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EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1695-LII-E TCEQ ID: RN104789003 CASE NO.: 31239

RESPONDENT NAME: GLENN KLEIN DBA SUNBURST LAWN & LANDSCAPING

| | | |
|---|---|--|
| ORDER TYPE: | | |
| <input type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: 2811 Crawford Street, Houston, Harris County</p> <p>TYPE OF OPERATION: Landscape irrigation installer</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint has been received, but the complainant has not indicated a desire to protest at Agenda. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 7, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="padding-left: 20px;">TCEQ Attorney: Mr. Benjamin O. Thompson, Litigation Division, MC 175, (512) 239-1297 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p style="padding-left: 20px;">TCEQ Enforcement Coordinator: Ms. Libby Hogue, Air Enforcement Section, MC 219, (512) 239-1165</p> <p style="padding-left: 20px;">TCEQ Regional Contact: Mr. Stephen Smith, Houston Regional Office, MC R-12, (713) 767-3581</p> <p style="padding-left: 20px;">Respondent: Mr. Glenn Klein, 14173 Northwest Freeway #178, Houston, Texas 77040-5013</p> <p style="padding-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|--|--|
| <p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: October 18, 2005</p> <p>Dates of Investigation Relating to this Case: July 6, 2006</p> <p>Date of NOE Relating to this Case: August 29, 2006</p> <p>Background Facts: An EDPRP was filed and mailed to the Respondent on March 14, 2007. The Respondent received notice of the EDPRP on or about March 16, 2007. The Respondent has not filed an answer or requested a hearing.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalties Database Report.</p> <p>LII</p> <p>Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system [30 TEX. ADMIN. CODE §§ 344.4(a) and 30.5(a) and (b); and TEX. WATER CODE § 37.003; and TEX. OCCUPATIONS CODE § 1903.251].</p> | <p>Total Assessed: \$625</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$625</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Ordering Provision(s):</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, cease selling, designing, consulting, installing, maintaining, altering, servicing and repairing irrigation systems until properly licensed in accordance with the requirements of 30 TEX. ADMIN. CODE ch. 344, TEX. WATER CODE ch. 37 and TEX. OCC. CODE ch. 1903 . 2. Within 15 days, submit a written certification statement demonstrating compliance with Ordering Provision No. 1. |



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

| | | | | | | |
|--------------|----------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 05-Sep-2006 | Screening | 19-Sep-2006 | EPA Due | |
| | PCW | 08-Dec-2006 | | | | |

| | |
|--|---|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Glenn Klein dba Sunburst Lawn & Landscape |
| Reg. Ent. Ref. No. | RN104789003 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Minor Source |

| | | | |
|--|-----------------|--------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 31239 | No. of Violations | 1 |
| Docket No. | 2006-1695-LII-E | Order Type | 1660 |
| Media Program(s) | Irrigators | Enf. Coordinator | Libby Hogue |
| Multi-Media | | EC's Team | Enforcement Team 1 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$2,500 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0% Enhancement** **Subtotals 2, 3, & 7**

Notes

Culpability **0% Enhancement** **Subtotal 4**

Notes

Good Faith Effort to Comply **0% Reduction** **Subtotal 5**

| | | |
|---------------|----------------------|-------------------------------|
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | X | (mark with a small x) |

Notes

Economic Benefit **0% Enhancement*** **Subtotal 6**

| | | |
|----------------------------|------------------------------------|--|
| Total EB Amounts | <input type="text" value="\$40"/> | <i>*Capped at the Total EB \$ Amount</i> |
| Approx. Cost of Compliance | <input type="text" value="\$500"/> | |

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Reduction** **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 19-Sep-2006

Docket No. 2006-1695-LII-E

PCW

Respondent Glenn Klein dba Sunburst Lawn & Landscape

Policy Revision 2 (September 2002)

Case ID No. 31239

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104789003

Media [Statute] Irrigators

Enf. Coordinator Libby Hogue

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written 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 judgements or consent decrees meeting criteria)</i> | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government <i>(number of counts)</i> | 0 | 0% |
| Emissions | Chronic excessive emissions events <i>(number of events)</i> | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were)</i> | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i> | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 0%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No enhancement due to no previous compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

| | | |
|---|--|------------|
| Screening Date 19-Sep-2006 | Docket No. 2006-1695-LII-E | PCW |
| Respondent Glenn Klein dba Sunburst Lawn & Landscape | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 31239 | <i>PCW Revision May 19, 2005</i> | |
| Reg. Ent. Reference No. RN104789003 | | |
| Media [Statute] Irrigators | | |
| Enf. Coordinator Libby Hogue | | |
| Violation Number | 1 | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code §§ 344.4(a) and 30.5(a) and (b) | |
| Secondary Rule Cite(s) | Tex. Water Code § 37.003 and Tex. Occupations Code § 1903.251 | |
| Violation Description | Failure to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system. Specifically, Mr. Klein installed an irrigation system at 2811 Crawford Street, Houston, Harris County without an irrigator license, as documented during a record review conducted on July 6, 2006. In addition, Mr. Klein represented to the public that he could perform a service for which a license is required. | |

Base Penalty

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

| | | | | | |
|-----------|---------|----------------------|----------------------|----------------------|--|
| | | Harm | | | |
| | | Major | Moderate | Minor | |
| OR | Release | | | | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input style="width: 50px;" type="text" value="25%"/> |
| Potential | x | <input type="text"/> | <input type="text"/> | | |

>> **Programmatic Matrix**

| | | | | |
|----------------------|----------------------|----------------------|----------------------|--|
| Falsification | Major | Moderate | Minor | Percent <input style="width: 50px;" type="text"/> |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|----------------------|--------------|----------------------|
| | daily | <input type="text"/> |
| | monthly | <input type="text"/> |
| <i>mark only one</i> | quarterly | <input type="text"/> |
| <i>use a small x</i> | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | x |

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Glenn Klein dba Sunburst Lawn & Landscape
 Case ID No. 31239
 Reg. Ent. Reference No. RN104789003
 Media [Statute] Irrigators
 Violation No. 1

| | |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost <small>No commas or \$</small> | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|---|---------------|-------------|-----|----------------|---------------|-----------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | \$500 | 12-Oct-2005 | 15-May-2007 | 1.6 | \$40 | n/a | \$40 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs: Estimated amount required to obtain a valid irrigation license, calculated from the date of the complaint through the expected date of compliance.

| Avoided Costs | | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$500** TOTAL **\$40**

Compliance History

| | | | | |
|---|---|--------------|-----------------|--------------|
| Customer/Respondent/Owner-Operator: | CN602935926 | KLEIN, GLENN | Classification: | Rating: |
| Regulated Entity: | RN104789003 | KLEIN GLENN | Classification: | Site Rating: |
| ID Number(s): | | | | |
| Location: | 14173 NORTHWEST FWY # 178, HOUSTON, TX, 77040 | | | |
| TCEQ Region: | REGION 12 - HOUSTON | | | |
| Date Compliance History Prepared: | August 30, 2007 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | October 04, 2001 to October 04, 2006 | | | |

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Libby Hogue Phone: 512-239-1165

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GLENN KLEIN DBA SUNBURST
LAWN & LANDSCAPING,
RN104789003

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-1695-LII-E

At its _____ agenda, 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 Glenn Klein dba Sunburst Lawn & Landscaping ("Mr. Klein").

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

FINDINGS OF FACT

1. Mr. Klein owns and/or operates a landscape irrigation business located at 14173 Northwest Freeway # 178, Houston, Harris County, Texas.
2. Mr. Klein sells, designs, consults, installs, maintains, alters, repairs, and/or services landscape irrigation systems.
3. During record review compliance investigation on July 6, 2006, a TCEQ Houston Regional Office investigator documented that Mr. Klein failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system. Specifically, Mr. Klein installed an irrigation system at 2811 Crawford Street, Houston, Harris County, Texas without an irrigator license. In addition, Mr. Klein represented to the public that he could perform a service for which a license is required.
4. Mr. Klein received notice of the violation on or about September 3, 2006.

5. 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 Glenn Klein dba Sunburst Lawn & Landscaping" (the "EDPRP") in the TCEQ Chief Clerk's office on March 14, 2007.
6. By letter dated March 14, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Klein with notice of the EDPRP. According to the return receipt "green card," Mr. Klein received notice of the EDPRP on March 16, 2007, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Klein received notice of the EDPRP, provided by the Executive Director. Mr. Klein failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Klein is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 37, TEX. OCC. CODE ch. 1903 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Klein failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system. Specifically, Mr. Klein installed an irrigation system at 2811 Crawford Street, Houston, Harris County, Texas without an irrigator license, in violation of 30 TEX. ADMIN. CODE §§ 344.4(a) and 30.5(a) and (b); TEX. WATER CODE § 37.003; and TEX. OCC. CODE § 1903.251.
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Klein with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Mr. Klein has failed to file a timely answer to the EDPRP, 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 Mr. Klein and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Klein for violations of the Texas Water Code and the

Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of six hundred twenty-five dollars (\$625.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. 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. Mr. Klein is assessed an administrative penalty in the amount of six hundred twenty-five dollars (\$625.00) for violations of TEX. OCC. CODE ch. 1903, TEX. WATER CODE ch. 37 and rules of the TCEQ. The payment of this administrative penalty and Mr. Klein'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. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Glenn Klein dba Sunburst Lawn & Landscaping; Docket No. 2006-1695-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. Mr. Klein shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, cease selling, designing, consulting, installing, maintaining, altering, repairing, or servicing landscape irrigation systems until properly licensed in accordance with the requirements of 30 TEX. ADMIN. CODE ch. 344, TEX. WATER CODE ch. 37, and TEX. OCCUPATIONS CODE ch. 1903; and

- b. Within 15 days after the effective date of this Order, submit a written certification statement demonstrating compliance with Ordering Provision 2.a.

The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and 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 Certification shall be submitted to:

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

with a copy to:

Manager, Regulatory Compliance Section
Compliance Support Division, MC 178
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Klein. Mr. Klein is ordered to give notice of this Order to personnel who maintain day-to-day control over the business operations referenced in this Order.
5. If Mr. Klein 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, Mr. Klein's failure to comply is not a violation of this Order. Mr. Klein

shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Klein shall notify the Executive Director within seven days after Mr. Klein becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

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 Mr. Klein shall be made in writing to the Executive Director. Extensions are not effective until Mr. Klein receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Mr. Klein if the Executive Director determines that Mr. Klein has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Glenn Klein dba Sunburst Lawn & Landscaping
DOCKET NO. 2006-1695-LII-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BENJAMIN O. THOMPSON

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Benjamin O. Thompson. 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, I 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 Glenn Klein dba Sunburst Lawn & Landscaping” (the “EDPRP”) with the Office of the Chief Clerk on March 14, 2007.

I sent the EDPRP to Mr. Klein at his last known address on March 14, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Klein received notice of the EDPRP on March 16, 2007, as evidenced by the signature on the card.

More than 20 days have elapsed since Mr. Klein received notice of the EDPRP. Mr. Klein failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



Benjamin O. Thompson
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 24th day of July, A.D., 2007.



Notary Signature