

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2005-1114-LII-E TCEQ ID: RN104574389 CASE NO.: 25967
RESPONDENT NAME: JOEY SISCA

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"/> 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: 3306 Parliament Cove and 21106 Ridgeview Road, Lago Vista, Travis County</p> <p>TYPE OF OPERATION: landscape irrigation system installation.</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received. There is no record of additional pending enforcement actions regarding this individual.</p> <p>INTERESTED PARTIES: No one other than the ED, the Respondent, have expressed an interest in this matter. There was one complaint, but the complainant has not indicated a desire to speak or protest at agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 26, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Carolyn Runyon, Austin Regional Office, MC R-11, (512) 339-2929 TCEQ Regional Contact: Mr. Jorge Ibarra, P.E., Air Enforcement Section, MC R-4, (817) 588-5890 Respondent: Mr. Joey Sisca, P.O. Box 4752, Lago Vista, Texas 78645 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: January 1, 2006</p> <p>Dates of Investigation Relating to this Case: November 2, 2004, January 9, 2006</p> <p>Date of NOE/ NOVs Relating to this Case: May 4, 2005 (NOE) April 29, 2005 (NOE), February 10, 2006 (NOE)</p> <p>Background Facts: An EDRP was filed and mailed on November 27, 2006. Mr. Sisca failed to file a timely answer to the EDRP, failed to request a hearing, and failed to schedule a settlement conference. 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 hold an irrigators license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system, including the connection of such system to any water supply. Specifically, an irrigation system was installed at 3306 Parliament Drive, Lago Vista, Texas and an irrigation system controller was replaced at 21106 Ridgeview Road, Lago Vista, Texas [30 TEX. ADMIN. CODE §§ 344.4(a) and 30.5(a); TEX. WATER CODE § 37.003; and TEX. OCC. CODE § 1903.251].</p> <p>2. Failed to possess an irrigator license before advertising or representing to the public that he could perform services for which a license was required without holding such a license or employing an individual who held a current license. Specifically, the respondent ran an advertisement in the local newspaper for "sprinkler systems, installation & maintenance" [30 TEX. ADMIN. CODE § 30.5(b)].</p>	<p>Total Assessed: \$4,000</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$4,000</p> <p>This is a Default Order.</p> <p>The Respondent has not actually paid any of the assessed penalty, but will be required to do so under the terms of the 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>Technical Requirement(s):</p> <p>The Respondent shall:</p> <p>1. Immediately:</p> <p>a. Refrain from using or attempting to use the license of someone else who is a licensed irrigator or licensed installer;</p> <p>b. Cease advertising, selling, designing, consulting, installing, maintaining, altering, repairing, or servicing landscape irrigation systems until properly licensed.</p> <p>2. Within 30 days, submit written certification statement demonstrating compliance with the ordering provisions above.</p>

<p>3. Failed as an individual to refrain from using or attempting to use the license of someone else who is a licensed irrigator or licensed installer and to possess an irrigator license before advertising or representing to the public that an individual can perform services for which a license is required unless the individual holds a license or employs an individual who holds a current license. Specifically, Mr. Sisca used Mr. Raul Lopez's irrigator's license (LI#4749) to advertise as a licensed installer in the local newspaper as "A-1 Landscaper & Irrigation" [30 TEX. ADMIN. CODE §§ 344.58(b) and 30.5(b)].</p>		
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Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	13-Jun-2005	Screening	22-Jun-2005	EPA Due	
	PCW	15-Dec-2005				

RESPONDENT/FACILITY INFORMATION			
Respondent	Joey Sisca		
Reg. Ent. Ref. No.	RN104574389		
Facility/Site Region	11-Austin	Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	25967	No. of Violations	2
Docket No.	2005-1114-LII-E	Order Type	1660
Media Program(s)	Irrigators	Enf. Coordinator	Jorge Ibarra, P.E.
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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability No 0% Enhancement **Subtotal 4**

Notes

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

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

Notes

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

Total EB Amounts	\$21	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$300	

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 22-Jun-2005

Docket No. 2005-1114-LII-E

PCW

Respondent Joey Sisca

Policy Revision 2 (September 2002)

Case ID No. 25967

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104574389

Media [Statute] Irrigators

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOV's	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	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)	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%
Other	<i>Please Enter Yes or No</i>		
	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 change due to no previous compliance history.

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

Screening Date 22-Jun-2005

Docket No. 2005-1114-LII-E

PCW

Respondent Joey Sisca

Policy Revision 2 (September 2002)

Case ID No. 25967

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104574389

Media [Statute] Irrigators

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

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

Percent

>> **Programmatic Matrix**

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

Percent

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

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 **Joey Sisca**
 Case ID No. **25967**
 Reg. Ent. Reference No. **RN104574389**
 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	\$300	02-Nov-2004	31-Mar-2006	1.4	\$21	n/a	\$21
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost of obtaining the required license before installing/repairing landscape irrigation systems. Date Required = inspection date; Final Date = expected date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$300**

TOTAL \$21

Screening Date 22-Jun-2005 **Docket No.** 2005-1114-LII-E **PCW**
Respondent Joey Sisca *Policy Revision 2 (September 2002)*
Case ID No. 25967 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN104574389
Media [Statute] Irrigators
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent **Joey Sisca**
 Case ID No. **25967**
 Reg. Ent. Reference No. **RN104574389**
 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 See violation No. 1.

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 \$0 TOTAL \$0

Penalty Calculation Worksheet (PCW)



Policy Revision 2 (September 2004)

PCW Revision May 19, 2005

DATES	Assigned	13-Feb-2006	Screening	15-Feb-2006	EPA Due	
	PCW	16-Feb-2006				

RESPONDENT/FACILITY INFORMATION			
Respondent	Joey Sisca		
Reg. Ent. Ref. No.	RN104574389		
Facility/Site Region	11-Austin	<input checked="" type="checkbox"/> Major/Minor Source	Minor Source <input type="checkbox"/>

CASE INFORMATION			
Enf./Case ID No.	25967	No. of Violations	1
Docket No.	2005-1114-LII-E	Order Type	1660 <input checked="" type="checkbox"/>
Media Program(s)	Irrigators <input checked="" type="checkbox"/>	Enf. Coordinator	Jorge Ibarra, P.E.
Multi-Media		EC's Team	Enforcement Team 4 <input checked="" type="checkbox"/>
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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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	0% Enhancement	Subtotal 2, 3, & 7	\$0
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Notes: No change due to no previous compliance history.

Culpability	No <input checked="" type="checkbox"/> 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	<input checked="" type="checkbox"/>	(mark with a small x)

Notes: The respondent is not yet in compliance.

Economic Benefit	0% Enhancement	Subtotal 6	\$0
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Total EB Amounts	\$10	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	\$300	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,500
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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 \$2,500

STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$2,500
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DEFERRAL		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: No deferral is recommended for non expedited settlement.

PAYABLE PENALTY	\$2,500
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Screening Date 15 -2006 Docket No. 2005-1114-LII-

PCW

Respondent: Joey Sisca

Policy Revision 2 (September 2002)

Case ID No: 25967

PCW Revision May 19, 2005

Reg. Ent. Reference No: RN104574389

Media (Statute): Irrigators

Ent. Coordinator: Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Please Enter Yes or No

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No change due to no previous compliance history.

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

Screening Date 1/5/2006 4:Jorge\2005-1114-111e.doc3-Joey Sisca.wb3 Docket No. 2005-1114-LI!

PCW

Respondent: Joey Sisca

Policy Revision 2 (September 2002)

Case ID No: 25967

PCW Revision May 19, 2005

Reg. Ent. Reference No: RN104574389

Media [Statute]: Irrigators

Enf. Coordinator: Jorge Ibarra, P.E.

Violation Number: 1

Primary Rule Cite(s)

30 Tex. Admin. Code §§ 344.58(b) and 30:5(b)

Secondary Rule Cite(s)

Violation Description

Failure by an individual to refrain from using or attempting to use the license of someone else who is a licensed irrigator or licensed installer and to possess an irrigator license before advertising or representing to the public that an individual can perform services for which a license is required unless the individual holds a license or employs an individual who holds a current license. Specifically, Mr. Sisca used Mr. Raul Lopez's irrigator's license (LI# 4749) to advertise as an licensed installer in the local newspaper as "A-1 Landscape & Irrigation".

Base Penalty \$2,500

Environmental, Property, and Human Health Matrix

		Harm			Percent
		Major	Moderate	Minor	
OR	Release				
	Actual				
	Potential				

Programmatic Matrix

		Major	Moderate	Minor	Percent
	Falsification	X			

Matrix Notes

Failure by an individual to refrain from using or attempting to use the license of someone else who is a licensed irrigator or licensed installer could result in poor design of the system which in turn could promote poor water conservation. Falsification is alleged because Mr. Sisca advertised as a licensed irrigator and included Mr. Lopez's license number in the advertisement. Mr. Lopez is not an employee of Mr. Sisca and did not give him permission to use his license number.

Adjustment \$0

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events: 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,500

One single events is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$2,500

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

Compliance History

Customer/Respondent/Owner-Operator: CN602816084 Joey Sisca Classification: N/A Rating: 0.000
Regulated Entity: RN104574389 Joey Sisca Classification: N/A Site Rating: 0.00
ID Number(s): None
Location: P.O. Box 4752, Lago Vista, Travis County, Texas 78645 Rating Date: 9/1/05 Repeat Violator: NO
TCEQ Region: REGION 11 - Austin
Date Compliance History Prepared: February 15, 2006
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 15, 2001 to February 15, 2006
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1 11/02/2004 (376659)
2 01/09/2006 (454852)

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

N/A

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JOEY SISCA;
RN104574389**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2005-1114-LII-E**

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 37, TEX. OCCUPATIONS 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 Joey Sisca ("Mr. Sisca").

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

FINDINGS OF FACT

1. Mr. Sisca installed a landscape irrigation system at 3306 Parliament Cove and repaired a landscape irrigation system at 21106 Ridgeview Road in Lago Vista, Travis County, Texas (the "Sites").
2. TCEQ has general authority to regulated the design and installation of landscape irrigation systems, and the licensing of landscape irrigators and installers, pursuant to TEX. WATER CODE chs. 7, 37, and TEX. OCCUPATIONS CODE ch. 1903.
3. During a record review conducted on November 2, 2004, a TCEQ Dallas/ Fort Worth Regional Office investigator documented that Mr. Sisca:
 - a. Failed to hold a hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system, including the connection of such system to any water supply. Specifically, an irrigation system

was installed at 3306 Parliament Drive, Lago Vista, Texas and an irrigation system controller was replaced at 21106 Ridgeview Road, Lago Vista, Texas;

- b. Failed to possess an irrigator license before advertising or representing to the public that he could perform services for which a license was required without holding such a license or employing an individual who held a current license. Specifically, the respondent ran an advertisement in the local newspaper for "sprinkler systems, installation & maintenance"; and
 - c. Failed as an individual to refrain from using or attempting to use the license of someone else who is a licensed irrigator or licensed installer and to possess an irrigator license before advertising or representing to the public that an individual can perform services for which a license is required unless the individual holds a license or employs an individual who holds a current license. Specifically, Mr. Sisca used Mr. Raul Lopez's irrigator's license (LI# 4749) to advertise as a licensed installer in the local newspaper as "A-1 Landscaper & Irrigation."
4. Mr. Sisca received notice of the violations on or about May 4, 2005.
 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 Joey Sisca" (the "EDPRP") in the TCEQ Chief Clerk's office on November 27, 2006.
 6. By letter dated November 27, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Sisca 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. Sisca received notice of the EDPRP.
 7. More than 20 days have elapsed since Mr. Sisca received notice of the EDPRP, provided by the Executive Director. Mr. Sisca failed to file an answer to the EDPRP, 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. Sisca is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 37, TEX. OCCUPATIONS CODE ch. 1903 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Sisca failed to hold a hold an irrigators license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system, including the connection of such system to any water supply. Specifically, an irrigation system was installed at 3306 Parliament Drive, Lago Vista, Texas and an irrigation system controller was replaced at 21106 Ridgeview Road, Lago Vista, Texas, in violation of 30 TEX. ADMIN. CODE §§ 344.4(a) and 30.5(a); TEX. WATER CODE § 37.003; and TEX. OCC. CODE § 1903.251;
3. As evidenced by Finding of Fact No. 3.b., Mr. Sisca failed to possess an irrigator license before advertising or representing to the public that he could perform services for which a license was required without holding such a license or employing an individual who held a current license. Specifically, the respondent ran an advertisement in the local newspaper for "sprinkler systems, installation & maintenance." in violation of 30 TEX. ADMIN. CODE § 30.5(b);
4. As evidenced by Finding of Fact No. 3.c., Mr. Sisca failed as an individual to refrain from using or attempting to use the license of someone else who is a licensed irrigator or licensed installer and to possess an irrigator license before advertising or representing to the public that an individual can perform services for which a license is required unless the individual holds a license or employs an individual who holds a current license. Specifically, Mr. Sisca used Mr. Raul Lopez's irrigator's license (LI# 4749) to advertise as a licensed installer in the local newspaper as "A-1 Landscaper & Irrigation.", in violation of 30 TEX. ADMIN. CODE §§ 344.58(b) and 30.5(b).
5. As evidenced by Finding of Fact Nos. 5 and 6 the Executive Director timely served Mr. Sisca with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
6. As evidenced by Finding of Fact No. 7, Mr. Sisca failed to file a timely answer to the EDPRP, 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. Sisca and assess the penalty recommended by the Executive Director.

7. Pursuant to TEX. WATER CODE § 7.051 the Commission has the authority to assess an administrative penalty against Mr. Sisca 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.
8. An administrative penalty in the amount of four thousand dollars (\$4,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. 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. Sisca is assessed an administrative penalty in the amount of four thousand dollars (\$4,000.00) for violations of the Texas Water Code and Texas Occupations Code, and the rules of the TCEQ. The payment of this administrative penalty and Mr. Sisca'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: Joey Sisca; Docket No. 2005-1114-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. Sisca shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Mr. Sisca shall refrain from using or attempting to use the license of someone else who is a licensed irrigator or licensed installer, in accordance with the requirements of 30 TEX. ADMIN. CODE § 344.58(b);

- b. Immediately upon the effective date of this Order, cease advertising, 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 § 30.5(b); and
- c. Within 30 days after the effective date of this Order, Mr. Sisca shall submit written certification statement demonstrating compliance with ordering provision Nos. 2.a. and 2.b. 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.”

Mr. Sisca shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. 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:

Mr. Robert Mann, 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. Sisca. Mr. Sisca is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
 5. 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. Sisca shall be made in writing to the Executive Director. Extensions are not effective until Mr. Sisca receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
 6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Sisca if the Executive Director determines that Mr. Sisca has not complied with one or more of the terms or conditions in this Order.
 7. 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.
 8. 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.
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JACQUELYN BOUTWELL

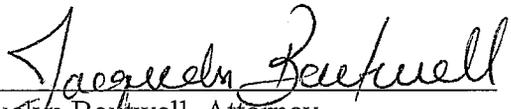
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Jacquelyn Boutwell. 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 Joey Sisca” (the “EDPRP”) was filed with the Office of the Chief Clerk on November 27, 2006.

The EDPRP was mailed to Mr. Sisca at his last known address on November 27, 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 that Mr. Sisca received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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


Jacquelyn Boutwell, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 15th day of August, A.D., 2007.


Notary Signature

