EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2010-0612-LII-E RN105897557 CASE NO. 39515

RESPONDENT NAME: JUAN SANCHEZ

ORDER TYPE:		
___ **AGREED ORDER**	___ **FINDINGS AGREED ORDER**	___ **FINDINGS ORDER FOLLOWING SOAH HEARING**
_X_ **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: 3503 Clipper Winds Way, Houston, Harris County; 7519 Golden Thistle, Cypress, Harris County

TYPE OF OPERATION: landscaping business

SMALL BUSINESS: _X_ Yes ___ No ___ N/A

OTHER SIGNIFICANT MATTERS: One complaint was received, alleging that Respondent installed an irrigation system that did not operate properly. 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 Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired January 10, 2011. No comments were received.

CONTACTS AND MAILING LIST:

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

TCEQ Enforcement Coordinator: Roshondra Lowe, Air Enforcement Section, MC R-12, (713) 767-3553

TCEQ Regional Contact: Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

Respondent: Juan Sanchez, 3503 Clipper Winds Way, Houston, Texas 77094

Respondent's Attorney: Not represented by counsel on this enforcement matter.

RESPONDENT NAME: JUAN SANCHEZ
DOCKET NO. 2010-0612-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:** September 9, 2009 **Date of Investigation:** March 16, 2010 **Date of NOE:** March 23, 2010 **Background Facts:** The EDPRP was filed on September 20, 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 September 25, 2010. Respondent failed to file an answer and failed to request a hearing. **Current Compliance Status:** Respondent has not yet submitted documentation to certify compliance with the technical requirements. Respondent does not have an irrigator license. **LII:** 1. Failed to hold an irrigator license prior to selling, designing, consulting, installing, altering, repairing or servicing an irrigation system [30 TEX. ADMIN. CODE § 30.5(a), TEX. WATER CODE § 37.003, and TEX. OCC. CODE § 1903.251]. 2. Failed to refrain from advertising or representing himself to the public as a holder of a license or registration without holding or possessing a valid license or registration [30 TEX. ADMIN. CODE § 30.5(b) and TEX. WATER CODE § 37.003].	**Total Assessed:** $1,245 **Total Deferred:** $0 ___ Expedited Order ___ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Due to General Revenue:** $1,245 This is a Default Order. Respondent has not actually paid any of the assessed administrative penalty but will be required to do so within 30 days under the terms of this Order. **Compliance History Classifications:** *Person/CN* – N/A *Site/RN* – N/A **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** Respondent shall undertake the following technical requirements: 1. Immediately cease selling, designing, consulting, installing, altering, repairing, or servicing irrigation systems and representing and/or advertising irrigation system services until properly licensed. 2. Within 15 days, submit written certification demonstrating compliance.

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	29-Mar-2010				
PCW	16-Aug-2010	Screening	15-Apr-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Juan Sanchez		
Reg. Ent. Ref. No.	RN105897557		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	39515	No. of Violations	2
Docket No.	2010-0612-LII-E	Order Type	1660
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Roshondra Lowe
		EC's Team	Enforcement Team 5
Admin. Penalty $ Limit Minimum	$0	Maximum	$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **$1,125**

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 adjustments 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 $121
Approx. Cost of Compliance $136

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$1,125**

OTHER FACTORS AS JUSTICE MAY REQUIRE **10.7%** *Adjustment* **$120**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 1.

Final Penalty Amount **$1,245**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$1,245**

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 **$1,245**

Screening Date	15-Apr-2010	**Docket No.**	2010-0612-LII-E	**PCW**
Respondent	Juan Sanchez			*Policy Revision 2 (September 2002)*
Case ID No.	39515			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN105897557			
Media [Statute]	Irrigators			
Enf. Coordinator	Roshondra Lowe			

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)

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 adjustments due to compliance history.

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

Screening Date	15-Apr-2010	**Docket No.** 2010-0612-LII-E	**PCW**
Respondent	Juan Sanchez		*Policy Revision 2 (September 2002)*
Case ID No.	39515		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN105897557		
Media [Statute]	Irrigators		
Enf. Coordinator	Roshondra Lowe		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 30.5(a), Tex. Water Code § 37.003, and Tex. Occupations Code § 1903.251

Violation Description Failed to hold an irrigator license prior to selling, designing, consulting, installing, altering, repairing or servicing an irrigation system. Specifically, the Respondent installed an irrigation system at 7519 Golden Thistle, Cypress, Texas without holding a valid landscaping irrigator license.

Base Penalty $2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: 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 this violation.

Adjustment $1,875

$625

Violation Events

Number of Violation Events 1 | 281 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $625

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 $625

Economic Benefit (EB) for this violation

Estimated EB Amount $120

Statutory Limit Test

Violation Final Penalty Total $692

This violation Final Assessed Penalty (adjusted for limits) $692

Economic Benefit Worksheet

Respondent Juan Sanchez
Case ID No. 39515
Reg. Ent. Reference No. RN105897557
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)				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]	$111	6-Jul-2009	16-Mar-2010	1.61	$9	$111	$120
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated cost to obtain an irrigator license. The date required is the date the irrigation system was installed. The final date is the record review investigation date.						

Approx. Cost of Compliance $111

TOTAL $120

Screening Date	15-Apr-2010	**Docket No.** 2010-0612-LII-E	**PCW**
Respondent	Juan Sanchez		*Policy Revision 2 (September 2002)*
Case ID No.	39515		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN105897557		
Media [Statute]	Irrigators		
Enf. Coordinator	Roshondra Lowe		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 30.5(b), and Tex. Water Code § 37.003

Violation Description Failed to refrain from advertising or representing himself to the public as a holder of a license or registration. Specifically, the Respondent advertised irrigation installation services on his truck without holding an irrigator license.

Base Penalty $2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: 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

281 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 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

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $277

This violation Final Assessed Penalty (adjusted for limits) $277

Economic Benefit Worksheet

Respondent Juan Sanchez
Case ID No. 39515
Reg. Ent. Reference No. RN105897557
Media Irrigators
Violation No. 2

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	$25	16-Mar-2010	28-Oct-2010	0.62	$1	n/a	$1
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to cease advertising. The date required is the record review investigation date. The final date is the expected 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 $25

TOTAL $1

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603647447	SANCHEZ, JUAN	Classification:	Rating:
Regulated Entity:	RN105897557	SANCHEZ JUAN	Classification:	Site Rating:
ID Number(s):				

Location: 3503 CLIPPER WINDS WAY, HOUSTON, TX, 77084

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 12, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 12, 2005 to April 12, 2010

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

Name: Roshondra Lowe Phone: (713) 767-3553

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

THIS PAGE INTENTIONALLY LEFT BLANK

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING JUAN SANCHEZ; RN105897557	**§ § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-0612-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 Juan Sanchez ("Mr. Sanchez").

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

FINDINGS OF FACT

1. Mr. Sanchez owns and operates a landscaping business located at 3503 Clipper Winds Way in Houston, Harris County (the "Business").

2. Mr. Sanchez sells, designs, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Mr. Sanchez 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 March 16, 2010, a TCEQ Central Office investigator documented that Mr. Sanchez:

   a. Failed to hold an irrigator license prior to selling, designing, consulting, installing, altering, repairing or servicing an irrigation system. Specifically, Mr. Sanchez installed an irrigation system at 7519 Golden Thistle in Cypress, Harris County, Texas without holding a valid landscaping irrigator license; and

   b. Failed to refrain from advertising or representing himself to the public as a holder of a license or registration without possessing a valid license or registration. Specifically, Mr. Sanchez advertised irrigation installation services on his truck without holding an irrigator license.

4. Mr. Sanchez received notice of the violations on or about March 28, 2010.

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 Juan Sanchez" (the "EDPRP") in the TCEQ Chief Clerk's office on September 20, 2010.

6. By letter dated September 20, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Sanchez with notice of the EDPRP. According to the return receipt "green card," Mr. Sanchez received notice of the EDPRP on September 25, 2010, as evidenced by the signature on the card.

7. More than 20 days have elapsed since Mr. Sanchez received notice of the EDPRP, provided by the Executive Director. Mr. Sanchez 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. Sanchez 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. Sanchez failed to hold an irrigator license prior to selling, designing, consulting, installing, altering, repairing or servicing an irrigation system, in violation of 30 TEX. ADMIN. CODE § 30.5(a), TEX. WATER CODE § 37.003, and TEX. OCC. CODE § 1903.251.

3. As evidenced by Finding of Fact No. 3.b., Mr. Sanchez failed to refrain from advertising or representing himself to the public as a holder of a license or registration, in violation of 30 TEX. ADMIN. CODE § 30.5(b) and TEX. WATER CODE § 37.003.

4. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Mr. Sanchez 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. Sanchez 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. Sanchez 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. Sanchez 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 one thousand two hundred forty-five dollars ($1,245.00) 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. Sanchez is assessed an administrative penalty in the amount of one thousand two hundred forty-five dollars ($1,245.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and Mr. Sanchez'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: Juan Sanchez; Docket No. 2010-0612-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

3. Mr. Sanchez shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Order, Mr Sanchez shall cease selling, designing, consulting, installing, altering, repairing, or servicing irrigation systems and representing and/or advertising irrigation system services until properly licensed, in accordance with 30 TEX. ADMIN. CODE ch. 30; and

   b. Within 15 days after the effective date of this Order, Mr. Sanchez shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 3.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. Sanchez shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and:

Ms. Tracy Miller, Landscape Irrigation Program
Texas Commission on Environmental Quality
Office of Compliance and Enforcement, MC 174
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 Mr. Sanchez. Mr. Sanchez 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 Mr. Sanchez 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. Sanchez's failure to comply is not a violation of this Order. Mr. Sanchez shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Sanchez shall notify the Executive Director within seven days after Mr. Sanchez 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 Mr. Sanchez shall be made in writing to the Executive Director. Extensions are not effective until Mr. Sanchez 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 Mr. Sanchez if the Executive Director determines that Mr. Sanchez 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 §
§
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 Juan Sanchez" (the "EDPRP") was filed with the Office of the Chief Clerk on September 20, 2010.

The EDPRP was mailed to Mr. Sanchez at his last known address on September 20, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. Sanchez received notice of the EDPRP on September 25, 2010, as evidenced by the signature on the card.

More than 20 days have elapsed since Mr. Sanchez received notice of the EDPRP. Mr. Sanchez 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 2nd day of November, A.D., 2010.

MARGARET T JACKSON
NOTARY PUBLIC
State of Texas
Comm. Exp. 12-21-2013

Notary Signature