

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2005-0062-LII-E TCEQ ID: RN104211362 CASE NO.: 23544
RESPONDENT NAME: BRAD STRICKER

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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	
CASE TYPE:		
<input type="checkbox"/> AGRICULTURE	<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>SITE WHERE VIOLATION(S) OCCURRED: 300 Sollock Drive and 700 West Hondo Avenue, Devine, Medina County</p> <p>TYPE OF OPERATION: Landscape irrigation</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There has been one complaint. There is no record of additional pending enforcement actions regarding this person.</p> <p>INTERESTED PARTIES: One complaint has been received but the complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 15, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Bryan Elliott, Enforcement Division, Air Enforcement Section, MC 149, (512) 239-6162 TCEQ Regional Contact: Mr. Henry Karnei, Jr., San Antonio Regional Office, MC R-13, (210) 403-4010 Respondent: Mr. Brad Stricker, P.O. Box 98, Devine, Texas 78016-0098 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: November 22, 2003</p> <p>Dates of Investigation Relating to this Case: March 22, 2004</p> <p>Date of NOE Relating to this Case: December 14, 2004</p> <p>Background Facts:</p> <p>The EDPRP was filed on December 13, 2005. The EDFARP was filed on February 10, 2006. The EDSARP was filed on August 10, 2006. The EDTARP was filed on January 31, 2007. All were sent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned all of the wrappers sent by certified mail as "unclaimed." None of the first class mail have been returned, indicating that the Respondent received all of the notices. The Respondent has failed to file and answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>LII:</p> <p>1. Failed to obtain a landscape irrigator's license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing two irrigation systems [30 TEX. ADMIN. CODE §§ 30.5(a), and 344.4(a), TEX. WATER CODE § 37.003, and TEX. OCC. CODE § 1903.251].</p> <p>2. Used the license of someone else who is a licensed landscape irrigator or licensed installer [30 TEX. ADMIN. CODE § 344.58(b)].</p>	<p>Total Assessed: \$1,750</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$1,750</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</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>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Immediately:</p> <p style="padding-left: 40px;">a. Cease selling, designing, consulting, installing, maintaining, altering, repairing, or servicing landscape irrigation systems until properly licensed; and</p> <p style="padding-left: 40px;">b. Cease using the license of another person who is a licensed irrigator.</p> <p>2. Within 30 days, submit written certification to demonstrate compliance.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision December 10, 2004

DATES	Assigned	20-Dec-2004				
	PCW	16-Aug-2005	Screening	06-Dec-2005	Priority Due	18-Feb-2005
			EPA Due			

RESPONDENT/FACILITY INFORMATION	
Respondent	Brad Stricker
Reg. Ent. Ref. No.	RN104211362
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	23544	No. of Violations	2
Docket No.	2005-0062-LII-E	Order Type	1660 without deferral
Case Priority	4	Enf. Coordinator	Brent Hurta
Media Program(s)	Irrigators	EC's Team	Enforcement Team 1
Multi-Media			
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 Subtotals 2, 3, & 7

Notes

Culpability Subtotal 4

Notes

Good Faith Effort to Comply Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with a small x)

Notes

Economic Benefit Subtotal 6

Total EB Amounts	<input type="text" value="\$945"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$900"/>	

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 Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 06-Dec-2005	Docket No. 2005-0062-LII-E	PCW
Respondent Brad Stricker		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 23544		<i>PCW Revision December 10, 2004</i>
Reg. Ent. Reference No. RN104211362		
Additional ID No(s).		
Media [Statute] Irrigators		
Enf. Coordinator Brent Hurta		
Site Address	460 County Road 6753, Devine, Medina County, Texas 78016	

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (<i>number of NOV's meeting criteria</i>)	0	0%
	Other written NOV's	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 penalty adjustments due to the Respondent's lack of compliance history.

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

Screening Date 06-Dec-2005	Docket No. 2005-0062-LII-E	PCW	
Respondent Brad Stricker		<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 23544		<i>PCW Revision December 10, 2004</i>	
Reg. Ent. Reference No. RN104211362			
Additional ID No(s) 0			
Media [Statute] Irrigators			
Enf. Coordinator Brent Hurta			
Violation Number <input type="text" value="1"/>			
Primary Rule Cite(s)	30 Tex. Admin Code §§ 344.4(a) and 30.5(a)		
Secondary Rule Cite(s)	Texas Water Code § 37.003 and Texas Occupations Code §1903.251		
Violation Description	Failure to hold an irrigator license issued prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system and failure to refrain from using or attempting to use the license of someone else who is a licensed irrigator or licensed installer. Specifically, the Respondent installed two irrigation systems without an irrigator license, as documented during a record review conducted on March 22, 2004.		
	Base Penalty	<input type="text" value="\$2,500"/>	
>> Environmental, Property and Human Health Matrix			
	Harm		
Release	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		<input type="text" value="25%"/>
>> Programmatic Matrix			
Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Percent		<input type="text"/>
Matrix Notes	Installing irrigation systems without a license could expose human health to pollutants which would exceed protective levels.		
	Adjustment	<input type="text" value="-\$1,875"/>	
	Base Penalty Subtotal	<input type="text" value="\$625"/>	
Violation Events			
Number of Violation Events	<input type="text" value="2"/>		
<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>	
	<i>monthly</i>	<input type="text"/>	
	<i>quarterly</i>	<input type="text"/>	
	<i>semiannual</i>	<input type="text"/>	
	<i>annual</i>	<input type="text"/>	
	<i>single event</i>	<input checked="" type="checkbox"/>	
	Violation Base Penalty	<input type="text" value="\$1,250"/>	
	Two single events are recommended for the two irrigation systems that were installed without holding a valid, effective irrigation installer license, as documented during a record review conducted on March 22, 2004.		
Economic Benefit (EB) for this violation	Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$473"/>	Violation Final Penalty Total	
		<input type="text" value="\$1,250"/>	
	This violation Final Assessed Penalty (adjusted for limits)		
		<input type="text" value="\$1,250"/>	

Economic Benefit Worksheet

Respondent Brad Stricker
 Case ID No. 23544
 Reg. Ent. Reference No. RN104211362
 Additional ID No(s). 0
 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: There are no delayed costs associated with this violation.

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]	\$450	30-Sep-2003	26-Nov-2003	1.0	\$23	\$450	\$473
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: The avoided cost includes the estimated amount required to obtain a valid irrigator license, calculated from the estimated date that the Respondent began installing the first system to the estimated time the Respondent finished installing the second system.

Approx. Cost of Compliance **\$450**

TOTAL \$473

Screening Date 06-Dec-2005	Docket No. 2005-0062-LII-E	PCW
Respondent Brad Stricker		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 23544		<i>PCW Revision December 10, 2004</i>
Reg. Ent. Reference No. RN104211362		
Additional ID No(s) 0		
Media [Statute] Irrigators		
Enf. Coordinator Brent Hurta		
Violation Number <input type="text" value="2"/>		
Primary Rule Cite(s)	<input type="text" value="30 Texas Admin. Code § 344.58(b)"/>	
Secondary Rule Cite(s)	<input type="text"/>	
Violation Description	<input type="text" value="Failure to refrain from using or attempting to use the license of someone else who is a licensed irrigator or licensed installer. Specifically, the Respondent installed two irrigation systems without an irrigator license, as documented during a record review conducted on March 22, 2004."/>	
	Base Penalty	<input type="text" value="\$2,500"/>

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

Harm				
Release	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text"/>

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
Matrix Notes <input type="text" value="100% of the rule requirement was not met."/>				

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Two single events are recommended for the two irrigation systems for which the license of someone else who is a licensed irrigator or licensed installer was used, as documented during a record review conducted on March 22, 2004.

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 Brad Stricker
 Case ID No. 23544
 Reg. Ent. Reference No. RN104211362
 Additional ID No(s). 0
 Media [Statute] Irrigators
 Violation No. 2

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]	\$450	30-Sep-2003	26-Nov-2003	1.0	\$23	\$450	\$473
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs
 The avoided cost includes the estimated amount required to obtain a valid irrigator license, calculated from the estimated date that the Respondent began installing the first system to the estimated time the Respondent finished installing the second system.

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator: CN602593360 BRAD STRICKER Classification: Rating:
Regulated Entity: RN104211362 STRICKER BRAD Classification: Site Rating:
ID Number(s):
Location: 460 COUNTY ROAD 6753, DEVINE, TX, 78016
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: February 07, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 7, 2000 to February 7, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Lella Pezeshki Phone: 210-403-4080

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?
2. Has there been a (known) change in ownership of the site during the compliance period?
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
6. Comments:

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.

C. Chronic excessive emissions events.

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

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

F. Environmental audits.

G. Type of environmental management systems (EMSs).

H. Voluntary on-site compliance assessment dates.

I. Participation in a voluntary pollution reduction program.

J. Early compliance.

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BRAD STRICKER;
RN104211362**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2005-0062-LII-E**

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Third Amended Report and Petition filed pursuant to TEX. WATER CODE ch. 37, TEX. OCC. CODE ch. 1903, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Brad Stricker ("Mr. Stricker").

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

FINDINGS OF FACT

1. Mr. Stricker sells, designs, consults, installs, maintains, alters, repairs, and services landscape irrigation systems in Devine, Medina County, Texas. Mr. Stricker does not possess a valid Landscape irrigator's license.
2. Mr. Stricker is subject to TCEQ jurisdiction pursuant to TEX. WATER CODE ch. 37 and TEX. OCC. CODE ch. 1903.
3. During a record review conducted on March 22, 2004, a TCEQ Central Office investigator documented that Mr. Stricker violated the following requirements:
 - a. 30 TEX. ADMIN. CODE §§ 30.5(a) and 344.4(a), TEX. WATER CODE § 37.003, and TEX. OCC. CODE § 1903.251, by failing to obtain a Landscape irrigator's license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing two irrigation systems. Specifically, Mr. Stricker installed landscape irrigation systems at 330 Sollock Drive and 700 West Honda Avenue in Devine, Medina County, Texas (the "Sites"); and

- b. 30 TEX. ADMIN. CODE § 344.58(b), by using or attempting to use the license of someone else who is a licensed landscape irrigator or licensed installer. Specifically, Mr. Stricker, used landscape irrigator license No. 11247, belonging to Layne Bales, to install landscape irrigation systems at the Sites.
4. Mr. Stricker received notice of the violations on or about December 19, 2004.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Brad Stricker" (the "EDPRP") in the TCEQ Chief Clerk's office on December 13, 2005.
6. By letter dated December 13, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Stricker with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Stricker received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. Stricker received notice of the EDPRP, provided by the Executive Director. Mr. Stricker failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
8. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Brad Stricker" (the "EDFARP") in the TCEQ Chief Clerk's office on February 10, 2006.
9. By letter dated February 10, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Stricker with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Stricker received notice of the EDFARP.
10. More than 20 days have elapsed since Mr. Stricker received notice of the EDFARP, provided by the Executive Director. Mr. Stricker failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.
11. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Brad Stricker" (the "EDSARP") in the TCEQ Chief Clerk's office on August 10, 2006.

12. By letter dated August 10, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Stricker with notice of the EDSARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Stricker received notice of the EDSARP.
13. More than 20 days have elapsed since Mr. Stricker received notice of the EDSARP, provided by the Executive Director. Mr. Stricker failed to file an answer to the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.
14. The Executive Director filed the "Executive Director's Third Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Brad Stricker" (the "EDTARP") in the TCEQ Chief Clerk's office on January 31, 2007.
15. By letter dated January 31, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Stricker with notice of the EDTARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Stricker received notice of the EDTARP.
16. More than 20 days have elapsed since Mr. Stricker received notice of the EDTARP, provided by the Executive Director. Mr. Stricker failed to file an answer to the EDTARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Stricker is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 37, TEX. OCC. CODE ch. 1903, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Stricker failed to obtain a Landscape irrigator's license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing two irrigation systems, in violation of 30 TEX. ADMIN. CODE §§ 30.5(a) and 344.4(a), TEX. WATER CODE § 37.003, and TEX. OCC. CODE § 1903.251.
3. As evidenced by Finding of Fact No. 3.b., Mr. Stricker used the license of someone else who is a licensed landscape irrigator or licensed installer, in violation of 30 TEX. ADMIN. CODE § 344.58(b).

4. As evidenced by Finding of Fact Nos. 5 and 6, 8 and 9, 11 and 12, and 14 and 15, the Executive Director timely served Mr. Stricker with proper notice of the EDPRP, the EDFARP, the EDSARP, and the EDTARP, respectively, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c).
5. As evidenced by Finding of Fact Nos. 7, 10, 13, and 16, Mr. Stricker failed to file a timely answer to the EDPRP, the EDFARP, the EDSARP, and the EDTARP, respectively, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Stricker and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Stricker for violations of the Texas Water 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.
7. An administrative penalty in the amount of one thousand seven hundred fifty dollars (\$1,750.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Mr. Stricker is assessed an administrative penalty in the amount of one thousand seven hundred fifty dollars (\$1,750.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Mr. Stricker's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Brad Stricker; Docket No. 2005-0062-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. Stricker shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Commission Order, Mr. Stricker shall:
 - i. cease selling, designing, consulting, installing, maintaining, altering, repairing, or servicing landscape irrigation systems until properly licensed in accordance with the requirements of 30 TEX. ADMIN. CODE chs. 30 and 344, TEX. WATER CODE ch. 37, and TEX. OCC. CODE ch. 1903, and
 - ii. cease using the license of another person who is a licensed irrigator.
 - b. Within 30 days after the effective date of this Commission Order, Mr. Stricker shall submit written certification demonstrating compliance with paragraph 2.a.i. and a.ii., above.

The certification shall 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, if any, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Robert Mann, Section Manager
Regulatory Compliance Section, MC 178
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Stricker.
5. If Mr. Stricker fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Stricker's failure to comply is not a violation of this Order. Mr. Stricker shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Stricker shall notify the Executive Director within seven days after Mr. Stricker becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Stricker shall be made in writing to the Executive Director. Extensions are not effective until Mr. Stricker receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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. Stricker if the Executive Director determines that Mr. Stricker has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Brad Stricker
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF LENA ROBERTS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Lena Roberts. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Brad Stricker” (the “EDPRP”) was filed with the Office of the Chief Clerk on December 13, 2005.

The EDPRP was sent to Mr. Stricker at his last known address on December 13, 2005, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Mr. Stricker received notice of the EDPRP. Mr. Stricker failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Brad Stricker” (the “EDFARP”) was filed with the Office of the Chief Clerk on February 10, 2006.

The EDFARP was sent to Mr. Stricker at his last known address on February 10, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating the respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Mr. Stricker received notice of the EDFARP. Mr. Stricker failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative

Penalty Against and Requiring Certain Actions of Brad Stricker” (the “EDSARP”) was filed with the Office of the Chief Clerk on August 10, 2006.

The EDSARP was sent to Mr. Stricker at his last known address on August 10, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating the respondent received notice of the EDSARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Mr. Stricker received notice of the EDSARP. Mr. Stricker failed to file an answer to the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Third Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Brad Stricker” (the “EDTARP”) was filed with the Office of the Chief Clerk on January 31, 2007.

The EDTARP was sent to Mr. Stricker at his last known address on January 31, 2007 , via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating the respondent received notice of the EDTARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Mr. Stricker received notice of the EDTARP. Mr. Stricker failed to file an answer to the EDTARP, failed to request a hearing, and failed to schedule a settlement conference.”



Lena Roberts
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Lena Roberts, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 31st day of July, A.D., 2007.



Notary Stamp

