

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1281-LII-E TCEQ ID: RN105197636 CASE NO.: 34393**  
**RESPONDENT NAME: EMILIO GARZA**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 1409 East Polk, Harlingen, Cameron County</p> <p><b>TYPE OF OPERATION:</b> Landscape irrigation</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 20, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Mr. Rudy Calderon, Litigation Division, MC 175, (512) 239-0205  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Clausewitz, Water Enforcement Section, MC R-13, (210) 403-4012  <b>TCEQ Regional Contact:</b> Mr. David Ramirez, Harlingen Regional Office, MC R-15, (956) 430-6048  <b>Respondent:</b> Mr. Emilio Garza, 1409 East Polk, Harlingen, Texas 78550  <b>Respondent's Attorney:</b> Not represented by counsel in this enforcement matter.</p>		

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 25, 2007</p> <p><b>Date of NOE Relating to this Case:</b> August 28, 2007</p> <p><b>Background Facts:</b> The EDPRP was filed on January 6, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on January 7, 2008, as evidenced by the signature on the card. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> The Respondent has not obtained an irrigator license.</p> <p><b>LII:</b></p> <p>Failed to possess a license or registration prior to advertising or representing to the public that services, for which a license or registration is required, can be performed [30 TEX. ADMIN. CODE §§ 30.5(b) and 344.4(a), TEX. WATER CODE § 37.003, and TEX. OCC. CODE § 1903.251].</p>	<p><b>Total Assessed:</b> \$262</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$262</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><b>Site Compliance History Classification</b> N/A</p> <p><b>Person Compliance History Classification</b> N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, cease advertising, selling, designing, consulting, installing, maintaining, altering, repairing, or servicing landscape irrigation systems until properly licensed.</li> <li>2. Within 15 days, submit written certification of compliance with this Ordering Provision.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

**TCEQ**

<b>DATES</b>	Assigned PCW	2-Jul-2007	Screening	9-Aug-2007	EPA Due	
		6-Nov-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Emilio Garza
Reg. Ent. Ref. No.	RN105197636
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34393	No. of Violations	1	
Docket No.	2007-1281-LII-E	Order Type	1660	
Media Program(s)	All Occupational Licenses	Enf. Coordinator	Dana Shuler	
Multi-Media		EC's Team	EnforcementTeam 7	
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 5% 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 x)

Notes

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

**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** \$262

Screening Date 9-Aug-2007

Docket No. 2007-1281-LII-E

PCW

Respondent Emilio Garza

Policy Revision 2 (September 2002)

Case ID No. 34393

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105197636

Media [Statute] All Occupational Licenses

Enf. Coordinator Dana Shuler

### 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%
<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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent received one NOV for the same or similar violations.

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

Screening Date 9-Aug-2007

Docket No. 2007-1281-LII-E

PCW

Respondent Emilio Garza

Policy Revision 2 (September 2002)

Case ID No. 34393

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105197636

Media [Statute] All Occupational Licenses

Enf. Coordinator Dana Shuler

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 30.5(b) and 344.4(a), Tex. Water Code § 37.003 and Tex. Occupations Code § 1903.251

Violation Description Failed to possess a license or registration prior to advertising or representing to the public that services, for which a license or registration is required, can be performed. Specifically, the Respondent is unlicensed and has a business which in an advertisement in the Yellow Pages, stated that "Sprinkler Repairs, Sprinkler Systems" were services he could perform.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1 Number of violation days 45

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$262

This violation Final Assessed Penalty (adjusted for limits) \$262

## Economic Benefit Worksheet

**Respondent** Emilio Garza  
**Case ID No.** 34393  
**Reg. Ent. Reference No.** RN105197636  
**Media** All Occupational Licenses  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<i>No commas or \$</i>							
<b>Delayed Costs</b>							
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	\$450	25-Jun-2007	21-Feb-2008	0.7	\$15	n/a	\$15
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a valid irrigator license. Date Required is the date of the record review investigation and Final Date is 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

\$450

TOTAL

\$15

# Compliance History

Customer/Respondent/Owner-Operator:	CN603173352	GARZA, EMILIO	Classification:	Rating:
Regulated Entity:	RN105197636	GARZA EMILIO	Classification:	Site Rating:
<hr/>				
ID Number(s):				
<hr/>				
Location:	1409 E. POLK, HARLINGEN, TX, 78550			
<hr/>				
TCEQ Region:	REGION 15 - HARLINGEN			
<hr/>				
Date Compliance History Prepared:	July 31, 2007			
<hr/>				
Agency Decision Requiring Compliance History:	Enforcement			
<hr/>				
Compliance Period:	July 31, 2002 to July 31, 2007			

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

Name: Dana Shuler Phone: (512) 239-2505

### 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.)  
N/A
  
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  

Date:	04/18/2007	(542676)
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 30, SubChapter A 30.5(b)	
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 li	
  
- 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  
EMILIO GARZA;  
RN105197636

§  
§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2007-1281-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 Emilio Garza ("Mr. Garza").

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

**FINDINGS OF FACT**

1. Mr. Garza owns and operates a landscape irrigation business located at 1409 East Polk, Harlingen, Cameron County, Texas.
2. Mr. Garza sells, designs, consults, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Mr. Goff is subject to TCEQ jurisdiction pursuant to TEX. OCC. CODE ch. 1903, TEX. WATER CODE ch. 37, and the rules of the Commission.
3. During a record review conducted on June 25, 2007, a TCEQ Harlingen Regional Office investigator documented that Mr. Garza failed to possess a license or registration prior to advertising or representing to the public that services, for which a license or registration is required, can be performed. Specifically, Mr. Garza is unlicensed and has a business which in an advertisement in the Yellow Pages, stated that "Sprinkler Repairs, Sprinkler Systems" were services he could perform.
4. Mr. Garza received notice of the violation on or about August 23, 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 Emilio Garza dba Evergreen Professional Lawn Maintenance Services" (the "EDPRP") in the TCEQ Chief Clerk's office on January 16, 2008.
6. By letter dated January 16, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Garza with notice of the EDPRP. According to the return receipt "green card," Mr. Garza received notice of the EDPRP on January 17, 2008, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Garza received notice of the EDPRP, provided by the Executive Director. Mr. Garza 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. Garza is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 37, TEX. OCC. CODE, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Garza failed to possess a license or registration prior to advertising or representing to the public that services, for which a license or registration is required, can be performed, in violation of 30 TEX. ADMIN. CODE §§ 30.5(b) and 344.4(a), 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 timely served Mr. Garza with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a)(2).
4. As evidenced by Finding of Fact No. 7, Mr. Garza 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. Garza 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. Garza for violations of the Texas Water Code and the

Texas Occupations 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-two dollars (\$262.00) 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. Garza is assessed an administrative penalty in the amount of two hundred sixty-two dollars (\$262.00) for violations of the Texas Water Code, Texas Occupations Code, and the rules of the TCEQ. The payment of this administrative penalty and Mr. Garza'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: Emilio Garza; Docket No. 2007-1281-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. Garza shall undertake the following technical requirements:
  - a. Immediately upon the effective date of the this Order, Mr. Garza shall cease advertising, 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 chs. 30 and 344; and

- b. Within 15 days after the effective date of this Order, Mr. Garza shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall 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.”

Mr. Garza shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a. 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:

David A. Ramirez, Air/Water/Waste Section Manager  
Texas Commission on Environmental Quality  
Harlingen Regional Office  
1804 West Jefferson Ave.  
Harlingen, Texas 78550-5247

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. Garza. Mr. Garza 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. Garza 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. Garza's failure to comply is not a violation of this Order. Mr. Garza

shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Garza shall notify the Executive Director within seven days after Mr. Garza 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. Garza shall be made in writing to the Executive Director. Extensions are not effective until Mr. Garza 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. Garza if the Executive Director determines that Mr. Garza 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.

Emilio Garza  
Docket No. 2007-1281-LII-E  
Page 6

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF RUDY CALDERON**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Rudy Calderon. 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 Emilio Garza dba Evergreen Professional Lawn Maintenance Services” (the “EDPRP”) was filed with the Office of the Chief Clerk on January 16, 2008.

The EDPRP was mailed to Mr. Garza at his last known address on January 16, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Garza received notice of the EDPRP on January 17, 2008, as evidenced by the signature on the card.

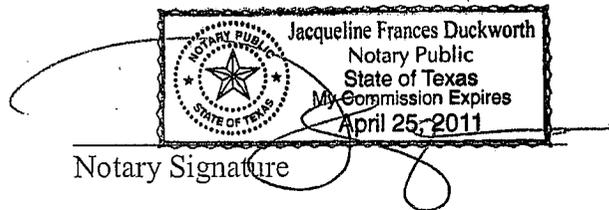
More than 20 days have elapsed since Mr. Garza received notice of the EDPRP. Mr. Garza failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Rudy Calderon, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Rudy Calderon, 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 21 day of August, A.D., 2008.



Notary Signature