

Jon M. Huddleston

RN104374665

Docket No. 2011-0227-LII-E

Order Type:

Default Order

Findings Order Justification:

N/A

Media:

LII

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1505 Julie Jacqueline Drive, Killeen, Bell County; 3706 Madison Drive, Killeen, Bell County

Type of Operation:

licensed irrigator

Other Significant Matters:

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: None

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: July 22, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,220

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$1,220

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Jon M. Huddleston

RN104374665

Docket No. 2011-0227-LII-E

Investigation Information

Complaint Date(s): October 13, 2010
Complaint Information: Alleged that Respondent installed a deficient sprinkler system and failed to honor the two-year warranty.

Date(s) of Investigation: October 22, 2010

Date(s) of NOV(s): N/A

Date(s) of NOE(s): January 7, 2011

Violation Information

1. Failed to obtain all permits and inspections required to install an irrigation system [30 TEX. ADMIN. CODE §§ 344.24(a) and 344.35(d)(2)].
2. Failed to test the irrigation system's backflow prevention device upon installation of the irrigation system [30 TEX. ADMIN. CODE § 344.50(c)].
3. Failed to include the required statement and TCEQ contact information in all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system [30 TEX. ADMIN. CODE § 344.71(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Immediately:
 - a. Implement measures and procedures to ensure that the backflow prevention devices are tested upon installation of each irrigation system; and
 - b. Begin including the required statement and TCEQ contact information on all invoices, bills, and written estimates relating to the installation or repair of irrigation systems.
2. Within 15 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 30 days, implement measures and procedures to ensure that all required permits and inspections are obtained for the installation of irrigation systems.
4. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 3.

Litigation Information

Date Petition(s) Filed: May 26, 2011

Date(s) Green Card(s) Signed: Unclaimed

Date(s) Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Jon M. Huddleston

RN104374665

Docket No. 2011-0227-LII-E

Contact Information

TCEQ Attorneys: Steven M. Fishburn, Litigation Division, (512) 239-3400

Lena Roberts, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: James Nolan, Air Enforcement Section, (512) 239-6634

TCEQ Regional Contact: Frank Burleson, Waco Regional Office, (254) 761-3001

Respondent: Jon M. Huddleston, 1505 Julie Jacqueline Drive, Killeen, Texas 76542

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	18-Jan-2011	Screening	9-Feb-2011	EPA Due	
	PCW	12-May-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	Jon M. Huddleston		
Reg. Ent. Ref. No.	RN104374665		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41152	No. of Violations	3
Docket No.	2011-0227-LII-E	Order Type	1660
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,125
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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	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for Compliance History.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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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	\$99	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$145	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	8.4%	Adjustment	\$95
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 2 and 3.
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Final Penalty Amount	\$1,220
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,220
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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.
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PAYABLE PENALTY	\$1,220
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Screening Date 9-Feb-2011

Docket No. 2011-0227-LII-E

PCW

Respondent Jon M. Huddleston

Policy Revision 2 (September 2002)

Case ID No. 41152

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104374665

Media [Statute] Irrigators

Enf. Coordinator James Nolan

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

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

Screening Date 9-Feb-2011

Docket No. 2011-0227-LII-E

PCW

Respondent Jon M. Huddleston

Policy Revision 2 (September 2002)

Case ID No. 41152

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104374665

Media [Statute] Irrigators

Enf. Coordinator James Nolan

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 344.24(a) and 344.35(d)(2)

Violation Description Failed to comply with local regulations by failing to obtain all permits and inspections required to install an irrigation system. Specifically, Respondent failed to obtain the permits required by the City of Killeen before installing an irrigation system at 3706 Madison Drive, Killeen, Bell County, Texas and the irrigation system Respondent installed failed the City's inspection.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

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

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1 376 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an 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 Offer
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

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$271

This violation Final Assessed Penalty (adjusted for limits) \$271

Economic Benefit Worksheet

Respondent Jon M. Huddleston
Case ID No. 41152
Req. Ent. Reference No. RN104374665
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
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				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)	\$50	29-Jan-2010	3-Oct-2011	1.68	\$4	n/a	\$4

Notes for DELAYED costs

Actual cost to obtain the required permits based upon the City of Killeen fee of \$25 per plumbing permit, doubled since it was not acquired before the work was completed. The date required is the date of the installation 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

	\$50
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TOTAL

	\$4
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Screening Date 9-Feb-2011
Respondent Jon M. Huddleston
Case ID No. 41152
Reg. Ent. Reference No. RN104374665
Media [Statute] Irrigators
Enf. Coordinator James Nolan

Docket No. 2011-0227-LII-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

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 Jon M. Huddleston
Case ID No. 41152
Req. Ent. Reference No. RN104374665
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				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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$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]	\$45	29-Jan-2010	29-Jan-2010	0.00	\$0	\$45	\$45
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost includes the amount to test the backflow prevention device, calculated for the date the system was installed.

Approx. Cost of Compliance \$45

TOTAL \$45

Screening Date 9-Feb-2011
Respondent Jon M. Huddleston
Case ID No. 41152
Reg. Ent. Reference No. RN104374665
Media [Statute] Irrigators
Enf. Coordinator James Nolan

Docket No. 2011-0227-LII-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number

Rule Cite(s)

Violation Description

Failed to include in all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s) the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.state.tx.us." Specifically, the Respondent failed to include the required statement on the invoice for the installation of an irrigation system at 3706 Madison Drive, Killeen, Bell County, Texas.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

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

Violation Subtotal

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 Jon M. Huddleston
Case ID No. 41152
Req. Ent. Reference No. RN104374665
Media Irrigators
Violation No. 3

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				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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$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]	\$50	29-Jan-2010	29-Jan-2010	0.00	\$0	\$50	\$50
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost to provide the statement on all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation systems. The date required and the final date is the date of the installation.

Approx. Cost of Compliance \$50

TOTAL \$50

Compliance History

Customer/Respondent/Owner-Operator: CN602689846 HUDDLESTON, JON M. Classification: Rating:
Regulated Entity: RN104374665 HUDDLESTON, JON M. Classification: Site Rating:
ID Number(s): LANDSCAPE IRRIGATION LICENSING LICENSE LI0012689
Location: 1505 JULIE JACQUELINE DRIVE, KILLEEN, TEXAS 76542
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: February 11, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 09, 2006 to February 09, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Gena Hawkins Phone: (512) 239 - 2583

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 judgments, 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JON M. HUDDLESTON;
RN104374665**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-0227-LII-E

At its _____ agenda meeting, 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 Jon M. Huddleston ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a landscaping business located at 1505 Julie Jacqueline Drive in Killeen, Bell County, Texas (the "Business"). Respondent holds TCEQ irrigator license no. LI0012689, and sells, designs, offers consultations regarding, installs, maintains, alters, repairs, and/or services landscape irrigation systems and is required to be licensed under 30 TEX. ADMIN. CODE ch. 30. Therefore, Respondent is subject to TCEQ jurisdiction pursuant to TEX. WATER CODE ch. 37 and TEX. OCC. CODE ch. 1903.
2. During a record review conducted on October 22, 2010, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to obtain all permits and inspections required to install an irrigation system. Specifically, Respondent failed to obtain the permits required by the City of Killeen before installing an irrigation system at 3706 Madison Drive in Killeen, Bell County, Texas (the "Site") and the irrigation system failed the City's inspection;
 - b. Failed to test the irrigation system's backflow prevention device upon installation of the irrigation system at the Site; and
 - c. Failed to include in all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s) the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P. O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.state.tx.us." Specifically, Respondent failed to include the required statement on the invoice for the irrigation system installed at the Site.

3. Respondent received notice of the violations on or about January 12, 2011.
4. 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 Jon M. Huddleston d/b/a ABC Irrigation" (the "EDPRP") in the TCEQ Chief Clerk's office on May 26, 2011.
5. By letter dated May 26, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP provided by the Executive Director. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent 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. 2.a, Respondent failed to obtain all permits and inspections required to install an irrigation system, in violation of 30 TEX. ADMIN. CODE §§ 344.24(a) and 344.35(d)(2).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to test the irrigation system's backflow prevention device upon installation of the irrigation system, in violation of 30 TEX. ADMIN. CODE § 344.50(c).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to include in all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s) the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P. O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.state.tx.us," in violation of 30 TEX. ADMIN. CODE § 344.71(b).
5. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, 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. 6, Respondent 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 Respondent 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 Respondent for violations of state statutes 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 one thousand two hundred twenty dollars (\$1,220.00) 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. Respondent is assessed an administrative penalty in the amount of one thousand two hundred twenty dollars (\$1,220.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent'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.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Jon M. Huddleston; Docket No. 2011-0227-LII-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

3. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Respondent shall:
 - i. Implement measures and procedures to ensure that backflow prevention devices are tested upon installation of each irrigation system installed by Respondent, in accordance with 30 TEX. ADMIN. CODE § 344.50; and
 - ii. Begin including the required statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.state.tx.us" on all invoices, bills, and written estimates relating to the installation or repair of irrigation systems installed by Respondent, in accordance with 30 TEX. ADMIN. CODE § 344.71.

- b. Within 15 days after the effective of this Order, Respondent shall submit written certification as described below in Ordering Provision No. 3.e., and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. and 3.a.ii.
- c. Within 30 days after the effective date of this Order, Respondent shall implement measures and procedures to ensure that all required permits and inspections are obtained for the installation of irrigation systems installed by Respondent, in accordance with 30 TEX. ADMIN. CODE § 344.35.
- d. Within 45 days after the effective of this Order, Respondent shall submit written certification as described below in Ordering Provision No. 3.e., and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.c.
- e. The certifications required by Ordering Provisions Nos. 3.b. and 3.d. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the Ordering Provisions. The certifications 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 fines and imprisonment for knowing violations."

The certifications shall be submitted 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, MC 174
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- 4. All relief not expressly granted in this Order is denied.
- 5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Business operations referenced in this Order.

6. If Respondent 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF STEVEN M. FISHBURN

STATE OF TEXAS

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COUNTY OF TRAVIS

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"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 Jon M. Huddleston d/b/a ABC Irrigation" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on May 26, 2011.

The EDPRP was mailed to Respondent's last known address on May 26, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

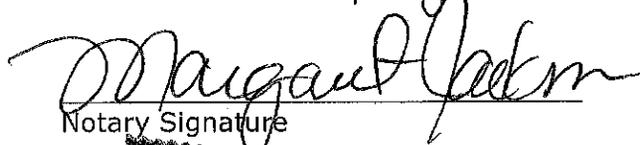
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Steven M. Fishburn, Staff 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 6th day of July, A.D. 2011.



Notary Signature

