

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0406-LII-E **TCEQ ID:** RN103369724 **CASE NO.:** 33105

RESPONDENT NAME: Alberto Ramos Jr.

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: 914 Natalie Street, Weslaco; 5510 Mauritius Lane, Edinburg; and 11809 North Bentsen Road, McAllen, Hildago County</p> <p>TYPE OF OPERATION: Irrigation system installation</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: Complaints were received January 19, 2005 and February 15, 2006, alleging that Mr. Ramos failed to complete irrigation system installations and that he did not have a permit from the City of Weslaco to install irrigation systems. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: 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 October 8, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Shontay Wilcher, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2136; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Alberto Ramos Jr., 2915 Stoneview, Edinburg, Texas 78541 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: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: January 19, 2005 and February 15, 2006</p> <p>Date of Investigation Relating to this Case: February 22, 2007</p> <p>Date of NOV/NOE Relating to this Case: February 28, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation. Three violations were documented.</p> <p>WATER</p> <p>1) Failed to comply with local inspection requirements, ordinances, or regulations designed to protect the public water supply, any of which relates to work performed or to be performed within any political subdivision's territory. Specifically, Mr. Ramos did not obtain the required permit from the City of Weslaco for installation of an irrigation system at 914 Natalie Street in Weslaco, Hildago County [30 TEX. ADMIN. CODE § 344.70].</p> <p>2) Failed 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. Specifically, Mr. Ramos did not include the required statement on three contract documents for installation of irrigation systems at the Sites [30 TEX. ADMIN. CODE § 344.94(b)].</p> <p>3) Failed to honor the promised warranty for two installed irrigations systems. Specifically, Mr. Ramos did not submit a test report for the backflow prevention device at 5510 Mauritius Lane in Edinburg, and the PVC pipe was sticking out at 11809 North Bentsen Road in McAllen, Hildago County [30 TEX. ADMIN. CODE § 344.96].</p>	<p>Total Assessed: \$866</p> <p>Total Deferred: \$173 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$125 (remaining \$568 due in 4 monthly payments of \$114 each and one final payment of \$112)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</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 Order will require Mr. Ramos to:</p> <p>a. Immediately upon the effective date of this Agreed Order, begin complying with all local regulations, inspection requirements, or ordinances prior to installation of irrigation systems.</p> <p>b. Within 10 days after the effective date of this Agreed Order:</p> <p>i. Ensure that the statement "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087," is included on all written bills and contracts; and</p> <p>ii. Ensure that a written statement of guarantees, including warranty of labor and materials, is presented to customers and the warranty is honored for all new installations of irrigations systems.</p> <p>c. Within 15 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. through b.ii.</p>

Additional ID No(s): LI0008677



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES	Assigned	5-Mar-2007	Screening	20-Mar-2007	EPA Due	
	PCW	2-Apr-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Alberto Ramos, Jr.
Reg. Ent. Ref. No.	RN103369724
Facility/Site Region	15- Harlingen
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33105	No. of Violations	3	
Docket No.	2007-0406-LII-E	Order Type	1660	
Media Program(s)	All Occupational Licenses	Enf. Coordinator	Shontay Wilcher	
Multi-Media		EC's Team	EnforcementTeam 7	
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 5% 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	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

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

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 20% 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 20-Mar-2007

Docket No. 2007-0406-LII-E

PCW

Respondent Alberto Ramos, Jr.

Policy Revision 2 (September 2002)

Case ID No. 33105

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103369724

Media [Statute] All Occupational Licenses

Enf. Coordinator Shontay Wilcher

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

Enhancement for one Notice of Violation with same or similar violations.

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

Screening Date 20-Mar-2007

Docket No. 2007-0406-LII-E

PCW

Respondent Alberto Ramos, Jr.

Policy Revision 2 (September 2002)

Case ID No. 33105

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103369724

Media [Statute] All Occupational Licenses

Enf. Coordinator Shontay Wilcher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 344.70

Violation Description Failed to comply with local inspection requirements, ordinances, or regulations designed to protect the public water supply, any of which relates to work performed or to be performed within any political subdivision's territory. Specifically, the respondent did not obtain the required permit from the City of Weslaco for installation of an irrigation system at 914 Natalie Street in Weslaco, Hildago County.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
Release				0%
Actual				
Potential				

>> Programmatic Matrix

Matrix Notes	Harm			Percent
	Major	Moderate	Minor	
				10%
	x			

100% of the rule requirement was not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1 Number of violation days 26

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

Violation Base Penalty \$250

One single event is recommended based on documentation of the violation during the February 22, 2007 record review.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$43

Violation Final Penalty Total \$262

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

Economic Benefit Worksheet

Respondent Alberto Ramos, Jr.
Case ID No. 33105
Reg. Ent. Reference No. RN103369724
Media All Occupational Licenses
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
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]				0.0	\$0	\$0	\$0
Other (as needed)	\$40	22-Feb-2007	2-Oct-2007	1.5	\$3	\$40	\$43

Notes for AVOIDED costs

Estimated cost to obtain the required permit for installation of a Irrigation system. The Date Required is the date of the record review and the Final Date is the estimated date of compliance.

Approx. Cost of Compliance

\$40

TOTAL

\$43

Screening Date 20-Mar-2007

Docket No. 2007-0406-LII-E

PCW

Respondent Alberto Ramos, Jr.

Policy Revision 2 (September 2002)

Case ID No. 33105

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103369724

Media [Statute] All Occupational Licenses

Enf. Coordinator Shontay Wilcher

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 344.94(b)

Violation Description

Failed 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. Specifically, the respondent did not include the required statement on three contract documents for installation of irrigation systems at 914 Natalie Street in Weslaco, 5510 Mauritius Lane in Edinburg, and 11809 North Bentsen Road in McAllen, Hildago County.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes

Less than 33% of the rule requirement was not met.

Adjustment \$2,475

\$25

Violation Events

Number of Violation Events 3 Number of violation days 835

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$75

Three single events (one per site) are recommended based on documentation of the violation during the February 22, 2007 record review.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$116

Violation Final Penalty Total \$79

This violation Final Assessed Penalty (adjusted for limits) \$79

Economic Benefit Worksheet

Respondent: Alberto Ramos, Jr.
Case ID No.: 33105
Reg. Ent. Reference No.: RN103369724
Media: All Occupational Licenses
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
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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	\$50	5-Dec-2004	22-Feb-2007	2.2	\$6	\$111	\$116
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

Estimated cost to include the required statement on all written contracts and bills. The Date Required is the date of the first contract without the required statement and the Final Date is the record review date.

Approx. Cost of Compliance

\$50

TOTAL

\$116

Screening Date 20-Mar-2007

Docket No. 2007-0406-LII-E

PCW

Respondent Alberto Ramos, Jr.

Policy Revision 2 (September 2002)

Case ID No. 33105

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103369724

Media [Statute] All Occupational Licenses

Enf. Coordinator Shontay Wilcher

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.96

Violation Description

Failed to honor the promised warranty for two installed irrigations systems. Specifically, the respondent did not submit a test report for the backflow prevention device at 5510 Mauritius Lane in Edinburg, and the PVC pipe was sticking out at 11809 North Bentsen Road in McAllen, Hildago County.

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 requirement was not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 2

581 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$500

Two single events (one per site) are recommended based on documentation of the violation during the February 22, 2007 record review.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,597

Violation Final Penalty Total \$525

This violation Final Assessed Penalty (adjusted for limits) \$525

Economic Benefit Worksheet

Respondent: Alberto Ramos, Jr.
Case ID No.: 33105
Reg. Ent. Reference No.: RN103369724
Media: All Occupational Licenses
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
<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)				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	\$1,000	16-Aug-2005	22-Feb-2007	1.5	\$76	\$1,521	\$1,597
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

Estimated cost to replace or repair an irrigation system (\$500 per system) and honor warranty. The Date Required is the start date of the first irrigation system at 5510 Mauritius Lane and the Final Date is the date of the record review.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,597

Compliance History

Customer/Respondent/Owner-Operator:	CN601890163 RAMOS, ALBERTO JR	Classification:	Rating:
Regulated Entity:	RN103369724 RAMOS, ALBERTO JR	Classification:	Site Rating:
ID Number(s):	LANDSCAPE IRRIGATION LICENSING LICENSE		LI0008677
Location:	2915 STONEVIEW, EDINBURG TEXAS 78541		
TCEQ Region:	REGION 15 - HARLINGEN		
Date Compliance History Prepared:	March 20, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 20, 2002 to March 20, 2007		

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

Name: Shontay Wilcher Phone: (512) 239-2136

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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: 06/02/2005 (267165)
 - Self Report? NO Classification: Moderate
 - 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 to include on all written contracts and bills to install irrigation systems the statement: "Irrigation in Texas is regulated by the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087."
- 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
ALBERTO RAMOS JR.
RN103369724

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0406-LII-E

I. JURISDICTION AND STIPULATIONS

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

1. Mr. Ramos is a licensed Irrigator who owns and operates an irrigation installation business located at 2915 Stoneview, Edinburg, Hidalgo County, Texas. Mr. Ramos contracted to install irrigation systems at 914 Natalie Street in Weslaco, 5510 Mauritius Lane in Edinburg, and 11809 North Bentsen Road in McAllen, Hildago County, Texas (the "Sites").
2. TCEQ has general authority to regulate the design and installation of landscape irrigation systems, and the licensing of landscape irrigators and installers, pursuant to TEX. OCCUPATIONS CODE ch. 1903.
3. The Commission and Mr. Ramos agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Ramos is subject to the Commission's jurisdiction.
4. Mr. Ramos received notice of the violations alleged in Section II ("Allegations") on or about March 5, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Ramos of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eight Hundred Sixty-Six Dollars (\$866) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Ramos has paid One Hundred Twenty-Five Dollars (\$125) of the administrative penalty and One Hundred Seventy-Three Dollars (\$173) is deferred contingent upon Mr. Ramos' timely and satisfactory compliance with all the terms of this Agreed Order. If Mr. Ramos fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Ramos to pay all or part of the deferred penalty.

The remaining amount of Five Hundred Sixty-Eight Dollars (\$568) of the administrative penalty shall be payable in four monthly payments of One Hundred Fourteen Dollars (\$114) each and one final payment of One Hundred Twelve Dollars (\$112). The next monthly payment shall be paid within 30 days after the effective date of this 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. Ramos fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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. Ramos to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Ramos to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Ramos have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Ramos has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As installer of the irrigation systems for the Sites, Mr. Ramos is alleged to have:

1. Failed to comply with local inspection requirements, ordinances, or regulations designed to protect the public water supply, any of which relates to work performed or to be performed within any political subdivision's territory, in violation of 30 TEX. ADMIN. CODE § 344.70, as documented during a record review conducted on February 22, 2007. Specifically, Mr. Ramos did not obtain the required permit from the City of Weslaco for installation of an irrigation system at 914 Natalie Street in Weslaco, Hildago County.

2. Failed 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, in violation of 30 TEX. ADMIN. CODE § 344.94(b), as documented during a record review conducted on February 22, 2007. Specifically, Mr. Ramos did not include the required statement on three contract documents for installation of irrigation systems at the Sites.
3. Failed to honor the promised warranty for two installed irrigations systems, in violation of 30 TEX. ADMIN. CODE § 344.96 as documented during a record review conducted on February 22, 2007. Specifically, Mr. Ramos did not submit a test report for the backflow prevention device at 5510 Mauritius Lane in Edinburg, and the PVC pipe was sticking out at 11809 North Bentsen Road in McAllen, Hildago County.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Ramos pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Ramos' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Alberto Ramos Jr., Docket No. 2007-0406-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. It is further ordered that Mr. Ramos shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, begin complying with all local regulations, inspection requirements, or ordinances prior to installation of irrigation systems, in accordance with 30 TEX. ADMIN. CODE § 344.70.
 - b. Within 10 days after the effective date of this Agreed Order:
 - i. Ensure that the statement "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087," is included on all written bills and contracts, in accordance with 30 TEX. ADMIN. CODE § 344.94; and

- ii. Ensure that a written statement of guarantees, including warranty of labor and materials, is presented to customers and the warranty is honored for all new installations of irrigations systems, in accordance with 30 TEX. ADMIN. CODE § 344.96.
- c. Within 15 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.ii. 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, 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 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Ramos.
4. If Mr. Ramos 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. Ramos' failure to comply is not a violation of this Agreed Order. Mr. Ramos shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Ramos shall notify the Executive Director within seven days after Mr. Ramos 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. Ramos shall be made in

writing to the Executive Director. Extensions are not effective until Mr. Ramos receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

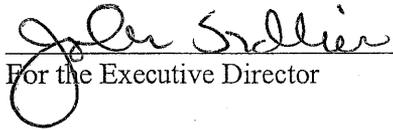
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Ramos in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Ramos, or three days after the date on which the Commission mails notice of the Order to Mr. Ramos, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

512-239-0134

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

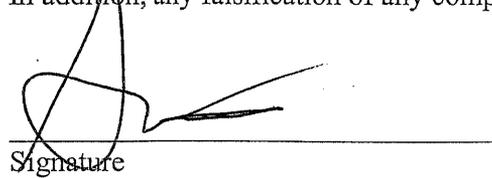
12/03/2007
~~6-19-07~~
Date

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

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

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

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


Signature

6-19-07
Date

Alberto Ramos Jr.
Name (Printed or typed)
Authorized Representative of
Alberto Ramos Jr.

Owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

