



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

August 24, 2022

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. 2022-28146-U
)
DOUGLAS R. SHORE AND SHORE'S OIL)
COMPANY,)
)
Respondent.)

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

VIA CERTIFIED MAIL: # 7017 2400 00000747 2632		VIA CERTIFIED MAIL: # 7017 2400 00000746 2649	
To:	Douglas Shore, Property Owner and UST Owner 9145 West US Highway 36 Modoc, IN 47358 shoresoilcompany@comcast.net	To:	Douglas Shore, President and Registered Agent, Shore's Oil Company 245 North Elm Street P.O Box 174 Modoc, IN 47358 shoresoilcompany@comcast.net

This Notice and Order of the Commissioner of the Department of Environmental Management ("Order") is issued against Respondents for violation of Indiana environmental statutes. 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 a violation found during an investigation conducted by the Office of Land Quality on July 22, 2021.

FINDING OF VIOLATION

1. Respondent Douglas R. Shore owns the property and UST systems located at 5066 Treaty Line Road, parcel # 89-05-26-200-205.000-020, in Hagerstown, Wayne County, Indiana (the "Site").

2. Respondent Shore's Oil Company operates Underground Storage Tank ("UST"), with UST Facility ID No. 3343, located at 5066 Treaty Line Road, parcel # 89-05-26-200-205.000-020, in Hagerstown, Wayne County, Indiana (the "Site").
3. Respondents own and operate seven (7) Steel UST at the Site. One (1) six thousand (6,000) gallon premium gasoline tank, one (1) six thousand (6,000) gallon gasoline tank, one (1) five thousand (5,000) gallon gasoline tank, and two (2) five thousand (5,000) gallon diesel tanks were installed in April 1969. One (1) eight thousand (8,000) kerosine tank and one (1) twenty thousand (20,000) off road diesel were installed in April 1971.
4. Pursuant to IC 13-23-12-1, each year the owner of an underground storage tank that has not been closed before January 1 of any year under rules adopted under IC 13-23-1-2; or a requirement imposed by the commissioner before the adoption of rules under IC 13-23-1-2; shall pay to the department of state revenue an annual registration fee. The annual registration fee required by this section is ninety dollars (\$90) for each underground petroleum storage tank; or two hundred forty-five dollars (\$245) for each underground storage tank containing regulated substances other than petroleum. If an underground storage tank consists of a single tank in which there are separate compartments, a separate fee shall be paid under subsection (b) for each compartment within the single tank. If an underground storage tank consists of a combination of tanks, a separate fee shall be paid under subsection (b) for each compartment within each tank in the combination of tanks.

As noted during the inspection, Respondents failed to pay the annual registration fee for the years of 2018, 2019, and 2020.

5. 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.

As noted during the inspection, Respondents failed to submit a complete and accurate notification form with required attachments.

6. Pursuant to 329 IAC 9-8-21(a), an owner or operator shall maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this rule for an underground storage tank until released from the requirements of this rule under section 23 of this rule. An owner or operator shall maintain such evidence at the underground storage tank site or the owner's or operator's place of work. Records maintained off site must be made available upon request of the Indiana department of environmental management, underground storage tank branch.

As noted during the inspection, Respondents failed to maintain a current Financial Responsibility mechanism.

7. Pursuant to 40 CFR 280.34, owners and operators of UST systems must cooperate fully with inspections, monitoring and testing conducted by the implementing agency, as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to section 9005 of Subtitle I of the Solid Waste Disposal Act, as amended.

As noted during the inspection, Respondents failed to respond to IDEM's December 3, 2020 records request and/or submit the requested documentation as required.

8. Pursuant to 40 CFR 280.240, not later than October 13, 2018, all owners and operators of UST systems must ensure they have designated Class A, Class B, and Class C operators who meet the requirements of this subpart.

As noted during the inspection, Respondents failed to have designated Class A and Class B operators at the Site.

9. Pursuant to 40 CFR 280.31(a), all corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

As noted during the inspection, Respondents failed to operate and maintain corrosion protection systems to continuously provide corrosion protection at the Site.

10. 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:
 - (4) 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 time frame established by the implementing agency; and
 - (5) 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 on July 22, 2021, Respondents failed to have the cathodic protection systems tested by a qualified cathodic protection tester as required. The last cathodic testing was performed on April 18, 2014.

11. Pursuant to 40 CFR 280.31(c), UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is running properly.

As noted during the inspection, Respondents failed to inspect the impressed current cathodic protection system as required.

12. 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).

As noted during the inspection, Respondents failed to conduct a walkthrough inspection every 30 days, at a minimum, to check spill prevention equipment and release detection equipment.

13. Pursuant to 40 CFR 280.35(a)(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 by meeting one of the following:
- (i) The equipment is double walled and the integrity of both walls is periodically monitored at a frequency not less than the frequency of the walkthrough inspections described in §280.36. Owners and operators must begin meeting paragraph (a)(1)(ii) of this section and conduct a test within 30 days of discontinuing periodic monitoring of this equipment; or
 - (ii) The spill prevention equipment and containment sumps used for interstitial monitoring of piping are tested at least once every three years to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:
 - (A) Requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements);
 - (B) Code of practice developed by a nationally recognized association or independent testing laboratory; or
 - (C) Requirements determined by the implementing agency to be no less protective of human health and the environment than the requirements listed in paragraphs (1)(1)(ii)(A) and (B) of this section.

As noted during the inspection, Respondents failed to ensure spill prevention equipment and containment sumps used for interstitial monitoring of piping were operating properly to prevent releases to the environment. Specifically, spill bucket testing records were unavailable.

14. 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.

As noted during the inspection, Respondents failed to inspect overfill prevention equipment at least once every three years.

13. 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 on, Respondents failed to monitor tanks for releases at least every 30 days.

14. 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).

As noted during the inspection, Respondents failed to maintain spill prevention equipment. Specifically, spill buckets were not present at the main fill ports of the USTs.

15. Pursuant to IC 13-30-3-3, a Notice of Violation was issued to the Respondents on February 9, 2022. 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.
14. Pursuant to IC 13-30-3-3, more than sixty (60) days have elapsed since Respondents were offered the opportunity to enter into an Agreed Order.
15. Respondents have not entered into an Agreed Order resolving the violations.

ORDER

1. Respondents shall immediately cease and desist violation of rules.
2. Within fifteen (15) days of the Effective Date, Respondents shall comply with IC 13-23-12-1. Specifically, Respondents shall pay the required fees and send payment to:

Indiana Dept of Environmental Management
PO Box 3295
Indianapolis IN 46206-3295
3. Within thirty (30) days of the Effective Date, Respondent shall comply with 329 IAC 9-2-2(c). Specifically, Respondent shall download, complete, and submit "Notification Form for Underground Storage Tanks," State Form 45223 from IDEM webpage: <https://www.in.gov/idem/5157.htm>, under "Underground Storage Tank (UST) Program." Once downloaded the form may be completed on-line or by hand and emailed to USTRegistration@idem.in.gov. The completed form will not be accepted by mail.

4. Within fifteen (15) days of notification from IDEM that the submitted Form 45223, required in Order Paragraph 3 is inadequate, Respondents shall submit a corrected form to be approved by IDEM.
5. Within the thirty (30) days of the Effective Date, Respondents shall comply with 329 IAC 9-8-21(a). Specifically, Respondents submit documentation of financial responsibility to IDEM.
6. Immediately upon the effective date, Respondents shall comply with 40 CFR 280.34. Specifically, upon IDEM's request, Respondents shall respond and submit documentation of the monitoring or testing required by the rules.
7. Within thirty (30) days of the Effective Date, Respondents shall comply with 40 CFR 280.240. Specifically, Respondents shall submit a list of those employees designated to be Class A, Class B and Class C operators. Those so designated must be trained and certification of that training submitted.
8. Within thirty (30) days of the Effective Date, Respondents shall comply with 40 CFR 280.31(a), 40 CFR 280.31(b) and 40 CFR 280.31(c). Specifically, Respondents shall submit the required documents or have the UST systems fully inspected by a qualified cathodic protection tester and submit the documents and and/or or results.
9. Within thirty (30) days of the Effective Date, Respondents shall comply with 40 CFR 280.36(a)(1)(i). Specifically, Respondents shall perform the 30-day walkthrough inspection for all UST systems at the site in accordance with a standard of practice referenced in the rule.
10. Within forty-five (45) days of the Effective Date, Respondents shall submit documentation to show compliance with Order paragraph 9 immediately above. Specifically, Respondents shall submit documentation, to include photographs, inspection forms, repair documents, and waste disposal records, showing the walkthrough inspection required has been completed.
11. Within thirty (30) days of the Effective Date, Respondents shall comply with 40 CFR 280.35(a)(1). Specifically, Respondents shall contract with a certified contractor to inspect, repair, and test all spill prevention equipment and containment sumps.
12. Within forty-five (45) days of the Effective Date, Respondents shall submit documentation to show compliance with Order paragraph 11 immediately above. Specifically, Respondents shall submit documentation, to include photographs, inspection, repair and testing results, showing the spill prevention equipment and containment sumps are liquid tight.
13. Within thirty (30) days of the Effective Date, Respondents shall comply with 40 CFR 280.35(a)(2). Specifically, Respondents shall contract with a certified contractor to inspect, repair, and test all overfill prevention equipment.

14. Within forty-five (45) days of the Effective Date, Respondents shall submit documentation to show compliance with Order paragraph 13 immediately above. Specifically, Respondents shall submit documentation, to include photographs, inspection, repair, measurements and testing results, showing the overfill prevention equipment is fully functional and set at the correct level.
15. Within thirty (30) days of the Effective Date, Respondents shall comply with 40 CFR 280.41(a)(1). Specifically, Respondents 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 and shall submit the results to IDEM.
16. All submittals required by this Order, unless IDEM notifies the Respondents otherwise in writing, shall be sent to:

Samantha Nunnery, Enforcement Case Manager
Office of Land Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204-2251
17. Pursuant to IC 13-30-4-1, Respondents are assessed and agree to pay a civil penalty of Fifty-Two Thousand Five Hundred Dollars (\$52,500), for which Respondents are jointly and severally liable. The civil penalty shall be due by the date printed on the Invoice, as attached.

Civil penalties are payable to the "Underground Petroleum Storage Tank Trust Fund" by:

Mail:

Civil penalties are payable by check to the "Underground Petroleum Storage Tank Trust 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, IN 46204

Online:

Accounts Receivable is accepting payments online by e-Check, Master Card, Visa or Discover. Please visit www.IN.gov/IDEM. Under Online Services, click Online Payment options and follow the prompts. A processing fee of \$1 plus 1.99% will be charged for credit card payments. A processing fee of \$1.00 will be charged for eCheck payments. The Case Number is required to complete the process.

Phone:

You may also call us at 317-234-3099 and follow the instructions for Master Card, Visa or Discover payments. A processing fee of \$1 plus 1.99% will be charged for credit card payments. A processing fee of \$1.00 will be charged for eCheck payments. The Case Number is required to complete the process.

18. In the event that the monies due to IDEM pursuant to this Order are not paid on or before their Due Date, Respondents 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 Respondents pay 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 17, above.
19. This Order shall apply to and be binding upon Respondents and all successors and assigns. Respondents shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.
20. No change in ownership, corporate, or partnership status of Respondents shall in any way alter the Respondent's status or responsibilities under this Order.
21. Respondents shall ensure that all contractors, firms, and other persons performing work under this Order comply with the terms of this Order.
22. 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.
23. 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
Office of Environmental Adjudication
Indiana Government Center North
Room N103
100 North Senate Avenue
Indianapolis, Indiana 46204

Commissioner
Indiana Department of Environmental Management
Indiana Government Center North
Room 1301
100 North Senate Avenue
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:

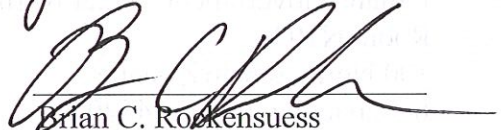
1. Failure to file a Petition by the applicable deadline;
2. Failure to serve a copy of the Petition upon IDEM when it is filed; or
3. Failure to include the information required by law.

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 23 day of August, 2022.


Brian C. Rookensuess
Commissioner

cc: IDEM Virtual Cabinet
Wayne County Health Department
Matt James, UST, Inspector
Tom Newcomb, UST, Section Chief
Julie Lang, OLC, Attorney

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

60-05 (1833) dbates 28146-U
DOUGLAS SHORE,
PROPERTY OWNER & UST OWNER
9145 WEST US HIGHWAY 36
MODOC IN 47358

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Russell Shore*

☒ Agent
☐ Addressee

B. Received by (Printed Name)

Russell Shore

C. Date of Delivery

8-29-22

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type

☐ Certified Mail ☐ Express Mail
☒ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

7017 2400 0000 0747 2649

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

DOUGLAS SHORE, PRES & REG AGENT
SHORE'S OIL CO
245 NORTH ELM ST
PO BOX 174
MODOC, IN 47358

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Russell Shore*

☒ Agent
☐ Addressee

B. Received by (Printed Name)

Russell Shore

C. Date of Delivery

8-29-22

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail ☐ Express Mail
☒ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Ar 7017 2400 0000 0747 2632
(11)

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540