

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|--|--|
| <p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: July 31, 2006</p> <p>Date of NOE Relating to this Case: August 28, 2006</p> <p>Background Facts: An EDPRP was filed on February 14, 2007. An agreement was reached on April 26, 2007, and a signed Agreed Order was received on May 24, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>LII Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system [30 TEX. ADMIN. CODE §§ 344.4(a) and 30.5(a) and (b); and TEX. WATER CODE § 37.003; and TEX. TEX. OCCUPATION CODE § 1903.251].</p> | <p>Total Assessed: \$562</p> <p>Total Deferred: \$0</p> <p>Total Paid to General Revenue: \$562</p> <p>The Respondent has paid the full amount of the administrative penalty of \$562</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>The Respondent ceased selling, designing, consulting, installing, maintaining, altering, servicing and repairing irrigation systems on October 3, 2006.</p> |



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May, 19, 2005

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 05-Sep-2006 | Screening | 19-Sep-2006 | EPA Due | |
| | PCW | 08-Jan-2006 | | | | |

| | |
|--|---------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Felix Aguilar |
| Reg. Ent. Ref. No. | RN105006498 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Minor Source |

| | | | |
|---------------------------------|-----------------|-------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 31240 | No. of Violations | 1 |
| Docket No. | 2006-1696-LII-E | Order Type | 1660 |
| Media Program(s) | Irrigators | Enf. Coordinator | Harvey Wilson |
| Multi-Media | | EC's Team | Enforcement Team 3 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$2,500 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Reduction Subtotal 5

| | | |
|---------------|------------|------------------------------|
| | Before NOV | NOV to EDRP/Settlement Offer |
| Extraordinary | | |
| Ordinary | | X |
| N/A | | (mark with a small x) |

Notes

Economic Benefit Enhancement* Subtotal 6

| | | |
|----------------------------|-------|-----------------------------------|
| Total EB Amounts | \$599 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$570 | |

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 19-Sep-2006 **Docket No.** 2006-1696-LII-E **PCW**
Respondent Felix Aguilar *Policy Revision 2 (September 2002)*
Case ID No. 31240 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN105006498
Media [Statute] Irrigators
Enf. Coordinator Harvey Wilson

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 (<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 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</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) 0%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes No enhancement due to no previous compliance history.

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

Screening Date 19-Sep-2006

Docket No. 2006-1696-LII-E

PCW

Respondent Felix Aguilar

Policy Revision 2 (September 2002)

Case ID No. 31240

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN105006498

Media [Statute] Irrigators

Enf. Coordinator Harvey Wilson

Violation Number

Primary Rule Cite(s)

30 Tex. Admin. Code §§ 344.4(a) and 30.5(a) and (b)

Secondary Rule Cite(s)

Tex. Water Code § 37.003 and Tex. Occupations Code § 1903.251

Violation Description

Failure to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system, as documented during a record review conducted on July 31, 2006. Specifically, Mr. Aguilar has installed and represented to the public on his business card that he could perform a service for which a license is required.

Base Penalty

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

Harm

| Release | Harm | | |
|-----------|-------------------------------------|--------------------------|--------------------------|
| | Major | Moderate | Minor |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Potential | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Percent

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor |
|----------------------|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

Percent

Matrix Notes

Installing irrigation systems without a license could expose human health to pollutants which would exceed protective levels.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--------------------------------|--------------|-------------------------------------|
| mark only one use a small x | daily | <input type="text"/> |
| | monthly | <input type="text"/> |
| | quarterly | <input type="text"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input checked="" type="checkbox"/> |

Violation Base Penalty

One single event is recommended.

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 Felix Aguilar
 Case ID No. 31240
 Reg. Ent. Reference No. RN105006498
 Media [Statute] Irrigators
 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 |
|--------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| 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] | \$570 | 17-May-2006 | 03-Oct-2006 | 1.0 | \$29 | \$570 | \$599 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Cost includes that of the instruction, including text and other materials, and application and testing fees associated with obtaining an irrigator license. Date required is the date of the initial complaint and final date is the date of compliance.

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator: CN603069311 AGUILAR, FELIX Classification: Rating:
Regulated Entity: RN105006498 AGUILAR FELIX Classification: Site Rating:

ID Number(s):
Location: 21115 BURNT AMBER LANE, HOUSTON, HARRIS COUNTY
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: September 18, 2006
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 18, 2001 to September 18, 2006
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Harvey Wilson Phone: 512-239-0321

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.)
N/A
 - 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
FELIX AGUILAR,
RN105006498**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2006-1696-LII-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Felix Aguilar ("Mr. Aguilar") under the authority of TEX. WATER CODE chs. 7 and 37, and TEX. OCCUPATIONS CODE ch. 1903. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Aguilar appear before the Commission and together stipulate that:

1. Mr. Aguilar owns and operates a landscaping and lawn maintenance business located at 21115 Burnt Amber Lane, Houston, Harris County, Texas. Mr. Aguilar sells, designs, consults, installs, maintains, alters, repairs, and/or services landscape irrigation systems.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 37.003 because it alleges violations of TEX. OCCUPATIONS CODE ch. 1903 and TEX. WATER CODE ch. 37.
3. The Commission and Mr. Aguilar agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Aguilar is subject to the Commission's jurisdiction.
4. Mr. Aguilar received notice of the violations alleged in Section II ("Allegations") on or about September 2, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Aguilar of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of five hundred sixty-two dollars (\$562.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Aguilar has paid five hundred sixty-two dollars (\$562.00) of the administrative 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. Aguilar 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. Aguilar ceased selling, designing, consulting, installing, maintaining, altering, servicing and repairing irrigation systems on October 3, 2006.
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. Aguilar 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. 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

Mr. Aguilar is alleged to have violated 30 TEX. ADMIN. CODE §§ 344.4(a) and 30.5(a) and (b); TEX. WATER CODE § 37.003; and TEX. OCCUPATIONS CODE § 1903.251 by failing to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system, as documented on July 31, 2006.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Aguilar pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Aguilar'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 action 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: Felix Aguilar, Docket No. 2006-1696-LII-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. Aguilar. Mr. Aguilar is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the business operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Aguilar 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Aguilar, or three days after the date on which the Commission mails notice of the Order to Mr. Aguilar, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Ben

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Robertson Perdue

For the Executive Director

8/9/07

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 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.

Signature

Felix Aguilar

Date

5/15/07

Name (Printed or typed)

Authorized representative of
Felix Aguilar

Title

Felix Aguilar