

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-0648-LII-E **TCEQ ID:** RN103397188 **CASE NO.:** 37565  
**RESPONDENT NAME:** Homer V. Beltran

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Homer V. Beltran, 218 Soyars Avenue, Orange Grove, Jim Wells County and 400 Commerce Road, 76 Walnut Street, 1713 Agarito Street, and 915 Cecilia Avenue, Alice, Jim Wells County</p> <p><b>TYPE OF OPERATION:</b> Landscape irrigation company</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received December 9, 2008, alleging that the Respondent was working on an irrigation system without a valid license. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on September 21, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Danielle Porras, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2602; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Homer V. Beltran, Owner, P.O. Box 65, Sandia, Texas 78383  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> December 9, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> March 18, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 17, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failure to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system. Specifically, the Respondent installed four irrigation systems, however, his license had expired [30 TEX. ADMIN. CODE §§ 30.5(a) and 344.30, TEX. WATER CODE § 37.003, and TEX. OCCUPATIONS CODE § 1903.251].</p>	<p><b>Total Assessed:</b> \$750</p> <p><b>Total Deferred:</b> \$150  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$600</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent renewed his irrigator license on March 18, 2009.</p>

Additional ID No(s): LI0007505



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	20-Apr-2009	<b>Screening</b>	29-Apr-2009	<b>EPA Due</b>	
	<b>PCW</b>	1-Jun-2009				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	Homer V. Beltran		
<b>Reg. Ent. Ref. No.</b>	RN103397488		
<b>Facility/Site Region</b>	11-Austin	<b>Major/Minor Source</b>	Minor

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	37565	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-0648-LII-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Irrigators	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Danielle Porras
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$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**  Enhancement *Subtotals 2, 3, & 7*

**Notes**

**Culpability**   Enhancement *Subtotal 4*

**Notes**

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

**Economic Benefit**  Enhancement *Subtotal 6*

Total EB Amounts   
 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**  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:** 29-Apr-2009

**Docket No.:** 2009-0648-LII-E

**PCW**

**Respondent:** Homer V. Beltran

Policy Revision 2 (September 2002)

**Case ID No.:** 37565

PCW Revision October 30, 2008

**Reg. Ent. Reference No.:** RN103397188

**Media [Statute]:** Irrigators

**Enf. Coordinator:** Danielle Porras

### 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 <i>(number of events)</i>	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 submitted)</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%
<i>Please Enter Yes or No</i>			
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 adjustment for compliance history.

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

<b>Screening Date</b>	29-Apr-2009	<b>Docket No.</b>	2009-0648-LII-E	<b>PCW</b>	
<b>Respondent</b>	Homer V. Beltran	Policy Revision 2 (September 2002)			
<b>Case ID No.</b>	37565	PCW Revision October 30, 2008			
<b>Reg. Ent. Reference No.</b>	RN103397188				
<b>Media [Statute]</b>	Irrigators				
<b>Enf. Coordinator</b>	Danielle Porras				
<b>Violation Number</b>	1				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 30.5(a) and 344.30, Tex. Water Code § 37.003 and Tex. Occupations Code § 1903.251				
<b>Violation Description</b>	Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system. Specifically, the Respondent installed four irrigation systems, however, his license had expired.				
<b>Base Penalty</b>				\$2,500	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b>	0%
<b>&gt;&gt; Programmatic Matrix</b>					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input checked="" type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b>	10%
<b>Matrix Notes</b>	100% of the rule requirement was not met.				
<b>Adjustment</b>				\$2,250	
				\$250	
<b>Violation Events</b>					
<b>Number of Violation Events</b>		4	<b>Number of violation days</b>		
		42			
mark only one with an x	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="text"/>			
Four single events are recommended.				<b>Violation Base Penalty</b>	\$1,000
<b>Good Faith Efforts to Comply</b>					
		25.0% Reduction	\$250		
		Before NOV    NOV to EDPRP/Settlement Offer			
Extraordinary	<input type="text"/>				
Ordinary	<input checked="" type="text"/>				
N/A	<input type="text"/>	(mark with x)			
<b>Notes</b>	The Respondent renewed his license on March 18, 2009.				
<b>Violation Subtotal</b>				\$750	
<b>Economic Benefit (EB) for this violation</b>					
<b>Statutory Limit Test</b>					
<b>Estimated EB Amount</b>	\$15	<b>Violation Final Penalty Total</b>	\$750		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$750	

### Economic Benefit Worksheet

**Respondent** Homer V. Beltran  
**Case ID No.** 37565  
**Reg. Ent. Reference No.** RN103397188  
**Media** 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
<small>No commas or \$</small>							

**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				0.00	\$0	n/a	\$0
Other (as needed)	\$661	6-Oct-2008	18-Mar-2009	0.45	\$15	n/a	\$15

Notes for DELAYED costs

Estimated cost to renew an irrigator license. Date required is the first date the Respondent obtained the first permit and final date is the 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**

\$15

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601917156 BELTRAN, HOMER V Classification: Rating:  
Regulated Entity: RN103397188 BELTRAN, HOMER V Classification: Site Rating:  
ID Number(s): LANDSCAPE IRRIGATION LICENSING LICENSE LI0007505  
Location: 218 SOYARS AVE, ORANGE GROVE, TX, 78372  
TCEQ Region: REGION 14 - CORPUS CHRISTI  
Date Compliance History Prepared: May 13, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: May 13, 2004 to May 13, 2009

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

Name: Danielle Porras Phone: (512) 239-2602

## 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  
HOMER V. BELTRAN  
RN103397188**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-0648-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 Homer V. Beltran ("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 landscape irrigation company at 218 Soyars Avenue in Orange Grove, Jim Wells County, Texas. The Respondent installed irrigation systems at 400 Commerce Road, 76 Walnut Street, 1713 Agarito Street, and 915 Cecilia Avenue in Alice, Jim Wells County, Texas (the "Sites").
2. TCEQ has general authority to regulate the design and installation of landscape irrigation systems, and the licensing of landscape irrigators and installers, pursuant to TEX. OCCUPATIONS CODE ch. 1903.
3. The Commission and 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 April 22, 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 Seven Hundred Fifty Dollars (\$750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Dollars (\$600) of the administrative penalty and One Hundred Fifty Dollars (\$150) 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 recognizes that the Respondent renewed his irrigator license on March 18, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the landscape irrigation company, the Respondent is alleged to have failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system, in violation of 30 TEX. ADMIN. CODE §§ 30.5(a) and 344.30, TEX. WATER CODE § 37.003 and TEX. OCCUPATIONS CODE § 1903.251, as documented during a record review conducted on March 18, 2009. Specifically, the Respondent installed four irrigation systems, however, his license had expired.

## 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: Homer V. Beltran, Docket No. 2009-0648-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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.
3. 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.
4. 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.
5. 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 S. Miller  
\_\_\_\_\_  
For the Executive Director

9/30/2009  
\_\_\_\_\_  
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.

Homer V. Beltran  
\_\_\_\_\_  
Signature

7-6-09  
\_\_\_\_\_  
Date

HOMER V. BELTRAN  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Homer V. Beltran

OWNER (IRRIGATOR)  
\_\_\_\_\_  
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.