

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2006-1065-LII-E TCEQ ID: RN104611603 CASE NO.: 30387**  
**RESPONDENT NAME: JOE K. HOPPER**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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 type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" 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> 5512 8<sup>th</sup> Place, Lubbock, Lubbock County</p> <p><b>TYPE OF OPERATION:</b> Landscape irrigation business</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received but the complainant has not indicated he or she wishes to protest this action or speak at Agenda. 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 April 23, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Mr. Justin Lannen, Litigation Division, MC R-4, (817) 588-5927  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  <b>TCEQ Enforcement Coordinator:</b> Mr. Bryan Elliott, Enforcement Division, MC 149, (512) 239-6162  <b>TCEQ Regional Contact:</b> Mr. Patrick Cooke, Lubbock Regional Office, MC R-2, (806) 796-7092  <b>Respondent:</b> Mr. Joe K. Hopper, Owner, Ace Sprinkler Systems, 5512 8<sup>th</sup> Place, Lubbock, Texas 79416  <b>Respondent's Attorney:</b> Not represented by counsel.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> October 24, 2005</p> <p><b>Dates of Investigation Relating to this Case:</b> June 30, 2006</p> <p><b>Date of NOE Relating to this Case:</b> July 10, 2006</p> <p><b>Background Facts:</b></p> <p>A settlement agreement was reached with the Respondent and a signed Agreed Order was received on February 23, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>LII:</b></p> <p>Failed to have a valid irrigator license but was representing himself to the public as a holder of a license or registration [30 TEX. ADMIN. CODE §§ 30.5(b) and 344.58(b), TEX. WATER CODE § 37.003, and TEX. OCC. CODE § 1903.251].</p>	<p><b>Total Assessed:</b> \$2,500</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid/Due to General Revenue:</b> \$100/\$2400</p> <p>The Respondent has paid \$100 of the administrative penalty. The remaining amount of \$2,400 shall be made payable in 24 monthly installments of \$100 each.</p> <p><b>Site Compliance History Classification</b> N/A</p> <p><b>Person Compliance History Classification</b> N/A</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>Findings Order Justification:</b> The violation is a gross deviation from a standard of conduct in the licensed irrigator industry, and thus constitutes an indifference to legal duty.</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, cease advertising to the public that he can perform a service for which a license is required until properly certified.</li> <li>2. Immediately, cease installing and/or repairing irrigations systems until such time as a valid irrigator's license is obtained from the TCEQ.</li> <li>3. Within 15 days, submit a written certification statement demonstrating compliance with Ordering Provisions 1 and 2.</li> </ol>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	17-Jul-2006	Screening	25-Jul-2006	EPA Due	
	PCW	25-Jul-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Joe K. Hopper
Reg. Ent. Ref. No.	RN104611603
Facility/Site Region	2-Lubbock
Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	30387	No. of Violations	1
Docket No.	2006-1065-LII-E	Order Type	Findings
Media Program(s)	Irrigators	Enf. Coordinator	Bryan Elliott
Multi-Media		EC's Team	Enforcement Team 5
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** 0% Enhancement Subtotals 2, 3, & 7

Notes

**Culpability** No  0% Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply** 0% Reduction Subtotal 5

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

Notes

**Economic Benefit** 0% Enhancement\* Subtotal 6

Total EB Amounts	\$23	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$700	

**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** 0% Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

Screening Date 25-Jul-2006

Docket No. 2006-1065-LII-E

PCW

Respondent Joe K. Hopper

Policy Revision 2 (September 2002)

Case ID No. 30387

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104611603

Media [Statute] Irrigators

Enf. Coordinator Bryan Elliott

**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 (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 <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%
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%

Please Enter Yes or No

**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** 25-Jul-2006 **Docket No.** 2006-1065-LII-E **PCW**

**Respondent** Joe K. Hopper *Policy Revision 2 (September 2002)*

**Case ID No.** 30387 *PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN104611603

**Media [Statute]** Irrigators

**Enf. Coordinator** Bryan Elliott

**Violation Number** 1

**Primary Rule Cite(s)** 30 Tex. Admin. Code §§ 30.5(b) and 344.58(b)

**Secondary Rule Cite(s)** Tex. Water Code § 37.003 and Tex. Occupations Code § 1903.251

**Violation Description**  
 The Respondent did not have a valid irrigators license but was representing himself to the public as a holder of a license or registration. Specifically, Mr. Hopper referenced "Licensed Irrigator #8259" in an advertisement for Ace Sprinkler Systems, while advertising "installation, maintenance, and repair" which was circulated in the Feist area wide telephone book in Lubbock County, as documented during a record review conducted on June 30, 2006.

**Base Penalty** \$2,500

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				
Potential				

OR

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
X				100%

**Matrix Notes** Falsification of license.

**Adjustment** \$0

**Base Penalty Subtotal** \$2,500

**Violation Events**

**Number of Violation Events** 1

<i>mark only one use a small x</i>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

**Violation Base Penalty** \$2,500

One single event is recommended.

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$23

**Violation Final Penalty Total** \$2,500

**This violation Final Assessed Penalty (adjusted for limits)** \$2,500

### Economic Benefit Worksheet

Respondent Joe K. Hopper  
 Case ID No. 30387  
 Reg. Ent. Reference No. RN104611603  
 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
<b>Delayed Costs</b>							
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	\$700	30-Jun-2006	25-Feb-2007	0.7	\$23	n/a	\$23
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: Estimated cost to take the Irrigator class and cost of the Irrigator exam. Date Required is date of Investigation, and Final Date is date of prospective compliance.

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
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance  TOTAL

# Compliance History

Customer/Respondent/Owner-Operator: CN602837569 HOPPER, JOE K Classification: N/A Rating: N/A  
Regulated Entity: RN104611603 HOPPER, JOE K Classification: N/A Site Rating: N/A  
ID Number(s):  
Location: 5512 8TH PLACE, LUBBOCK, LUBBOCK COUNTY  
TCEQ Region: REGION 02 - LUBBOCK  
Date Compliance History Prepared: July 25, 2006  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 25, 2001 to July 25, 2006  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Bryan Elliott Phone: 239-6162

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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  
JOE K. HOPPER,  
RN104611603

§  
§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2006-1065-LII-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Joe K. Hopper ("Mr. Hopper") under the authority of TEX. WATER CODE chs. 7 and 37 and TEX. OCCUPATIONAL CODE ch. 1903. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Hopper, presented this agreement to the Commission.

Mr. Hopper understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Mr. Hopper agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Mr. Hopper.

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Mr. Hopper is an unlicensed irrigator who owns and operates a landscape irrigation business, Ace Sprinkler Systems, at 5512 8<sup>th</sup> Place in Lubbock, Lubbock County, Texas (the "Facility").

3. During a record review conducted on June 30, 2006, TCEQ staff documented that Mr. Hopper represented himself to the public as a holder of a license or registration and failed to have a valid irrigators license. Specifically, Mr. Hopper referenced "Licensed Irrigator #8259" in an advertisement for Ace Sprinkler Systems, while advertising "installation, maintenance, and repair" which was circulated in the Feist area wide telephone book in Lubbock County. The License Irrigator #8259 belonged to another individual and not Mr. Hopper.
4. Mr. Hopper received notice of the violation on or about July 15, 2006.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Hopper is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002 and ch. 37, TEX. OCCUPATIONAL CODE ch. 1903, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Hopper has failed to have a valid irrigator license but was representing himself to the public as a holder of a license or registration, in violation of 30 TEX. ADMIN. CODE §§ 30.5(b) and 344.58(b), TEX. WATER CODE § 37.003, and TEX. OCCUPATIONAL CODE § 1903.251.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Hopper for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of two thousand five hundred dollars (\$2,500.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Mr. Hopper has paid one hundred dollars (\$100.00) of the administrative penalty. The remaining balance of two thousand four hundred dollars (\$2,400.00) of the administrative penalty shall be payable in twenty four (24) monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of the Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Hopper fails to timely and satisfactorily comply with the payment requirements of the Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Hopper to meet the payment schedule of the Agreed Order

may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Hopper to meet the payment schedule of the Agreed Order constitutes the failure by Mr. Hopper to timely and satisfactorily comply with all of the terms of the Agreed Order.

### ORDERING PROVISIONS

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

1. Mr. Hopper is assessed an administrative penalty in the amount of two thousand five hundred dollars (\$2,500.00) as set forth in Conclusion of Law No. 4 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Mr. Hopper's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that 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: Joe K. Hopper; Docket No. 2006-1065-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. Mr. Hopper shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Mr. Hopper shall cease advertising to the public that he can perform a service for which a license is required until properly certified in accordance with the requirements of 30 TEX. ADMIN. CODE ch. 30, subch. D;
  - b. Immediately upon the effective date of this Agreed Order, Mr. Hopper shall cease installing and/or repairing irrigations systems until such time as a valid irrigators license is obtained from the TCEQ; and

- c. Within 15 days after the effective date of this Agreed Order, Mr. Hopper shall submit a written certification statement demonstrating compliance with Ordering Provisions 2.a. and 2.b. The certification shall, include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and 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 obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

James Jagers, Water Section Manager  
Lubbock Regional Office  
Texas Commission on Environmental Quality  
3113 34<sup>th</sup> Street  
Lubbock, Texas 79410-3227

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Hopper. Mr. Hopper is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Mr. Hopper fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Hopper's failure to comply is not a violation of this

Agreed Order. Mr. Hopper has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Hopper shall notify the Executive Director within seven days after Mr. Hopper becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Hopper shall be made in writing to the Executive Director. Extensions are not effective until Mr. Hopper receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Hopper if the Executive Director determines that Mr. Hopper has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Hopper 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to Mr. Hopper, or three days after the date on which the Commission mails notice of the Order to Mr. Hopper, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*Johnyman Perdue*

\_\_\_\_\_  
For the Executive Director

4/29/07

\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Joe K. Hopper. I represent that I am authorized to agree to the attached Agreed Order on behalf of Joe K. Hopper, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Joe K. Hopper waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Joe Hopper  
Signature

2/21/06  
Date

Joe Hopper  
Name (printed or typed)

Owner  
Title

Authorized Representative

Joe K. Hopper