

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 57587
Skipper Beverage Company, LLC dba is Corner Store 2069
RN102370467
Docket No. 2019-0563-PST-E

Order Type:
Agreed Order

Media:
PST

Small Business:
N/A

Location(s) Where Violation(s) Occurred:
933 East Rundberg Lane, Austin, Travis County

Type of Operation:
underground storage tank ("UST") system and a convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, 2019-0852-PST-E; 2019-1315-PST-E;
2019-1448-PST-E; 2020-0767-PST-E;
2020-0932-PST-E

Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: May 12, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$19,901
Total Paid to General Revenue: \$19,901
Total Due to General Revenue: \$0

Compliance History Classifications:

Person/CN - High
Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: February 7, 2019

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

Date(s) of NOE(s): April 5, 2019

Violation Information

1. Failed to report to the agency within 24 hours after monitoring results from a release detection method indicated a release may have occurred [TEX. ADMIN. CODE § 334.72].
2. Failed to conduct tightness testing and secondary containment testing as appropriate within 30 days after monitoring results from a release detection method indicated a release may have occurred [30 TEX. ADMIN. CODE §334.74(1)].
3. Failed to file a release determination report with the Commission within 45 days after a suspected release has occurred [30 TEX. ADMIN. CODE §334.74(3)].
4. Failed to contain and immediately clean up a spill of any petroleum product from a UST system that is less than 25 gallons [30 TEX. ADMIN. CODE §334.75(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Conducted tightness and secondary containment testing on December 27, 2018, with passing results;
2. Submitted a Release Determination Report on July 25, 2019; and
3. Cleaned up the fuel spill and disposed of waste materials at an authorized disposal facility as of November 22, 2019.

Technical Requirements:

1. Within 30 days:
 - a. Establish and implement a process for reporting and investigating suspected releases; and
 - b. Develop and implement procedures for cleanup of fuel spills and disposal of the waste material at an authorized facility.
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1.a. and 1.b.

Litigation Information

Date Petition(s) Filed: October 08, 2019
Date(s) of Service: October 10, 2019
Settlement Date: April 14, 2023

Contact Information

TCEQ Attorneys: Cynthia Sirois, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Stephanie McCurley, Enforcement Division, (512) 239-2607
TCEQ Regional Contact: Elijah Gandee, Austin Regional Office, (512) 339-2929
Respondent Contact: Circle K Stores, Inc., P.O. Box 52085, Phoenix, Arizona 85072-2085
Respondent's Attorney: John Pearce, Fennemore Craig, 2394 East Camelback Road, Suite 600,
Phoenix, Arizona, 85016



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	8-Apr-2019	Screening	22-Apr-2019	EPA Due	
	PCW	5-Oct-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	Skipper Beverage Company, LLC dba Corner Store 2069				
Reg. Ent. Ref. No.	RN102370467				
Facility/Site Region	11-Austin	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	57587	No. of Violations	4
Docket No.	2019-0563-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephanie McCurley
		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	\$26,250
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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	-10.0% Adjustment	Subtotals 2, 3, & 7	-\$2,625
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Notes	Reduction for High Performer classification.
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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	-\$3,750
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$147	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$5,775	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$19,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.1% Adjustment	\$26
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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. 1.
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Final Penalty Amount	\$19,901
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$19,901
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$19,901
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Screening Date 22-Apr-2019

Docket No. 2019-0563-PST-E

PCW

Respondent Skipper Beverage Company, LLC dba Corner Store 2069

Policy Revision 4 (April 2014)

Case ID No. 57587

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102370467

Media Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgments 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%
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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 22-Apr-2019

Docket No. 2019-0563-PST-E

PCW

Respondent Skipper Beverage Company, LLC dba Corner Store 2069

Policy Revision 4 (April 2014)

Case ID No. 57587

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102370467

Media Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description Failed to report to the agency within 24 hours after monitoring results from a release detection method indicated a release may have occurred. Specifically, the Respondent did not report to the TCEQ within 24 hours after inventory control records for June and July of 2018 indicated a release may have occurred.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0.0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
Notes	100% of the rule requirement was not met.				

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 264 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	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 \$42

Violation Final Penalty Total \$3,379

This violation Final Assessed Penalty (adjusted for limits) \$3,379

Economic Benefit Worksheet

Respondent Skipper Beverage Company, LLC dba Corner Store 2069
Case ID No. 57587
Reg. Ent. Reference No. RN102370467
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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				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	7-Feb-2019	24-Apr-2022	3.21	\$16	n/a	\$16

Notes for DELAYED costs

Estimated delayed cost to establish and implement a process for reporting and investigating suspected releases. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$25	1-Aug-2018	22-Apr-2019	0.72	\$1	\$25	\$26
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to report a suspected release. The Date Required is the date the release should have been reported and the Final Date is the screening date.

Approx. Cost of Compliance

\$125

TOTAL

\$42

Screening Date 22-Apr-2019

Docket No. 2019-0563-PST-E

PCW

Respondent Skipper Beverage Company, LLC dba Corner Store 2069

Policy Revision 4 (April 2014)

Case ID No. 57587

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102370467

Media Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.74(1)

Violation Description Failed to conduct tightness testing and secondary containment testing as appropriate within 30 days after monitoring results from a release detection method indicated a release may have occurred. Specifically, the Respondent did not conduct testing within 30 days after inventory control records for June and July of 2018 indicated a release may have occurred.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				30.0%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2 119 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Two quarterly events are recommended from the release investigation due date of August 30, 2018 to the December 27, 2018 date of compliance.

Good Faith Efforts to Comply

25.0%

Reduction \$3,750

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent came into compliance on December 27, 2018.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$82

Violation Final Penalty Total \$9,763

This violation Final Assessed Penalty (adjusted for limits) \$9,763

Economic Benefit Worksheet

Respondent Skipper Beverage Company, LLC dba Corner Store 2069
Case ID No. 57587
Reg. Ent. Reference No. RN102370467
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	Costs Saved	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				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)	\$5,000	30-Aug-2018	27-Dec-2018	0.33	\$82	n/a	\$82

Notes for DELAYED costs

Estimated delayed cost to investigate a suspected release and implement appropriate corrective measures. The Date Required is the date the release investigation was due and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000

TOTAL \$82

Screening Date 22-Apr-2019

Docket No. 2019-0563-PST-E

PCW

Respondent Skipper Beverage Company, LLC dba Corner Store 2069

Policy Revision 4 (April 2014)

Case ID No. 57587

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102370467

Media Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.74(3)

Violation Description Failed to file a release determination report with the Commission within 45 days after a suspected release has occurred. Specifically, inventory control records for June and July of 2018 indicated a suspected release and the Respondent did not file a release determination report with the Commission within the required 45 day time frame.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			15.0%
100% of the rule requirement was not met.					

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 116 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	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 \$7

Violation Final Penalty Total \$3,379

This violation Final Assessed Penalty (adjusted for limits) \$3,379

Economic Benefit Worksheet

Respondent Skipper Beverage Company, LLC dba Corner Store 2069
Case ID No. 57587
Reg. Ent. Reference No. RN102370467
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	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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)	\$250	27-Dec-2018	25-Jul-2019	0.58	\$7	n/a	\$7

Notes for DELAYED costs

Estimated delayed cost to submit the suspected release investigation report to the Commission. The Date Required is the due date of the suspected release investigation and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$7

Screening Date 22-Apr-2019 **Docket No.** 2019-0563-PST-E
Respondent Skipper Beverage Company, LLC dba Corner Store 2069
Case ID No. 57587
Reg. Ent. Reference No. RN102370467
Media Petroleum Storage Tank
Enf. Coordinator Stephanie McCurley

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="15.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Skipper Beverage Company, LLC dba Corner Store 2069
Case ID No. 57587
Reg. Ent. Reference No. RN102370467
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	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	\$350	7-Feb-2019	22-Nov-2019	0.79	\$14	n/a	\$14
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	7-Feb-2019	2-Feb-2020	0.99	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to clean up the fuel spill and dispose of the waste material at an authorized facility (\$350). The Date Required is the investigation date, and the Final Date is the date of compliance.

Estimated cost to implement procedures for cleanup of fuel spills and disposal of the waste material at an authorized facility (\$50). The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$400

TOTAL

\$16



Compliance History Report

Compliance History Report for CN604312868, RN102370467, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator: CN604312868, Skipper Beverage Company, LLC **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN102370467, Corner Store 2069 **Classification:** HIGH **Rating:** 0.00

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 933 East Rundberg Lane in Austin, Travis County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION
39560

Compliance History Period: September 01, 2013 to August 31, 2018 **Rating Year:** 2018 **Rating Date:** 09/01/2018

Date Compliance History Report Prepared: April 08, 2019

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 08, 2014 to April 08, 2019

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

Name: Tyler Richardson

Phone: (512) 239-4872

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 June 23, 2016 (1338138)

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.

N/A

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
SKIPPER BEVERAGE COMPANY, LLC
DBA CORNER STORE 2069;
RN102370467

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2019-0563-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Skipper Beverage Company, LLC dba Circle K Store 2742069 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by John M. Pearce of the law firm of Fennemore Craig, P.C., together stipulate that:

1. Respondent owned and operated, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 933 East Rundberg Lane in Austin, Travis County, Texas (Facility ID No. 39560) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission and contain or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of nineteen thousand nine-hundred and one dollars (\$19,901.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid nineteen thousand nine-hundred and one dollars (\$19,901.00) of the penalty.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
6. 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 Order.

7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. Conducted tightness and secondary containment testing on December 27, 2018, with passing results;
 - b. Submitted a Release Determination Report on July 25, 2019; and
 - c. Cleaned up the fuel spill and disposed of waste materials at an authorized disposal facility as of November 22, 2019.
10. The Executive Director recognizes that Respondent is a subsidiary of Circle K Stores, Inc. and that Circle K Stores, Inc. has the authority to execute documents that bind both Circle K Stores, Inc. and Circle K Stores, Inc.'s subsidiaries on regulatory and environmental matters in Texas, including compliance with statutes and rules within TCEQ's jurisdiction.
11. The Executive Director recognizes that Circle K Stores, Inc. owns and operates the Facility as of August 16, 2021.

II. ALLEGATIONS

1. During an investigation conducted on February 7, 2019, an investigator documented that Respondent:
 - a. Failed to report to the agency within 24 hours after monitoring results from a release detection method indicated a release may have occurred, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, Respondent did not report to TCEQ within 24 hours after inventory control records for June and July of 2018 indicated a release may have occurred;
 - b. Failed to conduct tightness testing and secondary containment testing as appropriate within 30 days after monitoring results from a release detection method indicated a release may have occurred, in violation of 30 TEX. ADMIN. CODE § 334.74(1). Specifically, Respondent did not conduct testing within 30 days after inventory control records for June and July of 2018 indicated a release may have occurred;
 - c. Failed to file a release determination report with the Commission within 45 days after a suspected release has occurred, in violation of 30 TEX. ADMIN. CODE § 334.74(3). Specifically, inventory control records for June and July of 2018 indicated a suspected release and Respondent did not file a release determination report with the Commission within the required 45-day time frame; and
 - d. Failed to contain and immediately clean up a spill of any petroleum product from a UST system that is less than 25 gallons, in violation of 30 TEX. ADMIN. CODE § 334.75(b). Specifically, the investigator observed a spill at Dispenser No. 5/6 which had not been cleaned up within 24 hours.

III. DENIALS

Respondent generally denies each allegation in Section II.

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
 2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Establish and implement a process for reporting and investigating suspected releases, in accordance with 30 TEX. ADMIN. CODE § 334.72; and
 - ii. Develop and implement procedures for cleanup of fuel spills and disposal of the waste material at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 334.75.
 - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions Nos. 2.a.i. and 2.a.ii. The certification shall be signed by Respondent 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 fines and imprisonment for knowing violations."
- The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be submitted to:
- Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
- with a copy to:
- Waste Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
3. All relief not expressly granted in this Order is denied.

4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. If Respondent fails to comply with any of the Ordering Provisions in this 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 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.
7. This 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 Order; or (2) pursue violations of a statute within the TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

5/26/23

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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;
- 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 - Authorized Representative
Circle K Stores Inc.
P.O. Box 52085
Phoenix, Arizona 85072-2085

04/14/2023

Date

If mailing address has changed, please check this box and provide the new address below:
