other representative, if any.

Failure to meet the requirements of the law with respect to a Petition for Administrative Review may result in a waiver of your right to seek administrative review of the Order. Examples are:

1. Failure to file a Petition by the applicable deadline;
2. Failure to serve a copy of the Petition upon IDEM when it is filed; or
3. Failure to include the information required by law.

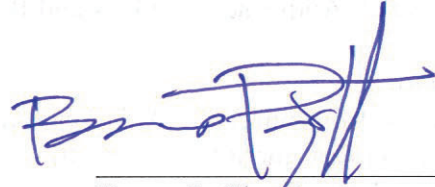
Pursuant to 315 IAC 1-3-2.1, a stay applies automatically to the Order upon the filing of a timely petition for review.

Pursuant to IC 4-21.5-3-17, OEA will provide all parties with notice of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders disposing of the review of this action. If you are entitled to notice under IC 4-21.5-3-5(b) and would like to obtain notices of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders disposing of the

review of this action without intervening in the proceeding you must submit a written request to OEA at the address above.

More information on the review process is available at the OEA website at <http://www.in.gov/oea> and the IDEM website at <https://www.in.gov/idem/legal/2329.htm>.

Dated at Indianapolis, Indiana this 7th day of October, 2021.

A handwritten signature in blue ink, appearing to read 'Bruno L. Pigott', written over a horizontal line.

Bruno L. Pigott
Commissioner

cc: Washington County Health Department
Julie Lang, IDEM, OLC
Carrie Maniet, IDEM, OLQ
IDEM Public File