

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0780-LII-E **TCEQ ID:** RN105715643 **CASE NO.:** 37699
RESPONDENT NAME: Ed Matlock, 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: 1 Roundville Lane, Suite 100, Round Rock, Williamson County</p> <p>TYPE OF OPERATION: Landscaping business</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on May 6, 2009, alleging that the Respondent was advertising irrigation system services in the <i>Community Impact Newspaper</i> and did not include a licensed irrigator number in the advertisement. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received but the complainant has not expressed the desire to protest this action or speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 5, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. John Shelton, Enforcement Division, Enforcement Section 7, MC 128, (512) 239-2563; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Ed Matlock, Jr., Owner, P.O. Box 33, Hutto, Texas 78634 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 type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: May 6, 2009</p> <p>Date of Record Review Relating to this Case: April 24, 2009</p> <p>Date of NOV Relating to this Case: May 15, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>Failure to refrain from advertising or representing himself to the public as a person who can perform services for which a license or registration is required when not possessing a current license or registration. Specifically, the Respondent advertised sprinkler system work via the <i>Community Impact Newspaper</i> without having an irrigator license [30 TEX. ADMIN. CODE §§ 30.5(b) and 344.30, TEX. WATER CODE § 37.003, and TEX. OCCUPATIONS CODE § 1903.251].</p> | <p>Total Assessed: \$250</p> <p>Total Deferred: \$50 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$200</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 the Respondent to:</p> <p>a) Immediately upon the effective date of this Agreed Order, cease advertising irrigation system services until properly licensed; and</p> <p>b) 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 Provision No. a.</p> |

Additional ID No(s): None



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 26-May-2009 | Screening | 27-May-2009 | EPA Due | |
| | PCW | 27-May-2009 | | | | |

| | | | |
|--|-----------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Ed Matlock, Jr. | | |
| Reg. Ent. Ref. No. | RN105715643 | | |
| Facility/Site Region | 11-Austin | Major/Minor Source | Minor |

| | | | |
|---------------------------------|-----------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37699 | No. of Violations | 1 |
| Docket No. | 2009-0780-LII-E | Order Type | 1660 |
| Media Program(s) | Irrigators | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | John Shelton |
| | | EC's Team | Enforcement Team 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 **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit **Subtotal 6**

Total EB Amounts 0.0% Enhancement*
 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.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Adjustment**

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

Notes

PAYABLE PENALTY **Final Assessed Penalty**

Screening Date 27-May-2009

Docket No. 2009-0780-LII-E

PCW

Respondent Ed Mallock, Jr.

Policy Revision 2 (September 2002)

Case ID No. 37699

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105715643

Media [Statute] Irrigators

Enf. Coordinator John Shelton

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) 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 enhancement due to compliance history.

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

| Screening Date 27-May-2009 | Docket No. 2009-0780-LII-E | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|------------|---------------|--------|--|-----------------|--|-----------|---------|------------|----------|--------|--|--------------|--------|---|--|--|---|--|-----------|--|--|--|
| Respondent Ed Matlock, Jr. | PCW <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2009</small> | | | | | | | | | | | | | | | | | | | | | | | |
| Case ID No. 37699 | | | | | | | | | | | | | | | | | | | | | | | | |
| Reg. Ent. Reference No. RN105715643 | | | | | | | | | | | | | | | | | | | | | | | | |
| Media [Statute] Irrigators | | | | | | | | | | | | | | | | | | | | | | | | |
| Enf. Coordinator John Shelton | | | | | | | | | | | | | | | | | | | | | | | | |
| Violation Number 1 | | | | | | | | | | | | | | | | | | | | | | | | |
| Rule Cite(s) | 30 Tex. Admin. Code §§ 30.5(b) and 344.30, Tex. Water Code § 37.003, and Tex. Occupations Code § 1903.251 | | | | | | | | | | | | | | | | | | | | | | | |
| Violation Description | Failed to refrain from advertising or representing himself to the public as a person who can perform services for which a license or registration is required when not possessing a current license or registration, as documented during a record review conducted on April 24, 2009. Specifically, the Respondent advertised sprinkler system work via the Community Impact Newspaper without having an Irrigator license. | | | | | | | | | | | | | | | | | | | | | | | |
| Base Penalty | \$2,500 | | | | | | | | | | | | | | | | | | | | | | | |
| >> Environmental, Property and Human Health Matrix | | | | | | | | | | | | | | | | | | | | | | | | |
| OR | <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td></td> <th>Release</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td></td> <td>Actual</td> <td></td> <td></td> <td></td> <td rowspan="2">Percent <input type="text" value="0%"/></td> </tr> <tr> <td></td> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table> | | | Harm | | | | | Release | Major | Moderate | Minor | | | Actual | | | | Percent <input type="text" value="0%"/> | | Potential | | | |
| | | Harm | | | | | | | | | | | | | | | | | | | | | | |
| | Release | Major | Moderate | Minor | | | | | | | | | | | | | | | | | | | | |
| | Actual | | | | Percent <input type="text" value="0%"/> | | | | | | | | | | | | | | | | | | | |
| | Potential | | | | | | | | | | | | | | | | | | | | | | | |
| >> Programmatic Matrix | | | | | | | | | | | | | | | | | | | | | | | | |
| | <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <th>Falsification</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;">x</td> <td></td> <td></td> <td>Percent <input type="text" value="10%"/></td> </tr> </table> | | Falsification | Major | Moderate | Minor | | | | x | | | Percent <input type="text" value="10%"/> | | | | | | | | | | | |
| | Falsification | Major | Moderate | Minor | | | | | | | | | | | | | | | | | | | | |
| | | x | | | Percent <input type="text" value="10%"/> | | | | | | | | | | | | | | | | | | | |
| Matrix Notes | 100% of the rule requirement not met. | | | | | | | | | | | | | | | | | | | | | | | |
| Adjustment | \$2,250 | | | | | | | | | | | | | | | | | | | | | | | |
| Violation Events | | | | | | | | | | | | | | | | | | | | | | | | |
| Number of Violation Events <input type="text" value="1"/> | <input type="text" value="34"/> Number of violation days | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="7" style="vertical-align: middle;"><small>mark only one with an x</small></td> <td>daily</td> <td></td> </tr> <tr> <td>weekly</td> <td></td> </tr> <tr> <td>monthly</td> <td></td> </tr> <tr> <td>quarterly</td> <td></td> </tr> <tr> <td>semiannual</td> <td></td> </tr> <tr> <td>annual</td> <td></td> </tr> <tr> <td>single event</td> <td style="text-align: center;">x</td> </tr> </table> | <small>mark only one with an x</small> | daily | | weekly | | monthly | | quarterly | | semiannual | | annual | | single event | x | Violation Base Penalty <input type="text" value="\$250"/> | | | | | | | | |
| <small>mark only one with an x</small> | | daily | | | | | | | | | | | | | | | | | | | | | | |
| | | weekly | | | | | | | | | | | | | | | | | | | | | | |
| | | monthly | | | | | | | | | | | | | | | | | | | | | | |
| | | quarterly | | | | | | | | | | | | | | | | | | | | | | |
| | | semiannual | | | | | | | | | | | | | | | | | | | | | | |
| | | annual | | | | | | | | | | | | | | | | | | | | | | |
| | single event | x | | | | | | | | | | | | | | | | | | | | | | |
| One single event is recommended based on documentation of the violation during a record review conducted on April 24, 2009. | | | | | | | | | | | | | | | | | | | | | | | | |
| Good Faith Efforts to Comply | | | | | | | | | | | | | | | | | | | | | | | | |
| 0.0% Reduction | <input type="text" value="\$0"/> | | | | | | | | | | | | | | | | | | | | | | | |
| <small>Before NOV NOV to EDP/PR/ Settlement Offer</small> | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>Extraordinary</td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x (mark with x)</td> </tr> </table> | Extraordinary | | Ordinary | | N/A | x (mark with x) | | | | | | | | | | | | | | | | | | |
| Extraordinary | | | | | | | | | | | | | | | | | | | | | | | | |
| Ordinary | | | | | | | | | | | | | | | | | | | | | | | | |
| N/A | x (mark with x) | | | | | | | | | | | | | | | | | | | | | | | |
| Notes | The Respondent does not meet the good faith criteria for this violation. | | | | | | | | | | | | | | | | | | | | | | | |
| Violation Subtotal | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="text" value="\$250"/> | | | | | | | | | | | | | | | | | | | | | | | | |
| Economic Benefit (EB) for this violation | | | | | | | | | | | | | | | | | | | | | | | | |
| Estimated EB Amount <input type="text" value="\$28"/> | Statutory Limit Test | | | | | | | | | | | | | | | | | | | | | | | |
| Violation Final Penalty Total <input type="text" value="\$250"/> | | | | | | | | | | | | | | | | | | | | | | | | |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$250"/> | | | | | | | | | | | | | | | | | | | | | | | | |

Economic Benefit Worksheet

Respondent Ed Matlock, Jr.
Case ID No. 37699
Reg. Ent. Reference No. RN105715643
Media Irrigators
Violation No. 1

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|------------|------|------|-----|------|
| Equipment | | | 0.00 | \$0 | \$0 | \$0 | |
| Buildings | | | 0.00 | \$0 | \$0 | \$0 | |
| Other (as needed) | | | 0.00 | \$0 | \$0 | \$0 | |
| Engineering/construction | | | 0.00 | \$0 | \$0 | \$0 | |
| Land | | | 0.00 | \$0 | n/a | \$0 | |
| Record Keeping System | | | 0.00 | \$0 | n/a | \$0 | |
| Training/Sampling | | | 0.00 | \$0 | n/a | \$0 | |
| Remediation/Disposal | | | 0.00 | \$0 | n/a | \$0 | |
| Permit Costs | \$661 | 24-Apr-2009 | 6-Feb-2010 | 0.79 | \$26 | n/a | \$26 |
| Other (as needed) | | | 0.00 | \$0 | n/a | \$0 | |

Notes for DELAYED costs

Estimated cost to obtain an Irrigator license. Date required is the record review date and the final date is the estimated date of compliance.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$661

TOTAL

\$26

Compliance History Report

Customer/Respondent/Owner-Operator: CN603467804 MATLOCK, ED, JR Classification: Rating:
Regulated Entity: RN105715643 MATLOCK ED, JR Classification: Site Rating:
ID Number(s):
Location: 1 ROUNDVILLE LANE, SUITE 100, ROUND ROCK, TEXAS
78664
TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: May 27, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 27, 2004 to May 27, 2009

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

Name: John Shelton Phone: (512) 239-2563

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
- 6.

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.)
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
ED MATLOCK, JR.
RN105715643**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0780-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 Ed Matlock, Jr. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 37 and TEX. OCCUPATIONS CODE ch. 1903. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a landscaping business located at 1 Roundville Lane, Suite 100, Round Rock, Williamson County, Texas.
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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 20, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Hundred Fifty Dollars (\$250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Dollars (\$200) of the administrative penalty and Fifty Dollars (\$50) is

deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent 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 the Respondent 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

The Respondent is alleged to have failed to refrain from advertising or representing himself to the public as a person who can perform services for which a license or registration is required when not possessing a current license or registration, in violation of 30 TEX. ADMIN. CODE §§ 30.5(b) and 344.30, TEX. WATER CODE § 37.003, and TEX. OCCUPATIONS CODE § 1903.251, as documented during a record review conducted on April 24, 2009. Specifically, the Respondent advertised sprinkler system work via the *Community Impact Newspaper* without having an irrigator license.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from 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: Ed Matlock, Jr., Docket No. 2009-0780-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 the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease advertising irrigation system services until properly licensed, in accordance with the requirements of 30 TEX. ADMIN. CODE ch. 30; and
 - b. 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 No. 2.a. 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 fines 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:

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

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

after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 the Respondent 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szollosi
For the Executive Director

9/18/09
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.

Edward Matlock Jr
Signature

9/14/09
Date

Edward Matlock Jr
Name (Printed or typed)
Authorized Representative of
Ed Matlock, 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.

