

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 50007  
SERENE SCENES, LLC  
RN106371180  
Docket No. 2015-0200-LII-E

**Order Type:**

Default Order

**Media:**

LII

**Small Business:**

Yes

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

1017 Horseback Hollow, Austin, Travis 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:** May 6, 2016

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$11,213

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

**Total Due to General Revenue:** \$11,213

**Compliance History Classifications:**

Person/CN – N/A  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** March 1, 2013

Complaint Information: Alleged that Respondent failed to obtain the required permits, advertised using the license number of someone else, and failed to complete the installation of an irrigation system after being paid in full.

**Date(s) of Investigation:** December 11, 2014

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

**Date(s) of NOE(s):** January 21, 2015

**SERENE SCENES, LLC**  
**RN106371180**  
**Docket No. 2015-0200-LII-E**

**Violation Information**

1. Used or attempted to use the license, including the license number, of an irrigator, installer, irrigation technician, or irrigation inspector to whom a license is issued [30 TEX. ADMIN. CODE § 344.34(a)].
2. Failed to hold an irrigator license prior to selling, designing, consulting, installing, altering, repairing, or servicing an irrigation system [TEX. WATER CODE § 37.003, TEX. OCC. CODE § 1903.251, and 30 TEX. ADMIN. CODE § 30.5(a)].
3. Advertised or represented itself to the public as a holder of a license or registration without possessing a current license or registration or employing an individual who holds a current license [TEX. WATER CODE § 37.003 and 30 TEX. ADMIN. CODE § 30.5(b)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately:
  - a. Cease using or attempting to use the license or license number of someone else who is a licensed irrigator unless Respondent is properly licensed or employs an individual who is properly licensed;
  - b. Cease selling, designing, installing, maintaining, altering, repairing, servicing, or providing consulting services relating to irrigation systems until properly licensed; and
  - c. Cease advertising or representing oneself to the public as a holder of an irrigator license until properly licensed.
2. Within 15 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** June 29, 2015; December 8, 2015 (EDFARP);  
March 3, 2016 (EDFARP)

**Date Green Card(s) Signed:** June 30, 2015; December 9, 2015;  
March 14, 2016 (via Secretary of State)

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

**Contact Information**

**TCEQ Attorneys:** Amanda Patel, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Rajesh Acharya, Enforcement Division, (512) 239-0577

**TCEQ Regional Contact:** Carolyn Runyon, Austin Regional Office, (512) 339-2929

**Respondent Contact:** George Tilmon IV, President, SERENE SCENES, LLC, c/o Corporation Service Company, 211 East 7th Street, Suite 620, Austin, Texas 78701

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	26-Jan-2015		
	<b>PCW</b>	2-Dec-2015	<b>Screening</b>	29-Jan-2015
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	SERENE SCENES, LLC
<b>Reg. Ent. Ref. No.</b>	RN106371180
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	50007	<b>No. of Violations</b>	3
<b>Docket No.</b>	2015-0200-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>	Rajesh Acharya
		<b>EC's Team</b>	Enforcement Team 4
<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>	\$11,000
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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 due to 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	\$237
Estimated Cost of Compliance	\$361

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$11,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	1.9%	<b>Adjustment</b>	\$213
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to recover the avoided cost of compliance associated with Violation No. 2.

<b>Final Penalty Amount</b>	\$11,213
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$11,213
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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: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$11,213
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**Screening Date** 29-Jan-2015

**Docket No.** 2015-0200-LII-E

**PCW**

**Respondent** SERENE SCENES, LLC

Policy Revision 4 (April 2014)

**Case ID No.** 50007

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN106371180

**Media [Statute]** Irrigators

**Enf. Coordinator** Rajesh Acharya

### 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%
	Falsified other irrigator's license number on an irrigation services.	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 due to 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** 29-Jan-2015  
**Respondent** SERENE SCENES, LLC  
**Case ID No.** 50007  
**Reg. Ent. Reference No.** RN106371180  
**Media [Statute]** Irrigators  
**Enf. Coordinator** Rajesh Acharya

**Docket No.** 2015-0200-LII-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 344.34(a)

**Violation Description**

Used or attempted to use the license, including the license number, of an irrigator, installer, irrigation technician, or irrigation inspector to whom a license is issued. Specifically, the Respondent used another irrigator's license number on an irrigation service agreement and advertisement.

**Base Penalty**

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

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**Matrix Notes**

Falsified irrigator's license number on an irrigation advertisement.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty**

Two single events are recommended, one for each unauthorized use of another irrigator's license number.

**Good Faith Efforts to Comply**

**Reduction**

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark w th x)

**Notes**

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** SERENE SCENES, LLC  
**Case ID No.** 50007  
**Reg. Ent. Reference No.** RN106371180  
**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)	\$25	11-Dec-2014	11-Jul-2016	1.58	\$2	n/a	\$2

Notes for DELAYED costs: Estimated cost to cease using or attempting to use the license or license number of someone else who is a licensed irrigator. Date Required is the record review date. Final Date is the estimated compliance date.

### 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	<b>TOTAL</b>	\$2
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**Screening Date** 29-Jan-2015  
**Respondent** SERENE SCENES, LLC  
**Case ID No.** 50007  
**Reg. Ent. Reference No.** RN106371180  
**Media [Statute]** Irrigators  
**Enf. Coordinator** Rajesh Acharya

**Docket No.** 2015-0200-LII-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number** 2

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

**Violation Description**

Failed to hold an irrigator license prior to selling, designing, consulting, installing, altering, repairing, or servicing an irrigation system. Specifically, the Respondent did not hold an irrigator license prior to installing an irrigation system at 1017 Horseback Hollow, Austin, Travis County, Texas.

**Base Penalty** \$5,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

**Percent** 15.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent** 0.0%

Matrix Notes

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

**Adjustment** \$4,250

\$750

**Violation Events**

Number of Violation Events 1

780 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$750

One single event is recommended.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/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** \$750

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$231

**Violation Final Penalty Total** \$765

**This violation Final Assessed Penalty (adjusted for limits)** \$765

# Economic Benefit Worksheet

**Respondent** SERENE SCENES, LLC  
**Case ID No.** 50007  
**Reg. Ent. Reference No.** RN106371180  
**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
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### 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)	\$100	10-Dec-2012	1-Jul-2016	3.56	\$18	n/a	\$18

Notes for DELAYED costs

Estimated cost to cease performing irrigation services until properly licensed. Date Required is the date the irrigation system was installed. 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]	\$186	10-Dec-2012	11-Dec-2014	2.92	\$27	\$186	\$213
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost for obtaining an irrigator license. Date Required is the date the irrigation system was installed. Final Date is the record review date.

Approx. Cost of Compliance \$286

**TOTAL** \$231

**Screening Date** 29-Jan-2015  
**Respondent** SERENE SCENES, LLC  
**Case ID No.** 50007  
**Reg. Ent. Reference No.** RN106371180  
**Media [Statute]** Irrigators  
**Enf. Coordinator** Rajesh Acharya

**Docket No.** 2015-0200-LII-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number** 3

**Rule Cite(s)**

30 Tex. Admin. Code § 30.5(b) and Tex. Water Code § 37.003

**Violation Description**

Failed to refrain from advertising or representing oneself to the public as a holder of a license or registration unless in possession of a current license or registration or unless employing an individual who holds a current license. Specifically, the Respondent advertised irrigation services on www.serenesceneslandscaping.com.

**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

49 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$250

One single event is recommended.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/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** \$4

**Violation Final Penalty Total** \$255

**This violation Final Assessed Penalty (adjusted for limits)** \$255

# Economic Benefit Worksheet

**Respondent** SERENE SCENES, LLC  
**Case ID No.** 50007  
**Reg. Ent. Reference No.** RN106371180  
**Media** Irrigators  
**Violation No.** 3

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)	\$50	11-Dec-2014	11-Jul-2016	1.58	\$4	n/a	\$4

**Notes for DELAYED costs**   Estimated cost to cease advertising irrigation service until properly licensed. Date Required is the date of the record review. 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	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**   \$50

**TOTAL**   \$4

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 CN604872473, RN106371180, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN604872473, SERENE SCENES, LLC

**Classification:** N/A      **Rating:** N/A

**Regulated Entity:** RN106371180, Serene Scenes

**Classification:** N/A      **Rating:** N/A

**Complexity Points:** N/A

**Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** TRAVIS COUNTY, TX

**TCEQ Region:** REGION 11 - AUSTIN

**ID Number(s):** WASTEWATER LICENSING NON LICENSED ID NUMBER R11106371180

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

**Date Compliance History Report Prepared:** June 26, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 26, 2010 to June 26, 2015

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

**Name:** Rajesh Acharya

**Phone:** (512) 239-0577

## Site and Owner/Operator History:

- 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 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  
SERENE SCENES, LLC;  
RN106371180**

**§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2015-0200-LII-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended 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 SERENE SCENES, LLC ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a business located in Travis County, Texas (the "Business"), and 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 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 investigation conducted on December 11, 2014, an investigator documented that Respondent:
  - a. Used or attempted to use the license, including the license number, of an irrigator, installer, irrigation technician, or irrigation inspector to whom a license is issued. Specifically, Respondent used another irrigator's license number on an irrigation service agreement and advertisement;
  - b. Failed to hold an irrigator license prior to selling, designing, consulting, installing, altering, repairing, or servicing an irrigation system. Specifically, Respondent did not hold an irrigator license prior to installing an irrigation system at 1017 Horseback Hollow, Austin, Travis County, Texas; and
  - c. Advertised or represented itself to the public as a holder of a license or registration without possessing a current license or registration or employing an individual who holds a current license. Specifically, Respondent advertised irrigation services on [www.serenesceneslandscaping.com](http://www.serenesceneslandscaping.com).
3. The Executive Director filed the "Executive Director's First Amended 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 SERENE SCENES, LLC" (the "EDFARP") in the TCEQ Chief Clerk's office on December 8, 2015.
4. The EDFARP was mailed to Respondent's Registered Agent, Corporation Service Company ("CSC"), on December 8, 2015, via certified mail, return receipt requested,

postage prepaid. According to the return receipt "green card," CSC received notice of the EDFARP on December 9, 2015, as evidenced by the signature on the card. However, CSC was unable to forward the EDFARP to Respondent due to an undeliverable address.

5. The Executive Director re-filed the EDFARP with the TCEQ Chief Clerk's office on March 3, 2016.
6. The Executive Director requested via letter dated March 3, 2016, that the Secretary of State – Service of Process (the "SOS"), serve Respondent with a copy of the EDFARP. The Executive Director received a letter from the SOS dated March 16, 2016, indicating proper citation and service.
7. More than 20 days have elapsed since Respondent received notice of the EDFARP. 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. 26, TEX. OCC. CODE ch. 1903, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent used or attempted to use the license, including the license number, of an irrigator, installer, irrigation technician, or irrigation inspector to whom a license is issued, in violation of 30 TEX. ADMIN. CODE § 344.34(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to hold an irrigator license prior to selling, designing, consulting, installing, altering, repairing, or servicing an irrigation system, in violation of TEX. WATER CODE § 37.003, TEX. OCC. CODE § 1903.251, and 30 TEX. ADMIN. CODE § 30.5(a).
4. As evidenced by Finding of Fact No. 2.c., Respondent advertised or represented itself to the public as a holder of a license or registration without possessing a current license or registration or employing an individual who holds a current license, in violation of TEX. WATER CODE § 37.003 and 30 TEX. ADMIN. CODE § 30.5(b).
5. As evidenced by Findings of Fact Nos. 3 through 6, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and TEX. BUS. ORG. CODE §§ 5.251(1)(B), 5.252, and 5.253.
6. 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.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of eleven thousand two hundred thirteen dollars (\$11,213.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

## ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of eleven thousand two hundred thirteen dollars (\$11,213.00) 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: SERENE SCENES, LLC; Docket No. 2015-0200-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 using or attempting to use the license or license number of someone else who is a licensed irrigator unless Respondent is properly licensed or employs an individual who is properly licensed, in accordance with 30 TEX. ADMIN. CODE ch. 344;
    - ii. Cease selling, designing, installing, maintaining, altering, repairing, servicing, or providing consulting services relating to irrigation systems until properly licensed, in accordance with TEX. WATER CODE ch. 37, TEX. OCC. CODE ch. 1903, and 30 TEX. ADMIN. CODE ch. 30; and
    - iii. Cease advertising or representing oneself to the public as a holder of an irrigator license until properly licensed, in accordance with TEX. WATER CODE ch. 37 and 30 TEX. ADMIN. CODE ch. 30.
  - b. Within 15 days after the effective date of this Order, submit written certification, to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iii. 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. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. 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.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

\_\_\_\_\_  
Date

**AFFIDAVIT OF AMANDA PATEL**

**STATE OF TEXAS**

§  
§  
§

**COUNTY OF TRAVIS**

"My name is Amanda Patel. 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.

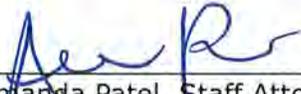
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of George Tilmon IV<sup>1</sup> and SERENE SCENES, LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on June 29, 2015.

The EDPRP was mailed to Respondent's last known address on June 29, 2015, via certified mail, return receipt requested, postage prepaid. The EDPRP sent by certified mail was returned "unclaimed." The EDPRP was also mailed to Respondent's Registered Agent, Corporation Service Company ("CSC"), on June 29, 2015, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," CSC received notice of the EDPRP on June 30, 2015, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended 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 SERENE SCENES, LLC" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on December 8, 2015.

The EDFARP was mailed to CSC on December 8, 2015, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," CSC received notice of the EDFARP on December 9, 2015, as evidenced by the signature on the card. However, CSC was unable to forward the EDFARP to Respondent due to an undeliverable address. The Executive Director requested via letter dated March 3, 2016, that the Secretary of State - Service of Process (the "SOS"), serve Respondent with a copy of the EDFARP. The Executive Director received a letter from the SOS dated March 16, 2016, indicating proper citation and service, in accordance with the provisions of TEX. BUS. ORG. CODE §§ 5.251(1)(B), 5.252, and 5.253.

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

  
\_\_\_\_\_  
Amanda Patel, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Amanda Patel, 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 April, A.D. 2016.

  
\_\_\_\_\_  
Notary Public, State of Texas



Notary Without Bond

<sup>1</sup> George Tilmon IV was subsequently dropped from this enforcement action.