

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 2

**DOCKET NO.:** 2007-0205-PST-E **TCEQ ID:** RN103762605 **CASE NO.:** 32633**RESPONDENT NAME:** Ron Stuard dba Pecos River Crossing

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Pecos River Crossing, Interstate Highway 10 and River Road, Sheffield, Pecos County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 16, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Tom Greimel, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-5690; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  <b>Respondent:</b> Mr. Ron Stuard, Operator, Pecos River Crossing, Post Office Box 217, Sheffield, Texas 79781  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> December 22, 2006</p> <p><b>Date of NOE Relating to this Case:</b> January 10, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Two violations were documented.</p> <p><b>WASTE</b></p> <p>1) Failure to conduct proper release detection for the product piping associated with the UST system. Specifically, the annual piping tightness test had not been conducted [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>2) Failure to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p>	<p><b>Total Assessed:</b> \$2,250</p> <p><b>Total Deferred:</b> \$450  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,800</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b>                      The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Successfully conducted the annual piping tightness test on January 23, 2007; and</p> <p>b. Successfully tested the line leak detectors for performance and operational reliability on January 23, 2007.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 15, 2006

**TCEQ**

<b>DATES</b>	Assigned	22-Jan-2007			
	PCW	13-Feb-2007	Screening	13-Feb-2007	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Ron Stuard dba Pecos River Crossing				
<b>Reg. Ent. Ref. No.</b>	RN103762605				
<b>Facility/Site Region</b>	7-Midland	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	32633	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2007-0205-PST-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Patricia Chawla		
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 7		
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,500
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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.

<b>Compliance History</b>	0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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<b>Notes</b>	No adjustment for compliance history.
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<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply</b>	10% Reduction	<b>Subtotal 5</b>	\$250
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)
<b>Notes</b>	The respondent came into compliance on January 23, 2007.	

	0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,096	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,250
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$2,250
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,250
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<b>DEFERRAL</b>	20% Reduction	<b>Adjustment</b>	-\$450
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	\$1,800
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Screening Date 13-Feb-2007

Docket No. 2007-0205-PST-E

PCW

Respondent Ron Stuard dba Pecos River Crossing

Policy Revision 2 (September 2002)

Case ID No. 32633

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN103762605

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Patricia Chawla

### 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	0	0%
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 judgements 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%
<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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 13-Feb-2007

Docket No. 2007-0205-PST-E

PCW

Respondent Ron Stuard dba Pecos River Crossing

Policy Revision 2 (September 2002)

Case ID No. 32633

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN103762605

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Patricia Chawla

Violation Number 1

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

Violation Description Failed to conduct proper release detection for the product piping associated with the UST system. Specifically, the annual piping tightness test had not been conducted. Additionally, failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually.

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

365 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

One annual event is recommended for the 12-month period preceding the December 22, 2006 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,096

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

## Economic Benefit Worksheet

**Respondent** Ron Stuard dba Pecos River Crossing  
**Case ID No.** 32633  
**Reg. Ent. Reference No.** RN103762605  
**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	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
	\$1,000	22-Dec-2005	22-Dec-2006	1.9	\$96	\$1,000	\$1,096

Notes for AVOIDED costs

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

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$1,096

# Compliance History

Customer/Respondent/Owner-Operator: CN602282808 STUARD, RON Classification: AVERAGE BY Rating: 3.01  
DEFAULT

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Regulated Entity: RN103762605 PECOS RIVER CROSSING Classification: AVERAGE BY Site Rating: 3.01  
DEFAULT

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ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 2334  
REGISTRATION

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Location: IH 10 & RIVER RD Rating Date: September 01 06 Repeat Violator: NO

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TCEQ Region: REGION 07 - MIDLAND

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Date Compliance History Prepared: January 23, 2007

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Agency Decision Requiring Compliance History: Enforcement

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Compliance Period: January 23, 2002 to January 23, 2007

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TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Patricia Chawla Phone: 512-239-0739

## 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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## 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 01/10/2007 (535649)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
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  
RON STUARD  
DBA PECOS RIVER CROSSING  
RN103762605**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§ **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0205-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 Ron Stuard dba Pecos River Crossing ("Mr. Stuard") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Stuard appear before the Commission and together stipulate that:

1. Mr. Stuard operates a convenience store with retail sales of gasoline at Interstate Highway 10 and River Road in Sheffield, Pecos County, Texas (the "Facility").
2. Mr. Stuard's three 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 Mr. Stuard agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Stuard is subject to the Commission's jurisdiction.
4. Mr. Stuard received notice of the violations alleged in Section II ("Allegations") on or about January 15, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Stuard of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Two Hundred Fifty Dollars (\$2,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Stuard has paid One Thousand Eight Hundred Dollars (\$1,800) of the administrative penalty



- and Four Hundred Fifty Dollars (\$450) is deferred contingent upon Mr. Stuard'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 Mr. Stuard fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Stuard 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 Mr. Stuard 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 Mr. Stuard has implemented the following corrective measures at the Facility:
    - a. Successfully conducted the annual piping tightness test on January 23, 2007; and
    - b. Successfully tested the line leak detectors for performance and operational reliability on January 23, 2007.
  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 Mr. Stuard 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 operator of the Facility, Mr. Stuard is alleged to have:

1. Failed to conduct proper release detection for the product piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on December 22, 2006. Specifically, the annual piping tightness test had not been conducted.
2. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on December 22, 2006. Specifically, the line leak detectors had not been performance tested annually.



### III. DENIALS

Mr. Stuard generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Stuard pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Stuard'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: Ron Stuard dba Pecos River Crossing, Docket No. 2007-0205-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 Mr. Stuard. Mr. Stuard is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility the operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Stuard 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Stuard, or three days after the date on which the Commission mails notice of the Order to Mr. Stuard, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



Ron Stuard dba Pecos River Crossing  
DOCKET NO. 2007-0205-PST-E  
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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*[Signature]*  
For the Executive Director

8/29/07  
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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

*Ron Stuard*  
Signature

4-18-07  
Date

Ron Stuard  
Name (Printed or typed)  
Authorized Representative of  
Ron Stuard dba Pecos River Crossing

OPERATOR  
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.

