



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

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Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

April 26, 2022

C & R Shambaugh Family LLC
Attn: William Ramsey, Registered Agent
215 E Berry St
Fort Wayne, IN 46802

P & R Investments Inc
Attn: Philip Carper, Registered Agent
2323 Southyard Ct
Fort Wayne, IN 46818

Re: Violation Letter
Phils Northway Deli
10330 Leo Rd
Fort Wayne, Allen County
UST Facility ID # **24518**

Dear owners and operators:

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 25 and March 17, 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.

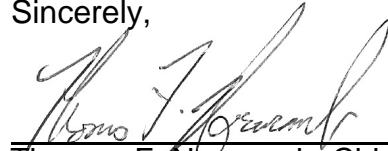
Thank you for your attention to this matter. Please submit the required documents to the UST Section via email at USTCompliance@idem.in.gov. Include in the subject line of the response the UST Facility ID # **24518**.

Inspector: Adam James
Phone: (317) 408-7187

Direct any questions regarding the inspection to:

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

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas F. Newcomb", is written over a horizontal line.

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

cc: Caitlin Shaffer
Adam James
UST Facility ID File # 24518
Phils Northway Deli
Attn: Craig Kozlowski, ckozlowski@bradleyco.com
Attn: Gabby Clontz, gclontz@philsonestop.com
gabby@philsonestop.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: Phils Northway Deli	UST FACILITY ID: 24518
ADDRESS: 10330 Leo Rd, Fort Wayne Allen County	INSPECTION DATE: 02/25/2022

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 updated notification form is needed with the correct overfill prevention equipment for each tank.

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.

329 IAC 9-8-11(b) – Failure to demonstrate the ability to pay the deductible amount

Citation:

Pursuant to 329 IAC 9-8-11(b), an owner or operator of:

- (1) twelve (12) or fewer USTs shall demonstrate the ability to pay the applicable deductible amount under IC 13-23-9-1.3; or
- (2) more than twelve (12) USTs shall demonstrate the ability to pay two (2) times the applicable deductible amount under IC 13-23-9-1.3.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because financial responsibility documentation was not provided.

Corrective Action:

The owner and/or operator of the UST systems at this site shall submit a copy of the instrument proving they have the coverage required by this rule within thirty (30) days of receipt of this notice.

§ 280.20(c)(1)(i) – Failure to have spill prevention equipment that will prevent release

Citation:

Pursuant to 40 CFR 280.20(c)(1)(i), 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:

(i) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin).

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because excess debris was observed in the RUL spill bucket that would prevent the equipment from performing as designed in the event of a spill or overfill.

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 spill prevention equipment that will prevent the release of product to the environment. The UST owner and/or operator must submit proof that the spill prevention equipment has been installed 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 documentation of spill bucket test results 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 spill prevention equipment. Documentation, to include photographs, inspection, repair and testing results, showing the spill prevention equipment 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 documentation of overfill prevention test results 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.

§ 280.36(a)(1)(i) – Failure to perform 30 day walkthrough inspections

Citation:

Pursuant to 40 CFR 280.36(a)(1)(i), to properly operate and maintain UST systems, not later than June 28, 2021, owners and operators must conduct a walkthrough inspection every 30 days that, at a minimum, checks spill prevention equipment and release detection equipment (Exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than every 30 days may be checked prior to each delivery).

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because documentation of monthly walkthrough inspections from July 2021 to present were not provided. Only March 2022 was available on site.

Corrective Action:

The owner and/or operator of the UST systems at this site shall, within seven (7) days of receipt of this notice, perform the 30 day walkthrough inspection for all UST systems at the site in accordance with a standard of practice referenced in the rule. Documentation, to include photographs, inspection forms, repair documents, and waste disposal records, showing the walkthrough inspection has been completed must be submitted within forty five (45) days of the 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:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because documentation of annual ATG functionality testing was not provided.</i>
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:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because documentation of annual ATG Probe testing was not provided.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall have all components of the automatic tank gauging probes 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)(iii) – Failure to perform annual tests of ALLD
Citation:
Pursuant to 40 CFR 280.40(a)(3)(iii), 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: (iii) Automatic line leak detector: test operation to meet criteria in § 280.44(a) by simulating a leak.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because documentation of annual Leak Detector testing was not provided.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall have the automatic line leak detectors tested for proper operation by simulating a leak within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of 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:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because documentation of annual Line Tightness testing was not provided.</i>
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.

§ 280.41(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 because only (6) months of Release Detection records were available for the REG tanks.

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.



UNDERGROUND STORAGE TANK INSPECTION REPORT

INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

UST FAC ID: **24518**

Inspector's Name:	Adam James
Date:	February 25, 2022
Time In:	11:00
Time Out:	01:00
Inspection Type:	Initial

FACILITY NAME / LOCATION					
FACILITY NAME Phils Northway Deli			FACILITY ADDRESS (number and street) 10330 Leo Rd		
ADDRESS (line 2)		CITY Fort Wayne	STATE IN	ZIP CODE 46825	COUNTY Allen
UST OWNER					
UST Owner Name (Business Name as registered with the Secretary of State) C & R Schambaugh Family LLC				BUSINESS ID (From the Secretary of State) 2015102600410	
PREFIX	FIRST NAME Craig	MI	LAST NAME Kozlowski		SUFFIX
TELEPHONE NUMBER (260) 423-4311		EMAIL ADDRESS ckozlowski@bradleyco.com			
UST OPERATOR					
UST Operator Name (Business Name as registered with the Secretary of State) P & R Investments				BUSINESS ID (From the Secretary of State) 1995061517	
PREFIX	FIRST NAME Phil	MI	LAST NAME Carper		SUFFIX
TELEPHONE NUMBER (260) 338-5000		EMAIL ADDRESS prcarper@msn.com			
PROPERTY OWNER					
UST Property Owner Name (Business Name as registered with the Secretary of State) C & R Schambaugh Family LLC				BUSINESS ID (From the Secretary of State) 2015102600410	
PREFIX	FIRST NAME William	MI	LAST NAME Ramsey		SUFFIX
TELEPHONE NUMBER		EMAIL ADDRESS			
COMPLIANCE ELEMENTS					
All USTs properly registered and up-to-date notification form on file			<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> UNK
An updated notification form is needed with the correct overfill prevention equipment					
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					
O/O is in compliance with release reporting or investigation			<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A
O/O is in compliance with all UST closure requirements					
O/O is in compliance with all UST closure requirements			<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A
O/O has met all financial responsibility requirements			<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> N/A
Financial Responsibility documentation needed					
40 CFR 280, Subpart A installation requirements (partially excluded) met			<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
40 CFR 280, Subpart B installation and upgrade requirements met					
40 CFR 280, Subpart B installation and upgrade requirements met			<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> UNK
Spill Bucket RUL full of debris that can prevent equipment from performing as intended					
40 CFR 280, Subpart C spill/overfill control requirements met			<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
40 CFR 280, Subpart C compatibility requirements met					
40 CFR 280, Subpart C compatibility requirements met			<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
40 CFR 280, Subpart C O&M and testing requirements met					
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 Bucket Test, Overfill Prevention Test, (30) day Walkthrough Inspection					
40 CFR 280, Subpart D release detection requirements met			<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> UNK
ATG/Probes Test, Line Leak Detector & Line Tightness Test, 12 months RD for REG					
40 CFR 280, Subpart J operator training requirements met			<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> UNK

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 in December 1990

- One (1) 12k GSL
- Two (2) 6k GSL
- One (1) 2k KER
- One (1) 8k DSL

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 32 years old and the owner should start planning on removing or replacing them soon.

Piping is fiberglass and pressurized (Environ) - KER is European Suction
Both RUL tanks are manifolded

RD UST = ATG
RD Piping = LDT, ATG, LTT
Overfill/Spill = Spill Buckets + Ball Float
ATG Certification = No
Overfill Protection Test = No
Spill Bucket Test = No

Additional Site Contacts:
Gabby Clontz - gclontz@philsonestop.com

Site history/concerns:

- Original documentation indicates ball floats. NFs in 2016 and 2017 marked both ball floats and auto shutoff. NF in 2021 only marked auto shutoff

Inspector Notes:

- Original inspection occurred 2/25/2022. High water level alarm for PREM UST shows 7.4 volume. Inspector did a follow up inspection to check for the presence of water in the UST on 3/17/2022. Utilizing water paste, PREM UST was checked for the presence of water. Results show that the presence of water seems to be small and volume of water did not change between inspections.
- Original inspection on 2/25/2022 noted that PREM and RUL spill buckets were full of fluids/debris. Follow up inspection 3/17/2022 checked to see if issues had been resolved. PREM spill bucket fluid levels are acceptable. However, RUL still has a large amount of debris. Additional compliance documents collected on site during follow up inspection 3/17/2022. Release detection records, Spill bucket violation for PREM and Operator C violations previously cited have been removed
- Inspection of the fuel ports show that AUTO shutoff (Flapper) is not installed on any of the tanks.

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:

1. DSL STP sump was checked for the presence of fuel utilizing fuel paste. Traces of fuel seem to be present. UST owner should ensure that piping/fittings are not leaking to help prevent a potential release.
2. Fluids in spill buckets and STP sumps. Remove fluids and monitor spill bucket/sumps.
3. PREM Vapor Recovery port is missing the spring seal. The spring seal for both RUL vapor recovery has cracks/tears. This could allow fluids and other foreign material to enter the UST. Replace spring seals so they may properly close.

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:

4. An updated notification form is needed showing the correct overfill prevention equipment installed on each tank.
5. Financial Responsibility Documentation was not provided.
6. Annual Line Leak Detector & Line Tightness tests were not provided.
7. Excess debris observed in RUL spill bucket preventing the equipment from performing as designed in the event of a spill or overfill.
8. Documentation of periodic test results for the Spill Buckets was not provided.
9. Documentation of periodic test results for the Overfill Prevention was not provided.
10. Documentation of annual test result of the ATG Unit & probes was not provided.
11. Documentation of monthly walk through inspection results dating from July 2021 to present was not provided.
12. (12) months of Release Detection records are not available for the REG tanks. Only (6) months were able to be printed from the ATG.

The following are RECORDS to be submitted to the inspector within 30 days of receipt of this inspection report to avoid further action and achieve compliance with the state underground storage tank program:

- Updated Notification Form
- FR Documentation
- Line Leak & Line Tightness Tests
- Spill Bucket/Overfill Prevention Tests
- ATG Unit/Probe Test
- Monthly Walkthrough (March 2022 collected during post inspection 3/17/2022)
- (12) months RD for the REG tanks or Tank Tightness Testing if not available