EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-0953-LII-E TCEQ ID RN105706402 CASE NO. 37845
RESPONDENT NAME: CRAIG SCHNIEDER

ORDER TYPE:		
X 1660 AGREED ORDER	**__FINDINGS AGREED ORDER**	**__FINDINGS ORDER FOLLOWING SOAH HEARING**
__FINDINGS DEFAULT ORDER	**__SHUTDOWN ORDER**	**__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER**
__AMENDED ORDER	**__EMERGENCY ORDER**	
CASE TYPE:		
__AIR	**__MULTI-MEDIA (check all that apply)**	**__INDUSTRIAL HAZARDOUS WASTE**
__PUBLIC WATER SUPPLY	**__PETROLEUM STORAGE TANKS**	**X OCCUPATIONAL CERTIFICATION**
__WATER QUALITY	**__SEWAGE SLUDGE**	**__UNDERGROUND INJECTION CONTROL**
__MUNICIPAL SOLID WASTE	**__RADIOACTIVE WASTE**	**__DRY CLEANER REGISTRATION**

SITE WHERE VIOLATION(S) OCCURRED: 1913 South Interstate Highway 35, Belton, Bell County

TYPE OF OPERATION: landscape irrigation business

SMALL BUSINESS: X Yes ___ No

OTHER SIGNIFICANT MATTERS: One complaint was received alleging that the Respondent advertised installation, design, and repair of sprinkler systems, but the neither the advertisement nor the Respondent's vehicle had an irrigator license number listed.

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 April 12, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Steven M. Fishburn, Litigation Division, MC 175, (512) 239-0635
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400
TCEQ Enforcement Coordinator: Ms. Danielle Porras, Waste Enforcement Section, MC 128, (512) 239-2602
TCEQ Regional Contact: Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3001
Respondent: Mr. Craig Schnieder, 1913 South Interstate Highway 35, Belton, Texas 76513
Respondent's Attorney: Not represented by counsel on this enforcement matter.

RESPONDENT NAME: CRAIG SCHNIEDER
DOCKET NO.: 2009-0953-LII-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: _X_ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case**: March 24, 2009 **Date of Investigation Relating to this Case**: March 25, 2009 **Date of NOE Relating to this Case**: June 5, 2009 **Background Facts**: The EDPRP was filed on October 22, 2009. The agreed order was signed on January 26, 2010. **Current Compliance Status:** The Respondent has not yet submitted documentation to certify compliance with the technical requirements. The Respondent does not have an irrigator license. **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 [30 TEX. ADMIN. CODE §§ 30.5(b) and 344.30(a)(2), TEX. WATER CODE § 37.003, and TEX. OCC. CODE § 1903.251].	**Total Assessed**: $250 **Total Deferred**: $0 ___ Expedited Order ___ Financial Inability to Pay ___ SEP Conditional Offset **Total Paid to General Revenue**: $250 The Respondent paid the administrative penalty in full. **Site Compliance History Classification:** N/A **Person Compliance History Classification:** N/A **Major Source**: ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Respondent shall undertake the following technical requirements: 1. Immediately cease advertising irrigation system services until properly licensed. 2. Within 15 days, submit written certification demonstrating compliance with Ordering Provision No. 1.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	8-Jun-2009				
PCW	12-Oct-2009	Screening	22-Jun-2009	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Craig Schnieder		
Reg. Ent. Ref. No.	RN105706402		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	37845	No. of Violations	1
Docket No.	2009-0953-LII-E	Order Type	1660
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		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* $250

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Enhancement *Subtotals 2, 3, & 7* $0

Notes: No adjustment due to compliance history.

Culpability No 0.0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* $0

Economic Benefit 0.0% Enhancement* *Subtotal 6* $0

Total EB Amounts $25
Approx. Cost of Compliance $661

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* $250

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $250

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* $250

DEFERRAL 0.0% Reduction *Adjustment* $0

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY $250

Screening Date	22-Jun-2009	**Docket No.**	2009-0953-LII-E	**PCW**
Respondent	Craig Schnieder			*Policy Revision 2 (September 2002)*
Case ID No.	37845			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN105706402			
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 (*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%
		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)

No

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 due to compliance history.

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

Screening Date	22-Jun-2009	**Docket No.** 2009-0953-LII-E	**PCW**
Respondent	Craig Schnieder		*Policy Revision 2 (September 2002)*
Case ID No.	37845		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN105706402		
Media [Statute]	Irrigators		
Enf. Coordinator	Danielle Porras		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 30.5(b) and 344.30(a)(2), 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 March 25, 2009. Specifically, the Respondent advertised sprinkler system installation, design, and repair work via a newspaper advertisement without having an irrigator license.

Base Penalty $2,500

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met

Adjustment $2,250

$250

Violation Events

Number of Violation Events: 1

89 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal $250

Economic Benefit (EB) for this violation

Estimated EB Amount $25

Statutory Limit Test

Violation Final Penalty Total $250

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

Economic Benefit Worksheet

Respondent Craig Schnieder
Case ID No. 37845
Reg. Ent. Reference No. RN105706402
Media Irrigators
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	25-Mar-2009	24-Dec-2009	0.75	$25	n/a	$25

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 $25

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603461583	SCHNIEDER, CRAIG	Classification:	Rating:
Regulated Entity:	RN105706402	SCHNEIDER CRAIG	Classification:	Site Rating:

ID Number(s):

Location: 1913 S IH 35, BELTON, TX, 76513

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: June 15, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 15, 2004 to June 15, 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

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 CRAIG SCHNIEDER RN105706402	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2009-0953-LII-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Craig Schnieder ("Mr. Schnieder") under the authority of TEX. WATER CODE chs. 7 and 37 and TEX. OCC. CODE ch. 1903. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Schnieder appear before the Commission and together stipulate that:

1. Mr. Schnieder owns and operates a landscape irrigation business located at 1913 South Interstate Highway 35, Belton, Bell County, Texas (the "Business"). Mr. Schnieder sells, designs, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Mr. Schnieder is subject to TCEQ jurisdiction pursuant to TEX. OCC. CODE ch. 1903, TEX. WATER CODE ch. 37, and the rules of the TCEQ.

2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. OCC. CODE ch. 1903, TEX. WATER CODE ch. 37, and TCEQ rules.

3. The Commission and Mr. Schnieder agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Schnieder is subject to the Commission's jurisdiction.

4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Schnieder of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of two hundred fifty dollars ($250.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Schnieder paid two hundred fifty dollars ($250.00) of the administrative penalty.

6. 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.

7. The Executive Director of the TCEQ and Mr. Schnieder agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

8. 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 Mr. Schnieder has not complied with one or more of the terms or conditions in this Agreed Order.

9. 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.

10. 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

1. During an investigation conducted on March 25, 2009, a TCEQ Central Office investigator documented that Mr. Schnieder violated 30 TEX. ADMIN. CODE §§ 30.5(b) and 344.30(a)(2), TEX. WATER CODE § 37.003, and TEX. OCC. CODE § 1903.251 by failing 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. Schnieder advertised sprinkler system installation, design, and repair work via a newspaper advertisement without having an irrigator license.

2. Mr. Schnieder received notice of the violations on or about June 10, 2009.

III. DENIALS

Mr. Schnieder generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Schnieder pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Mr.

Schnieder'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Craig Schnieder, Docket No. 2009-0953-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. Schnieder shall undertake the following technical requirements:

a. Immediately upon the effective date of this Agreed Order, Mr. Schnieder shall cease advertising irrigation system services until properly licensed; and

b. Within 15 days after the effective date of this Agreed Order, Mr. Schnieder 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. Schnieder 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

and

Ms. Sandra Mota, Occupational Licensing
Texas Commission on Environmental Quality
Office of Compliance and Enforcement, MC 178
P. O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Schnieder. Mr. Schnieder is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Business operations referenced in this Agreed Order.

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

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Mr. Schnieder, or three days after the date on which the Commission mails notice of this Agreed Order to Mr. Schnieder, 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

_____ 3/18/2010
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Mr. Schnieder's compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Schnieder;
- 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 against Mr. Schnieder;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Schnieder; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

_____ 1-26-10
Signature Date

Craig Schneider _____ owner
Name (Printed or typed) Title
Authorized representative of
Craig Schnieder