

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1257-LII-E TCEQ ID: RN105231922 CASE NO.: 34431
RESPONDENT NAME: MANICURED LANDSCAPES, INC.

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: Mailing address is P.O. Box 41843, Houston, Harris County</p> <p>TYPE OF OPERATION: Landscape irrigation installation operation</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There has been one complaint. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: One complaint has been received but the complainant has not indicated a desire to protest this action or speak at Agenda. 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 January 4, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Michael Meyer, Waste Enforcement Section, MC 128, (512) 239-4492 TCEQ Regional Contact: Mr. Steven Smith, Houston Regional Office, MC R-12, (713) 767-3500 Respondent: Mr. Rickey J. Mattern, Registered Agent, Manicured Landscapes, Inc., 15805 Tahoe Drive, Houston, Texas 77040 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 Complaints Relating to this Case: May 29, 2007</p> <p>Dates of Investigation Relating to this Case: June 4, 2007</p> <p>Date of NOE Relating to this Case: June 8, 2007 (NOV), July 27, 2007 (NOE)</p> <p>Background Facts:</p> <p>Respondent is a corporation advertising landscape irrigator installation services without employing individuals that hold a current Landscape Irrigator Installer license.</p> <p>An EDPRP was filed on September 26, 2007. The Respondent received notice of the EDPRP on October 2, 2007 as evidenced by the signature on the return receipt "green card". The Respondent has not filed an answer, requested a hearing or scheduled a settlement conference.</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 a license prior to advertising or representing to the public that the Respondent could perform services for which a license or registration is required [30 TEX. ADMIN. CODE § 30.5(b)].</p>	<p>Total Assessed: \$263</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$263</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 Order.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: ___ Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action(s) Taken: None</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, cease advertising or representing to the public the ability to perform services as a licensed irrigator until a license is obtained. 2. Within 15 days, submit written certification statement including detailed supporting documentation demonstrating compliance with these Ordering Provisions.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned PCW	31-Jul-2007	Screening	13-Aug-2007	EPA Due	
		2-Apr-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Manicured Landscapes, Inc.
Reg. Ent. Ref. No.	RN105231922
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34431	No. of Violations	1
Docket No.	2007-1257-LII-E	Order Type	1660
Media Program(s)	Irrigators	Enf. Coordinator	Michael Meyer
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1:	\$250
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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	-5% Enhancement	Subtotals 2, 3, & 7:	\$13

Notes: There was one previous NOV for same or similar violations.

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

Good Faith Effort to Comply	0% Reduction	Subtotal 5:	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

	0% Enhancement	Subtotal 6:	\$0
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Total EB Amounts	\$16	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$250	

SUM OF SUBTOTALS 1-7	Final Subtotal:	\$263
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment:	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$263
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty:	\$263
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DEFERRAL	Reduction Adjustment:	
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$263
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Screening Date 13-Aug-2007

Docket No. 2007-1257-LII-E

PCW

Respondent: Manicured Landscapes, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34431

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN105231922

Media [Statute] Irrigators

Enf. Coordinator: Michael Meyer

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)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (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%

Please Enter Yes or No

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) 5%

>> 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

There was one previous NOV for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 13-Aug-2007

Docket No. 2007-1257-LII-E

PCW

Respondent Manicured Landscapes, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34431

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN105231922

Media [Statute]

Enf. Coordinator Michael Meyer

Violation Number

Rule Cite(s)

Violation Description

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"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
<input type="text" value="100 percent of the rule requirement was not met."/>	<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an 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

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: Manicured Landscapes, Inc.
 Case ID No: 34431
 Reg. Ent. Reference No: RN105231922
 Media: Irrigators
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$0	\$0
Record Keeping System				0.0	\$0	\$0	\$0
Training/Sampling				0.0	\$0	\$0	\$0
Remediation/Disposal				0.0	\$0	\$0	\$0
Permit Costs	\$250	4-Jun-2007	30-Aug-2008	1.2	\$16		\$16
Other (as needed)				0.0	\$0	\$0	\$0

Notes for DELAYED costs

Estimated cost to obtain an irrigation license. The cost includes classroom training and testing. The Date Required is the record review date and the Final Date is the estimated compliance date.

Avoided Costs

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

\$250

TOTAL

\$16

Compliance History

Customer/Respondent/Owner-Operator:	CN603194226 MATTERN, RICKEY	Classification:	Rating:
Regulated Entity:	RN105231922 MANICURED LANDSCAPES	Classification:	Site Rating:
<hr/>			
ID Number(s):			
Location:	15805 TAHOE, HOUSTON, TX, 77040		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	March 04, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 05, 2003 to March 04, 2008		

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

Name: Michael Meyer Phone: (512) 239-4492

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.)

Date:	06/08/2007	(562922)	
Self Report?	NO		Classification: Moderate
Citation:	2F TWC Chapter 37, SubChapter L 37.003 30 TAC Chapter 30, SubChapter A 30.5(b) 30 TAC Chapter 344, SubChapter A 344.4(a)		
Description:	A person may not advertise or represent themselves to the public as a holder of a license or registration unless they possess a current license or registration. A person may not advertise or represent to the public that it can perform services for which a license or registration is required unless it holds a current license or registration, or unless it employs individuals who hold current licenses.		
	Specifically, during the 06/04/07 record review investigation, it was documented that Mr. Rick		
- 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
MANICURED LANDSCAPES,
INC.;
RN105231922

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2007-1257-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 ch. 7 and TEX. ADMIN. CODE ch. 30, 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 Manicured Landscapes, Inc. ("Manicured").

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

FINDINGS OF FACT

1. Manicured owns and operates a landscape irrigation installation operation whose mailing address is P.O. Box 41843, Houston, Harris County, Texas (the "Facility").
2. Manicured sells, designs, consults, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Manicured is subject to TCEQ jurisdiction pursuant to 30 TEX. ADMIN. CODE chs. 30.
3. In response to a complaint, a member of the TCEQ Compliance Support Division conducted a record review on June 4, 2007 and documented that Manicured failed to obtain a license prior to advertising or representing to the public that the Respondent could perform services for which a license or registration is require.
4. Manicured received notice of the violation on or about June 8, 2007.
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 Manicured Landscapes, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on September 26, 2007.

6. By letter dated September 26, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Manicured with notice of the EDPRP. According to the return receipt "green card," Manicured received notice of the EDPRP on October 1, 2007, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Manicured received notice of the EDPRP, provided by the Executive Director. Manicured 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, Manicured is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7 and 30 TEX. ADMIN. CODE ch. 30.
2. As evidenced by Finding of Fact No. 3, Manicured failed to obtain a license prior to advertising or representing to the public that the Respondent could perform services for which a license or registration is require, in violation of 30 TEX. ADMIN. CODE § 30.5(b).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Manicured 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, Manicured 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 Manicured 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 Manicured for violations of the Texas Water 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 two hundred sixty-three dollars (\$263.00) 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. Manicured is assessed an administrative penalty in the amount of two hundred sixty-three dollars (\$263.00) for violations of the Texas Water Code, TEX. OCCUPATIONS CODE, and the rules of the TCEQ. The payment of this administrative penalty and Manicured'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: Manicured Landscapes, Inc.; Docket No. 2007-1257-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. Manicured shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease advertising or representing to the public the ability to perform services as a licensed irrigator until a license is obtained in accordance with the requirements of 30 TEX. ADMIN. CODE ch. 344 (relating to landscape Irrigators), TEX. WATER CODE ch. 37, and TEX. OCC. CODE ch. 1903; and
 - b. Within 15 days after the effective date of this Agreed 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the

information, the information submitted is, to the best of my knowledge and belief, 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.”

Manicured shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

With a copy to:

Stephen Smith, Water Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Avenue
Suite H
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Manicured. Manicured is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Manicured 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, Manicured's failure to comply is not a violation of this Order. Manicured shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Manicured shall notify the Executive Director within seven days after Manicured 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 Manicured shall be made in writing to

the Executive Director. Extensions are not effective until Manicured 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 Manicured if the Executive Director determines that Manicured 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BARHAM A. RICHARD

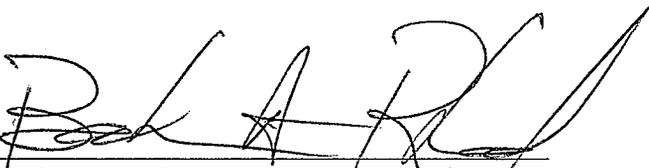
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Barham A. Richard. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Manicured Landscapes, Inc.” (the “EDPRP”) was filed with the Office of the Chief Clerk on September 26, 2007.

The EDPRP was mailed to Manicured at its last known address on September 26, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Manicured received notice of the EDPRP on October 1, 2007, as evidenced by the signature on the card.

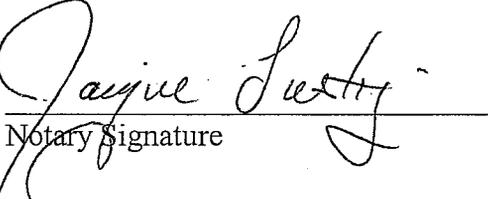
More than 20 days have elapsed since Manicured received notice of the EDPRP. Manicured failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Barham A. Richard, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Barham A. Richard, 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 10th day of April, A.D., 2008.



Notary Signature

