

**Federico Zavala**  
**RN106073695**  
**Docket No. 2011-1927-LII-E**

**Order Type:**

Default Order (SOAH evidentiary hearing)

**Media:**

LII

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Houston, Harris County

**Type of Operation:**

landscaping business

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** August 2, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$7,500

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$7,500

**Compliance History Classifications:**

Person/CN –N/A  
 Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** \$5,625 downward adjustment

**Applicable Penalty Policy:** September 2002

**Investigation Information**

**Complaint Date(s):** May 31, 2011

Complaint Information: Alleged that Respondent installed an irrigation system at complainant's home. Complainant believes there were things not done correctly and suspects that Respondent is not a licensed irrigator.

**Date(s) of Investigation:** June 21, 2011; September 13, 2011

**Date(s) of NOV(s):** July 13, 2011

**Date(s) of NOE(s):** September 16, 2011

Federico Zavala  
RN106073695  
Docket No. 2011-1927-LII-E

**Violation Information**

Failed to refrain from advertising or representing himself to the public as a holder of a license or registration unless he possessed a current license or registration or employs an individual who holds a current license, and failed to refrain from using the license number of someone else who is a licensed irrigator [TEX. WATER CODE § 37.003 and 30 TEX. ADMIN. CODE §§ 30.5(b) and 344.34(a)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately cease using the license number of someone else who is a licensed irrigator and advertising or representing to the public that Respondent can perform services for which a license or registration is required unless Respondent is properly licensed or employs an individual or individuals who are properly licensed.
2. Within 15 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** July 26, 2012  
**Date Green Card(s) Signed:** July 28, 2012  
**Date Answer(s) Filed:** August 13, 2012  
**SOAH Referral Date:** September 13, 2012  
**Hearing Date(s):**  
Preliminary hearing: November 1, 2012 (waived)  
Evidentiary hearing: June 12, 2013 (defaulted)

**Contact Information**

**TCEQ Attorneys:** Elizabeth Lieberknecht, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Amy Swanholm, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Kimberly Morales, Enforcement Division, (713) 422-8938  
**TCEQ Regional Contact:** Steve Smith, Houston Regional Office, 713-767-3500  
**Respondent:** Federico Zavala, 8619 Daycoach Lane, Houston, Texas 77064  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	26-Sep-2011	<b>Screening</b>	14-Oct-2011	<b>EPA Due</b>	
	<b>PCW</b>	20-Jul-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Federico Zavala				
<b>Reg. Ent. Ref. No.</b>	RN106073695				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	42783	<b>No. of Violations</b>	1
<b>Docket No.</b>	2011-1927-LII-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Irrigators	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Kimberly Morales
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$2,500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$12,500
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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.

<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$625
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<b>Notes</b>	Enhancement for one NOV with same/similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$7	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$111	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$13,125
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$13,125
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,500
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$7,500
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**Screening Date** 14-Oct-2011

**Docket No.** 2011-1927-LII-E

**PCW**

**Respondent** Federico Zavala

Policy Revision 2 (September 2002)

**Case ID No.** 42783

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN106073695

**Media [Statute]** Irrigators

**Enf. Coordinator** Kimberly Morales

### 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> )	1	5%
	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)** 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**

Enhancement for one NOV with same/similar violations.

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

**Screening Date** 14-Oct-2011 **Docket No.** 2011-1927-LII-E **PCW**  
**Respondent** Federico Zavala *Policy Revision 2 (September 2002)*  
**Case ID No.** 42783 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN106073695  
**Media [Statute]** Irrigators  
**Enf. Coordinator** Kimberly Morales

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 30.5(b) and 344.34(a) 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 unless in possession of a current license or registration or unless he employs an individual who holds a current license. Specifically, on August 7, 9, and 11, 2011, the Respondent posted five advertisements on Craigslist in Houston, Texas using irrigator license numbers that do not belong to him or to his employees. The Respondent does not hold a valid irrigator license.

**Base Penalty** \$2,500

**>> Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

**>> Programmatic Matrix**

Falsification	Harm			Percent
	Major	Moderate	Minor	
x				100%

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

**Adjustment** \$0

\$2,500

**Violation Events**

Number of Violation Events 5 Number of violation days 3

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$12,500

Five single events are 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** \$12,500

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

**Estimated EB Amount** \$7 **Violation Final Penalty Total** \$13,125

**This violation Final Assessed Penalty (adjusted for limits)** \$7,500

# Economic Benefit Worksheet

**Respondent** Federico Zavala  
**Case ID No.** 42783  
**Reg. Ent. Reference No.** RN106073695  
**Media Violation No.** Irrigators  
 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   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	\$111	13-Sep-2011	23-Nov-2012	1.20	\$7	n/a	\$7
Other (as needed)			0.00	\$0	n/a	\$0	

Notes for DELAYED costs

Estimated expense to obtain an irrigator license. The date required is the date of the record review. The final date is the projected date corrective measures will be completed.

### 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

\$111

**TOTAL**

\$7

# Compliance History

Customer/Respondent/Owner-Operator: CN603802547 ZAVALA, FEDERICO Classification: Rating:  
Regulated Entity: RN106073695 ZAVALA, FEDERICO Classification: Site Rating:  
ID Number(s): LANDSCAPE IRRIGATION LICENSING LICENSE IT0002908  
Location: N/A  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: October 14, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 14, 2006 to October 14, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
Name: Kimberly Morales Phone: (713) 422-8938

## 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

## 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.)  
1 09/19/2011 (956348)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

**Date: 07/13/2011 (935961)**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter C 344.34(b)

Description: An individual who uses or attempts to use the license or license number of someone else who is a license irrigator is in violation of Tex. Occ. Code, Ch. 1903 and 30 Tex. Admin. Code § 344.34. Specifically, during the 06/21/11 record review investigation, it was documented that Mr. Federico Zavala, All Green Irr. & Landscapes, Landscape Irrigator License Number NONE, was using the license number of 18081 and did have the permission of the licensee to use the number.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter G 344.70(b)

Description: Failure to include in all advertisements the irrigator's license number in the form of "LI \_\_\_\_\_." Specifically, during the 06/21/11 record review investigation, it was documented that Mr. Federico Zavala, All Green Irr. & Landscapes, Landscape Irrigator License Number NONE, was advertising irrigation services on Craigslist without including a landscape irrigator's license number.

- 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  
FEDERICO ZAVALA;  
RN106073695**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2011-1927-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 Federico Zavala ("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 in Harris County, Texas (the "Business"). Respondent 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 an investigation conducted on June 21, 2011, and a record review conducted on September 13, 2011, a TCEQ Central Office investigator documented that Respondent failed to refrain from advertising or representing himself to the public as a holder of a license or registration unless he possessed a current license or registration or employs an individual who holds a current license, and failed to refrain from using the license number of someone else who is a licensed irrigator. Specifically, on August 7, 9, and 11, 2011, Respondent advertised himself as being able to provide irrigation services in five advertisements on Craigslist in Houston, Harris County, Texas without possessing a current irrigator license or employing an individual who held a current irrigator license and used irrigator license numbers that did not belong to Respondent or his employees.
3. Respondent received notice of the violations on or about September 21, 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 Federico Zavala" (the "EDPRP") in the TCEQ Chief Clerk's office on July 26, 2012.
5. Respondent filed an answer requesting a hearing on August 13, 2012, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on September 13, 2012.

6. On March 1, 2013, the Administrative Law Judge ("ALJ") issued Order No. 2, which set the evidentiary hearing for June 12, 2013. The SOAH docket clerk mailed a copy of Order No. 2 to Respondent at his last known address via first class mail, postage pre-paid.
7. On June 12, 2013, the ALJ convened the evidentiary hearing. Respondent failed to appear, and the Executive Director requested that the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
8. On June 25, 2013, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 4, Dismissing and Remanding Case, so that TCEQ may dispose of this case on a default basis.

### 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, Respondent failed to refrain from advertising or representing himself to the public as a holder of a license or registration unless he possessed a current license or registration or employs an individual who holds a current license, and failed to refrain from using the license number of someone else who is a licensed irrigator, in violation of TEX. WATER CODE § 37.003 and 30 TEX. ADMIN. CODE §§ 30.5(b) and 344.34(a).
3. As evidenced by Finding of Fact No. 5, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.
4. As evidenced by Finding of Fact No. 6, Respondent was provided proper notice of the evidentiary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.103(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.
5. As evidenced by Findings of Fact Nos. 7 and 8, Respondent failed to appear for the evidentiary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4), TEX. WATER CODE § 7.057, and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 70.106(b).
6. 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.
7. An administrative penalty in the amount of seven thousand five hundred dollars (\$7,500.00) 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. Respondent is assessed an administrative penalty in the amount of seven thousand five hundred dollars (\$7,500.00) 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: Federico Zavala; Docket No. 2011-1927-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 cease using the license number of someone else who is a licensed irrigator and advertising or representing to the public that Respondent can perform services for which a license or registration is required unless Respondent is properly licensed, or employs an individual or individuals who are properly licensed, in accordance with 30 TEX. ADMIN. CODE ch. 30; and
  - b. Within 15 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

FOSD Water Program, Team Leader  
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

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For the Commission

**AFFIDAVIT OF ELIZABETH LIEBERKNECHT**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

§

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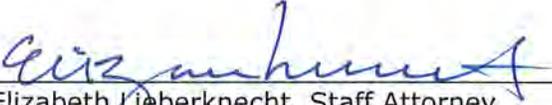
"My name is Elizabeth Lieberknecht. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

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 Federico Zavala" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 26, 2012.

Respondent filed an answer requesting a hearing on August 13, 2012, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on September 13, 2012. On March 1, 2013, the ALJ issued Order No. 2, which set the evidentiary hearing for June 12, 2013. The SOAH docket clerk mailed a copy of Order No. 2 to Respondent at his last known address via first class mail, postage pre-paid.

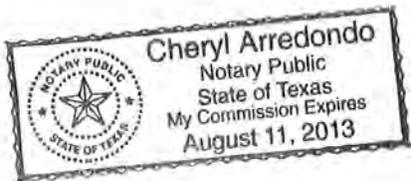
Respondent failed to appear at the hearing on June 12, 2013. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 4, Dismissing and Remanding Case, issued on June 25, 2013, so that TCEQ may dispose of this case on a default basis."

  
Elizabeth Lieberknecht, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 11<sup>th</sup> day of July, A.D. 2013.



  
Notary Signature