

EXECUTIVE SUMMARY - ENFORCEMENT MATTER  
 DOCKET NO.: 2007-0518-LII-E TCEQ ID: RN103393344 CASE NO.: 33104  
 RESPONDENT NAME: CORBY HICKS

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

SITE WHERE VIOLATION(S) OCCURRED: 107 Signal Hill Drive, Leander, Williamson County; 7521 Magenta Lane, Austin, Travis County; 7107 Fireoak Drive, Austin, Travis County; and 7607 Yaupon Drive, Austin, Travis County

TYPE OF OPERATION: Landscape Irrigation business.

SMALL BUSINESS:  Yes  No

OTHER SIGNIFICANT MATTERS: Two complaints have been received. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: Two complaints have been received, but the complainants have not indicated a desire to protest or speak at Agenda. No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 14, 2008. No comments were received.

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: Mr. Harvey Wilson, Air Enforcement Section, MC 149, (512) 239-0321  
 TCEQ Regional Contact: Ms. Carolyn Runyon, Austin Regional Office, MC R-11, (512) 239-2929  
 Respondent: Mr. Corby Hicks, Owner, 2110 Burnie Bishop Place, Cedar Park, Texas 78613  
 Respondent's Attorney: Not represented by counsel on this enforcement matter.

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>Dates of Complaints Relating to this Case:                      September 15, 2006 and September 25, 2006</p> <p>Date of Investigation Relating to this Case:                      September 27, 2006</p> <p>Date of NOE Relating to this Case:                      March 15, 2007</p> <p>Background Facts:                      The EDPRP was mailed and filed on September 11, 2007. The Respondent has not filed an answer. The Respondent's license was expired from August 2002 until August 2006. The Respondent renewed his license August 10, 2006.</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 hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system [30 TEX. ADMIN. CODE §§ 30.5(a) and 344.4(a) TEX. WATER CODE § 37.003, and TEX. OCCUPATIONS CODE § 1903.251].</p> <p>2. Failed to comply with local regulations that contain reasonable inspection requirements, ordinances, or regulations designed to protect the public water supply [30 TEX. ADMIN. CODE § 344.70].</p> <p>3. Failed to specify the name, license number, business address, and telephone number of the licensed irrigator, the date the agreement was signed by each party, the total agreed price, a copy of the design of the system to be installed including a statement of the area to be covered, a written statement of guarantees for materials and labor furnished, and 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 [30 TEX. ADMIN. CODE §§ 344.94(a) and (b), 344.95(c), and 344.96].</p>	<p>Total Assessed: \$2,250</p> <p>Total Due to General Revenue: \$2,250</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification:                      N/A</p> <p>Person Compliance History Classification:                      N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action(s) Taken:</p> <p>The Respondent renewed his Irrigator License No. LI0014828 on August 10, 2006.</p> <p>Technical Requirement(s):</p> <p>Immediately, the Respondent shall:</p> <ol style="list-style-type: none"> <li>1. Begin complying with all local regulations and ordinances, including obtaining permits and submitting all irrigation systems to inspections.</li> <li>2. Ensure the required data appears on all written documents, including but not limited to name, license number, business address of the landscape irrigator, the name, mailing address, and telephone number of the Texas Commission on Environmental Quality, and a statement of area coverage.</li> <li>3. Begin designing and installing irrigation systems, or proportions thereof, so that the components do not exceed the manufacturer's recommendations.</li> <li>4. Present each customer with a written statement of guarantees for materials and labor furnished in the installation of the irrigation system.</li> <li>5. Refrain from any false, misleading, or deceptive practices relating to the bidding or advertising of services and fees.</li> </ol>

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>4. Failed to design an irrigation system, or portion thereof, so as to require the use of any component part in a way which does not exceed the manufacturer's performance limitations for the part [30 TEX. ADMIN. CODE § 344.95(a) and (b)].</p> <p>5. Failed to refrain from false, misleading, or deceptive practices relating to the bidding or advertising of services and fees [30 TEX. ADMIN. CODE § 344.93(c)].</p>		



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

**DATES** Assigned  PCW  Screening  EPA Due

**RESPONDENT/FACILITY INFORMATION**  
 Respondent   
 Reg. Ent. Ref. No.   
 Facility/Site Region  Major/Minor Source

**CASE INFORMATION**  
 Enf./Case ID No.  No. of Violations   
 Docket No.  Order Type   
 Media Program(s)  Enf. Coordinator   
 Multi-Media  EC's Team   
 Admin. Penalty \$ Limit Minimum  Maximum

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**  
 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.  
 Compliance History  Subtotals 2, 3, & 7

Notes

Culpability   Subtotal 4

Notes

Good Faith Effort to Comply  Subtotal 5

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

Notes

Total EB Amounts   Subtotal 6   
 Approx. Cost of Compliance  \*Capped at the Total EB S 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**  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 28-Mar-2007

Docket No. 2007-0518-LII-E

PCW

Respondent Corby Hicks

Policy Revised September 2003

Case ID No. 33104

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103393344

Media [Statute] Irrigators

Enf. Coordinator Harvey Wilson

### 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)	0	0%
	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 judgments 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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

No enhancement is recommended based on classification as an Average performer.

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

Screening Date 28-Mar-2007

Docket No. 2007-0518-LII-E

PCW

Respondent Corby Hicks

Policy Revision 4 (September 2002)

Case ID No. 33104

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103393344

Media [Statute] Irrigators

Enf. Coordinator Harvey Wilson

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 30.5(a) and 344.4(a), and Tex. Water Code § 37.003, and Tex. Occupations Code § 1903.251

Violation Description

Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system. Specifically, Mr. Hicks sold and installed irrigation systems at 107 Signal Hill Drive, Leander, Williamson County, Texas, 7521 Magenta Lane, Austin, Travis County, Texas, and 7107 Fireoak Drive, Austin, Travis County, Texas, with an expired license. Mr. Hicks' license expired on August 31, 2002, and he did not renew his license until August 10, 2006.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
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

100% of the rule requirement 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

Three single events are 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 Corby Hicks  
 Case ID No. 33104  
 Reg. Ent. Reference No. RN103393344  
 Media Irrigators  
 Violation No. 1

Percent Interest 5.0  
 Years of Depreciation 15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				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)	\$1,000	14-Jun-2006	10-Aug-2006	0.2	\$8	n/a	\$8

Notes for DELAYED costs

The estimated cost of obtaining an Landscape Irrigator License. Date Required is the date of the first violation. Final Date was the date the respondent came into compliance.

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
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 \$1,000

TOTAL \$8

Screening Date 28-Mar-2007  
Respondent Corby Hicks  
Case ID No. 33104

Docket No. 2007-0518-LII-E

PCW

Policy Revision 2 (September 2002)  
PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103393344

Media [Statute] Irrigators  
Enf. Coordinator Harvey Wilson

Violation Number

Rule Cite(s)

Violation Description

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

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

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 Corby Hicks  
 Case ID No. 33104  
 Reg. Ent. Reference No. RN103393344  
 Media Irrigators  
 Violation No. 2

Percent Interest 5.0  
 Years of Depreciation 15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$500	14-Jun-2006	28-Sep-2007	1.3	\$32	n/a	\$32
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of complying with local regulations designed to protect the public water supply. Date Required is the date of the first violation. Final Date is the estimated 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

\$500

TOTAL

\$32

Screening Date 28-Mar-2007

Docket No. 2007-0518-LII-E

PCW

Respondent Corby Hicks

Policy Revision 2 (September 2002)

Case ID No. 33104

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103393344

Media [Statute] Irrigators

Enf. Coordinator Harvey Wilson

Violation Number

Rule Cite(s)

Violation Description

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

Percent

Matrix Notes

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

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 Corby Hicks  
 Case ID No. 33104  
 Reg. Ent. Reference No. RN103393344  
 Media Irrigators  
 Violation No. 3

Percent Interest 5.0  
 Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				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)	\$100	14-Jun-2006	28-Sep-2007	1.3	\$6	n/a	\$6

Notes for DELAYED costs: The estimated cost of printing the required information on all business forms. Date Required is the date of the first violation. Final Date is the estimated date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
<b>Avoided Costs</b>							
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 \$100 TOTAL \$6

Screening Date 28-Mar-2007

Docket No. 2007-0518-LII-E

PCW

Respondent Corby Hicks

Policy Revision 2 (September 2002)

Case ID No. 33104

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103393344

Media [Statute] Irrigators

Enf. Coordinator Harvey Wilson

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 344.95(a) and (b)

Violation Description

Failed to design an irrigation system, or portion thereof, so as to require the use of any component part in a way which does not exceed the manufacturer's performance limitations for the part and to ensure the system meets requirements. Specifically, Mr. Hicks designed and installed the irrigation system at 7107 Fireoak Drive, Austin, Travis County, Texas, in a manner that the water pressure exceeded the manufacturer's recommendation for flow through the various spray and rotary nozzles, there was no head to head coverage in Zone #3, and there was no head to head coverage in Zone #2 at 7607 Yaupon Drive, Austin, Travis County, Texas.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 5%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to have head-to-head coverage would result in inadequate water distribution which could result in minimal harm to the environment.

Adjustment \$2,375

\$125

Violation Events

Number of Violation Events 2

57 Number of violation days

mark only one with an X

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$250

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$32

Violation Final Penalty Total \$250

This violation Final Assessed Penalty (adjusted for limits) \$250

## Economic Benefit Worksheet

Respondent Corby Hicks  
 Case ID No. 33104  
 Reg. Ent. Reference No. RN103393344  
 Media Irrigators  
 Violation No. 4

Percent Interest 5.0  
 Years of Depreciation 15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				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	14-Jun-2006	28-Sep-2007	1.3	\$32	n/a	\$32

Notes for DELAYED costs

The estimated cost of properly designing an irrigation system. Date Required is the date of the first violation. Final Date is the estimated 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

\$500

TOTAL

\$32

Screening Date 28-Mar-2007

Docket No. 2007-0518-LII-E

PCW

Respondent Corby Hicks

Policy Revision 2 (September 2002)

Case ID No. 33104

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103393344

Media [Statute] Irrigators

Enf. Coordinator Harvey Wilson

Violation Number

Rule Cite(s)

Violation Description

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

Percent

Matrix Notes

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

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 Corby Hicks  
 Case ID No. 33104  
 Reg. Ent. Reference No. RN103393344  
 Media Irrigators  
 Violation No. 5

Percent Interest 5.0  
 Years of Depreciation 15

Item Description - No commas or \$	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				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)	\$100	14-Jun-2006	28-Sep-2007	1.3	\$6	n/a	\$6

Notes for DELAYED costs: The estimated cost of including a accurate information on all written agreements and documents. Date Required is the date of the violation. Final Date is the estimated date of compliance.

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 \$100 TOTAL \$6

# Compliance History

Customer/Respondent/Owner-Operator:	CN601913403	HICKS, CORBY	Classification: N/A	Rating:
Regulated Entity:	RN103393344	HICKS, CORBY	Classification: N/A	Site Rating:
D Number(s):	LANDSCAPE IRRIGATION LICENSING	LICENSE		LI0014828
Location:	9709 Brown Lane, Suite O, Austin, TX 78754			
CEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	March 28, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 28, 2002 to March 28, 2007			
CEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Harvey Wilson</u>	Phone:	<u>239-0321</u>	

## 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 |

### Components (Multimedia) for the Site :

1. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  2. Any criminal convictions of the state of Texas and the federal government.  
N/A
  3. Chronic excessive emissions events.  
N/A
  4. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A
  5. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  6. Environmental audits.  
N/A
  7. Type of environmental management systems (EMSs).  
N/A
  8. Voluntary on-site compliance assessment dates.  
N/A
  9. Participation in a voluntary pollution reduction program.  
N/A
  10. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CORBY HICKS;  
RN103393344

§  
§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2007-0518-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 Corby Hicks ("Mr. Hicks").

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

**FINDINGS OF FACT**

1. Mr. Hicks owns and operates a landscape irrigation business located at 9709 Brown Lane, Suite O, Austin, Travis County, Texas (the "Business").
2. Mr. Hicks sells, designs, consults, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Mr. Hicks is subject to TCEQ jurisdiction pursuant to TEX. OCCUPATIONS CODE ch. 1903, TEX. WATER CODE ch. 37, and 30 TEX. ADMIN. CODE chs. 30 and 344.
3. During an investigation conducted on September 27, 2006, a TCEQ Compliance Support Division investigator documented that Mr. Hicks:
  - a. Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system. Specifically, Mr. Hicks sold and installed irrigation systems at 107 Signal Hill Drive, Leander, Williamson County, Texas; at 7521 Magenta Lane, Austin, Travis County, Texas; and at 7107 Fireoak Drive, Austin, Travis County, Texas;

- b. Failed to comply with local regulations that contain reasonable inspection requirements; ordinances, or regulations designed to protect the public water supply. Mr. Hicks failed to obtain a permit for the irrigation system installations at 7607 Yaupon Drive, Austin, Travis County, Texas and at 7107 Fireoak Drive, Austin, Travis County, Texas;
  - c. Failed to specify the name, license number, business address, and telephone number of the licensed irrigator, the date the agreement was signed by each party, the total agreed price, a copy of the design of the system to be installed including a statement of the area to be covered, a written statement of guarantees for materials and labor furnished, and 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;
  - d. Failed to design an irrigation system, or portion thereof, so as to require the use of any component part in a way which does not exceed the manufacturer's performance limitations for the part and to ensure the system meets requirements. Specifically, Mr. Hicks designed and installed the irrigation system at 7107 Fireoak Drive, Austin, Travis County, Texas in a such manner that the water pressure exceeded the manufacturer's recommendation for flow through the various spray and rotary nozzles, and the system did not have head to head coverage in Zone #3. Also, the system designed for and installed at 7607 Yaupon Drive, Austin, Travis County, Texas did not have head to head coverage in Zone #2; and
  - e. Failed to refrain from false, misleading, or deceptive practices relating to the bidding or advertising of services and fees. Specifically, the respondent contracted and received payment to install seven irrigation zones at 7607 Yaupon Drive, Austin, Travis County, Texas, but instead only installed a total of six zones. In addition, the contract specified one Evapotranspiration System which was not installed.
4. Mr. Hicks received notice of the violations on or about March 15, 2007.
  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 Corby Hicks" (the "EDPRP") in the TCEQ Chief Clerk's office on September 11, 2007.
  6. By letter dated September 11, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Hicks with notice of the EDPRP. According to the return receipt "green card," Mr. Hicks received notice of the

EDPRP on or before October 11, 2007, as evidenced by the signature on the card and the date the signed green card was received by the TCEQ.

7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Corby Hicks" (the "EDFARP") in the TCEQ Chief Clerk's office on January 25, 2008.
8. By letter dated January 25, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Hicks with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Hicks received notice of the EDFARP.
9. More than 20 days have elapsed since Mr. Hicks received notice of the EDPRP and the EDFARP, provided by the Executive Director. Mr. Hicks failed to file an answer to the either the EDPRP or the EDFARP, 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. Hicks 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. Hicks failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system. Specifically, Mr. Hicks sold and installed irrigation systems at 107 Signal Hill Drive, Leander, Williamson County, Texas; at 7521 Magenta Lane, Austin, Travis County, Texas; and at 7107 Fireoak Drive, Austin, Travis County, Texas, in violation of 30 TEX. ADMIN. CODE §§ 30.5(a) and 344.4(a), TEX. WATER CODE § 37.003, and TEX. OCCUPATIONS CODE § 1903.251.
3. As evidenced by Finding of Fact No. 3.b., Mr. Hicks failed to comply with local regulations that contain reasonable inspection requirements, ordinances, or regulations designed to protect the public water supply. Mr. Hicks failed to obtain a permit for the irrigation system installations at 7607 Yaupon Drive, Austin, Travis County, Texas and at 7107 Fireoak Drive, Austin, Travis County, Texas, in violation of 30 TEX. ADMIN. CODE § 344.70.
4. As evidenced by Finding of Fact No. 3.c., Mr. Hicks failed to specify the name, license number, business address, and telephone number of the licensed irrigator; the date the

agreement was signed by each party, the total agreed price, a copy of the design of the system to be installed including a statement of the area to be covered, a written statement of guarantees for materials and labor furnished, and 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(a) and (b), 344.95(c), and 344.96.

5. As evidenced by Finding of Fact No. 3.d., Mr. Hicks failed to design an irrigation system, or portion thereof, so as to require the use of any component part in a way which does not exceed the manufacturer's performance limitations for the part and to ensure the system meets requirements. Specifically, Mr. Hicks designed and installed the irrigation system at 7107 Fireoak Drive, Austin, Travis County, Texas in a such manner that the water pressure exceeded the manufacturer's recommendation for flow through the various spray and rotary nozzles, and the system did not have head to head coverage in Zone #3. Also, the system designed for and installed at 7607 Yaupon Drive, Austin, Travis County, Texas did not have head to head coverage in Zone #2, in violation of 30 TEX. ADMIN. CODE § 344.95(a) and (b).
6. As evidenced by Finding of Fact No. 3.e., Mr. Hicks failed to refrain from false, misleading, or deceptive practices relating to the bidding or advertising of services and fees. Specifically, the respondent contracted and received payment to install seven irrigation zones at 7607 Yaupon Drive, Austin, Travis County, Texas, but instead only installed a total of six zones. In addition, the contract specified one Evapotranspiration System which was not installed, in violation of 30 TEX. ADMIN. CODE § 344.93(c).
7. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Hicks with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
8. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director timely served Mr. Hicks with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
9. As evidenced by Finding of Fact No. 9, Mr. Hicks failed to file a timely answer to either the EDPRP or the EDFARP, 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. Hicks and assess the penalty recommended by the Executive Director.
10. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Hicks 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.

11. An administrative penalty in the amount of two thousand two hundred fifty dollars (\$2,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
12. 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. Hicks is assessed an administrative penalty in the amount of two thousand two hundred fifty dollars (\$2,250.00) for violations of the TEX. WATER CODE chs. 7 and 37, TEX. OCCUPATIONS CODE ch. 1903, and the rules of the TCEQ. The payment of this administrative penalty and Mr. Hicks'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: Corby Hicks; Docket No. 2007-0518-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. Hicks shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Mr. Hicks shall:
    - i. Begin complying with all local regulations and ordinances, including obtaining permits and submitting all irrigation systems to inspection, in accordance with 30 TEX. ADMIN. CODE § 344.70;

- ii. Ensure the required data appears on all written documents, including but not limited to name, license number, business address of the landscape irrigator, the name, mailing address, and telephone number of the Texas Commission on Environmental Quality, and a statement of area coverage, in accordance with 30 TEX. ADMIN. CODE §§ 344.94 and 344.95;
  - iii. Begin designing and installing irrigation systems, or portions thereof, so that the components do not exceed the manufacturer's recommendations, in accordance with 30 TEX. ADMIN. CODE § 344.95;
  - iv. Present each customer with a written statement of guarantees for materials and labor furnished in the installation of the irrigation system, in accordance with 30 TEX. ADMIN. CODE § 344.96; and
  - v. Refrain from any false, misleading, or deceptive practices relating to the bidding or advertising of services and fees, in accordance with 30 TEX. ADMIN. CODE § 344.93(c).
- b. Within 15 days after the effective date of this Order, Mr. Hicks shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.v. 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. Hicks shall submit the written certification and copies of documentation 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:

Carolyn Runyon, Water Section Manager  
Texas Commission on Environmental Quality  
Austin Region Office  
2800 South Interstate Highway 35, Suite 100  
Austin, Texas 78704-5700

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Mr. Hicks. Mr. Hicks is ordered to give notice of this Order to personnel who maintain day-to-day control over the Business operations referenced in this Order.
7. If Mr. Hicks fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Hicks's failure to comply is not a violation of this Order. Mr. Hicks shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Hicks shall notify the Executive Director within seven days after Mr. Hicks becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. 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. Hicks shall be made in writing to the Executive Director. Extensions are not effective until Mr. Hicks receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. 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. Hicks if the Executive Director determines that Mr. Hicks has not complied with one or more of the terms or conditions in this Order.
10. 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.
11. 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.

Corby Hicks  
Docket No. 2007-0518-LII-E  
Page 8

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

---

For the Commission

AFFIDAVIT OF ANNA M. COX

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

"My name is Anna M. Cox. 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.

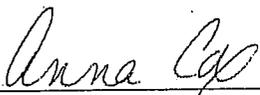
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Corby Hicks" (the "EDPRP") was filed with the Office of the Chief Clerk on September 11, 2007.

The EDPRP was mailed to Mr. Hicks at his last known address on September 11, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. Hicks received notice of the EDPRP on or before October 11, 2007, as evidenced by the signature on the card and the date the signed green card was received by the TCEQ.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Corby Hicks" (the "EDFARP") was filed with the Office of the Chief Clerk on September 11, 2007.

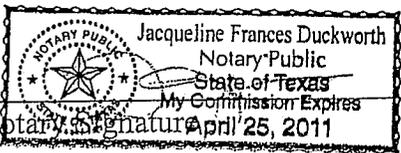
The EDFARP was mailed to Mr. Hicks at his last known address on January 25, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Hicks received notice of the EDFARP.

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

  
\_\_\_\_\_  
Anna M. Cox, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 13<sup>th</sup> day of May, A.D., 2008.

  
\_\_\_\_\_  
Notary Signature April 25, 2011