

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1942-LII-E TCEQ ID: RN103393344 CASE NO.: 35050
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
<p>SITE WHERE VIOLATION(S) OCCURRED: 2707 Gholson Drive, Cedar Park, Williamson County</p> <p>TYPE OF OPERATION: Landscape irrigation business</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: One complaint has been received. The complaint alleged that the Respondent did not complete the irrigation system installation or apply for a permit from the City of Cedar Park to install the system. There is no record of additional pending enforcement actions regarding this facility location. The Respondent owes \$2,250 in past-due administrative penalties.</p> <p>INTERESTED PARTIES: The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 29, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Anna M. Cox, Litigation Division, MC 175, (512) 239-0974 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 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) 339-2929 Respondent: Mr. Corby Hicks, 5104 Cree Lane, Austin, Texas 78734 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: September 18, 2007</p> <p>Date of Investigation Relating to this Case: November 1, 2007</p> <p>Date of NOE Relating to this Case: November 12, 2007</p> <p>Background Facts: The EDP RP was filed September 5, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDP RP on September 8, 2008. The Respondent failed to answer the EDP RP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent's irrigator license expired August 31, 2008, thus, the Technical Requirements are moot unless/until the Respondent renews his license.</p> <p>LII:</p> <p>1. Failed to comply with local regulations [30 TEX. ADMIN. CODE § 344.70].</p> <p>2. Failed to refrain from false, misleading, or deceptive practices by a licensed irrigator or a licensed installer [30 TEX. ADMIN. CODE § 344.93(c)].</p>	<p>Total Assessed: \$500</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$500</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>Technical Requirements:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Immediately,</p> <p style="padding-left: 20px;">a. Begin complying with all local regulations and ordinances, including obtaining permits and submitting all irrigation systems to inspection; and</p> <p style="padding-left: 20px;">b. Cease any false, misleading, or deceptive practices.</p> <p>2. Within 15 days, submit written certification to demonstrate compliance with the Ordering Provisions above.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES	Assigned	12-Nov-2007			
	PCW	19-Mar-2008	Screening	30-Nov-2007	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Corby Hicks				
Reg. Ent. Ref. No.	RN103393344				
Facility/Site Region	11-Austin	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	35050	No. of Violations	2		
Docket No.	2007-1942-LII-E	Order Type	1660		
Media Program(s)	Irrigators	Enf. Coordinator	Harvey Wilson		
Multi-Media		EC's Team	Enforcement Team 3		
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$2,500	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No enhancement due to no prior Compliance History.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$20	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$600	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount \$500

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$500
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DEFERRAL	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$500
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Screening Date 30-Nov-2007

Docket No. 2007-1942-LII-E

PCW

Respondent Corby Hicks

Policy Revision 2 (September 2002)

Case ID No. 35050

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 judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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 enhancement due to no prior Compliance History.

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

Screening Date 30-Nov-2007

Docket No. 2007-1942-LII-E

PCW

Respondent Corby Hicks

Policy Revision 2 (September 2002)

Case ID No. 35050

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="text" value="x"/>	<input type="text"/>	<input type="text"/>

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="text" value="x"/>

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. 35050
Reg. Ent. Reference No. RN103393344
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				0.0	\$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	1-Nov-2007	20-Jun-2008	0.6	\$3	n/a	\$3

Notes for DELAYED costs

The estimated cost of obtaining a Permit to install a landscape irrigation system. Date Required is the date of the violation was confirmed. Final Date is the date the respondent is expected to come into 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

\$100

TOTAL

\$3

Screening Date 30-Nov-2007

Docket No. 2007-1942-LII-E

PCW

Respondent Corby Hicks

Policy Revision 2 (September 2002)

Case ID No. 35050

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103393344

Media [Statute] Irrigators

Enf. Coordinator Harvey Wilson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 344.93(c)

Violation Description

Failed to refrain from false, misleading, or deceptive practices by a licensed irrigator or a licensed installer. Specifically, the Respondent contracted and received payment to install a landscape irrigation system at 2707 Gholson Drive, Cedar Park, Williamson County, Texas, but did not complete the irrigation system as specified in the contract.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1 Number of violation days 29

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$250

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

Economic Benefit Worksheet

Respondent Corby Hicks
Case ID No. 35050
Reg. Ent. Reference No. RN103393344
Media Irrigators
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	1-Nov-2007	30-Jun-2008	0.7	\$17	n/a	\$17

Notes for DELAYED costs

The estimated cost of completing the installation as per the contract. Date Required is the date of the 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

\$17

Compliance History

Customer/Respondent/Owner-Operator: CN601913403 HICKS, CORBY Classification: AVERAGE Rating:
Regulated Entity: RN103393344 HICKS, CORBY Classification: AVERAGE Site Rating:
ID Number(s): LANDSCAPE IRRIGATION LICENSING LICENSE
Location: 2110 Burnie Bishop Place, Cedar Park, Texas 78613
TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: December 04, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 04, 2002 until December 04, 2007

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

Name: Harvey Wilson Phone: 239-0321

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 :

- 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.)
 - 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
CORBY HICKS;
RN103393344**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2007-1942-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 2110 Burnie Bishop Place, Cedar Park, Williamson 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 November 1, 2007, a TCEQ Compliance Support Division Office investigator documented that Mr. Hicks:
 - a. Failed to comply with local regulations. Specifically, Mr. Hicks did not obtain a permit for the irrigation system installed at 2707 Gholson Drive, Cedar Park, Williamson County, Texas; and
 - b. Failed to refrain from false, misleading, or deceptive practices by a licensed irrigator or a licensed installer. Specifically, Mr. Hicks contracted and received payment to

install a landscape irrigation system at 2707 Gholson Drive, Cedar Park, Williamson County, Texas but did not complete the irrigation system as specified in the contract.

4. Mr. Hicks received notice of the violations on or about November 17, 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 5, 2008.
6. By letter dated September 5, 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 EDPRP. According to the return receipt "green card", Mr. Hicks received notice of the EDPRP on September 8, 2008, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Hicks received notice of the EDPRP, provided by the Executive Director. Mr. Hicks failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. 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 comply with local regulations, in violation of 30 TEX. ADMIN. CODE § 344.70.
3. As evidenced by Finding of Fact No. 3.b., Mr. Hicks failed to refrain from false, misleading, or deceptive practices by a licensed irrigator or a licensed installer, in violation of 30 TEX. ADMIN. CODE § 344.93(c).
4. 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).
5. As evidenced by Finding of Fact No. 7, Mr. Hicks failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Hicks and assess the penalty recommended by the Executive Director.

6. 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 and the Texas Occupations 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.
7. An administrative penalty in the amount of five hundred dollars (\$500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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 five hundred dollars (\$500.00) for violations of the TEX. WATER CODE ch. 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. 2007-1942-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; and
 - ii. Cease any false, misleading, or deceptive practices, 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.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Mr. Hicks shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.ii. 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 Regional Office
2800 South Interstate Highway 35, Suite 100
Austin, Texas 78704-5700

3. All relief not expressly granted in this Order is denied.

4. The provisions of this Order shall apply to and be binding upon Mr. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.

AFFIDAVIT OF ANNA M. COX

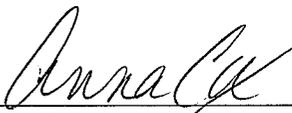
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“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 5, 2008.

The EDPRP was mailed to Mr. Hicks at his last known address on September 5, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” According to the return receipt “green card”, Mr. Hicks received notice of the EDPRP on September 8, 2008, as evidenced by the signature on the card, in accordance with 30 TEX. ADMIN. CODE § 70.104(a).

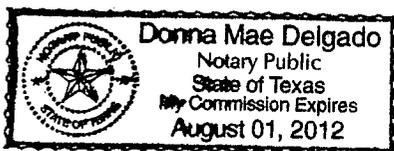
More than 20 days have elapsed since Mr. Hicks received notice of the EDPRP. Mr. Hicks failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

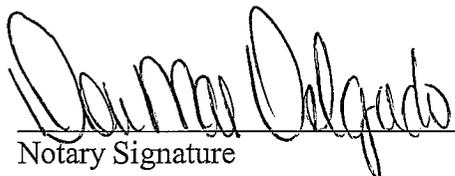


Anna M. Cox, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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 29th day of October, A.D., 2008.





Notary Signature