

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-1206-LII-E TCEQ ID: RN105532865 CASE NO.: 36256**  
**RESPONDENT NAME: PAUL MCGREGOR**

<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

**SITE WHERE VIOLATIONS OCCURRED:** 17424 West Grand Parkway South, Suite 208, Sugar Land, Harris County

**TYPE OF OPERATION:** landscaping business

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** A complaint was received on May 13, 2008, alleging that the Respondent's advertisements contained the irrigator license number of a person who was not employed by the Respondent. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** The complainant has not expressed a desire to protest this action or speak at agenda. No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired August 10, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Phillip M. Goodwin, P.G., Litigation Division, MC 175, (512) 239-0675  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Tom Jecha, Air Enforcement Section, MC 128, (512) 239-2576

**TCEQ Regional Contact:** Ms. Sandi Mota, Landscape Irrigation Program, MC 178, (512) 239-1452

**Respondent:** Mr. Paul McGregor, 17424 West Grand Parkway South, Suite 208, Sugar Land, Texas 77479

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>            May 13, 2008</p> <p><b>Date of Investigation Relating to this Case:</b>            June 2, 2008</p> <p><b>Date of NOE Relating to this Case:</b>            June 25, 2008</p> <p><b>Background Facts:</b>            The EDP RP was filed on January 29, 2009. The EDFARP was filed on February 3, 2009. The EDSARP was filed on February 6, 2009. The Respondent filed an answer and the case was referred to SOAH. The Respondent failed to appear at the Preliminary Hearing, and the matter was remanded to the Executive Director for default proceedings.</p> <p><b>Current Compliance Status:</b>            Not yet in compliance.</p> <p><b>LII:</b></p> <p>1. Failed to comply with the requirements for authorized use of an irrigator or installer license [30 TEX. ADMIN. CODE § 344.58(b)<sup>1</sup>, TEX. WATER CODE § 37.003 and TEX. OCC. CODE § 1903.25].</p> <p>2. Failed to refrain from advertising or representing himself to the public as a person who can perform services for which a license or registration is required without holding a current license or employing individuals who hold current licenses [30 TEX. ADMIN. CODE §§ 30.5(b) and 344.4(a)<sup>2</sup>, and TEX. OCC. CODE § 1903.251].</p>	<p><b>Total Assessed:</b> \$500</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$500</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> <p>1. Immediately, cease selling, designing, consulting, installing, maintaining, altering, repairing, advertising, or servicing landscape irrigation systems unless properly licensed and cease unauthorized use of other licenses.</p> <p>2. Within 15 days, submit written certification to demonstrate compliance with these Ordering Provisions.</p>

<sup>1</sup> 30 TEX. ADMIN. CODE § 344.58(b) is now found at 30 TEX. ADMIN. CODE § 344.34(b), adopted to be effective January 1, 2009, 32 Tex. Reg. 5713.  
<sup>2</sup> 30 TEX. ADMIN. CODE § 344.4(a) is now found at 30 TEX. ADMIN. CODE § 344.30(a), adopted to be effective January 1, 2009, 32 Tex. Reg. 5713.



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	5-Jul-2008	Screening	22-Jul-2008	EPA Due	
	PCW	5-Nov-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Paul McGregor
Reg. Ent. Ref. No.	RN105532865
Facility/Site Region	12-Houston
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36256	No. of Violations	2
Docket No.	2008-1206-LII-E	Order Type	1660
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Jecha
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 \$500

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 0.0% Enhancement Subtotals 2, 3, & 7 \$0

Notes No change due to no previous compliance history.

**Culpability** No 0.0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** Subtotal 5 \$0

**Economic Benefit** 0.0% Enhancement\* Subtotal 6 \$0

Total EB Amounts	\$17
Approx. Cost of Compliance	\$450

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal \$500

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes  

**Final Penalty Amount** \$500

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$500

**DEFERRAL** 0.0% Reduction Adjustment \$0

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** \$500

**Screening Date** 22-Jul-2008  
**Respondent** Paul McGregor  
**Case ID No.** 36256  
**Reg. Ent. Reference No.** RN105532865  
**Media [Statute]** Irrigators  
**Enf. Coordinator** Thomas Jecha

**Docket No.** 2008-1206-LII-E

**PCW**

Policy Revision 2 (September 2002)  
 PCW Revision June 12, 2008

**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%
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 judgments 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)** 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 change due to no previous compliance history.

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

<b>Screening Date</b> 22-Jul-2008	<b>Docket No.</b> 2008-1206-LII-E	<b>PCW</b>	
<b>Respondent</b> Paul McGregor	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 36256	<i>PCW Revision June 12, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN105532865			
<b>Media [Statute]</b> Irrigators			
<b>Enf. Coordinator</b> Thomas Jecha			
<b>Violation Number</b> <input type="text" value="1"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 344.58(b), Tex. Water Code § 37.003 and Tex. Occupations Code § 1903.251		
<b>Violation Description</b>	Failed to comply with the requirements for authorized use of an irrigator or installer license. Specifically, the Respondent used Landscape Irrigator License No. 13828, which he is not authorized to use.		
<b>Base Penalty</b>		<input type="text" value="\$2,500"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Major	Moderate	Minor
<b>Release</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>			<input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
Major      Moderate      Minor			
<input type="text"/>	x	<input type="text"/>	<input type="text"/>
<b>Percent</b>			<input type="text" value="10%"/>
<b>Matrix Notes</b>	100% of the rule requirement was not met.		
<b>Adjustment</b>			<input type="text" value="\$2,250"/>
			<input type="text" value="\$250"/>
<b>Violation Events</b>			
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<input type="text" value="50"/> <b>Number of violation days</b>
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$250"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	x	
One single event is recommended.			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/> <b>Reduction</b>	<input type="text" value="\$0"/>
		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)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>			<input type="text" value="\$250"/>
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$17"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$250"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$250"/>

## Economic Benefit Worksheet

**Respondent:** Paul McGregor  
**Case ID No.:** 36256  
**Reg. Ent. Reference No.:** RN105532865  
**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**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$450	2-Jun-2008	26-Feb-2009	0.74	\$17	n/a	\$17
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a landscape irrigator license. The date required is the record review date, and the final date is the expected date of compliance.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$450

**TOTAL**

\$17

<b>Screening Date</b> 22-Jul-2008	<b>Docket No.</b> 2008-1206-LII-E	<b>PCW</b>			
<b>Respondent</b> Paul McGregor	<small>Policy Revision 2 (September 2002)</small>				
<b>Case ID No.</b> 36256	<small>PCW Revision June 12, 2008</small>				
<b>Reg. Ent. Reference No.</b> RN105532865					
<b>Media [Statute]</b> Irrigators					
<b>Enf. Coordinator</b> Thomas Jecha					
<b>Violation Number</b> 2					
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 30.5(b) and 344.4(a) and Tex. Occupations Code § 1903.251				
<b>Violation Description</b>	Advertised or represented themselves to the public as a person who can perform services for which a license or registration is required without holding a current license or employing individuals who hold current licenses. Specifically, the Respondent advertised for irrigation installation and repair services without holding an irrigator license or employing an individual with a current license.				
<b>Base Penalty</b>		\$2,500			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>			<b>Percent</b> <input type="text" value="0%"/>	
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
<b>Falsification</b>			<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
<input type="text"/>			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Matrix Notes</b>			100% of the rule requirement was not met.		
			<b>Adjustment</b>	<input type="text" value="\$2,250"/>	
<b>Subtotal</b>					<input type="text" value="\$250"/>
<b>Violation Events</b>					
<b>Number of Violation Events</b> <input type="text" value="1"/>		<b>Number of violation days</b> <input type="text" value="50"/>			
<small>mark only one with an x</small>	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="checkbox"/>			
<b>Violation Base Penalty</b>					<input type="text" value="\$250"/>
<input type="text" value="One single event is recommended."/>					
<b>Good Faith Efforts to Comply</b>					
		<b>0.0% Reduction</b>	<input type="text" value="\$0"/>		
		<small>Before NOV    NOV to EDRP/Settlement Offer</small>			
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>			
<b>Notes</b>	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>				
<b>Violation Subtotal</b>					<input type="text" value="\$250"/>
<b>Economic Benefit (EB) for this violation</b>					
<b>Estimated EB Amount</b> <input type="text" value="\$0"/>			<b>Statutory Limit Test</b>		
			<b>Violation Final Penalty Total</b> <input type="text" value="\$250"/>		
			<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$250"/>		

## Economic Benefit Worksheet

**Respondent:** Paul McGregor  
**Case ID No.:** 36256  
**Reg. Ent. Reference No.:** RN105532865  
**Media:** Irrigators  
**Violation No.:** 2

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

Notes for DELAYED costs

Economic benefit included in Violation No. 1.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

# Compliance History

Customer/Respondent/Owner-Operator: CN603364548 MCGREGOR, PAUL Classification: Rating:  
Regulated Entity: RN105532865 MCGREGOR PAUL Classification: Site Rating:  
ID Number(s):  
Location: 17424 W. GRAND PARKWAY SOUTH, SUITE 208, SUGAR  
LAND, TX, 77479  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: July 17, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 17, 2003 to July 17, 2008

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

Name: Thomas Jecha Phone: 512 239 2576

## 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? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## 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.)
  - 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  
PAUL MCGREGOR;  
RN105532865**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2008-1206-LII-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Second Amended 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 Paul McGregor.

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

### **FINDINGS OF FACT**

1. Paul McGregor owns and operates a landscaping business located at 17424 West Grand Parkway South, Suite 208, Sugar Land, Harris County, Texas (the "Operation").
2. Paul McGregor sells, designs, consults, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Paul McGregor is subject to TCEQ jurisdiction pursuant to TEX. OCCUPATIONS CODE ch. 1903, TEX. WATER CODE chs. 7 and 37, and 30 TEX. ADMIN. CODE chs. 30 and 344.
3. During a record review conducted on June 2, 2008, a TCEQ Central Office investigator documented that Paul McGregor:
  - a. Failed to comply with the requirements for authorized use of an irrigator or installer license. Specifically, Paul McGregor used Landscape Irrigator License No. 13828, which he is not authorized to use; and
  - b. Failed to refrain from advertising or representing himself to the public as a person who can perform services for which a license or registration is required without holding a current license or employing individuals who hold current licenses. Specifically, Paul McGregor advertised for irrigation installation and repair services without holding an irrigator license or employing an individual with a current license.

4. Paul McGregor received notice of the violations on or about June 30, 2008.
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 Paul McGregor" (the "EDPRP") in the TCEQ Chief Clerk's office on January 29, 2009.
6. By letter dated January 29, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Paul McGregor with notice of the EDPRP. Neither the certified mail nor the first class mail was returned.
7. The Executive Director filed the "Executive Director's First Amended 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 Paul McGregor" (the "EDFARP") in the TCEQ Chief Clerk's office on February 3, 2009.
8. By letter dated February 3, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Paul McGregor with notice of the EDFARP. According to the return receipt "green card," Paul McGregor received notice of the EDFARP on February 5, 2009, as evidenced by the signature on the card.
9. The Executive Director filed the "Executive Director's Second Amended 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 Paul McGregor" (the "EDSARP") in the TCEQ Chief Clerk's office on February 6, 2009.
10. By letter dated February 6, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Paul McGregor with notice of the EDSARP. According to the return receipt "green card," Paul McGregor received notice of the EDFARP on February 9, 2009, as evidenced by the signature on the card.
11. Paul McGregor filed an answer requesting a hearing on February 18, 2009, and, pursuant to 30 TEX. ADMIN. CODE § 70.109, the matter was referred to the State Office of Administrative Hearings ("SOAH") on March 25, 2009.
12. On April 13, 2009, the TCEQ Chief Clerk mailed the notice of the June 11, 2009, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Paul McGregor. According to the return receipt "green card," Paul McGregor received notice of the June 11, 2009, preliminary hearing on April 15, 2009, as evidenced by the signature on the card.

13. On January 11, 2009, the Administrative Law Judge ("ALJ") convened the preliminary hearing, but Paul McGregor failed to appear. The Executive Director requested that the matter be remanded to the Executive Director so that a Default Order may be entered and the case may be dismissed from the SOAH Docket.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Paul McGregor is subject to the jurisdiction of the TCEQ pursuant to TEX. OCCUPATIONS CODE ch. 1903, TEX. WATER CODE chs. 7 and 37, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 3.a., Paul McGregor failed to comply with the requirements for authorized use of an irrigator or installer license, in violation of 30 TEX. ADMIN. CODE § 344.58(b)<sup>1</sup>, TEX. WATER CODE § 37.003, and TEX. OCCUPATIONS CODE § 1903.251.
3. As evidenced by Finding of Fact No. 3.b., Paul McGregor failed to refrain from advertising or representing himself to the public as a person who can perform services for which a license or registration is required without holding a current license or employing individuals who hold current licenses, in violation of 30 TEX. ADMIN. CODE §§ 30.5(b) and 344.4(a)<sup>2</sup> and TEX. OCCUPATIONS CODE § 1903.251.
4. As evidenced by Finding of Fact Nos. 7, 8, 9, and 10, the Executive Director timely served Paul McGregor with proper notice of the EDFARP, and EDSARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 11, Paul McGregor filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 30 TEX. ADMIN. CODE § 70.109.
6. As evidenced by Finding of Fact No. 12, Paul McGregor was provided proper notice of a preliminary hearing pursuant to TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058 and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.425, 70.104, and 80.6(b)(3).

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1 30 TEX. ADMIN. CODE § 344.58(b) is now found at 30 TEX. ADMIN. CODE § 344.34(b), adopted to be effective January 1, 2009, 32 Tex. Reg. 5713.

2 30 TEX. ADMIN. CODE § 344.4(a) is now found at 30 TEX. ADMIN. CODE § 344.30(a), adopted to be effective January 1, 2009, 32 Tex. Reg. 5713.

7. As evidenced by Finding of Fact No. 13, Paul McGregor failed to appear for the preliminary hearing. Pursuant to TEX. GOV'T CODE § 2001.056, TEX. WATER CODE § 7.056, and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Paul McGregor and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Paul McGregor 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.
9. An administrative penalty in the amount of five hundred dollars (\$500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. 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. Paul McGregor is assessed an administrative penalty in the amount of five hundred dollars (\$500.00) for violations of the Texas Water Code and the rules of the TCEQ. The payment of this administrative penalty and Paul McGregor'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: Paul McGregor; Docket No. 2008-1206-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. Paul McGregor shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Order, Paul McGregor shall cease selling, designing, consulting, installing, maintaining, altering, repairing, advertising, or servicing landscape irrigation systems unless properly licensed and cease unauthorized use of other licenses, in accordance with 30 TEX. ADMIN. CODE ch. 344; and
- b. Within 15 days after the effective date of this Order, Paul McGregor shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or 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.”

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

Regulatory Compliance Section Manager  
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 Paul McGregor.

5. If Paul McGregor 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, Paul McGregor's failure to comply is not a violation of this Order. Paul McGregor shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Paul McGregor shall notify the Executive Director within seven days after Paul McGregor 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 Paul McGregor shall be made in writing to the Executive Director. Extensions are not effective until Paul McGregor 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 Paul McGregor if the Executive Director determines that Paul McGregor 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

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For the Commission

**AFFIDAVIT OF PHILLIP M. GOODWIN**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Phillip M. Goodwin. 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 Paul McGregor” (the “EDPRP”) was filed with the Office of the Chief Clerk on January 29, 2009.

The EDPRP was mailed to Paul McGregor at his last known address on January 29, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. Neither the certified mail nor the first class mail was returned.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Paul McGregor” (the “EDFARP”) was filed with the Office of the Chief Clerk on February 3, 2009.

The EDFARP was mailed to Paul McGregor at his last known address on February 3, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Paul McGregor received the Notice of the EDFARP on February 5, 2009.

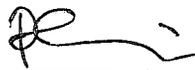
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Paul McGregor” (the “EDSARP”) was filed with the Office of the Chief Clerk on February 6, 2009.

The EDSARP was mailed to Paul McGregor at his last known address on February 6, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Paul McGregor received the Notice of the EDSARP on February 9, 2009.

Paul McGregor filed an answer requesting a hearing on February 18, 2009, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on March 25, 2009.

Notice of a June 11, 2009, preliminary hearing was mailed by the TCEQ Chief Clerk on April 13, 2009. The Notice was sent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Paul McGregor received the Notice of the Preliminary Hearing on April 15, 2009.

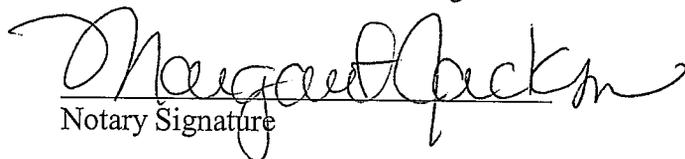
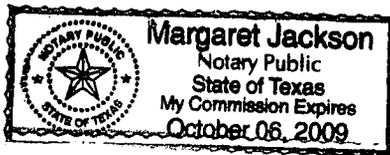
Paul McGregor failed to appear at the preliminary hearing on June 11, 2009. At that hearing, I requested and received a finding that Paul McGregor was served with proper notice of the hearing. I also requested and received a remand from the Administrative Law Judge pursuant to 1 TEX. ADMIN. CODE § 155.501(e)(1), which gives an ALJ the authority to remand the case back to the agency "to allow the agency to dispose of the case on a default basis under TEX. GOV'T CODE § 2001.056 and the referring agency's rules."



Phillip M. Goodwin, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Phillip M. Goodwin, 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 23 day of July A.D., 2009.



Notary Signature