

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0544-LII-E **TCEQ ID:** RN104692892 **CASE NO.:** 39456
RESPONDENT NAME: Jamie J. Fernandez dba Texas Irrigation & Landscaping Services

ORDER TYPE:		
<input checked="" type="checkbox"/> 166o AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input 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 AND 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
<p>SITE WHERE VIOLATION(S) OCCURRED: 4915 Farek Loth Road, Schulenburg, Fayette County</p> <p>TYPE OF OPERATION: Irrigation and landscaping service</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on August 5, 2009 alleging that the Respondent installed an irrigation system and failed to prepare and provide an irrigation plan and warranty. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 4, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Audra Benoit, Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8799; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Jamie J. Fernandez, Owner, Texas Irrigation & Landscaping Services, 20543 Budde Cemetery Road, Spring, Texas 77388 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: August 5, 2009</p> <p>Date of Investigation Relating to this Case: March 9, 2010</p> <p>Date of NOV/NOE Relating to this Case: March 11, 2010 (NOE)</p> <p>Background Facts: This was a follow-up to a complaint investigation.</p> <p>WATER</p> <p>1) Failed to prepare an irrigation plan. Specifically, the Respondent installed an irrigation system and did not provide an irrigation plan to the homeowner or homeowner's representative at the time of installation at 4915 Farek Loth Road, Schulenburg, Texas [30 TEX. ADMIN. CODE §§ 344.61(a) and 344.63(4)].</p> <p>2) Failed to provide a warranty. Specifically, the Respondent installed an irrigation system and did not provide a copy of the one year warranty to the homeowner at 4915 Farek Loth Road, Schulenburg, Texas [30 TEX. ADMIN. CODE § 344.72(a)]</p>	<p>Total Assessed: \$739</p> <p>Total Deferred: \$147 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$192 (remaining \$400 due in 4 monthly payments of \$100 each)</p> <p>Compliance History Classifications: Person/CN - Site/RN -</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>The Order will require the Respondent to:</p> <p>a. Immediately after the effective date of this Agreed Order:</p> <p>i. Begin preparing an irrigation plan for each site where a new irrigation system is to be installed; and</p> <p>ii. Begin providing a one year warranty in writing to the homeowner for each irrigation system installed.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): LI0013798



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	15-Mar-2010	Screening	22-Mar-2010	EPA Due	
	PCW	22-Mar-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Jamie J. Fernandez dba Texas Irrigation & Landscaping Services
Reg. Ent. Ref. No.	RN104692892
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	39456	No. of Violations	2	
Docket No.	2010-0544-LII-E	Order Type	1660	
Media Program(s)	Irrigators	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Audra Benoit	
		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** \$500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7** \$25

Notes Penalty enhancement due to one same or similar notice of violation.

Culpability **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

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

Economic Benefit **Subtotal 6** \$0

Total EB Amounts	\$215	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$200	

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$525

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** \$214

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Avoided costs to provide an irrigation plan prior to installation and warranty after installation was complete.

Final Penalty Amount \$739

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$739

DEFERRAL **Adjustment** -\$147

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

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY \$592

Screening Date 22-Mar-2010

Docket No. 2010-0544-LII-E

PCW

Respondent Jamie J. Fernandez dba Texas Irrigation & Landscaping

Policy Revision 2 (September 2002)

Case ID No. 39456

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104692892

Media [Statute] Irrigators

Enf. Coordinator Audra Benoit

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	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%
<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) 5%

>> 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

Penalty enhancement due to one same or similar notice of violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 22-Mar-2010

Docket No. 2010-0544-LII-E

PCW

Respondent Jamie J. Fernandez dba Texas Irrigation & Landscaping Services

Policy Revision 2 (September 2002)

Case ID No. 39456

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104692892

Media [Statute] Irrigators

Enf. Coordinator Audra Benoit

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 344.61(a) and 344.63(4)

Violation Description

Failed to prepare an irrigation plan. Specifically, the Respondent installed an irrigation system and did not provide an irrigation plan to the homeowner or homeowner's representative at the time of installation at 4915 Farek Loth Road, Schulenberg, Texas.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	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

13 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 based on the one irrigation plan.

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$107

Violation Final Penalty Total \$370

This violation Final Assessed Penalty (adjusted for limits) \$370

Economic Benefit Worksheet

Respondent Jamie J. Fernandez dba Texas Irrigation & Landscaping Services
Case ID No. 39456
Reg. Ent. Reference No. RN104692892
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)				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]	\$107	9-Mar-2010	9-Mar-2010	0.00	\$0	\$107	\$107
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided costs to provide an irrigation plan prior to installing the system. The date required is the date of the investigation. The final date is the date of the investigation.

Approx. Cost of Compliance

\$107

TOTAL

\$107

Screening Date 22-Mar-2010

Docket No. 2010-0544-LII-E

PCW

Respondent Jamie J. Fernandez dba Texas Irrigation & Landscaping Services

Policy Revision 2 (September 2002)

Case ID No. 39456

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104692892

Media [Statute] Irrigators

Enf. Coordinator Audra Benoit

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 344.72(a)

Violation Description

Failed to provide a warranty. Specifically, the Respondent installed an irrigation system and did not provide a copy of the one year warranty to the homeowner at 4915 Farek Loth Road, Schulenberg, Texas.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1 Number of violation days 13

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$250

One single event is recommended based on the warranty that was not submitted to the homeowner.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$107

Violation Final Penalty Total \$370

This violation Final Assessed Penalty (adjusted for limits) \$370

Economic Benefit Worksheet

Respondent Jamie J. Fernandez dba Texas Irrigation & Landscaping Services
Case ID No. 39456
Reg. Ent. Reference No. RN104692892
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]	\$107	9-Mar-2010	9-Mar-2010	0.00	\$0	\$107	\$107
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided costs to provide the warranty after installation was complete. The date required is the date of the investigation. The final date is the date of the investigation.

Approx. Cost of Compliance

\$107

TOTAL

\$107

Compliance History Report

Customer/Respondent/Owner-Operator: CN602873556 FERNANDEZ, JAMIE J Classification: N/A Rating: N/A
Regulated Entity: RN104692892 TEXAS IRRIGATION & LANDSCAPING SERVICES Classification: N/A Site Rating: N/A

ID Number(s): LANDSCAPE IRRIGATION LICENSING LICENSE LI0013798

Location:

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 06, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 15, 2005 to March 15, 2010

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

Name: Audra Benoit Phone: (409) 899-8799

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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
6. Rating Date: 9/1/2009 Repeat Violator: 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.)

Date: 02/02/2010 (790074)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter C 344.61(a)

Description: Failure by an irrigator to prepare an irrigation plan for a site where a new installation would be installed.

Specifically, during the 03/09/10 record review investigation, it was documented that Mr. Jamie J. Fernandez, Landscape Irrigator License Number 13798, Texas Irrigation & Landscaping Services, installed an irrigation system at 4915 Farek Loth Road in Schulenburg, Texas and did not provide an irrigation plan to the homeowner.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter F 344.63(4)

Description: Failure by an irrigator to provide the irrigation plan indicating the actual installation

of the system to the homeowner or to the homeowner's representative.

Specifically, during the 03/09/10 record review investigation, it was documented that Mr. Jamie J. Fernandez, Landscape Irrigator License Number 13798, Texas Irrigation & Landscaping Services, installed an irrigation system at 4915 Farek

Loth Road in Schulenburg, Texas and did not provide an irrigation plan to the homeowner

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter G 344.72(a)

Description: Failure by an irrigator to provide a warranty to the homeowner or to the homeowner's representative.

Specifically, during the 03/09/10 record review investigation, it was documented that Mr. Jamie J. Fernandez, Landscape Irrigator License Number 13798, Texas Irrigation & Landscaping Services, installed an irrigation system at 4915 Farek Loth Road in Schulenburg, Texas and did not provide a copy of the warranty to the homeowner.

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
JAMIE J. FERNANDEZ DBA TEXAS
IRRIGATION & LANDSCAPING
SERVICES
RN104692892**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-0544-LII-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Jamie J. Fernandez dba Texas Irrigation & Landscaping Services ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 37 and TEX. OCCUPATIONS CODE ch. 1903. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an irrigation and landscaping service at 5015 Louetta, in Spring, Harris County, Texas. The Respondent installed an irrigation system at 4915 Farek Loth Road, Schulenberg, Texas ("the Site").
2. TCEQ has general authority to regulate the design and installation of landscape irrigation systems, and the licensing of landscape irrigators and installers, pursuant to TEX. OCCUPATIONS CODE ch. 1903.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 16, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Seven Hundred Thirty-Nine Dollars (\$739) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Ninety-Two Dollars (\$192) of the administrative penalty and One Hundred Forty-Seven Dollars (\$147) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Four Hundred Dollars (\$400) of the administrative penalty shall be payable in four monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

The Respondent is alleged to have:

1. Failed to prepare an irrigation plan, in violation of 30 TEX. ADMIN. CODE §§ 344.61(a) and 344.63(4), as documented during an investigation conducted on March 9, 2010. Specifically, the Respondent installed an irrigation system and did not provide an irrigation plan to the homeowner or homeowner's representative at the time of installation at 4915 Farek Loth Road, Schulenberg, Texas.

2. Failed to provide a warranty, in violation of 30 TEX. ADMIN. CODE § 344.72(a), as documented during an investigation conducted on March 9, 2010. Specifically, the Respondent installed an irrigation system and did not provide a copy of the one year warranty to the homeowner at 4915 Farek Loth Road, Schulenberg, Texas.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Jamie J. Fernandez dba Texas Irrigation & Landscaping Services, Docket No. 2010-0544-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately after the effective date of this Agreed Order:
 - i. Begin preparing an irrigation plan for each site where a new irrigation system is to be installed, in accordance with 30 TEX. ADMIN. CODE § 344.61; and
 - ii. Begin providing a one year warranty in writing to the homeowner for each irrigation system installed, in accordance with 30 TEX. ADMIN. CODE § 334.72(a).
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or 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 fines and imprisonment for knowing violations."

The certification 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:

Manager, Water Section
Field Operations Support Division, MC 235
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the

Jamie J. Fernandez dba Texas Irrigation & Landscaping Services

DOCKET NO. 2010-0544-LII-E

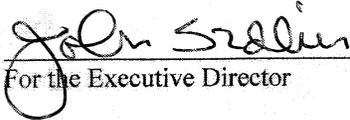
Page 5

Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

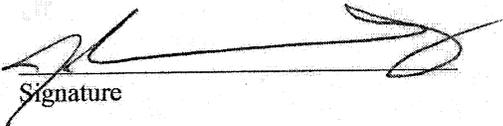
Date 3/15/2011

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

Date 1/18/11

JAMIE J FERNANDEZ
Name (Printed or typed)
Authorized Representative of
Jamie J. Fernandez dba Texas Irrigation & Landscaping Services

Title OWNER

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.