

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-0522-PST-E **TCEQ ID:** RN102766102 **CASE NO.:** 39439
RESPONDENT NAME: Skinny's, LLC dba 7-Eleven Store 142

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 7-Eleven Store 142, 3131 Sunset Drive, San Angelo, Tom Green County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the BD and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 2, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Keith Frank, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-1203; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Scott Prall, Director of Fuel and Transportation, Skinny's, LLC, 4001 Penbrook Street, Suite 400, Odessa, Texas 79762 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 4, 2010</p> <p>Date of NOV/NOE Relating to this Case: March 17, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to maintain the required underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>2) Failure to ensure the integrity of a UST system by the performance of tank tightness and piping tightness tests before returning the system to service. Specifically, the USTs were temporarily out of service during the period from May 2009 to December 16, 2009 and the Respondent did not conduct the required testing to ensure the integrity of the system [30 TEX. ADMIN. CODE § 334.54(c)(3)(A) and TEX. WATER CODE § 26.3475(d)].</p> <p>3) Failure to submit a construction notification 30 days prior to returning the temporarily out of service UST system to active service [30 TEX. ADMIN. CODE §§ 334.6(b)(2) and 334.54(c)(3)(C)].</p> <p>4) Failure to ensure that the observation well access vault or manhole is equipped with a liquid tight cover and the observation well is properly capped, labeled, and secured or locked to prevent unauthorized access, tampering, and any deliberate or accidental depositing of unauthorized substances. Specifically, two observation wells were not properly secured [30 TEX. ADMIN. CODE § 334.46(g)(1)(H)].</p>	<p>Total Assessed: \$5,090</p> <p>Total Deferred: \$1,018 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,072</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Submitted documentation reflecting that required UST records are being maintained at the Facility on May 14, 2010;</p> <p>b. Completed the required tank and piping tightness testing on December 31, 2009, with passing results;</p> <p>c. Submitted documentation reflecting the implementation of construction notification submittal practices on May 14, 2010; and</p> <p>d. Submitted documentation reflecting that the tank observation wells are properly capped, labeled, and secured on May 14, 2010.</p>

Additional ID No(s): 75492



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Mar-2010	Screening	1-Apr-2010	EPA Due	
	PCW	17-May-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Skinny's, LLC dba 7-Eleven Store 142		
Reg. Ent. Ref. No.	RN102766102		
Facility/Site Region	8-San Angelo	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39439	No. of Violations	4
Docket No.	2010-0522-PST-E	Order Type	1680
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Keltn Frank
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	2.0% Enhancement	Subtotals 2, 3, & 7	\$110
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Notes	Enhancement for one previous NOV with dissimilar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$116	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,200	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,985
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OTHER FACTORS AS JUSTICE MAY REQUIRE	2.1%	Adjustment	\$105
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation no. 3.
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Final Penalty Amount	\$5,090
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,090
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,018
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$4,072
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Screening Date 1-Apr-2010

Docket No. 2010-0522-PST-E

PGW

Respondent Skinny's, LLC dba 7-Eleven Store 142

Policy Revision 2 (September 2002)

Case ID No. 39439

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102766102

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one previous NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 2%

Screening Date: 1-Apr-2010 **Docket No.:** 2010-0522-PST-E **PCW**
Respondent: Skinny's, LLC dba 7-Eleven Store 142 *Policy Revision 2 (September 2002)*
Case ID No.: 39439 *PCW Revision October 30, 2008*
Reg. Ent. Reference No.: RN102768102
Media [Statute]: Petroleum Storage Tank
Enf. Coordinator: Keith Frank

Violation Number: 1
Rule Cite(s): 30 Tex. Admin. Code § 334.10(b)
Violation Description: Failed to maintain the required underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel.
Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential			0%

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment: \$9,000

Violation Events

Number of Violation Events: 1 **Number of violation days:** 56
mark only one with an x
 daily
 weekly
 monthly
 quarterly
 semiannual
 annual
 single event

Violation Base Penalty: \$1,000

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal: \$1,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount: \$7 **Violation Final Penalty Total:** \$1,041
This violation Final Assessed Penalty (adjusted for limits): \$1,041

Economic Benefit Worksheet

Respondent: Skinny's, LLC dba 7-Eleven Store 142

Case ID No.: 39439

Reg. Ent. Reference No.: RN102768102

Media: Petroleum Storage Tank

Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description: No commas or \$

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment			0.00	\$0	\$0	\$0	
Buildings			0.00	\$0	\$0	\$0	
Other (as needed)			0.00	\$0	\$0	\$0	
Engineering/construction			0.00	\$0	\$0	\$0	
Land			0.00	\$0	n/a	\$0	
Record Keeping System	\$500	4-Feb-2010	14-May-2010	0.27	\$7	n/a	\$7
Training/Sampling			0.00	\$0	n/a	\$0	
Remediation/Disposal			0.00	\$0	n/a	\$0	
Permit Costs			0.00	\$0	n/a	\$0	
Other (as needed)			0.00	\$0	n/a	\$0	

Notes for DELAYED costs

Estimated cost to maintain UST records. Date Required is the investigation date. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$7

Screening Date: 1-Apr-2010

Docket No: 2010-0522-PST-E

PCW

Respondent: Skinny's, LLC dba 7-Eleven Store 142

Policy Revision 2 (September 2002)

Case ID No. 39439

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102766102

Media [Statute] Petroleum Storage Tank

Enf. Coordinator: Keith Frank

Violation Number: 2

Rule Cite(s)

30 Tex. Admin. Code § 334.54(c)(3)(A) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to ensure the integrity of a UST system by the performance of tank tightness and piping tightness tests before returning the system to service. Specifically, the USTs were temporarily out of service during the period from May 2009 to December 16, 2009 and the Respondent did not conduct the required testing to ensure the integrity of the system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

Number of violation days 15

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation from the December 16, 2009 date the UST system was returned to service to the December 31, 2009 date of compliance.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent came into compliance on December 31, 2009 prior to the Notice of Enforcement dated March 17, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,966

This violation Final Assessed Penalty (adjusted for limits) \$1,966

Economic Benefit Worksheet

Respondent: Skinny's, LLC dba 7-Eleven Store 142
Case ID No.: 39439
Reg. Ent. Reference No.: RN102768102
Media: Petroleum Storage Tank
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	18-Dec-2009	31-Dec-2009	0.04	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to test the UST system's integrity and performance. Date Required is the date the UST system was returned to service. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE: [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$3

Screening Date: 1-Apr-2010

Docket No.: 2010-0522-PST-E

PCW

Respondent: Skinny's, LLC dba 7-Eleven Store 142

Policy Revision 2 (September 2002)

Case ID No.: 39439

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102766102

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Keith Frank

Violation Number: 3

Rule Cite(s):

30 Tex. Admin. Code §§ 334.6(b)(2) and 334.54(c)(3)(C)

Violation Description:

Failed to submit a construction notification 30 days prior to returning the temporarily out of service UST system to active service.

Base Penalty:

\$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent: 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent: 10%

Matrix Notes:

100% of the rule requirement was not met.

Adjustment:

\$9,000

\$1,000

Violation Events

Number of Violation Events: 1

80 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty:

\$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes:

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal:

\$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$105

Violation Final Penalty Total:

\$1,041

This violation Final Assessed Penalty (adjusted for limits):

\$1,041

Economic Benefit Worksheet

Respondent: Skinny's, LLC dba 7-Eleven Store 142

Case ID No: 39439

Reg. Ent. Reference No: RN102766102

Media: Petroleum Storage Tank

Violation No: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No costs or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	16-Nov-2009	16-Dec-2009	1.00	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to notify the agency prior to returning the UST system to active status. Date Required is 30 days prior to the date the UST system was returned to service. Final Date is the active status date.

Approx. Cost of Compliance

\$100

TOTAL

\$105

Screening Date: 1-Apr-2010

Docket No: 2010-0522-PST-E

PCW

Respondent: Skinny's, LLC dba 7-Eleven Store 142

Policy Revision 2 (September 2002)

Case ID No: 39439

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN102766102

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Keith Frank

Violation Number: 4

Rule Cite(s)

30 Tex. Admin. Code § 334.46(g)(1)(H)

Violation Description

Failed to ensure that the observation well access vault or manhole is equipped with a liquid tight cover and the observation well is properly capped, labeled, and secured or locked to prevent unauthorized access, tampering, and any deliberate or accidental depositing of unauthorized substances. Specifically, two observation wells were not properly secured.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 1 Number of violation days: 56

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty: \$1,000

One quarterly event is recommended based on documentation of the violation from the February 4, 2010 investigation to the April 1, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal: \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$1

Violation Final Penalty Total: \$1,041

This violation Final Assessed Penalty (adjusted for limits): \$1,041

Economic Benefit Worksheet

Respondent: Skinny's, LLC dba 7-Eleven Store 142

Case ID No.: 39439

Reg. Ent. Reference No.: RN102786102

Media: Petroleum Storage Tank

Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	4-Feb-2010	14-May-2010	0.27	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to properly secure two observation wells. Date Required is the investigation date. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$1

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603568288 Skinny's, LLC	Classification:	Rating:
Regulated Entity:	RN102766102 7-Eleven Store 142	Classification: AVERAGE	Site Rating: 0.75
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	75492
Location:	3131 SUNSET DR, SAN ANGELO, TX, 76904		
TCEQ Region:	REGION 08 - SAN ANGELO		
Date Compliance History Prepared:	March 31, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 31, 2005 to March 31, 2010		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Keith Frank	Phone:	(512) 239-1203

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Skinny's, LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ? Btg Diamond, Inc.

Albertson's LLC
5. When did the change(s) in owner or operator occur? 08/11/2008

12/07/2009
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/01/2006	(464552)
2	09/12/2008	(687398)
3	10/10/2008	(704723)
4	03/17/2010	(794535)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 09/12/2008 (687398)	CN603568288
Self Report?	NO
Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter D 334.72(3)(B)
Description:	Failure to report within 24 hours a failure of two consecutive months of inventory control leak check on tank #1.
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING SKINNY'S, LLC
DBA 7-ELEVEN STORE 142
RN102766102**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-0522-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Skinny's, LLC dba 7-Eleven Store 142 ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 3131 Sunset Drive in San Angelo, Tom Green County, Texas (the "Facility").
2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 22, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Ninety Dollars (\$5,090) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Seventy-Two Dollars (\$4,072) of the administrative penalty and One Thousand Eighteen Dollars (\$1,018) is deferred contingent upon the Respondent's

timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Submitted documentation reflecting that required UST records are being maintained at the Facility on May 14, 2010;
 - b. Completed the required tank and piping tightness testing on December 31, 2009, with passing results;
 - c. Submitted documentation reflecting the implementation of construction notification submittal practices on May 14, 2010; and
 - d. Submitted documentation reflecting that the tank observation wells are properly capped, labeled, and secured on May 14, 2010.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on February 4, 2010.
2. Failed to ensure the integrity of a UST system by the performance of tank tightness and piping tightness tests before returning the system to service, in violation of 30 TEX. ADMIN. CODE §

- 334.54(c)(3)(A) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on February 4, 2010. Specifically, the USTs were temporarily out of service during the period from May 2009 to December 16, 2009 and the Respondent did not conduct the required testing to ensure the integrity of the system.
3. Failed to submit a construction notification 30 days prior to returning the temporarily out of service UST system to active service, in violation of 30 TEX. ADMIN. CODE §§ 334.6(b)(2) and 334.54(c)(3)(C), as documented during an investigation conducted on February 4, 2010.
 4. Failed to ensure that the observation well access vault or manhole is equipped with a liquid tight cover and the observation well is properly capped, labeled, and secured or locked to prevent unauthorized access, tampering, and any deliberate or accidental depositing of unauthorized substances, in violation of 30 TEX. ADMIN. CODE § 334.46(g)(1)(H), as documented during an investigation conducted on February 4, 2010. Specifically, two observation wells were not properly secured.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Skinny's, LLC dba 7-Eleven Store 142, Docket No. 2010-0522-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/9/2010

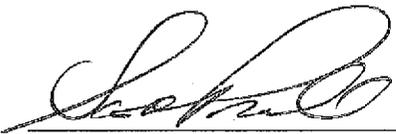
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

5/23/2010

Date

Scott Prall

Name (Printed or typed)
Authorized Representative of
Skinny's, LLC dba 7-Eleven Store 142

Dir. of Fuel & Transportation

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

