

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2007 JUN -5 PM 4:36

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

CHIEF CLERKS OFFICE

June 5, 2007

LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
Attention: Docket Clerk, MC 105
P.O. Box 13087
Austin, Texas 78711-3087

Re: Enforcement Action
Nick Nikah; TCEQ ID No. RN103692075;
TCEQ Docket No. 2006-0774-LII-E
SOAH Docket No. 582-07-1759

Dear Ms. Castañuela:

Enclosed please find an original and 11 copies of the Executive Director's Proposed Modifications to the Administrative Law Judge's Proposed Order.

Please contact me at (512) 239-0019 with any questions you may have. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Lena Roberts".

Lena Roberts, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

cc: Mr. Nick Nikah, 510 Thunderbrook Road, Garland, Texas 75044
Ruben Soto, Enforcement Division, TCEQ, MC 169
Mr. Richard Allen, Investigator, TCEQ, MC 178
Mr. Blas Coy, Public Interest Counsel, TCEQ, MC 103

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 5, 2007

Via Facsimile to (512) 463-1576 and Via Interagency Mail

The Honorable Roy Scudday
State Office of Administrative Hearings
300 West 15th Street, Suite 502
P.O. Box 13025
Austin, Texas 78711-3025

Re: Nick Nikah
TCEQ Docket No. 2006-0774-LII-E;
SOAH Docket No. 582-07-1759

Dear Judge Scudday:

Enclosed please find a copy of the Executive Director's Proposed Modifications to the Administrative Law Judge's Proposed Order.

Thank you for your attention to this matter.

Sincerely,

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Lena Roberts
Attorney
Litigation Division

Enclosure

cc: Mr. Nick Nikah, 510 Thunderbrook Road, Garland, Texas 75044
TCEQ Chief Clerk, MC 105
Ruben Soto, Enforcement Division, TCEQ, MC 169
Blas Coy, Public Interest Counsel, MC 103
Richard Allen, Irrigation Investigation Team, TCEQ, MC 178
Ben Thompson, Attorney, Litigation Division, TCEQ, MC 175
Jeff Huhn, Senior Attorney, Litigation Division, TCEQ, MC 175

2007 JUN -5 PM 4:36

SOAH DOCKET NO. 582-07-1759
TCEQ DOCKET NO. 2006-0774-LII-E

CHIEF CLERKS OFFICE

IN THE MATTER OF	§	BEFORE THE
AN ENFORCEMENT ACTION	§	
AGAINST	§	TEXAS COMMISSION ON
NICK NIKAH;	§	
RN103692075	§	ENVIRONMENTAL QUALITY

**EXECUTIVE DIRECTOR'S PROPOSED MODIFICATIONS TO THE
ADMINISTRATIVE LAW JUDGE'S PROPOSED ORDER**

NOW COMES the Executive Director, by and through his attorney, Lena Roberts, and submits the following proposal to modify the Administrative Law Judge's Proposed Order. While the Executive Director agrees with the substance of the Proposed Order, these suggested modifications are intended to clarify the provisions of the Order and to correct typographical errors. These suggested modifications are proposed pursuant to 30 TEX. ADMIN. CODE § 80.257.

The Executive Director recommends the following modifications:

1. That in Finding of Fact No. 3:
 - a. The word "noticed" be changed to "noted";
 - b. The words "completed and" be inserted between the words "Respondent had" and "signed"; and
 - c. That the phrase "stating not only that the device has been installed but that it had passed the necessary tests" be modified to read "stating that the device had been installed and had passed the necessary tests."
2. That Finding of Fact No. 6 be stricken in its entirety and replaced with the following:
 6. *By letter dated October 19, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP, alleging that Respondent knowingly submitted a falsified backflow prevention assembly test and maintenance report to the City of Richardson for an irrigation system located at 1903 Deep Valley, Richardson, Dallas County, Texas, in violation of 30 TEX. ADMIN. CODE § 344.73(3).*
3. For Finding of Fact No. 8:
 - a. That it be renumbered and designated as Finding of Fact No. 7; and

- b. That the word "On" be replaced by the phrase "By letter dated".
4. For Finding of Fact No. 7:
 - a. That it be renumbered and designated as Finding of Fact No. 8; and
 - b. That the abbreviation "ANN." be deleted from the citation to TEX. WATER CODE § 7.053.
5. That in Finding of Fact No. 9, the words "contested case" be inserted between the words "SOAH for a" and "hearing".
6. For Finding of Fact No. 10:
 - a. That the word "asserted" be replaced with "alleged,"; and
 - b. That the phrase "and included a copy of the EDPRP" be added to the end of the sentence.
7. That an additional Finding of Fact be included and designated as Finding of Fact No. 14 to read as follows:
 14. *During the hearing on the merits, Respondent presented no evidence to disprove the alleged violation, and did not dispute the occurrence of the alleged violation.*
8. For Conclusion of Law No. 1:
 - a. The abbreviation "ANN." be deleted from the citation to TEX. WATER CODE § 7.002; and
 - b. A citation to TEX. WATER CODE § 37.002 be included.
9. That a new Conclusion of Law, to be designated as Conclusion of Law No. 2, be inserted to read as follows:
 2. *Under TEX. WATER CODE § 7.051, the Commission may assess an administrative penalty against any person who violates a provision of the Texas Water Code within the Commission's jurisdiction or of any rule, order, or permit adopted or issued thereunder.*

Executive Director's Proposed Modifications to the Administrative Law Judge's Proposed Order

In re: Nick Nikah

TCEQ Docket No. 2006-0774-LII-E

SOAH Docket No. 582-07-1759

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10. That a new Conclusion of Law, to be designated as Conclusion of Law No. 3, be inserted to read as follows:
 3. *Under TEX. WATER CODE § 7.052, the penalty may not exceed \$2,500 a day per violation.*
11. That Conclusion of Law No. 2 be renumbered as Conclusion of Law No. 4, to accommodate the insertion of the two additional Conclusions of Law as described in paragraphs 9 and 10, above.
12. That Conclusion of Law No. 3:
 - a. Be renumbered as Conclusion of Law No. 5, to accommodate the insertion of the two additional Conclusions of Law as described in paragraphs 9 and 10, above;
 - b. That the abbreviation "ANN." be deleted from the citations to TEX. GOV'T. CODE § 2001.052 and TEX. WATER CODE § 7.058; and
 - c. That citations to 30 TEX. ADMIN. CODE §§ 1.11, 1.12, and 70.104 be included with the citations to 30 TEX. ADMIN. CODE §§ 39.25 and 80.6.
13. That Conclusion of Law No. 4 be renumbered as Conclusion of Law No. 6, to accommodate the insertion of the two additional Conclusions of Law as described in paragraphs 9 and 10, above.
14. That Conclusion of Law No. 5:
 - a. Be renumbered as Conclusion of Law No. 7, to accommodate the insertion of the two additional Conclusions of Law as described in paragraphs 9 and 10, above;
 - b. That the phrase "Based on the above Findings of Fact" be added to the beginning of the sentence; and
 - c. That the word "failed" be stricken as redundant.
15. That Conclusion of Law No. 6:
 - a. Be renumbered as Conclusion of Law No. 8, to accommodate the insertion of the two additional Conclusions of Law as described in paragraphs 9 and 10, above;
 - b. That the abbreviations "ANN." be deleted from the citations to TEX. WATER CODE §§ 7.051, 7.052, and 7.053; and

Executive Director's Proposed Modifications to the Administrative Law Judge's Proposed Order

In re: Nick Nikah

TCEQ Docket No. 2006-0774-LII-E

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- c. That the phrase "and the Commission's 2002 Penalty Policy" be added to the end of the sentence.
16. That Conclusion of Law No. 7 be renumbered as Conclusion of Law No. 9, to accommodate the insertion of the two additional Conclusions of Law as described in paragraphs 9 and 10, above.
17. That the heading "**III. ORDERING PROVISIONS**" be inserted at the end of Section II (Conclusions of Law) and above the phrase which begins "NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY".
18. For Ordering Provision No. 1:
 - a. That the words "the Texas Water Code and the" be inserted between "for violation of" and "rules of the TCEQ".
 - b. That in front of the sentence which begins "Payment shall be made payable to 'TCEQ' and shall be sent," the following sentence be inserted:

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.
19. That Ordering Provision Nos. 3-7 be renumbered as Ordering Provision Nos. 2-6, respectively.
20. That in Ordering Provision No. 4 (to be redesignated as No. 3), the phrase "pursuant to TEX. WATER CODE § 7.059" be inserted at the end of the sentence.
21. That in Ordering Provision No. 5 (to be redesignated as No. 4), the abbreviation "ANN." be deleted from the citation to TEX. GOV'T. CODE § 2001.144.
22. That headers be inserted on pages 2-4 to read:

In re: Nick Nikah

TCEQ Docket No. 2006-0774-LII-E

SOAH Docket No. 582-07-1759

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PRAYER

To the extent that the Administrative Law Judge's Proposal for Decision is inconsistent with these recommended modifications, the Executive Director excepts to the Proposal for Decision. Copies of the Proposed Order with the recommended modifications are attached. Attachment "A" is a redline/strikeout version which clearly delineates the recommended modifications. Attachment "B" is a copy of the Proposed Order incorporating the Executive Director's recommended changes.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

Stephanie Bergeron Perdue, Deputy Director
Office of Legal Services

Mary R. Risner, Director
Litigation Division

by



Lena Roberts
State Bar of Texas No. 24041793
Litigation Division, MC 175
P.O. Box 13087
Austin, Texas 78711-3087
(512) 239-3400
(512) 239-3434 (FAX)

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of June, 2007, the original and 11 copies of the foregoing "Executive Director's Proposed Modifications to the Administrative Law Judge's Proposed Order" ("Proposed Modifications") were filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.

I further certify that on this day a true and correct copy of the foregoing Proposed Modifications were sent to the following:

Via Inter-Agency Mail

Via Facsimile to (512) 475-4994

The Honorable Roy G. Scudday
State Office of Administrative Hearings
300 W. 15th Street, Suite 504
Austin, Texas 78701-1649

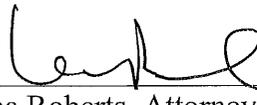
Via First Class Mail, Postage Prepaid

Via Certified Mail, Return Receipt Requested Article No. 7004 2510 0003 9114 2038

Mr. Nick Nikah
510 Thunderbrook Road
Garland, Texas 75044

Via Intra Agency Mail

Blas Coy, TCEQ Public Interest Counsel, MC 103
Derek Seal, TCEQ Office of the General Counsel, MC 101



Lena Roberts, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

ATTACHMENT A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER Assessing Administrative Penalties Against
NICK NIKAH

SOAH DOCKET NO. 582-07-1759
TCEQ DOCKET NO. 2006-0774-LII-E

On _____, the Texas Commission on Environmental Quality (Commission or TCEQ) considered the Executive Director's Preliminary Report and Petition (EDPRP) recommending that the Commission enter an enforcement order assessing administrative penalties against Nick Nikah (Respondent). Roy G. Scudday, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH), conducted a public hearing on this matter on May 17, 2007, in Austin, Texas, and presented the Proposal for Decision.

The following are parties to the proceeding: Respondent who represented himself, and the Commission's Executive Director (ED), represented by Lena Roberts, an attorney in TCEQ's Litigation Division.

After considering the ALJ's Proposal for Decision, the Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. In 2006, Nick Nikah, (Respondent) owned and operated a landscape irrigation business in Dallas, Texas, and held Licensed Irrigator License No. L10002932, issued by TCEQ, and Backflow Prevention Assembly Tester License No. BP0005789 issued by TCEQ.
2. On April 25 and 26, 2006, Mike Hecks, Cross Connection Inspector for the City of Richardson, conducted an investigation of Respondent's installation of a backflow prevention device, specifically a double check valve assembly backflow preventer, as part of the installation of a lawn sprinkler system at 1903 Deep Valley Dr., Richardson, Dallas, County, Texas.
3. During the investigation on April 26, Mr. Hecks ~~noticed~~ noted that the backflow prevention device had still not been installed, and that Respondent had completed and signed a Backflow Prevention Assembly Test and Maintenance Report stating ~~not only~~ that the device had been installed, ~~but that it~~ and had passed the necessary tests.
4. On April 26, 2006, Mr. Hecks filed a Landscape Irrigation General Complaint regarding the incident with TCEQ, which complaint was investigated by Richard Allen, a program specialist in the Landscape Irrigation Program of the TCEQ.
5. On June 5, 2006, TCEQ issued a Notice of Enforcement to Respondent that stated that Respondent's actions regarding the backflow prevention device were a violation of 30 TEX. ADMIN. CODE (TAC) § 344.73(3).

6. ~~On October 19, 2006, the ED served the original EDPRP on Respondent, alleging that he failed to properly connect the irrigation system to the public water supply through the use of a double check valve assembly backflow preventer.~~ By letter dated October 19, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP, alleging that Respondent knowingly submitted a falsified backflow prevention assembly test and maintenance report to the City of Richardson for an irrigation system located at 1903 Deep Valley, Richardson, Dallas County, Texas, in violation of 30 TEX. ADMIN. CODE § 344.73(3).
7. ~~The proposed penalty of \$2,500.00 takes into account culpability, economic benefit, good faith efforts to comply, compliance history, release potential, and other factors set forth in TEX. WATER CODE ANN. § 7.053 and in the Commission's 2002 Penalty Policy.~~
7. By letter dated November 1, 2006, Respondent requested a contested case hearing on the allegations contained in the EDPRP.
8. ~~On November 1, 2006, Respondent requested a contested case hearing on allegations in the EDPRP.~~ The proposed penalty of \$2,500.00 takes into account culpability, economic benefit, good faith efforts to comply, compliance history, release potential, and other factors set forth in TEX. WATER CODE ANN. § 7.053 and in the Commission's 2002 Penalty Policy.
9. On February 2, 2007, the case was referred to SOAH for a contested case hearing.

10. On February 27, 2007, the Commission's Chief Clerk issued notice of the hearing to all parties, which included the date, time, and place of the hearing, the legal authority under which the hearing was being held, and the violations ~~asserted~~ alleged, and included a copy of the EDPRP.
11. At the preliminary hearing that was held on March 22, 2007, the ED established jurisdiction to proceed.
12. The hearing on the merits was conducted on May 17, 2007, in Austin, Texas, by ALJ Roy G. Scudday and the record closed on May 24, 2007.
13. Respondent represented himself telephonically at the hearing on the merits.
14. During the hearing on the merits, Respondent presented no evidence to disprove the alleged violation and did not dispute the occurrence of the alleged violation.

II. CONCLUSIONS OF LAW

1. Respondent is subject to the Commission's enforcement authority, pursuant to TEX. WATER CODE ~~ANN.~~ §§ 7.002 and 37.002.
2. Under TEX. WATER CODE § 7.051, the Commission may assess an administrative penalty against any person who violates a provision of the Texas Water Code within the Commission's jurisdiction or of any rule, order, or permit adopted or issued thereunder.
3. Under TEX. WATER CODE § 7.052, the penalty may not exceed \$2,500 a day per violation.

4. Respondent was notified of its alleged violations, the proposed penalties, and of the opportunity to request a hearing on the alleged violations or the penalties, as required by TEX. WATER CODE ~~ANN.~~ § 7.055 and 30 TEX. ADMIN. CODE §§ 1.11 and 70.104.
5. Respondent was notified of the hearing on the alleged violations and the proposed penalties, as required by TEX. GOV'T CODE ~~ANN.~~ § 2001.052, TEX. WATER CODE ~~ANN.~~ § 7.058, 1 TEX. ADMIN. CODE § 155.27, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.25, 70.104, and 80.6.
6. SOAH has jurisdiction over matters related to the hearing in this matter, including the authority to issue a proposal for decision with Findings of Fact and Conclusions of Law, pursuant to TEX. GOV'T CODE ~~ANN.~~ ch. 2003.
7. Based on the above Findings of Fact, Respondent violated TAC § 344.73(3) by failing ~~failed~~ to properly connect the irrigation system to the public water supply through the use of a double check valve assembly backflow preventer.
8. Based on the above Findings of Fact and Conclusions of Law, an administrative penalty of \$2,500.00 is a reasonable exercise of the Commission's authority under TEX. WATER CODE ~~ANN.~~ §§ 7.051 and 7.052 and takes account of all factors set out in TEX. WATER CODE ~~ANN.~~ § 7.053 and the Commission's 2002 Penalty Policy.
9. Based on the above Findings of Facts and Conclusions of Law, the Commission should assess Respondent an administrative penalty of \$2,500.00.

III. ORDERING PROVISIONS

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW THAT:

1. Within 30 days after the effective date of this Commission Order, Respondent shall pay an administrative penalty in the amount of \$2,500.00 for violation of the Texas Water Code and the 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. Payment shall be made payable to "TCEQ" and shall be sent with the notation "Re Nick Nikah, Docket No. 2006-0774-LII-E" to

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- 3-2. The ED may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the ED determines Respondent has not complied with one or more of the terms or conditions of this Order.

- 4.3. The Chief Clerk shall provide a copy of this Order to all of the parties, pursuant to TEX. WATER CODE § 7.059.
- 5.4. The effective date of this Order is the date the order is final, as provided by TEX. GOV'T. CODE ANN § 2001.144 and 30 TEX. ADMIN. CODE § 80.273.
- 6.5. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.
- 7.6. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied for want of merit.

Issued:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Kathleen Hartnett White, Chairman
For the Commission

ATTACHMENT B

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER Assessing Administrative Penalties Against
NICK NIKAH
SOAH DOCKET NO. 582-07-1759
TCEQ DOCKET NO. 2006-0774-LII-E

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3. During the investigation on April 26, Mr. Hecks noted that the backflow prevention device had still not been installed, and that Respondent had completed and signed a Backflow Prevention Assembly Test and Maintenance Report stating that the device had been installed and had passed the necessary tests.
4. On April 26, 2006, Mr. Hecks filed a Landscape Irrigation General Complaint regarding the incident with TCEQ, which complaint was investigated by Richard Allen, a program specialist in the Landscape Irrigation Program of the TCEQ.
5. On June 5, 2006, TCEQ issued a Notice of Enforcement to Respondent that stated that Respondent's actions regarding the backflow prevention device were a violation of 30 TEX. ADMIN. CODE (TAC) § 344.73(3).

6. By letter dated October 19, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP, alleging that Respondent knowingly submitted a falsified backflow prevention assembly test and maintenance report to the City of Richardson for an irrigation system located at 1903 Deep Valley, Richardson, Dallas County, Texas, in violation of 30 TEX. ADMIN. CODE § 344.73(3).
7. By letter dated November 1, 2006, Respondent requested a contested case hearing on the allegations contained in the EDPRP.
8. The proposed penalty of \$2,500.00 takes into account culpability, economic benefit, good faith efforts to comply, compliance history, release potential, and other factors set forth in TEX. WATER CODE § 7.053 and in the Commission's 2002 Penalty Policy.
9. On February 2, 2007, the case was referred to SOAH for a contested case hearing.
10. On February 27, 2007, the Commission's Chief Clerk issued notice of the hearing to all parties, which included the date, time, and place of the hearing, the legal authority under which the hearing was being held, and the violations alleged, and included a copy of the EDPRP.
11. At the preliminary hearing that was held on March 22, 2007, the ED established jurisdiction to proceed.
12. The hearing on the merits was conducted on May 17, 2007, in Austin, Texas, by ALJ Roy G. Scudday and the record closed on May 24, 2007.

13. Respondent represented himself telephonically at the hearing on the merits.
14. During the hearing on the merits, Respondent presented no evidence to disprove the alleged violation and did not dispute the occurrence of the alleged violation.

II. CONCLUSIONS OF LAW

1. Respondent is subject to the Commission's enforcement authority, pursuant to TEX. WATER CODE §§ 7.002 and 37.002.
2. Under TEX. WATER CODE § 7.051, the Commission may assess an administrative penalty against any person who violates a provision of the Texas Water Code within the Commission's jurisdiction or of any rule, order, or permit adopted or issued thereunder.
3. Under TEX. WATER CODE § 7.052, the penalty may not exceed \$2,500 a day per violation.
4. Respondent was notified of its alleged violations, the proposed penalties, and of the opportunity to request a hearing on the alleged violations or the penalties, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE §§ 1.11 and 70.104.
5. Respondent was notified of the hearing on the alleged violations and the proposed penalties, as required by TEX. GOV'T CODE § 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE § 155.27, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.25, 70.104, and 80.6.
6. SOAH has jurisdiction over matters related to the hearing in this matter, including the authority to issue a proposal for decision with Findings of Fact and Conclusions of Law, pursuant to TEX. GOV'T CODE ch. 2003.

7. Based on the above Findings of Fact, Respondent violated TAC § 344.73(3) by failing to properly connect the irrigation system to the public water supply through the use of a double check valve assembly backflow preventer.
8. Based on the above Findings of Fact and Conclusions of Law, an administrative penalty of \$2,500.00 is a reasonable exercise of the Commission's authority under TEX. WATER CODE §§ 7.051 and 7.052 and takes account of all factors set out in TEX. WATER CODE § 7.053 and the Commission's 2002 Penalty Policy.
9. Based on the above Findings of Facts and Conclusions of Law, the Commission should assess Respondent an administrative penalty of \$2,500.00.

III. ORDERING PROVISIONS

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW THAT:

1. Within 30 days after the effective date of this Commission Order, Respondent shall pay an administrative penalty in the amount of \$2,500.00 for violation of the Texas Water Code and the 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. Payment shall be made payable to "TCEQ" and shall be sent with the notation "Re Nick Nikah, Docket No. 2006-0774-LII-E" to

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The ED may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the ED determines Respondent has not complied with one or more of the terms or conditions of this Order.
3. The Chief Clerk shall provide a copy of this Order to all of the parties, pursuant to TEX. WATER CODE § 7.059.
4. The effective date of this Order is the date the order is final, as provided by TEX. GOV'T. CODE § 2001.144 and 30 TEX. ADMIN. CODE § 80.273.
5. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.
6. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied for want of merit.

In re: Nick Nikah
TCEQ Docket No. 2006-0774-LII-E
SOAH Docket No. 582-07-1759
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Issued:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Kathleen Hartnett White, Chairman
For the Commission