

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2007-1797-LII-E TCEQ ID: RN105300594 CASE NO.: 34911
RESPONDENT NAME: SIXTO NAVA ALVARADO DBA ALVARADO'S LAWN AND
MAINTENANCE SERVICE**

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 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: 1919 Walnut Plaza, Apartment 236, Carrollton, Dallas County

TYPE OF OPERATION: Landscape irrigation

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: One complaint has been received. The complaint alleged that the Respondent was advertising "irrigation services" without displaying or holding a valid landscape irrigators license. There is no record of additional pending enforcement actions regarding this respondent.

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.

COMMENTS RECEIVED: The *Texas Register* comment period expired July 6, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Anna M. Treadwell, Litigation Division, MC 175, (512) 239-0974
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 128, (512) 239-6933

TCEQ Regional Contact: Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901

Respondent: Mr. Sixto Nava Alvarado, Owner, Alvarado's Lawn and Maintenance Service, 1919 Walnut Plaza, Apartment 236, Carrollton, Texas 75006

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 type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: August 6, 2007</p> <p>Date of Investigation Relating to this Case: October 1, 2007</p> <p>Date of NOE Relating to this Case: October 5, 2007</p> <p>Background Facts: The EDRP was filed on March 27, 2008 and mailed to the Respondent 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. The EDFARP was filed on May 23, 2008 and mailed to the Respondent 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. The EDSARP was filed on April 27, 2009 and mailed to the Respondent 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. The Respondent failed to answer the EDRP, EDFARP, or the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent has not obtained an irrigator license.</p> <p>LII: 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 [TEX. WATER CODE § 37.003, TEX. OCC. CODE § 1903.251, and 30 TEX. ADMIN. CODE § 30.5(b)].</p>	<p>Total Assessed: \$750</p> <p>Total Deferred: \$0</p> <p><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: \$750</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> <ol style="list-style-type: none"> 1. Immediately, cease advertising to the public that he can perform a service for which a license is required until properly certified. 2. Within 15 days, submit written certification and detailed supporting documentation to demonstrate compliance with the Ordering Provision above.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

DATES	Assigned	8-Oct-2007	Screening	5-Nov-2007	EPA Due	
	PCW	31-Jan-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service		
Reg. Ent. Ref. No.	RN105300594		
Facility/Site Region	4- Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34911	No. of Violations	1	
Docket No.	2007-1797-LII-E	Order Type	1660	
Media Program(s)	All Occupational Licenses	Enf. Coordinator	Clinton Sims	
Multi-Media		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)	<i>Subtotal 1</i>	\$250
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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	5% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$12
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Notes: The Respondent received one NOV with same or similar violations.

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

Good Faith Effort to Comply	0% Reduction	<i>Subtotal 5</i>	\$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	\$488	0% Enhancement*	<i>Subtotal 6</i>	\$0
Approx. Cost of Compliance	\$450	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$262
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OTHER FACTORS AS JUSTICE MAY REQUIRE	186%	<i>Adjustment</i>	\$488
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the economic benefit associated with the violation.

<i>Final Penalty Amount</i>	\$750
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$750
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DEFERRAL	0% Reduction	<i>Adjustment</i>	\$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	\$750
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Screening Date 5-Nov-2007

Docket No. 2007-1797-LII-E

PCW

Respondent Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service

Policy Revision 2 (September 2002)

Case ID No. 34911

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN105300594

Media [Statute] All Occupational Licenses

Enf. Coordinator Clinton Sims

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>)	1	5%
	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%

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

The Respondent received one NOV with same or similar violations.

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

Screening Date 5-Nov-2007	Docket No. 2007-1797-LII-E	PCW
Respondent Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 34911		<i>PCW Revision September 19, 2007</i>
Reg. Ent. Reference No. RN105300594		
Media [Statute] All Occupational Licenses		
Enf. Coordinator Clinton Sims		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code § 30.5(b), Tex. Water Code § 37.003, and Tex. Occupations Code § 1903.251	
Violation Description	Failed to refrain from advertising or representing themselves 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 for irrigation services on business cards circulated in Carrollton, Texas without having an irrigation license, as documented during a record review conducted on October 1, 2007.	
Base Penalty		\$2,500

>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="10%"/>
Matrix Notes	100 % of the rule requirement was not met.				
Adjustment					\$2,250
					\$250

Violation Events					
Number of Violation Events <input style="width: 50px;" type="text" value="1"/>		Number of violation days <input style="width: 50px;" type="text" value="36"/>			
<i>mark only one with an x</i>	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"/>			
One single event is recommended.					Violation Base Penalty <input style="width: 50px;" type="text" value="\$250"/>

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount <input style="width: 100px;" type="text" value="\$488"/>	Violation Final Penalty Total <input style="width: 50px;" type="text" value="\$750"/>		
This violation Final Assessed Penalty (adjusted for limits)			<input style="width: 50px;" type="text" value="\$750"/>

Economic Benefit Worksheet

Respondent Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service

Case ID No. 34911

Reg. Ent. Reference No. RN105300594

Media All Occupational Licenses

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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$450	1-Oct-2007	3-Jul-2008	1.7	\$38	\$450	\$488
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated amount required to obtain a valid irrigator license. The Date Required is the record review date and the Final Date is the expected date of compliance.

Approx. Cost of Compliance

\$450

TOTAL

\$488

Compliance History

Customer/Respondent/Owner-Operator:	CN603226374	Alvarado, Sixto Nava	Classification:	Rating:
Regulated Entity:	RN105300594	Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service	Classification:	Site Rating:

ID Number(s):
 Location: 1919 WALNUT PLZ APT 236, CARROLLTON, TX, 75006
 TCEQ Region: REGION 04 - DFW METROPLEX
 Date Compliance History Prepared: November 07, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: November 07, 2002 to November 07, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Clinton Sims Phone: (512) 239-6933

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.)

Date:	08/15/2007	(571620)
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 30, SubChapter A 30.5(b)	
Description:	A person may not advertise or represent themselves to the public as a holder of a license or registration unless they possess a current license or registration. A person may not advertise or represent to the public that it can perform services for which a license or registration is required unless it holds a current license or registration, or unless it employs individuals who hold current licenses.	
 - 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
SIXTO NAVA ALVARADO DBA
ALVARADO'S LAWN AND
MAINTENANCE SERVICE;
RN105300594**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2007-1797-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 Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service ("Mr. Alvarado").

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

FINDINGS OF FACT

1. Mr. Alvarado owns and operates a landscape irrigation business located at 1919 Walnut Plaza, Apartment 236, Carrollton, Dallas County, Texas (the "Business").
2. Mr. Alvarado sells, designs, consults, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Mr. Alvarado 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 October 1, 2007, a TCEQ Compliance Support Division Central Office investigator documented that Mr. Alvarado 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. Specifically, Mr. Alvarado advertised for irrigation services on business cards circulated in Carrollton, Texas without having an irrigation license.
4. Mr. Alvarado received notice of the violation on or about October 10, 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 Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service" (the "EDPRP") in the TCEQ Chief Clerk's office on March 27, 2008.
6. By letter dated March 27, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Alvarado with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Alvarado received notice of the EDPRP.
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 Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service" (the "EDFARP") in the TCEQ Chief Clerk's office on May 23, 2008.
8. By letter dated May 23, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Alvarado 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. Alvarado received notice of the EDFARP.
9. The Executive Director filed the "Executive Director's Second 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 Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service" (the "EDSARP") in the TCEQ Chief Clerk's office on April 27, 2009.
10. By letter dated April 27, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Alvarado with notice of the EDSARP. 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. Alvarado received notice of the EDSARP.
11. More than 20 days have elapsed since Mr. Alvarado received notice of either the EDPRP, EDFARP, or the EDSARP, provided by the Executive Director. Mr. Alvarado failed to file an answer to either the EDPRP, EDFARP, or the EDSARP, 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. Alvarado 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, Mr. Alvarado 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. Specifically, Mr. Alvarado advertised for irrigation services on business cards circulated in Carrollton, Texas without having an irrigation license, in violation of TEX. WATER CODE § 37.003, TEX. OCCUPATIONS CODE § 1903.251, and 30 TEX. ADMIN. CODE § 30.5(b).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Alvarado with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director timely served Mr. Alvarado with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact Nos. 9 and 10, the Executive Director timely served Mr. Alvarado with proper notice of the EDSARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
6. As evidenced by Finding of Fact No. 11, Mr. Alvarado failed to file a timely answer to either the EDPRP, EDFARP, or the EDSARP, 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. Alvarado and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Alvarado 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.
8. An administrative penalty in the amount of seven hundred fifty dollars (\$750.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Alvarado is assessed an administrative penalty in the amount of seven hundred fifty dollars (\$750.00) 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. Alvarado'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: Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service; Docket No. 2007-1797-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. Alvarado shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Mr. Alvarado shall cease advertising to the public that he can perform a service for which a license is required until properly certified in accordance with the requirements of 30 TEX. ADMIN. CODE ch. 30.
 - b. Within 15 days after the effective date of this Order, Mr. Alvarado shall submit written certification and detailed supporting documentation, including photographs, receipts, and 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 fine and imprisonment for knowing violations.”

Mr. Alvarado shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a. 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:

Sid Slocum, Water Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. Alvarado. Mr. Alvarado 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. Alvarado 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. Alvarado's failure to comply is not a violation of this Order. Mr. Alvarado shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Alvarado shall notify the Executive Director within seven days after Mr. Alvarado 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. Alvarado shall be made in writing to the Executive Director. Extensions are not effective until Mr. Alvarado 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. Alvarado if the Executive Director determines that Mr. Alvarado 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.

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 Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service” (the “EDPRP”) was filed with the Office of the Chief Clerk on March 27, 2008.

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

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 Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service” (the “EDFARP”) was filed with the Office of the Chief Clerk on May 23, 2008.

The EDFARP was mailed to Mr. Alvarado at his last known address on May 23, 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. Alvarado received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Second 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 Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service” (the “EDSARP”) was filed with the Office of the Chief Clerk on April 27, 2009.

The EDSARP was mailed to Mr. Alvarado at his last known address on April 27, 2009, 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. Alvarado received notice of the EDSARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

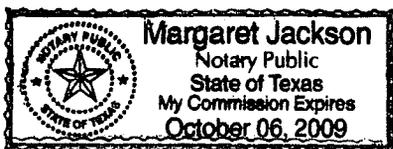
More than 20 days have elapsed since Mr. Alvarado received notice of either the EDPRP, EDFARP, or the EDSARP. Mr. Alvarado failed to file an answer to either the EDPRP, EDFARP, or the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.”

Anna Cox

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 21 day of May, A.D., 2009.



Margaret Jackson
Notary Signature