

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 46288
SNI Corporation dba Broadway Food Mart
RN101252732
Docket No. 2013-0399-PST-E

Page 1 of 2

Order Type:

Agreed Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

2682 Highway 71 West, Columbus, Colorado County

Type of Operation:

convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: 2013-2053-PWS-E (on current agenda)
Past-Due Penalties: \$8,786.29 (2011-1631-PWS-E; Referred to the AG)
Past-Due Fees: \$5.00 (Account No. 90450065)
Other: None
Interested Third-Parties: None

Texas Register Publication Date: May 9, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$14,216

Total Paid to General Revenue: \$426

Total Due to General Revenue: \$13,790

Payment Plan: 35 payments of \$394 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Unclassified
Site/RN – Unclassified

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: January 3, 2013

Date(s) of NOV(s): N/A

Date(s) of NOE(s): February 12, 2013

SNI Corporation dba Broadway Food Mart

RN101252732

Docket No. 2013-0399-PST-E

Violation Information

1. Failed to provide corrosion protection for the UST system [30 TEX. ADMIN. CODE § 334.49(a)(1) and TEX. WATER CODE § 26.3475(d)].
2. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
3. Failed to provide release detection for the pressurized piping associated with the USTs [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].
4. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)(1)(B)].
5. Failed to pay outstanding water system fees and associated late fees [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

None

Technical Requirements:

1. Immediately, begin maintaining all UST records and ensure they are made immediately available for inspection upon request by agency personnel.
2. Within 30 days:
 - a. Ensure that corrosion protection is in place for all underground metal components of the UST system;
 - b. Implement a release detection method for all USTs;
 - c. Test the pressurized piping and line leak detectors associated with the USTs at least once a year; and
 - d. Submit payment for all outstanding fees, including any associated penalties and interest.
3. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information**Date Petition(s) Filed:** September 10, 2013**Date Answer(s) Filed:** September 30, 2013**SOAH Referral Date:** November 22, 2013**Hearing Date(s):**

Preliminary hearing: January 16, 2014 (rescheduled); March 6, 2014

Settlement Date: March 2, 2014**Contact Information****TCEQ Attorneys:** Jennifer Cook, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Vic Mcwherter, Public Interest Counsel, (512) 239-6363**TCEQ Enforcement Coordinator:** Thomas Greimel, Enforcement Division, (512) 239-5690**TCEQ Regional Contact:** Jason Ybarra, Houston Regional Office, (713) 767-3615**Respondent:** Ameena Bhaidani, President, SNI Corporation, 2682 Highway 71 West, Columbus, Texas 78934**Respondent's Attorney:** William "Fred" Brown, 210 N. 6th Street, Waco, Texas 76701



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	19-Feb-2013		
	PCW	6-Aug-2013	Screening	20-Feb-2013
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	SNI Corporation dba Broadway Food Mart		
Reg. Ent. Ref. No.	RN101252732		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	46288	No. of Violations	4
Docket No.	2013-0399-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Greimel
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,750
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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	61.0% Enhancement	Subtotals 2, 3, & 7	\$5,337
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Notes	Enhancement for eight NOVs with dissimilar violations, one order without denial, and one order with denial.
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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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$741	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$8,118	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$14,087
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.9%	Adjustment	\$129
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with violation no. 2.
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Final Penalty Amount	\$14,216
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$14,216
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$14,216
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Screening Date 20-Feb-2013

Docket No. 2013-0399-PST-E

PCW

Respondent SNI Corporation dba Broadway Food Mart

Policy Revision 3 (September 2011)

Case ID No. 46288

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101252732

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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	1	25%
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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
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) 61%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for eight NOVs with dissimilar violations, one order without denial, and one order with denial.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 61%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 61%

Screening Date 20-Feb-2013

Docket No. 2013-0399-PST-E

PCW

Respondent SNI Corporation dba Broadway Food Mart

Policy Revision 3 (September 2011)

Case ID No. 46288

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101252732

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.49(a)(1) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to provide corrosion protection for the underground storage tank ("UST") system.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

48 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

One quarterly event is recommended from the January 3, 2013 investigation date to the February 20, 2013 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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$345

Violation Final Penalty Total \$6,093

This violation Final Assessed Penalty (adjusted for limits) \$6,093

Economic Benefit Worksheet

Respondent SNI Corporation dba Broadway Food Mart
Case ID No. 46288
Reg. Ent. Reference No. RN101252732
Media Violation No. 1
Media Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$6,000	3-Jan-2013	30-Oct-2013	0.82	\$16	\$329	\$345
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

Estimated cost to install a corrosion protection system for the UST system. The Date Required is the investigation date. The Final Date is the estimated 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

\$6,000

TOTAL

\$345

Screening Date 20-Feb-2013

Docket No. 2013-0399-PST-E

PCW

Respondent SNI Corporation dba Broadway Food Mart

Policy Revision 3 (September 2011)

Case ID No. 46288

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101252732

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to provide release detection for the pressurized piping associated with the USTs. Specifically, the Respondent did not conduct the annual piping tightness and line leak detector tests.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

48 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the January 3, 2013 investigation date to the February 20, 2013 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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$247

Violation Final Penalty Total \$6,093

This violation Final Assessed Penalty (adjusted for limits) \$6,093

Economic Benefit Worksheet

Respondent SNI Corporation dba Broadway Food Mart
Case ID No. 46288
Reg. Ent. Reference No. RN101252732
Media Violation No. Petroleum Storage Tank
 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$1,500	3-Jan-2012	30-Jul-2013	1.57	\$118	n/a	\$118

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs. The Date Required is the investigation date. The Final Date is the estimated 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]	\$118	3-Jan-2012	3-Jan-2013	1.92	\$11	\$118	\$129
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct the annual pressurized piping and line leak detector tests. The Date Required is one year prior to the investigation date. The Final Date is the investigation date.

Approx. Cost of Compliance

\$1,618

TOTAL

\$247

Screening Date 20-Feb-2013

Docket No. 2013-0399-PST-E

PCW

Respondent SNI Corporation dba Broadway Food Mart

Policy Revision 3 (September 2011)

Case ID No. 46288

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101252732

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.10(b)(1)(B)

Violation Description

Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

48 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$2,031

This violation Final Assessed Penalty (adjusted for limits) \$2,031

Economic Benefit Worksheet

Respondent SNI Corporation dba Broadway Food Mart
Case ID No. 46288
Reg. Ent. Reference No. RN101252732
Media Violation No. 3
Media Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$500	3-Jan-2013	30-Oct-2013	0.82	\$21	n/a	\$21
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. The Date Required is the investigation date. The Final Date is the estimated compliance date.

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

\$21

Screening Date 20-Feb-2013

Docket No. 2013-0399-PST-E

PCW

Respondent SNI Corporation dba Broadway Food Mart

Policy Revision 3 (September 2011)

Case ID No. 46288

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101252732

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.51(a)(3) and Tex. Water Code § 5.702

Violation Description

Failed to pay outstanding water system fees and associated late fees for TCEQ Financial Account No. 90450065 for fiscal years 2012 and 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

N/A

Adjustment \$25,000

\$0

Violation Events

Number of Violation Events

Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$0

No additional administrative penalty calculated for this violation as penalties and interests will be assessed on the next fee billing.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent SNI Corporation dba Broadway Food Mart
Case ID No. 46288
Reg. Ent. Reference No. RN101252732
Media Violation No. 4
Media Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

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

\$0

TOTAL

\$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN601253594, RN101252732, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN601253594, SNI Corporation	Classification: UNCLASSIFIED	Rating: -----
Regulated Entity:	RN101252732, Broadway Food Mart	Classification: UNCLASSIFIED	Rating: N/A
Complexity Points:	3	Repeat Violator: NO	
CH Group:	14 - Other		
Location:	2682 HIGHWAY 71 WEST, COLUMBUS, TX 78934-3412, COLORADO COUNTY		
TCEQ Region:	REGION 12 - HOUSTON		
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 74235 PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0450065		

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 9/1/2012

Date Compliance History Report Prepared: February 20, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 20, 2008 to February 20, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Thomas Greimel

Phone: (512) 239-5690

Site and Owner/Operator History:

- | | |
|--|-----|
| 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? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 10/23/2008 ADMINORDER 2004-0043-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)
30 TAC Chapter 290, SubChapter F 290.109(c)(3)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect a bacteriological sample for the months of June and September for the year 2001, and April, June, and September for the year 2002, as indicated by our records. This resulted in monitoring violations for each of these 5 months.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(3)

Description: Failure to possess a chlorine test kit which uses the DPD method to determine the free chlorine residual at various locations to ensure the proper chlorine residual is being maintained throughout the distribution system.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(B)

Description: Failure to perform at least once every seven days, chlorine residual tests on water collected from various locations within the distribution system.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)
Rqmt Prov: Ordering Provision No. 2.c. ORDER

Description: Failure to locate the Facility's well at least 150 feet from an underground petroleum storage tank. Specifically, the well must not be located within 150 feet of a underground fuel storage tank.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Rqmt Prov: 2004-0043-PWS-E ORDER

Description: Failure to secure a sanitary control easement covering all property within 150 feet of the water well.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)
30 TAC Chapter 290, SubChapter F 290.109(c)(3)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: Failure to take bacteriological samples at the required frequency.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)
30 TAC Chapter 290, SubChapter F 290.109(c)(3)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: Failure to take bacteriological samples as required by 30 TAC § 290.109.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)
30 TAC Chapter 290, SubChapter F 290.109(c)(3)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: Failure to take at least 5 bacteriological samples the month following a positive "coliform found" sample as required by 30 TAC § 290.109.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)

Description: Failure to post Public Notices for violations as required by 30 TAC § 290.122.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)
30 TAC Chapter 290, SubChapter F 290.109(c)(3)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: Failure to take enough repeat samples following a positive "coliform found" sample as required by 30 TAC § 290.109.

2 Effective Date: 10/27/2012 ADMINORDER 2011-1631-PWS-E (Findings Order-Agreed Order Without Denial)

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)

Rqmt Prov: OP 2.c.-2.e. ORDER

Description: Failure to locate ground water sources so there will be no danger of pollution from unsanitary surroundings. Specifically, the well must not be located within 150 feet of an underground fuel storage tank.

Failure to comply with Commission Order Docket No. 2004-0043-PWS-E.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Rqmt Prov: OP 2.c.-2.e. ORDER

Description: Failure to provide a sanitary control easement for the well.

Failure to comply with Commission Order Docket No. 2004-0043-PWS-E.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- | | | | | | |
|----------|------------------------|--|--------------------|-----------------|----------|
| 1 | Date: 2/29/2012 | (1041199) | CN601253594 | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THSC Chapter 341, SubChapter A 341.033(d) | | | |
| | Description: | TCR Routine Monitoring Violation 11/2011 - Failure to collect any routine monitoring sample(s). | | | |
| 2 | Date: 3/15/2012 | (1041199) | CN601253594 | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THSC Chapter 341, SubChapter A 341.033(d) | | | |
| | Description: | TCR Routine Monitoring Violation 12/2011 - Failure to collect any routine monitoring sample(s). | | | |
| 3 | Date: 3/27/2012 | (1041199) | CN601253594 | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THSC Chapter 341, SubChapter A 341.033(d) | | | |
| | Description: | TCR Routine Monitoring Violation 01/2012 - Failure to collect any routine monitoring sample(s). | | | |
| 4 | Date: 4/10/2012 | (1041199) | CN601253594 | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THSC Chapter 341, SubChapter A 341.033(d) | | | |
| | Description: | TCR Routine Monitoring Violation 02/2012 - Failure to collect any routine monitoring sample(s). | | | |
| 5 | Date: 5/7/2012 | (1041199) | CN601253594 | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THSC Chapter 341, SubChapter A 341.033(d) | | | |
| | Description: | TCR Routine Monitoring Violation 03/2012 - Failure to collect any routine monitoring sample(s). | | | |
| 6 | Date: 6/22/2012 | (1041199) | CN601253594 | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THSC Chapter 341, SubChapter A 341.033(d) | | | |
| | Description: | TCR Routine Monitoring Violation 04/2012 - Failure to collect any routine monitoring sample(s). | | | |

7 Date: 9/19/2012 (1041199) CN601253594
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 06/2012 - Failure to collect any routine monitoring sample(s).

8 Date: 10/11/2012 (1041199) CN601253594
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 07/2012 - Failure to collect any routine monitoring sample(s).

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SNI CORPORATION DBA
BROADWAY FOOD MART;
RN101252732**

§
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§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2013-0399-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding SNI Corporation d/b/a Broadway Food Mart ("Respondent") under the authority of TEX. WATER CODE chs. 5, 7, and 26, and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by William F. "Fred" Brown, together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 2682 Highway 71 West in Columbus, Colorado County, Texas (Facility ID No. 74235) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The TCEQ has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26, TEX. HEALTH & SAFETY CODE ch. 341, and TCEQ rules.
3. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Agreed Order, and that Respondent is subject to TCEQ's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of fourteen thousand two hundred sixteen dollars (\$14,216.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid four hundred twenty-six dollars (\$426.00) of the administrative penalty. The remaining amount of thirteen thousand seven hundred ninety dollars (\$13,790.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of three hundred ninety-four dollars (\$394.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition,

Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. 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 Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. 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.
10. 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

1. During an investigation conducted on January 3, 2013, a UT-Arlington PST Program investigator (TCEQ contractor) documented that Respondent:
 - a. Failed to provide corrosion protection for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(1) and TEX. WATER CODE § 26.3475(d);
 - b. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1);
 - c. Failed to provide release detection for the pressurized piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a). Specifically, Respondent did not conduct the annual piping tightness and line leak detector tests;
 - d. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(1)(B); and
 - e. Failed to pay outstanding water system fees and associated late fees for TCEQ Financial Administration Account No. 90450065 for fiscal years 2012 and 2013, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
2. Respondent received notice of the violations on or about February 17, 2013.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: SNI Corporation d/b/a Broadway Food Mart, Docket No. 2013-0399-PST-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Respondent shall begin maintaining all UST records and ensure they are made immediately available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10.
 - b. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Ensure that corrosion protection is in place for all underground metal components of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - ii. Implement a release detection method for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - iii. Test the pressurized piping and line leak detectors associated with the USTs at least once a year, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - iv. Submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "SNI Corporation, TCEQ Financial Administration Account No. 90450065" to the following address:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
 - c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a. through 2.b.iv. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

Jason Ybarra, Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston TX 77023-1452

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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 TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"),

or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

SNI CORPORATION dba Broadway Food Mart
Docket No. 2013-0399-PST-E
Page 6

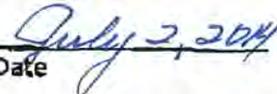
SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director



Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of SNI Corporation d/b/a Broadway Food Mart, 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.

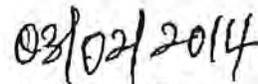
I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Ameena Saleem Bhaidani, Director and President
SNI Corporation



Date