

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-1557-LII-E RN103268900 CASE NO. 38427
RESPONDENT NAME: LARRY E. SKERO

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: 121 West Pine Drive, Granite Shoals, Burnet County; 14757 Farm-to-Market Road 1431, Kingsland, Llano County

TYPE OF OPERATION: landscape irrigation

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: A complaint was received alleging that Respondent billed a homeowner for irrigation work which was not completed. 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 to speak at Agenda. No one other than the ED and Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired July 5, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Steven M. Fishburn, Litigation Division, MC 175, (512) 239-3400
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 169, (512) 239-6933

TCEQ Regional Contact: Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 339-2929

Respondent: Mr. Larry E. Skero, 14757 Farm-to-Market 1431, Kingsland, Texas 78639

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 checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: March 23, 2009</p> <p>Dates of Investigation Relating to this Case: March 23, 2009 (complaint investigation) December 7, 2009 (records review)</p> <p>Dates of NOE Relating to this Case: December 10, 2009</p> <p>Background Facts: The EDPRP was filed on March 17, 2010, and mailed to Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on March 18, 2010. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation to certify compliance with the technical requirements. Respondent's irrigator license expires May 31, 2013.</p> <p>LII:</p> <ol style="list-style-type: none"> Failed to adequately design an irrigation system [30 TEX. ADMIN. CODE § 344.61]. Failed to design or install spray or rotary heads in a manner which does not exceed the manufacturer's recommended head spacing for a specific nozzle operating at a specific pressure [30 TEX. ADMIN. CODE § 344.62(b)(1)]. 	<p>Total Assessed: \$952</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: \$952</p> <p>This is a Default Order. 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>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Develop and implement procedures to ensure the proper installation of irrigation systems; and Develop and implement procedures to ensure correct irrigation head placement. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Jan-2010	Screening	15-Jan-2010	EPA Due	
	PCW	11-Feb-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Larry E. Skero
Reg. Ent. Ref. No.	RN103268900
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	38427	No. of Violations	2	
Docket No.	2009-1557-LII-E	Order Type	1660	
Media Program(s)	Irrigators	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Clinton Sims	
		EC's Team	Enforcement Team 6	
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$750
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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	27.0% Enhancement	Subtotals 2, 3, & 7	\$202
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Notes: Enhancement due to one NOV with same or similar violations, one NOV without same or similar violations and one order without a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$207
 Approx. Cost of Compliance \$3,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$952
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$952

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$952
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DEFERRAL	0.0%	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	\$952
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Screening Date 15-Jan-2010

Docket No. 2009-1557-LII-E

PCW

Respondent Larry E. Skero

Policy Revision 2 (September 2002)

Case ID No. 38427

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103268900

Media [Statute] Irrigators

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 (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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) 27%

>> 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

Enhancement due to one NOV with same or similar violations, one NOV without same or similar violations and one order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date	15-Jan-2010	Docket No.	2009-1557-LII-E	PCW
Respondent	Larry E. Skero	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	38427	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN103268900			
Media [Statute]	Irrigators			
Enf. Coordinator	Clinton Sims			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 344.61			
Violation Description	Failed by a licensed irrigator to adequately design an irrigation system. Specifically, the Respondent installed an inadequate irrigation system at a 121 West Pine Drive, Granite Shoals, Texas.			
Base Penalty	\$2,500			

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential	x		
				Percent 25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0%
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.				
					Adjustment \$1,875

\$625

Violation Events

Number of Violation Events	1	Number of violation days	39	
<i>mark only one with an x</i>	daily			Violation Base Penalty \$625
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
	One single event is recommended.			

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement	
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
			Violation Subtotal \$625

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount	\$148	Violation Final Penalty Total	\$794
This violation Final Assessed Penalty (adjusted for limits)		\$794	

Economic Benefit Worksheet

Respondent Larry E. Skero
Case ID No. 38427
Reg. Ent. Reference No. RN103268900
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,500	7-Dec-2009	11-Oct-2010	0.84	\$7	\$141	\$148
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install an efficient irrigation system. The Date Required is the investigation date and the Final Date is the expected compliance date.

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

\$2,500

TOTAL

\$148

Screening Date 15-Jan-2010 **Docket No.** 2009-1557-LII-E **PCW**
Respondent Larry E. Skero *Policy Revision 2 (September 2002)*
Case ID No. 38427 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103268900
Media [Statute] Irrigators
Enf. Coordinator Clinton Sims

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 344.62(b)(1)
Violation Description Failed to design or install spray or rotary heads in a manner which does not exceed the manufacturer's recommended head spacing for a specific nozzle operating at a specific pressure. Specifically, the Respondent did not have correct head placement at a site location at 121 West Pine Drive, Granite Shoals, Texas.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5%
	Potential			x	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$2,375

\$125

Violation Events

Number of Violation Events 1 39 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$125

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	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 for this violation.

Violation Subtotal \$125

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$59

Violation Final Penalty Total \$159

This violation Final Assessed Penalty (adjusted for limits) \$159

Economic Benefit Worksheet

Respondent Larry E. Skero
Case ID No. 38427
Reg. Ent. Reference No. RN103268900
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,000	7-Dec-2009	11-Oct-2010	0.84	\$3	\$56	\$59
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install correct irrigation head placement. The Date Required is the investigation date and the Final Date is the expected compliance date.

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

\$1,000

TOTAL

\$59

Date: 04/02/2009 (725815)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 344, SubChapter F 344.94(b)
 Description: Failure by a licensed irrigator to include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087." on all written contracts and bills to install irrigation systems. Specifically, during the 01/05/09 record review investigation, it was substantiated that Mr. Larry Skero, Landscape Irrigator License No. 14896, Blue Water Irrigation & Landscape, did not have the required TCEQ statement.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 344, SubChapter F 344.92(a)
 Description: Failure by a licensed irrigator to adequately design an irrigation system. Specifically, during an on-site record review investigation conducted on 03/24/09, by Mr. Richard Allen and Mr. Jeff Walls, TCEQ Compliance Support Division, it was documented that Mr. Larry Skero, Landscape Irrigator License No. 14896, Blue Water Irrigation & Landscape, installed an inefficient irrigation system at the site location of 121 West Pine Drive, Granite Shoals, Texas.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 344, SubChapter D 344.77(a)(1)
 Description: Failure to design or install spray or rotary heads in a manner which does not exceed the manufacturer's recommended head spacing for a specific nozzle operating at a specific pressure. Specifically, during an on-site record review investigation conducted on 03/24/09, by Mr. Richard Allen and Mr. Jeff Walls, TCEQ Compliance Support Division, it was documented that Mr. Larry Skero, Landscape Irrigator License No. 14896, Blue Water Irrigation & Landscape, did not have correct head placement.

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
LARRY E. SKERO;
RN103268900**

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§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2009-1557-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. OCC. 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 Larry E. Skero (“Mr. Skero”).

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

FINDINGS OF FACT

1. Mr. Skero owns and operates a landscaping business located at 14757 Farm-to-Market Road 1431, Kingsland, Llano County, Texas (the “Business”).
2. Mr. Skero holds and maintains Landscape Irrigator License No. 14896, issued by the TCEQ on April 29, 2009, and sells, designs, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Mr. Skero is subject to TCEQ jurisdiction pursuant to TEX. OCC. CODE ch. 1903, TEX. WATER CODE ch. 37, and the rules of the TCEQ.
3. During a record review conducted on December 7, 2009, a TCEQ Central Office investigator documented that Mr. Skero:
 - a. Failed to adequately design an irrigation system. Specifically, Mr. Skero installed an inadequate irrigation system at 121 West Pine Drive, Granite Shoals, Burnet County, Texas; and
 - b. Failed to design or install spray or rotary heads in a manner which does not exceed the manufacturer’s recommended head spacing for a specific nozzle operating at a specific pressure. Specifically, Mr. Skero did not have correct head placement at a site location at 121 West Pine Drive, Granite Shoals, Burnet County Texas.
4. Mr. Skero received notice of the violations on or about December 15, 2009.

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 Larry E. Skero” (the “EDPRP”) in the TCEQ Chief Clerk’s office on March 17, 2010.
6. By letter dated March 17, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Skero with notice of the EDPRP. According to the return receipt “green card,” Mr. Skero received notice of the EDPRP on March 18, 2010, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Skero received notice of the EDPRP, provided by the Executive Director. Mr. Skero 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 Findings of Fact Nos. 1 and 2, Mr. Skero is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 37, TEX. OCC. CODE ch. 1903, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Skero failed to adequately design an irrigation system, in violation of 30 TEX. ADMIN. CODE § 344.61.
3. As evidenced by Finding of Fact No. 3.b., Mr. Skero failed to design or install spray or rotary heads in a manner which does not exceed the manufacturer’s recommended head spacing for a specific nozzle operating at a specific pressure, in violation of 30 TEX. ADMIN. CODE § 344.62(b)(1).
4. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Mr. Skero 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. Skero failed to file a timely answer 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. Skero 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. Skero for violations of the Texas Water 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 nine hundred fifty-two dollars (\$952.00) 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. Skero is assessed an administrative penalty in the amount of nine hundred fifty-two dollars (\$952.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and Mr. Skero'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: Larry E. Skero; Docket No. 2009-1557-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. Skero shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Mr. Skero shall:
 - i. Develop and implement procedures to ensure the proper installation of irrigation systems, in accordance with 30 TEX. ADMIN. CODE § 344.61; and
 - ii. Develop and implement procedures to ensure correct irrigation head placement, in accordance with 30 TEX. ADMIN. CODE § 344.62(b)(1).
 - b. Within 45 days after the effective date of this Order, Mr. Skero 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. Skero 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:

Tracy Miller, Landscape Irrigation Program
Texas Commission on Environmental Quality
Field Operations Support Division, MC 178
P. O. Box 13087
Austin, Texas 78711-3087

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

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Steven M. Fishburn. 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 Larry E. Skero” (the “EDPRP”) was filed with the Office of the Chief Clerk on March 17, 2010.

The EDPRP was mailed to Mr. Skero at his last known address on March 17, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Skero received notice of the EDPRP on March 18, 2010, as evidenced by the signature on the card.

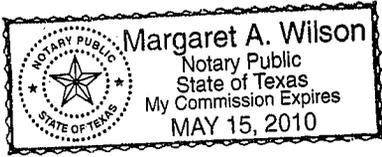
More than 20 days have elapsed since Mr. Skero received notice of the EDPRP. Mr. Skero failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.”



Steven M. Fishburn, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Steven M. Fishburn, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 11th day of MAY, A.D., 2010.





Notary Signature