

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-0570-PST-E **TCEQ ID:** RN102048949 **CASE NO.:** 35701

**RESPONDENT NAME:** Penske Truck Leasing Co., L.P.

<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> Penske Truck Leasing, 4725 Westway Drive, Corpus Christi, Nueces County</p> <p><b>TYPE OF OPERATION:</b> Truck rental and refueling facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" 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 October 20, 2008. 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. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1460; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Andrew Cullen, Director of Environmental Services, Penske Truck Leasing Co., L.P., P.O. Box 7635, Reading, Pennsylvania 19603-7635  Mr. Richard G. Sart, Environmental Project Manager, Penske Truck Leasing Co., P.O. Box 7635, Reading, Pennsylvania 19603-7635  <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> January 9, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> March 7, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>Failure to dispose of contaminated groundwater at an authorized facility. Specifically, approximately 14,000 gallons of liquids, consisting of groundwater mixed with diesel, from an underground storage tank removal were disposed of at a facility that is not authorized to receive TCEQ regulated wastes [30 TEX. ADMIN. CODE § 334.55(a)(5)].</p>	<p><b>Total Assessed:</b> \$1,000</p> <p><b>Total Deferred:</b> \$200  <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> \$800</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input 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></p> <p>The Executive Director recognizes that the Respondent sold the property on March 13, 2008.</p>

Additional ID No(s): 10083



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

<b>DATES</b>	Assigned	10-Mar-2008	Screening	9-Apr-2008	EPA Due	
	PCW	8-Apr-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Penske Truck Leasing Co., L.P.		
Reg. Ent. Ref. No.	RN102048949		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	35701	No. of Violations	1
Docket No.	2008-0570-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Audra L. Ruble
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,000</b>
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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>	<b>\$0</b>
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Notes: No change due to average performer classification.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	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.

<b>Total EB Amounts</b>	<b>\$4</b>	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
<b>Approx. Cost of Compliance</b>	<b>\$500</b>	*Capped at the Total EB \$ Amount		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,000</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$1,000**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,000</b>
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<b>DEFERRAL</b>	20% Reduction	<b>Adjustment</b>	<b>-\$200</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$800</b>
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Screening Date 9-Apr-2008

Docket No. 2008-0570-PST-E

PCW

Respondent Penske Truck Leasing Co., L.P.

Policy Revision 2 (September 2002)

Case ID No. 35701

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102048949

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Audra L. Ruble

## Compliance History Worksheet

## &gt;&gt; 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%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No change due to average performer classification.

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

<b>Screening Date</b> 9-Apr-2008	<b>Docket No.</b> 2008-0570-PST-E	<b>PCW</b>
<b>Respondent</b> Penske Truck Leasing Co., L.P.	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35701	<i>PCW Revision February 29, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN102048949		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Audra L. Ruble		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.55(a)(5)	
<b>Violation Description</b>	Failed to dispose of contaminated groundwater at an authorized facility, as documented during an investigation conducted on January 9, 2008. Specifically, approximately 14,000 gallons of liquids, consisting of groundwater mixed with diesel, from an underground storage tank removal were disposed of at a facility that is not authorized to receive TCEQ regulated wastes.	
<b>Base Penalty</b>		\$10,000

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	Actual	<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				<b>Percent</b> <input type="text" value="10%"/>	

**>> Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Disposal of contaminated groundwater at an unauthorized facility has resulted in the release of an insignificant amount of pollutants which do not exceed protective levels.				

**Adjustment**

**Violation Events**

Number of Violation Events	<input type="text" value="1"/>		<input type="text" value="1"/>	Number of violation days												
<i>mark only one with an x</i>	<table style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> </table>	daily	<input type="checkbox"/>	monthly	<input type="checkbox"/>	quarterly	<input type="checkbox"/>	semiannual	<input type="checkbox"/>	annual	<input type="checkbox"/>	single event	<input checked="" type="checkbox"/>			<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
daily	<input type="checkbox"/>															
monthly	<input type="checkbox"/>															
quarterly	<input type="checkbox"/>															
semiannual	<input type="checkbox"/>															
annual	<input type="checkbox"/>															
single event	<input checked="" type="checkbox"/>															

One single event is recommended.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$4"/>	Violation Final Penalty Total <input type="text" value="\$1,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,000"/>	

## Economic Benefit Worksheet

**Respondent** Penske Truck Leasing Co., L.P.  
**Case ID No.** 35701  
**Reg. Ent. Reference No.** RN102048949  
**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
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No commas or \$

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$500	9-Jan-2008	13-Mar-2008	0.2	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to ensure that waste is disposed at an authorized facility, by requesting authorization from the TCEQ and other appropriate agencies. Date required is the removal activity and Final date is when the facility was sold.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$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
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$4





TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PENSKE TRUCK LEASING CO., L.P.  
RN102048949

§  
§  
§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-0570-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 Penske Truck Leasing Co., L.P. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owned and operated a truck rental and refueling facility located at 4725 Westway Drive in Corpus Christi, Nueces County, Texas (the "Facility").
2. The Respondent's underground storage tank ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 12, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Dollars (\$1,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Hundred Dollars (\$800) of the administrative penalty and Two Hundred Dollars (\$200) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with



- the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
  8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
  9. The Executive Director recognizes that the Respondent sold the property on March 13, 2008.
  10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
  11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
  12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to dispose of contaminated groundwater at an authorized facility, in violation of 30 TEX. ADMIN. CODE § 334.55(a)(5), as documented during an investigation conducted on January 9, 2008. Specifically, approximately 14,000 gallons of liquids, consisting of groundwater mixed with diesel, from an underground storage tank removal were disposed of at a facility that is not authorized to receive TCEQ regulated wastes.

## III. DENIALS

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

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Penske Truck Leasing Co., L.P., Docket No. 2008-0570-PST-E" to:



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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This 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 the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*[Signature]*  
For the Executive Director

10/2/2008  
~~7/23/08~~  
Date

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

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

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

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

*Richard G. Sant*  
Signature

7/23/08  
Date

Richard G. Sant  
Name (Printed or typed)  
Authorized Representative of  
Penske Truck Leasing Co., L.P.

Env. Program  
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.

