

TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel
Audrey Liter, Assistant General Counsel

Thru: JSR Jess Robinson, Senior Attorney
Litigation Division

From: CS Cynthia Sirois, Staff Attorney
Litigation Division

Date: July 9, 2024

Subject: **Backup Revision**
July 17, 2024 Commission Agenda
Draft Item No. 25; Cristobal Torres
Docket No. 2022-0195-LII-E

Enclosed please find the following:

Page 1 of the Executed Summary:

Complaint Date and Complaint Information were corrected, as reflected on the enclosed redline and clean copies.

Respondent Contact:

Cristobal Torres
309 Lovern Court
Cedar Hill, Texas 75104

Please do not hesitate to call me at (512) 239-3392 if you have any questions regarding this matter.

cc: Harley Hobson, Enforcement Division
Brent Candler, Dallas/Fort Worth Regional Office
Gill Valls, Office of the General Counsel
Michael Parrish, Enforcement Division
Leslie Gann, Enforcement Division
Stuart Beckley, Enforcement Division

Cristobal Torres
 RN110073509
 Docket No. 2022-0195-LII-E

Order Type:
 Default Order

Media:
 LII

Small Business:
 Yes

Location(s) Where Violation(s) Occurred:
 309 Lovern Court, Cedar Hill, Dallas County (the “Business”)
 2024 Lennox Lane, Arlington, Tarrant County (the “Site”)

Type of Operation:
 a landscape irrigation 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 24, 2024

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,257

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$1,257

Compliance History Classifications:

Person/CN - Not Applicable
 Site/RN - Not Applicable

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): N/A December 1, 2021

Complaint Information: On December 1, 2021, the Texas Commission on Environmental Quality (TCEQ) Landscape Irrigation Program received a complaint alleging that a licensed irrigator did not comply with minimum design and installation standards, did not design and install an irrigation system to promote water conversation, and did not honor the warranty for an irrigation system.

Date(s) of Investigation: December 1, 2021

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

Date(s) of NOE(s): February 11, 2022

Cristobal Torres
RN110073509
Docket No. 2022-0195-LII-E

Order Type:
Default Order

Media:
LII

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
309 Lovern Court, Cedar Hill, Dallas County (the “Business”)
2024 Lennox Lane, Arlington, Tarrant County (the “Site”)

Type of Operation:
a landscape irrigation 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 24, 2024

Comments Received: None

Penalty Information

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Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): December 1, 2021
Complaint Information: On December 1, 2021, the Texas Commission on Environmental Quality (TCEQ) Landscape Irrigation Program received a complaint alleging that a licensed irrigator did not comply with minimum design and installation standards, did not design and install an irrigation system to promote water conversation, and did not honor the warranty for an irrigation system.

Date(s) of Investigation: December 1, 2021

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

Date(s) of NOE(s): February 11, 2022

Cristobal Torres
RN110073509
Docket No. 2022-0195-LII-E

Order Type:
Default Order

Media:
LII

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
309 Lovern Court, Cedar Hill, Dallas County (the “Business”)
2024 Lennox Lane, Arlington, Tarrant County (the “Site”)

Type of Operation:
a landscape irrigation 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 24, 2024

Comments Received: None

Penalty Information

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Person/CN - Not Applicable
Site/RN - Not Applicable

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: December 1, 2021

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

Date(s) of NOE(s): February 11, 2022

Cristobal Torres
RN110073509
Docket No. 2022-0195-LII-E

Violation Information

1. Failed to obtain a permit required to install an irrigation system [30 TEX. ADMIN. CODE § 344.35(d)(2)].
2. Failed to affix to each automatic controller installed by the irrigator or irrigation technician a permanent sticker printed with waterproof ink which contains the irrigator's name, license number, company name, telephone number, and the dates of the warranty period [30 TEX. ADMIN. CODE § 344.63(3)].
3. Failed to adhere to the terms of the warranty [30 TEX. ADMIN. CODE § 344.72(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days implement measures and/or procedures to ensure that:
 - a. All permits that are required for installation or repair of an irrigation system are obtained prior to installation; and
 - b. A permanent sticker printed with waterproof ink which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period is affixed to each automatic controller installed.
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirements 1.a. and 1.b.

Litigation Information

Date Petition(s) Filed: January 3, 2024; February 2, 2024
Date(s) of Service: unclaimed; unclaimed
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Cynthia Sirois, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Harley Hobson, Enforcement Division, (512) 239-1337
TCEQ Regional Contact: Brent Candler, Dallas/ Fort Worth Regional Office, 817-588-5800
Respondent Contact: Cristobal Torres, 309 Lovern Court, Cedar Hill, Texas 75104
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	14-Feb-2022	Screening	14-Feb-2022	EPA Due	
	PCW	18-Feb-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	Cristobal Torres
Reg. Ent. Ref. No.	RN110073509
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61926	No. of Violations	3
Docket No.	2022-0195-LII-E	Order Type	1660
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harley Hobson
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,050
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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.

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$227
 Estimated Cost of Compliance: \$401
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,050
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OTHER FACTORS AS JUSTICE MAY REQUIRE	19.7% Adjustment	\$207
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided costs associated with Violation Nos. 1, 2, and 3.

Final Penalty Amount	\$1,257
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,257
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$1,257
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Screening Date 14-Feb-2022

Docket No. 2022-0195-LII-E

PCW

Respondent Cristobal Torres

Policy Revision 5 (January 28, 2021)

Case ID No. 61926

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN110073509

Media Irrigators

Enf. Coordinator Harley Hobson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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%
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 14-Feb-2022
Respondent Cristobal Torres
Case ID No. 61926
Reg. Ent. Reference No. RN110073509
Media Irrigators
Enf. Coordinator Harley Hobson

Docket No. 2022-0195-LII-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 344.35(d)(2)

Violation Description

Failed to obtain a permit required to install an irrigation system. Specifically, the Respondent failed to obtain a permit from the City of Arlington prior to installing an irrigation system at 2024 Lennox Lane, Arlington, Texas.

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"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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 checked="" type="text" value="X"/>

Violation Base Penalty

One single event is recommended.

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 checked="" type="text" value="X"/>	<input type="text"/>

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 Cristobal Torres
Case ID No. 61926
Reg. Ent. Reference No. RN110073509
Media Irrigators
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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	\$100	1-Dec-2021	6-Nov-2023	1.93	\$10	n/a	\$10
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated cost to implement measures and/or procedures to ensure that all permits that are required for installation or repair of an irrigation system are obtained prior to installation. Date required is the investigation date, and the final date is the estimated date of compliance.						

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$100	24-Jul-2021	14-Feb-2022	0.56	\$3	\$100	\$103
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs	Estimated cost to obtain a permit to install an irrigation system at 2024 Lennox Lane, Arlington, Texas. Date required is the date the irrigation system was installed, and the final date is the screening date.						

Approx. Cost of Compliance \$200

TOTAL \$113

Screening Date 14-Feb-2022 **Docket No.** 2022-0195-LII-E **PCW**
Respondent Cristobal Torres *Policy Revision 5 (January 28, 2021)*
Case ID No. 61926 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN110073509
Media Irrigators
Enf. Coordinator Harley Hobson

Violation Number

Rule Cite(s)

Violation Description

Failed to affix to each automatic controller installed by the irrigator or irrigation technician a permanent sticker printed with waterproof ink which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period. Specifically, the Respondent did not affix a permanent sticker printed with waterproof ink which contained the required information on the automatic controller installed at 2024 Lennox Lane, Arlington, Texas.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="1.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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 checked="" type="checkbox"/>

Violation Base Penalty

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 checked="" type="checkbox"/>	<input type="text"/>

Notes

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 Cristobal Torres
Case ID No. 61926
Reg. Ent. Reference No. RN110073509
Media Irrigators
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	\$100	1-Dec-2021	6-Nov-2023	1.93	\$10	n/a	\$10
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to implement measures and/or procedures to ensure that a permanent sticker printed with waterproof ink which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period is affixed to each automatic controller installed. Date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$1	24-Jul-2021	14-Feb-2022	0.56	\$0	\$1	\$1
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs
 Estimated avoided cost to affix a permanent sticker printed with waterproof ink which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period to the automatic controller installed at 2024 Lennox Lane, Arlington, Texas. Date required is the date the irrigation system was installed, and the final date is the screening date.

Approx. Cost of Compliance \$101

TOTAL \$11

Screening Date	14-Feb-2022	Docket No.	2022-0195-LII-E	PCW
Respondent	Cristobal Torres			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	61926			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN110073509			
Media	Irrigators			
Enf. Coordinator	Harley Hobson			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 344.72(a)			
Violation Description	Failed to adhere to the terms of the warranty. Specifically, the Respondent refused to repair the leaking irrigation system installed at 2024 Lennox Lane, Arlington, Texas.			
		Base Penalty	\$5,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
	Potential				

>> Programmatic Matrix

		Harm			
	Falsification	Major	Moderate	Minor	
		X			Percent 10.0%
Matrix Notes	100% of the rule requirement was not met.				
					Adjustment \$4,500

\$500

Violation Events

Number of Violation Events	1	205	Number of violation days	
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	X		Violation Base Penalty \$500
	One single event is recommended.			

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	X		
Notes	The Respondent does not meet the good faith criteria for this violation.		
			Violation Subtotal \$500

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

Estimated EB Amount	\$103	Violation Final Penalty Total	\$599
This violation Final Assessed Penalty (adjusted for limits)		\$599	

Economic Benefit Worksheet

Respondent Cristobal Torres
Case ID No. 61926
Reg. Ent. Reference No. RN110073509
Media Irrigators
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs							

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)	\$100	24-Jul-2021	14-Feb-2022	0.56	\$3	\$100	\$103
Notes for AVOIDED costs Estimated cost to adhere to the terms of the warranty and repair the leaking irrigation system installed at 2024 Lennox Lane, Arlington, Texas. Date required is the date the irrigation system was installed, and the final date is the screening date.							

Approx. Cost of Compliance \$100

TOTAL \$103



Compliance History Report

Compliance History Report for CN605449768, RN110073509, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN605449768, Torres, Cristobal **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN110073509, TORRES, CRISTOBAL **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 309 Lovern Court in Cedar Hill, Dallas County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

LANDSCAPE IRRIGATION LICENSING LICENSE
LI0023887

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: April 28, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 28, 2018 to April 28, 2023

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

Name: Harley Hobson

Phone: (512) 239-1337

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

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 4/28/2018 and 4/28/2023

N/A

Appendix B

All Investigations Conducted During Component Period April 28, 2018 and April 28, 2023

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CRISTOBAL TORRES;
RN110073509

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2022-0195-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 Cristobal Torres (“Respondent”).

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

FINDINGS OF FACT

1. Respondent owns and operates a landscape irrigation business located at 309 Lovern Court in Cedar Hill, Dallas County, Texas. Respondent holds TCEQ Irrigator License No. LI0023887 and sells, designs, offers consultations regarding, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Respondent is subject to TCEQ jurisdiction pursuant to TEX. WATER CODE ch. 37 and TEX. OCC. CODE ch. 1903.
2. During an investigation conducted on and around December 1, 2021, TCEQ staff documented that Respondent:
 - a. Failed to obtain a permit required to install an irrigation system. Specifically, Respondent failed to obtain a permit from the City of Arlington prior to installing an irrigation system at 2024 Lennox Lane in Arlington, Tarrant County, Texas;
 - b. Failed to affix to each automatic controller installed by the irrigator or irrigation technician a permanent sticker printed with waterproof ink which contains the irrigator’s name, license number, company name, telephone number, and the dates of the warranty period. Specifically, Respondent did not affix a permanent sticker printed with waterproof ink which contained the required information on the automatic controller installed at 2024 Lennox Lane, in Arlington, Tarrant County, Texas; and
 - c. Failed to adhere to the terms of the warranty. Specifically, Respondent refused to repair the leaking irrigation system installed at 2024 Lennox Lane in Arlington, Tarrant County, Texas.
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 Cristobal Torres” (the “EDPRP”) in the TCEQ Chief Clerk’s office on January 3, 2024.
4. The EDPRP was mailed to Respondent’s last known address on January 3, 2024, 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 February 2, 2024.
6. By letter dated February 2, 2024, 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 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain a permit required to install an irrigation system, in violation of 30 TEX. ADMIN. CODE § 344.35(d)(2).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to affix to each automatic controller installed by the irrigator or irrigation technician a permanent sticker printed with waterproof ink which contains the irrigator's name, license number, company name, telephone number, and the dates of the warranty period, in violation of 30 TEX. ADMIN. CODE § 344.63(3).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to adhere to the terms of the warranty, in violation of 30 TEX. ADMIN. CODE § 344.72(a).
5. As evidenced by Findings of Fact Nos. 3 through 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).
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 \$1,257 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 \$1,257 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: Cristobal Torres; Docket No. 2022-0195-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. Within 30 days after the effective date of this Order, implement measures and/or procedures to ensure that:
 - i. All permits that are required for installation or repair of an irrigation system are obtained prior to installation; in accordance with 30 TEX. ADMIN. CODE § 344.35; and
 - ii. A permanent sticker printed with waterproof ink which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period is affixed to each automatic controller installed, in accordance with 30 TEX. ADMIN. CODE § 344.63.
 - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. and 3.a.ii. The certification 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."
- Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Corrective Action Ordering Provisions to:
- Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
- and:
- Program Support Section Manager
Office of Compliance and Enforcement, 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 Enforcement Division 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF CYNTHIA K. SIROIS

“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 Cristobal Torres’ (the “EDPRP”) was filed in the TCEQ Chief Clerk’s office on January 3, 2024.

The EDPRP was mailed to Respondent’s last known address on January 3, 2024, 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 February 2, 2024.

The EDPRP was mailed to Respondent’s last known address on February 2, 2024, 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.”

"My name is Cynthia K. Sirois, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct.”

Executed in Travis County,
State of Texas,
on the 8th day of May, 2024

Cynthia K Sirois

Declarant