

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0725-LII-E TCEQ ID: RN104452370 CASE NO.: 33447
RESPONDENT NAME: DOREEN A. SWADLEY DBA GREENBELL

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: 6 Ironwood Court, Belton, Bell County</p> <p>TYPE OF OPERATION: Landscape Irrigation Business</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint has been received. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was 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 January 7, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Anna M. Cox, Litigation Division, MC 175, (512) 239-0974 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Audra Ruble, Air Enforcement Section, MC R-14, (361) 825-3126 TCEQ Regional Contact: Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3001 Respondent: Ms. Doreen A. Swadley dba GreenBell, 6 Ironhorse Court, Belton, Texas 76513 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 checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: August 22, 2006</p> <p>Dates of Investigations Relating to this Case: September 6, 2006 and March 9, 2007</p> <p>Date of NOV/NOE Relating to this Case: November 8, 2006 (NOV) March 16, 2007 (NOE)</p> <p>Background Facts: The EDPRP was filed and mailed on July 11, 2007. An Agreed Order was signed on November 6, 2007.</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 permit for installation of an irrigation system [30 TEX. ADMIN. CODE § 344.70].</p> <p>2. Failed to fulfill warranty requirements for a new irrigation system [30 TEX. ADMIN. CODE § 344.96].</p> <p>3. Failed to include a license number on all advertisements [30 TEX. ADMIN. CODE § 344.93(b)].</p>	<p>Total Assessed: \$551</p> <p>Total Paid to General Revenue: \$551</p> <p>The Respondent has paid the administrative penalty in full.</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 Action(s) Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective actions:</p> <ol style="list-style-type: none"> As of December 11, 2006, the website is no longer in service. As of December 11, 2006, the warranty had been honored at 118 Ottoway, Temple, Bell County, Texas. As of October 2, 2007, the business is no longer in operation.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

DATES	Assigned	19-Mar-2007	Screening	7-May-2007	EPA Due	
	PCW	7-May-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Doreen A. Swadley dba GreenBell
Reg. Ent. Ref. No.	RN104452370
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33447	No. of Violations	3
Docket No.	2007-0725-LII-E	Order Type	1660
Media Program(s)	Irrigators	Enf. Coordinator	Audra L. Ruble
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$525
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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.

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$26
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Notes: The compliance history was enhanced by one similar NOV.

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

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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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.

	0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$2,041	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$3,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$551
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$551
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$551
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$551
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Screening Date 7-May-2007

Docket No. 2007-0725-LII-E

PCW

Respondent Doreen A. Swadley dba GreenBell

Policy Revision 2 (September 2002)

Case ID No. 33447

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN104452370

Media [Statute] Irrigators

Enf. Coordinator Audra L. Ruble

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of..	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	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) 5%

>> 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

The compliance history was enhanced by one similar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 7-May-2007

Docket No. 2007-0725-LII-E

PCW

Respondent Doreen A. Swadley dba GreenBell

Policy Revision 2 (September 2002)

Case ID No. 33447

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN104452370

Media [Statute] Irrigators

Enf. Coordinator Audra L. Ruble

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 344.70

Violation Description

Failed to obtain a permit for the installation of an irrigation system. Specifically, Doreen A. Swadley dba GreenBell, Landscape Irrigator License #12945, did not obtain a permit for the irrigation system installed at 118 Ottoway, Temple, Texas.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

Matrix Notes

100% of the rule was not met.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an 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 Doreen A. Swadley dba GreenBell

Case ID No. 33447

Reg. Ent. Reference No. RN104452370

Media Irrigators

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
<small>No commas or \$</small>							

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	\$500	19-Jun-2006	1-Nov-2007	1.4	\$34	n/a	\$34
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit to obtain a permit. The date required is the date the permit was required to be obtained. The final date is the date the respondent is expected to obtain the permit.

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

\$500

TOTAL

\$34

Screening Date 7-May-2007

Docket No. 2007-0725-LII-E

PCW

Respondent Doreen A. Swadley dba GreenBell

Policy Revision 2 (September 2002)

Case ID No. 33447

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN104452370

Media [Statute] Irrigators

Enf. Coordinator Audra L. Ruble

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 344.93(b)

Violation Description dba GreenBell, Landscape Irrigator License #12945, failed to include her license number on an advertisement for GreenBell at http://www.greenbellco.com.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

		Harm			Percent
		Major	Moderate	Minor	
Release	Actual				0%
	Potential				

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	Percent
					X	

Matrix Notes

Less than 30% of the rule was not met.

Adjustment \$2,475

\$25

Violation Events

Number of Violation Events 1 Number of violation days 96

<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$25

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$26

This violation Final Assessed Penalty (adjusted for limits) \$26

Economic Benefit Worksheet

Respondent: Doreen A. Swadley dba GreenBell
Case ID No.: 33447
Reg. Ent. Reference No.: RN104452370
Media: 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
<small>No commas or \$</small>							

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)	\$500	6-Sep-2006	11-Dec-2006	0.3	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to include license number on all advertisements. The date required is the date of the file review. The final date is the date the respondent notified the TCEQ the website was no longer in service.

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

\$500

TOTAL

\$7

Screening Date 7-May-2007

Docket No. 2007-0725-LII-E

PCW

Respondent Doreen A. Swadley dba GreenBell

Policy Revision 2 (September 2002)

Case ID No. 33447

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN104452370

Media [Statute] Irrigators

Enf. Coordinator Audra L. Ruble

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 344.96

Violation Description

Failed to fulfill the warranty requirements for a new irrigation system. Specifically, the complainant stated that Doreen A. Swadley dba GreenBell, Landscape Irrigator License #12945, did not provide a written statement of guarantees for materials and labor furnished in the installation of the irrigation system system installed at 118 Ottoway, Temple, Texas.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule was not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1

96 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$250

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,000

Violation Final Penalty Total \$262

This violation Final Assessed Penalty (adjusted for limits) \$262

Economic Benefit Worksheet

Respondent Doreen A. Swadley dba GreenBell
Case ID No. 33447
Reg. Ent. Reference No. RN104452370
Media Irrigators
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$2,000	6-Sep-2007	11-Dec-2006	0.0	\$0	\$2,000	\$2,000
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to honor the warranty. The date required is the date of the file review. The final date is the date the respondent notified the TCEQ the warranty had been honored.

Approx. Cost of Compliance \$2,000

TOTAL \$2,000

Compliance History

Customer/Respondent/Owner-Operator: CN602737983 SWADLEY, DOREEN A Classification: Rating:
 Regulated Entity: RN104452370 SWADLEY, DOREEN A Classification: Site Rating:
 ID Number(s): LANDSCAPE IRRIGATION LICENSING LICENSE LI0012945
 Location:

TCEQ Region: REGION 09 - WACO
 Date Compliance History Prepared: May 07, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: May 07, 2002 to May 07, 2007

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

Name: Jason Kemp Phone: (512) 239-5610

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.)

Date: 11/08/2006 (511611)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter F 344.93(b)

Description: Failure by a licensed irrigator to display the license number on all advertisements, including business cards.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter F 344.96

Description: Failure by a licensed irrigator to honor the warranty for a new irrigation system installation.

Failure by a licensed irrigator to honor the warranty for a new irrigation system installation.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 344, SubChapter D 344.70

Description: Failure by a licensed irrigator to comply with reasonable inspection requirements, ordinances or regulations designed to protect the public water supply, any of which relates to work performed or to be performed, within such political subdivision's territory.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter F 344.94(b)

Description: Failure by a licensed irrigator to include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087." on all written contracts and bills to install irrigation systems.

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
DOREEN A. SWADLEY DBA
GREENBELL
RN104452370

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0725-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 Doreen A. Swadley dba GreenBell ("Ms. Swadley") under the authority of TEX. WATER CODE chs. 7 and 37, TEX. OCCUPATIONS CODE ch. 1903, and the rules of the Commission. The Executive Director of the TCEQ, represented by the Litigation Division, and Ms. Swadley, appear before the Commission and together stipulate that:

1. At the time of the investigation, Ms. Swadley owned and operated a landscape irrigation business located at 6 Ironwood Court, Belton, Bell County, Texas (the "Business").
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 § 5.013 because it alleges violations of TEX. OCCUPATIONS CODE ch. 1903, TEX. WATER CODE ch. 37, and the TCEQ rules.
3. The Commission and Ms. Swadley agree that the Commission has jurisdiction to enter this Agreed Order, and that Ms. Swadley is subject to the Commission's jurisdiction.
4. Ms. Swadley received notice of the violations alleged in Section II ("Allegations") on or about March 16, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ms. Swadley of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of five hundred fifty-one dollars (\$551.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Ms. Swadley has paid five hundred fifty-one dollars (\$551.00) 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 Ms. Swadley 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 Ms. Swadley has implemented the following corrective measures at the Business in response to this enforcement action:
 - a. On December 11, 2006, Ms. Swadley notified the TCEQ that the website is no longer in service.
 - b. On December 11, 2006, Ms. Swadley notified the TCEQ that the warranty had been honored at 118 Ottoway, Temple, Bell County, Texas.
 - c. On October 2, 2007, Ms. Swadley notified the TCEQ that the Business is no longer in operation.
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 Ms. Swadley 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

Ms. Swadley is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 344.70 by failing to obtain a permit for installation of an irrigation system. Ms. Swadley, Landscape Irrigators License #12945, did not obtain a permit for the

irrigation system installed at 118 Ottoway, Temple, Bell County, Texas as documented on March 9, 2007.

2. 30 TEX. ADMIN. CODE § 344.96 by failing to fulfill warranty requirements for a new irrigation system. Ms. Swadley did not provide a written statement of guarantees for material and labor furnished in the installation of the irrigation system installed at 118 Ottoway, Temple, Bell County, Texas.
3. 30 TEX. ADMIN. CODE § 344.93(b) by failing to include license number on all advertisements. Ms. Swadley failed to include her license number on her website <http://www.greenbellco.com>.

III. DENIALS

Ms. Swadley generally denies each allegation in Section II (“Allegations”).

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Ms. Swadley pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Ms. Swadley’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: Doreen A. Swadley dba GreenBell, Docket No. 2007-0725-LII” 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

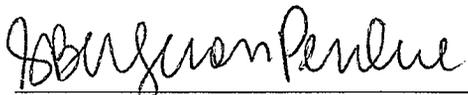
2. The provisions of this Agreed Order shall apply to and be binding upon Ms. Swadley.
3. This Agreed Order, issued by the Commission, shall not be admissible against Ms. Swadley in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) 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 Ms. Swadley, or three days after the date on which the Commission mails notice of the Order to Ms. Swadley, 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



For the Executive Director

12/2/07

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, I understand that any falsification of any compliance documents may result in criminal prosecution


Signature

11/6/07
Date

Doreen A. Swadley
Name (Printed or typed)

owner
Title

Authorized representative of
Doreen A. Swadley dba GreenBell