

is the UST site, or both. According to the LaPorte County Assessor's Office, Respondent is the owner of the Site.

5. A Violation Letter was issued to Respondent on March 13, 2024, which required Respondent to document compliance with the requirements of release detection (USTs and piping), operation and maintenance of corrosion protection and spill/overflow operating/reporting requirements, UST equipment/upgrade violations UST fees, and UST registration/notification and reporting/recordkeeping within thirty (30) days of receipt of the Violation Letter. Respondent failed to respond to the Violation Letter.
6. IDEM has jurisdiction over the parties and the subject matter of this action.
7. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation ("NOV") via certified mail to:

Santosh Kaur
President and Registered Agent
S & J Partnership Inc.
1950 Bramble Trace
Chesterton, Indiana 46304
handyspotcleveland@gmail.com

Kuljit Singh
Vice President
S & J Partnership Inc.
1007 East Marquette Wood Road
St. Joseph, Michigan 49085

8. During an investigation including an inspection on January 26, 2024, conducted by a representative of IDEM, the following violations were found:
 - a. Pursuant to IC 13-23-12-1, each year if an underground storage tank has not been closed before January 1 of the 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; the owner shall pay to the department 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 for each compartment within the single tank. If an underground storage tank consists of a combination of tanks, a separate fee shall be paid for each compartment within each tank in the combination of tanks.

As noted during the inspection on January 26, 2024, Respondent failed to pay the annual registration fee for 2021 and 2022.
 - b. Pursuant to 40 CFR 280.34(c)(1) & (2), owners and operators must keep the records required either:
 - (1) At the UST site and immediately available for inspection by the implementing agency; or
 - (2) At a readily available alternative site and be provided for inspection to the implementing agency upon request.

As noted during the inspection on January 26, 2024, Respondent failed to provide all required records at the time of the inspection and upon request after the inspection.

- c. Pursuant to 40 CFR 280.41(a)(1), and 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 January 26, 2024, Respondent failed to utilize an approved method to monitor the PREMIUM UST for releases at least every 30 days. The last passing release detection test was in May 2023 with no results after that month.

- d. Pursuant to 40 CFR 280.40(a)(3)(iii) as incorporated, owners and operators of UST systems must provide a method, or combination of methods, of release detection that, beginning on June 28, 2021, 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: automatic line leak detector: test operation to meet criteria in § 280.44(a) by simulating a leak.

As noted during the inspection on January 26, 2024, Respondent failed to perform an annual proper operation test (components and criteria) of the automatic line leak detector as specified.

- e. Pursuant to 40 CFR 280.41(b)(1)(i)(B) taking into consideration previous Indiana rules at 329 IAC 9-2-1(2)(D) and 329 IAC 9-3-1.3 (both repealed 2018), pressurized underground piping installed on or before September 2, 2009 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).

As noted during the inspection on January 26, 2024, Respondent failed to have piping containing a regulated amount of product tightness tested and failed to provide monthly monitoring records for the piping.

- f. 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 time frame 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 on January 26, 2024, Respondent failed to have the cathodic protection systems tested by a qualified cathodic protection tester. Specifically, the corrosion protection test for the DIESEL dispenser risers 9/10 and 11/12 piping were not conducted, as required.

- g. 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 on January 26, 2024, Respondent failed to maintain appropriate spill prevention equipment for the DIESEL UST system and REGULAR GASOLINE NORTH UST system, as evident by standing liquid accumulating in the spill buckets.

- h. Pursuant to 40 CFR 280.43(d), equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:
- (1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product;
 - (2) The automatic tank gauging equipment must meet the inventory control (or other test of equivalent performance) requirements of § 280.43(a); and
 - (3) The test must be performed with the system operating in one of the following modes:
 - (i) In-tank static testing conducted at least once every 30 days; or
 - (ii) Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every 30 days.

As noted during the inspection on January 26, 2024, Respondent failed to perform automatic tank gauging in accordance with applicable requirements. Specifically, the ATG inventory report did not show current status for the PREMIUM UST (a “no probe” alarm indicated in September 2023) and the REGULAR GASOLINE NORTH and REGULAR GASOLINE SOUTH USTs were programmed at a higher than expected capacity for fiberglass single-wall tanks.

- i. 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 on January 26, 2024, Respondent failed to ensure spill prevention equipment and containment sumps used for interstitial monitoring of piping were operating properly to prevent releases to the environment.

- j. 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 on January 26, 2024, Respondent failed to inspect overfill prevention equipment at least once every three years.

- k. Pursuant to 40 CFR 280.40(a)(3)(i) as incorporated, owners and operators of UST systems must provide a method, or combination of methods, of release detection that, beginning on June 28, 2021, 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: automatic tank gauge and other controllers: test alarm; verify system configuration; test battery backup.

As noted during the inspection on January 26, 2024, Respondent failed to perform an annual proper operation test (components and criteria) of the automatic tank gauge and other controllers as specified.

1. Pursuant to 40 CFR 280.40(a)(3)(ii) as incorporated, owners and operators of UST systems must provide a method, or combination of methods, of release detection that, beginning on June 28, 2021, 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: 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.

As noted during the inspection on January 26, 2024, Respondent failed to perform an annual proper operation test (components and criteria) of the probes and sensors as specified.

- m. Pursuant to 40 CFR 280.36(a)(1)(i), as incorporated, to properly operate and maintain UST systems, not later than June 28, 2021, owners and operators must meet one of the following:
 - (1) Conduct a walkthrough inspection that, at a minimum, checks the following equipment as specified below:
 - (i) Every 30 days (Exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than every 30 days may be checked prior to each delivery):
 - (A) Spill prevention equipment—visually check for damage; remove liquid or debris; check for and remove obstructions in the fill pipe; check the fill cap to make sure it is securely on the fill pipe; and, for double walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area; and
 - (B) Release detection equipment— check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present; and ensure records of release detection testing are reviewed and current.

As noted during the inspection on January 26, 2024, Respondent failed to properly conduct 30-day walkthrough inspections to check equipment as

specified. Specifically, January 2023 - March 2023, July 2023, August 2023, November 2023, and January 2024 were not conducted.

- n. Pursuant to 40 CFR 280.34(a)(3) as incorporated, owners and operators must submit the following information to the implementing agency: reports of all releases including suspected releases (§ 280.50) and spills and overfills (329 IAC 9-4-4).

As noted during the inspection on January 26, 2024, the ATG indicated an active high-water alarm for the DIESEL UST and the January 26, 2024 inventory report indicated 2.65 inches of water in the DIESEL UST. Respondent failed to submit to IDEM required release reports as required.

9. Respondent submitted documentation of compliance for Findings of Fact Paragraph Numbers 3, 4, 8, 10, 16, 18, 20, 22, 24, and 26 on September 13, 2024. The documentation was reviewed, and compliance was determined.
10. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondent acknowledges notice of this right and waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective (“Effective Date”) when it is approved by Complainant or Complainant’s delegate and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with the statute and rules listed in the findings of fact above.
3. Within thirty (30) days of the Effective Date, Respondent shall comply with 40 CFR 280.41(a)(1). Specifically, a Tank Tightness Test is required for the PREM UST.
4. Within forty-five (45) days of the Effective Date, Respondent shall submit documentation of the work performed pursuant to the immediately preceding paragraph to the IDEM case manager at the address specified below.
5. Respondent shall continue to perform proper monthly release detection and submit the results monthly for a period of six (6) months from the Effective Date to the IDEM case manager at the address specified below.
6. Within thirty (30) days of the Effective Date, Respondent shall comply with 40 CFR 280.31(b). Specifically, a Corrosion Protection testing is required for the DSL dispenser riser 9/10.

7. Within thirty (30) days of the Effective Date, Respondent shall comply with 40 CFR 280.20(c)(1)(i). Specifically, documentation of removal of the excess liquid in the DSL spill bucket is required. In addition, repair/replacement documentation and passing spill bucket testing is required for the REG N
8. Within thirty (30) days of the Effective Date, Respondent shall comply with 40 CFR 280.43(d). Specifically, Respondent shall submit repair documents for the now working PREM ATG probe and documentation that all tanks have been correctly programmed into the ATG along with a passing test.
9. Within thirty (30) days of the Effective Date, Respondent shall comply with 40 CFR 280.34(a)(3). Specifically, Respondent shall submit all required release reports to the IDEM case manager at the address specified below.
10. All submittals required by this Agreed Order, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

Linda McClure, Enforcement Case Manager
Office of Land Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251
11. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of Zero Dollars (\$0). This penalty reflects a significant reduction from the original proposed civil penalty based upon evidence submitted to IDEM by Respondent which adequately demonstrated Respondent's inability to pay the original proposed civil penalty.

Stipulated penalties are payable to the "Indiana Department of Environmental Management" by:

Mail:

Civil penalties are payable by check to the "Indiana Department of Environmental Management." Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management
Accounts Receivable
P.O. Box 3295
Indianapolis, IN 46206

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 \$0.40 plus 2.06% will be charged for credit card payments. A processing fee of \$0.15 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 \$0.40 plus 2.06% will be charged for credit card payments. A processing fee of \$0.15 will be charged for eCheck payments. The Case Number is required to complete the process.

12. In the event the terms and conditions of the following paragraphs are violated, Complainant may assess, and Respondent shall pay a stipulated penalty in the following amount:

<u>Paragraph</u>	<u>Stipulated Penalty</u>
Order paragraph # 3	\$150 per week
Order paragraph # 4	\$150 per week
Order paragraph # 5	\$150 per week
Order paragraph # 6	\$150 per week
Order paragraph # 7	\$150 per week
Order paragraph # 8	\$150 per week
Order paragraph # 9	\$150 per week

13. Stipulated penalties shall be due and payable no later than the thirtieth day after Respondent receives written notice that Complainant has determined a stipulated penalty is due; at which time, a separate invoice will be issued. Complainant may notify Respondent at any time that a stipulated penalty is due. Failure to notify Respondent in writing in a timely manner of a stipulated penalty assessment shall not waive Complainant's right to collect such stipulated penalty or preclude Complainant from seeking additional relief against Respondent for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude Complainant from seeking additional relief against Respondent for a violation of this Agreed Order; such additional relief includes any remedies or sanctions available pursuant to Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.
14. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay an additional penalty of 10 percent, payable to "Indiana Department of Environmental Management," and shall be payable to IDEM in the manner specified in Paragraph 11, above.
15. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
16. This Agreed Order shall apply to and be binding upon Respondent and all successors and assigns. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.
17. No change in ownership, corporate, or partnership status of Respondent shall in any way alter the Respondent's status or responsibilities under this Agreed Order.

18. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
19. In the event that any terms of this Agreed 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 Agreed Order did not contain the invalid terms.
20. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.
21. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
22. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to seek additional civil penalties for the violations specified in the NOV.
23. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the U.S. Environmental Protection Agency (U.S. EPA) or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the U.S. EPA or any other agency or entity.
24. This Agreed Order shall remain in effect until IDEM issues a Resolution of Case letter to Respondent.

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TECHNICAL RECOMMENDATION:
Department of Environmental Management

RESPONDENT:

By: Jennifer Reno
Jennifer Reno, Chief
Land Enforcement Section
Compliance Branch
Office of Land Quality

By: _____
Printed: _____
Title: _____

Date: 10/4/2024

Date: _____

COUNSEL FOR RESPONDENT:

By: _____
Printed: _____
Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT THIS _____ DAY OF _____, 20____

For the Commissioner:

Brian Wolff
Assistant Commissioner
Office of Land Quality