

**Mike Cano**  
**RN105190730**  
**Docket No. 2014-1832-LII-E**

**Order Type:**

Default Order

**Media:**

LII

**Small Business:**

Yes

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

1202 Sheppard Lane, Wylie, Collin County;  
3509 Wildwood Circle, Plano, Collin 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:** September 11, 2015

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$1,000

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

**Total Due to General Revenue:** \$1,000

**Compliance History Classifications:**

Person/CN – N/A  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

**Mike Cano**  
**RN105190730**  
**Docket No. 2014-1832-LII-E**

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** October 31, 2014  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** November 21, 2014

**Violation Information**

1. Failed to hold an irrigator license prior to selling, designing, installing, maintaining, altering, repairing, or servicing an irrigation system [TEX. OCC. CODE § 1903.251, TEX. WATER CODE § 37.003 and 30 TEX. ADMIN. CODE § 30.5(a)].
2. Failed to refrain from advertising or representing to the public that he can perform services for which a license is required without holding a current license or employing an individual who holds a current license [TEX. OCC. CODE § 1903.251, TEX. WATER CODE § 37.003, and TEX. ADMIN. CODE § 30.5(b)]. Also, failed to refrain from using or attempting to use the license or license number of someone else who is a licensed irrigator, licensed installer, licensed irrigation technician, or licensed irrigation inspector [TEX. OCC. CODE § 1903.251, TEX. WATER CODE § 37.003, and 30 TEX. ADMIN. CODE § 344.34(b)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately:
  - a. Cease selling, designing, installing, altering, repairing, or servicing irrigation systems until properly licensed; and
  - b. Cease advertising the performance of services for which a license is required until properly licensed or employing someone else who is a licensed irrigator.
2. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** March 10, 2015; April 22, 2015  
**Date Green Card(s) Signed:** Unclaimed; Unclaimed  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Colleen Lenahan, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Jennifer Nguyen, Enforcement Division, (512) 239-6160  
**TCEQ Regional Contact:** Jeff Tate, Dallas/Fort Worth Regional Office, (817) 588-5800  
**Respondent Contact:** Mike Cano, 1202 Sheppard Lane, Wylie, Texas 75098  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	1-Dec-2014		
	<b>PCW</b>	3-Dec-2014	<b>Screening</b>	3-Dec-2014
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Mike Cano
<b>Reg. Ent. Ref. No.</b>	RN105190730
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	2
<b>Enf./Case ID No.</b>	49769	<b>Order Type</b>	1660
<b>Docket No.</b>	2014-1832-LII-E	<b>Government/Non-Profit</b>	No
<b>Media Program(s)</b>	Irrigators	<b>Enf. Coordinator</b>	Jennifer Nguyen
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,000
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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>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for compliance history.

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

<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	\$13
Estimated Cost of Compliance	\$211

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,000
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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.

Notes:

<b>Final Penalty Amount</b>	\$1,000
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,000
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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.)

Notes: No deferral offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$1,000
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**Screening Date** 3-Dec-2014

**Docket No.** 2014-1832-LII-E

**PCW**

**Respondent** Mike Cano

*Policy Revision 3 (September 2011)*

**Case ID No.** 49769

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN105190730

**Media [Statute]** Irrigators

**Enf. Coordinator** Jennifer Nguyen

### 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 judgments 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 Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 0%

Screening Date 3-Dec-2014

Docket No. 2014-1832-LII-E

PCW

Respondent Mike Cano

Policy Revision 3 (September 2011)

Case ID No. 49769

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105190730

Media [Statute] Irrigators

Enf. Coordinator Jennifer Nguyen

Violation Number 1

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

Violation Description Failed to hold an irrigator license prior to selling, designing, installing, maintaining, altering, repairing, or servicing an irrigation system. Specifically, the Respondent did not hold an irrigator license prior to installing an irrigation system at 3509 Wildwood Circle, Plano, Collin County, Texas.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 1 314 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$750

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 \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$750

This violation Final Assessed Penalty (adjusted for limits) \$750

# Economic Benefit Worksheet

**Respondent** Mike Cano  
**Case ID No.** 49769  
**Reg. Ent. Reference No.** RN105190730  
**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	\$186	23-Jan-2014	1-Jun-2015	1.35	\$13	n/a	\$13
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 installation. 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

\$186

**TOTAL**

\$13

Screening Date 3-Dec-2014

Docket No. 2014-1832-LII-E

PCW

Respondent Mike Cano

Policy Revision 3 (September 2011)

Case ID No. 49769

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105190730

Media [Statute] Irrigators

Enf. Coordinator Jennifer Nguyen

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 30.5(b) and 344.34(b), Tex. Occ. Code § 1903.251, and Tex. Water Code § 37.003

Violation Description

Failed to refrain from advertising or representing to the public that it can perform services for which a license is required unless it holds a current license, or unless it employs an individual who holds a current license. Also, failed to refrain from using or attempting to use the license or license number of someone else who is a licensed irrigator, licensed installer, licensed irrigation technician, or licensed irrigation inspector. Specifically, the Respondent did not hold an irrigator license and advertised services on irrigation systems on the internet while using the license number and seal of someone else who is a licensed irrigator and who is not employed by the Respondent.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1

33 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 EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark w th 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 \$1

Violation Final Penalty Total \$250

This violation Final Assessed Penalty (adjusted for limits) \$250

# Economic Benefit Worksheet

**Respondent** Mike Cano  
**Case ID No.** 49769  
**Reg. Ent. Reference No.** RN105190730  
**Media Violation No.** Irrigators  
 2

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			0.00	\$0	n/a	\$0	
Other (as needed)	\$25	31-Oct-2014	1-Jun-2015	0.58	\$1	n/a	\$1

**Notes for DELAYED costs**  
 Estimated expense to cease advertising as a holder of an irrigator license until properly licensed or as employing someone else who is a licensed irrigator. The date required is the date of the record review. 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 \$25

**TOTAL** \$1

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN603167917, RN105190730, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN603167917, CANO, MIKE

**Classification:** NOT APPLICABLE      **Rating:** N/A

**Regulated Entity:** RN105190730, CANO, MIKE

**Classification:** NOT APPLICABLE      **Rating:** N/A

**Complexity Points:** N/A

**Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 1202 SHEPPARD LANE, WYLIE, TX, COLLIN COUNTY

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**

**Compliance History Period:** September 01, 2009 to August 31, 2014      **Rating Year:** 2014      **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** December 01, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 01, 2009 to December 01, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Jennifer Nguyen

**Phone:** (512) 239-6160

## Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

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.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

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  
MIKE CANO;  
RN105190730**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2014-1832-LII-E**

On \_\_\_\_\_, 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 Mike Cano ("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 1202 Sheppard Lane in Wylie, Collin County, Texas (the "Business"). Respondent sells, designs, offers consultations regarding, installs, maintains, alters, repairs, and/or services landscape irrigation systems, for which Respondent is required to be licensed under TEX. WATER CODE ch. 37 and 30 TEX. OCC. CODE ch. 1903. 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 31, 2014, an investigator documented that Respondent:
  - a. Failed to hold an irrigator license prior to selling, designing, installing, maintaining, altering, repairing, or servicing an irrigation system. Specifically, Respondent did not hold an irrigator license prior to installing an irrigation system at 3509 Wildwood Circle, Plano, Collin County, Texas; and
  - b. Failed to refrain from advertising or representing to the public that he can perform services for which a license is required without holding a current license or employing an individual who holds a current license. Also, failed to refrain from using or attempting to use the license or license number of someone else who is a licensed irrigator, licensed installer, licensed irrigation technician, or licensed irrigation inspector. Specifically, Respondent did not hold an irrigator license and advertised services on irrigation systems on the internet while using the license number and seal of someone else who is a licensed irrigator and who is not employed by Respondent.
3. 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 Mike Cano" (the "EDPRP") in the TCEQ Chief Clerk's office on March 10, 2015.

4. The EDPRP was mailed to Respondent's last known address on March 10, 2015, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
5. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on April 22, 2015.
6. By letter dated April 22, 2015, 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.
7. 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.

#### **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 TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to hold an irrigator license prior to selling, designing, installing, maintaining, altering, repairing, or servicing an irrigation system, in violation of TEX. OCC. CODE § 1903.251, TEX. WATER CODE § 37.003 and 30 TEX. ADMIN. CODE § 30.5(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to refrain from advertising or representing to the public that he can perform services for which a license is required without holding a current license or employing an individual who holds a current license, in violation of TEX. OCC. CODE § 1903.251, TEX. WATER CODE § 37.003, and TEX. ADMIN. CODE § 30.5(b). Also, failed to refrain from using or attempting to use the license or license number of someone else who is a licensed irrigator, licensed installer, licensed irrigation technician, or licensed irrigation inspector, in violation of TEX. OCC. CODE § 1903.251, TEX. WATER CODE § 37.003, and 30 TEX. ADMIN. CODE § 344.34(b).
4. As evidenced by Findings of Fact Nos. 3, 4, 5 and 6, 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).
5. As evidenced by Finding of Fact No. 7, 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.
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 TCEQ'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 dollars (\$1,000.00) 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 one thousand dollars (\$1,000.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only 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 violations which are not raised here.
2. The 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 TCEQ and shall be sent with the notation "Re: Mike Cano; Docket No. 2014-1832-LII-E" to:

Financial Administration Division, Revenue Operations 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:
    - i. Cease selling, designing, installing, altering, repairing, or servicing irrigation systems until properly licensed, in accordance with the requirements of 30 TEX. ADMIN. CODE ch. 30; and
    - ii. Cease advertising the performance of services for which a license is required until properly licensed or employing someone else who is a licensed irrigator, in accordance with 30 TEX. ADMIN. CODE ch. 30.
  - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a.i. and 3.a.ii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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."

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent 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. 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. 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.
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 effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

**AFFIDAVIT OF COLLEEN LENAHAN**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

§

§

"My name is Colleen Lenahan. 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 Mike Cano" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 10, 2015.

The EDPRP was mailed to Respondent's last known address on March 10, 2015, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on April 22, 2015.

The EDPRP was mailed to Respondent's last known address on April 22, 2015, 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."

*Colleen Lenahan*

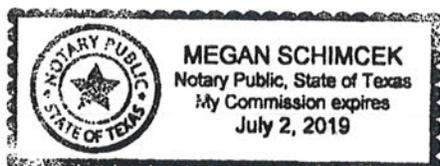
Colleen Lenahan, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Colleen Lenahan, 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.

Subscribed and sworn to before me on this 14<sup>th</sup> day of August, A.D. 2015.

*Megan Schimcek*

Notary Public, State of Texas



Notary Without Bond