

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2002-0694-LII-E TCEQ ID: RN103341053 CASE NO.: 337
RESPONDENT NAME: OMAR RODRIGUEZ DBA R & B SERVICES

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: 6012 Maravillosa, 358 Cowen Terrace, 348 Cowen Terrace, 354 Cowen Terrace, and 3451 Pablo Kisel Blvd., Brownsville, Cameron County</p> <p>TYPE OF OPERATION: Landscape irrigation business</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. 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 June 25, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Mary Hammer, Litigation Division, MC 175, (512) 239-2496 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Jessica Rhodes. Enforcement Division, MC 149, (512) 239-2879 TCEQ Regional Contact: Ms. Irene Casares, Harlingen Regional Office, MC R-15, (956) 430-6025 Respondent: Mr. Omar Rodriguez, Owner, R & B Services, 35 Mason Avenue, Brownsville, TX 78523 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 type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 24, 2001 through October 31, 2001</p> <p>Date of NOV/NOE Relating to this Case: December 7, 2001 (NOE)</p> <p>Background Facts:</p> <p>The Executive Director filed an EDRP on December 1, 2006 and again on March 9, 2007, in order to effectuate service on the Respondent. The Respondent received notice of the EDRP, as evidenced by the signature on the "green card," on March 12, 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 Penalty Database Report.</p> <p>LII:</p> <p>Failed to obtain an irrigator's license prior to completing installations in five different locations between June 2001 and October 2001 [TEX. WATER CODE § 34.007(a) (now TEX. WATER CODE § 37.003 and TEX. OCC. CODE § 1903.251) and 30 TEX. ADMIN. CODE §§ 30.5(a) and 344.4(a)].</p>	<p>Total Assessed: \$1,250</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p>Total Due to General Revenue: \$1,250</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 Classifications: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Technical Requirements:</p> <ol style="list-style-type: none"> 1. Immediately, the Respondent shall cease installation of landscape irrigation systems and all other activities for which an irrigator or installer license is required. 2. Within 30 days, the Respondent shall submit certification stating that either a current TCEQ license has been obtained or certification that the Respondent is no longer selling, designing, installing, maintaining, altering, repairing or servicing irrigation systems, providing consulting services for irrigation systems or connecting irrigation systems to any water supply.



Penalty Calculation Worksheet (PCW)

DATES	
PCW	7-Oct-2004
Screening	4-Apr-2003
Priority Due	2-Aug-2003
EPA Due	
RESPONDENT INFORMATION	
Respondent	Omar Rodriguez dba R&B Services
Respondent/Site ID No(s)	Regulated Entity ID No. RN103341053
Facility/Site Region	15 - Harlingen
Major/Minor Source	Minor
CASE INFORMATION	
Enf./Case ID No(s)	337
Docket No.	2002-0694-LII-E
Case Priority	3
Enf. Coordinator	J. Mac Vilas
Media Program(s)	All Occupational Licenses
Admin. Penalty \$ Limit	Minimum \$0 Maximum \$2,500
No. Violations	1
Order Type	1660 without deferral
EC's Team	Enforcement Team 5

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,250
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	No change due to previous compliance history.	+
Culpability	0% Enhancement	Subtotal 4
Notes	Respondent does not meet culpability criteria.	+
Good Faith Effort to Comply	0% Reduction	Subtotal 5
Notes	The respondent has not achieved compliance yet.	+
Economic Benefit	0% Enhancement*	Subtotal 6
	\$570 Total EB Amounts	=
	\$475 Approx. Cost of Compliance	
SUM OF SUBTOTALS 1-7		
	Final Subtotal	\$1,250
OTHER FACTORS AS JUSTICE MAY REQUIRE		
Notes		=
	Final Penalty Amount	\$1,250
STATUTORY LIMIT ADJUSTMENT		
	Final Assessed Penalty	\$1,250
DEFERRAL		
Notes	No deferral is recommended because this is not an expedited case.	=
PAYABLE PENALTY		\$1,250

Screening Date 4-Apr-2003

Docket Number 2002-0694-LII-E

PCW

Respondent Omar Rodriguez dba R&B Services

Policy Revision 2 (09/02)

Case ID No. 337

PCW Revision 3/13/2003

Respondent/Site ID No. Regulated Entity ID No. RN103341053

Media [Statute] All Occupational Licenses

Enf. Coordinator J. Mac Vilas

Site Address 2029 Tucker Road, Harlingen, Texas

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 (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Other	<i>Please enter Yes or No</i>		
	Environmental management systems in place for one year or more	n	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	n	0%
	Participation in a voluntary pollution reduction program	n	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	n	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A Select High, Average or Poor

Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

Compliance History Notes

No change due to previous compliance history.

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

Screening Date 04-Apr-03

Docket Number 2002-0694-LII-E

PCW

Respondent Omar Rodriguez dba R&B Services

Policy Revision 2 (09/02)

Case ID No. 337

PCW Revision 3/13/2003

Respondent/Site ID No. Regulated Entity ID No. RN103341053

Media [Statute] All Occupational Licenses

Enf. Coordinator J. Mac Vilas

Violation Number

Primary Rule Cite

Secondary Cite(s)

Violation Description

Base Penalty \$2,500

» Environmental, Property and Human Health Matrix

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

» Programmatic Matrix

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

Matrix Notes

Adjustment -\$2,250

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events

mark only one; use small x

daily	<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 \$1,250

Events Notes

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$)

Violation Final Penalty total \$1,250

This Violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent Omar Rodriguez dba R&B Services

ID Number(s) 337

Media [Statute] All Occupational Licenses

Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	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				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$475	1-Jun-2001	31-Mar-2005	4.0	\$95	\$475	\$570
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The respondent avoided the cost of the obtaining a license (training, and examination). Estimated costs include training (\$400) and examination fee (\$75) for a total avoided cost of \$475. Date required is the month of the first noted violation of installing without a license and the final date is the anticipated date of compliance.

Approx Cost of Compliance \$475

TOTAL \$570

COMPLIANCE HISTORY

For Penalty Purposes Only

Customer/Respondent/Owner-Operator: Omar Rodriguez dba R&B Services Classification: _____
Regulated Entity/ID Nos.: None - Unlicensed Irrigator Site Rating: _____
Location (including city or nearest city, and county): 3451 Pablo Kisel Blvd. Repeat Violator: (y/n) n
Brownsville
Cameron County
TCEQ Region No. 15
Date Compliance History Prepared: 5/30/03

Agency Decision Requiring Compliance History (mark one):

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit |
| <input checked="" type="checkbox"/> | enforcement |
| <input type="checkbox"/> | the use of announced investigations (Field Ops) |
| <input type="checkbox"/> | participation in innovative programs |

Compliance Period: 5/30/98 - 5/30/03

TCEQ staff person to contact for additional information regarding this compliance history:

Name: J. Mac Vilas Phone: (512) 239-2557

Site Compliance History Components

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

Components (multimedia) for the Site during the portion of the five-year compliance history the site was owned by the person who is the subject of this compliance history:

A. Final enforcement orders, court judgments, and consent decrees of the state of Texas and the federal government

1. Effective Date: None Type of Action: _____
Violation Citation 1: _____ Classification: _____
Description

B. Any criminal convictions of the state of Texas and the federal government.

- Conviction Date: N/A
Count 1: _____
Count 2: _____

C. Chronic excessive emissions events: None

D. The dates of investigations.

E. Written notices of violation (NOV)

None

1. Date:

Self-reported?

Yes

No

Violation Citation 1

Classification:

Violation Description

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

State: N/A

Site Name:

Location:

Type of Action:

Effective Date:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
OMAR RODRIGUEZ DBA
R & B SERVICES,
RN103341053**

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§
§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2002-0694-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 34 (now TEX. WATER CODE ch. 37 and 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 Omar Rodriguez dba R & B Services ("Rodriguez").

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

FINDINGS OF FACT

1. Rodriguez owned a landscape irrigation business and completed installations at 6012 Maravillosa, 358 Cowen Terrace, 348 Cowen Terrace, 354 Cowen Terrace, and 3451 Pablo Kisel Boulevard, Brownsville, Cameron County, Texas (the "Sites").
2. Rodriguez sells, designs, consults, installs, maintains, alters, repairs, and/or services landscape irrigation systems.
3. During an investigation conducted on October 24, 2001 through October 31, 2001, a TCEQ Central Office investigator documented that Rodriguez failed to obtain an irrigator's license prior to completing installations at the Sites between June 2001 and October 2001.
4. Rodriguez received notice of the violations on or about December 12, 2001.
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 Omar Rodriguez dba R & B Services" (the "EDPRP") in the TCEQ Chief Clerk's office on December 1, 2006 and March 9, 2007.

6. By letter dated March 9, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Rodriguez with notice of the EDPRP. According to the return receipt "green card", Rodriguez received notice of the EDPRP on March 12, 2007, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Rodriguez received notice of the EDPRP, provided by the Executive Director. Rodriguez 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 Findings of Fact Nos. 1 and 2, Rodriguez is subject to the jurisdiction of the TCEQ pursuant to TEX. OCC. CODE ch. 1903, TEX. WATER CODE chs. 34 and 37, 30 TEX. ADMIN. CODE chs. 30 and 344 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Rodriguez failed to obtain an irrigator's license prior to completing installations at five different locations between June 2001 and October 2001, in violation of TEX. WATER CODE § 34.007(a) (now TEX. WATER CODE § 37.003 and TEX. OCC. CODE § 1903.251) and 30 TEX. ADMIN. CODE §§ 30.5(a) and 344.4(a).
3. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director has timely served Rodriguez 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, Rodriguez 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 Rodriguez 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 Rodriguez 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 one thousand two hundred fifty dollars (\$1,250.00) 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. Rodriguez is assessed an administrative penalty in the amount of one thousand two hundred fifty dollars (\$1,250.00) for violations of TEX. WATER CODE ch. 37 and rules of the TCEQ. The payment of this administrative penalty and Rodriguez'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: Omar Rodriguez dba R & B Services; Docket No. 2002-0694-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. Rodriguez shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Rodriguez shall cease installation of landscape irrigation systems and all other activities for which an irrigator or installer license is required as described in 30 TEX. ADMIN. CODE §§ 344.4 and 30.111 until proper training is completed and a TCEQ license is obtained in accordance with 30 TEX. ADMIN. CODE chs. 30 and 344, TEX. OCC. CODE ch. 1903 and TEX. WATER CODE ch. 37.
 - b. Within 30 days after the effective date of this Order, Rodriguez shall submit certification stating that either a current TCEQ license has been obtained or certification that Mr. Rodriguez is no longer selling, designing, installing, maintaining, altering, repairing or servicing irrigation systems, providing consulting services for irrigation systems or connecting irrigation systems to any water supply.

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 149 A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Regulatory Compliance
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 Rodriguez. Rodriguez is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If Rodriguez 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, Rodriguez's failure to comply is not a violation of this Order. Rodriguez shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Rodriguez shall notify the Executive Director within seven days after

Rodriguez 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 Rodriguez shall be made in writing to the Executive Director. Extensions are not effective until Rodriguez 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 Rodriguez if the Executive Director determines that Rodriguez 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.

Omar Rodriguez dba R & B Services
Docket No. 2002-0694-LII-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF MARY HAMMER

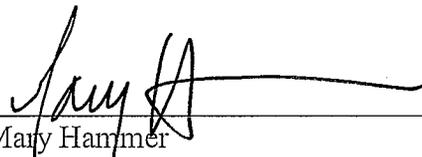
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Mary Hammer. 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 Omar Rodriguez dba R & B Services” (the “EDPRP”) with the Office of the Chief Clerk on December 1, 2006 and March 9, 2007.

I sent the EDPRP to Mr. Rodriguez at his last known address on December 1, 2006 and March 9, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Mr. Rodriguez received notice of the EDPRP on March 12, 2007, as evidenced by the signature on the card.

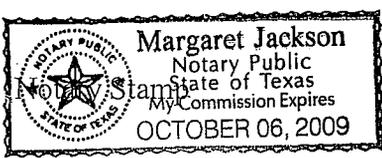
More than 20 days have elapsed since Mr. Rodriguez received notice of the EDPRP. Mr. Rodriguez failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Mary Hammer
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 3 day of April, A.D., 2007.





Notary Signature