

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 42478
Terry Lee Middleton d/b/a Five Star Lawn & Landscape
RN105704118
Docket No. 2011-1630-LII-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
LII

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
4101 West Green Oaks Boulevard, Arlington, Tarrant County

Type of Operation:
landscaping business

Other Significant Matters:
Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: September 28, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$275
Total Paid to General Revenue: \$0
Total Due to General Revenue: \$275

Compliance History Classifications:
Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: June 21, 2011; August 12, 2011
Date(s) of NOV(s): April 10, 2009; June 28, 2011
Date(s) of NOE(s): August 17, 2012

Violation Information

Failed to refrain from advertising or representing himself to the public as a holder of a license or registration or unless he employs an individual who holds a current license [TEX. WATER CODE § 37.003 and 30 TEX. ADMIN. CODE § 30.5(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

Respondent shall undertake the following technical requirements

1. Immediately, remove all references to license number LI17754 from company vehicles; and
2. Within 15 days submit written certification to demonstrate compliance

Litigation Information

Date Petition(s) Filed: July 26, 2012
Date Green Card(s) Signed: July 28, 2012
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Scott Humphrey, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Roshondra Lowe, Enforcement Division, (713) 767- 3500

TCEQ Regional Contact: Sid Slocum, Dallas/Fort Worth Regional Office, (817) 588-5800

Respondent: Terry Middleton, Owner, Five Star Lawn & Landscape, 4101 West Green Oaks Boulevard, Ste. 305-596, Arlington, Texas 76016-4462

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Aug-2011	Screening	8-Sep-2011	EPA Due	
	PCW	14-Jun-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	Terry Lee Middleton d/b/a Five Star Lawn & Landscape
Reg. Ent. Ref. No.	RN105704118
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42478	No. of Violations	1
Docket No.	2011-1630-LII-E	Order Type	1660
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Roshondra Lowe
		EC's Team	Enforcement Team 4
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	10.0% Enhancement	Subtotals 2, 3, & 7	\$25
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Notes	Enhancement for two NOV's with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$25	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$275
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$275
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$275
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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.
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PAYABLE PENALTY	\$275
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Screening Date 8-Sep-2011

Docket No. 2011-1630-LII-E

PCW

Respondent Terry Lee Middleton d/b/a Five Star Lawn & Lands

Policy Revision 2 (September 2002)

Case ID No. 42478

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105704118

Media [Statute] Irrigators

Enf. Coordinator Roshondra Lowe

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

>> 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

Enhancement for two NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 8-Sep-2011

Docket No. 2011-1630-LII-E

PCW

Respondent Terry Lee Middleton d/b/a Five Star Lawn & Landscape

Policy Revision 2 (September 2002)

Case ID No. 42478

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105704118

Media [Statute] Irrigators

Enf. Coordinator Roshondra Lowe

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 30.5(b) and Tex. Water Code § 37.003

Violation Description Failed to refrain from advertising or representing himself to the public as a holder of a license or registration unless in possession of a current license or registration or unless he employs an individual who holds a current license. Specifically, the Respondent displayed the license number of a former employee (License Number LI17754) on his company vehicle, and neither Respondent nor any of his employees hold a current TCEQ landscape irrigation license.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		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 79

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	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 for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

Economic Benefit Worksheet

Respondent Terry Lee Middleton d/b/a Five Star Lawn & Landscape
Case ID No. 42478
Reg. Ent. Reference No. RN105704118
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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No commas or \$

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)	\$25	21-Jun-2011	12-May-2012	0.89	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to remove the license number from the vehicle. The Date Required is the date the violation was first documented. 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

\$25

TOTAL

\$1

Compliance History

Customer/Respondent/Owner-Operator: CN603459413 MIDDLETON, TERRY LEE Classification: Rating:
Regulated Entity: RN105704118 MIDDLETON TERRY Classification: Site Rating:
ID Number(s):
Location: 4101 W GREEN OAKS BLVD, ARLINGTON, TARRANT COUNTY, TX, 76016
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: December 22, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 22, 2006 to December 22, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: Roshondra Lowe Phone: (713) 767-3553

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/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, 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.)
1 08/16/2011 (948995)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 04/10/2009 (742017)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 30, SubChapter A 30.5(b)

Description: During the 03/19/2009 record review investigation, it was documented that Mr. Terry Middleton, Landscape Irrigation License Number NONE, of The Five Star Group Inc., advertised "sprinkler diagnostic" services in the March 2009 edition of Ad Pages and "sprinkler install / repair" on the company's website and failed to properly display a valid licensed irrigator's number in the advertisement.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter G 344.70(b)

Description: Failure to include in all advertisements the irrigator's license number in the form of "LI _____." Specifically, during the 03/13/09 record review investigation, it was documented alleging that Terry Middleton, Landscape Irrigation License Number NONE, of The Five Star Group Inc., failed to include a valid irrigation license number in the March 2009 edition of the Ad Pages Savings Magazine in which he advertised sprinkler diagnostics, and failed to properly display a valid irrigation license number.

Date: 06/28/2011 (934440)

Self Report? NO Classification: Moderate

Citation: 12 TOC Chapter 1903, SubChapter F 1903.251

2F TWC Chapter 37, SubChapter L 37.003

30 TAC Chapter 30, SubChapter A 30.5

Description: Failure to display an irrigator license prior to advertising irrigation services. Specifically, during the 06/21/11 record review investigation, it was documented that Mr. Terry L. Middleton, Director, The Five Star Group Inc., advertised irrigation services on his company vehicle using a former employee's license number (LI #17754). The TCEQ Occupational Licensing Detail database shows that Mr. Middleton is not a licensed irrigator.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter C 344.34(b)

Description: Failure to be a licensed irrigator or have the permission of a licensed irrigator before using a license number. Specifically, during the 06/21/11 record review investigation, it was documented that Mr. Terry L. Middleton, Director, The Five Star Group Inc., advertised irrigation services on his company vehicle using a former employee's license number (LI #17754). The TCEQ Occupational Licensing Detail database shows that Mr. Middleton is not a licensed irrigator.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter G 344.70(b)

Description: Failure to display an irrigator license prior to advertising irrigation services. Specifically, during the 06/21/11 record review investigation, it was documented that Mr. Terry L. Middleton, Director, The Five Star Group Inc., advertised irrigation services on his company vehicle using a former employee's license number (LI #17754). The TCEQ Occupational Licensing Detail database shows that Mr. Middleton is not a licensed irrigator.

- 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
TERRY LEE MIDDLETON D/B/A
FIVE STAR LAWN &
LANDSCAPE;
RN105704118**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-1630-LII-E

At its _____ agenda meeting, 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 Terry Lee Middleton d/b/a Five Star Lawn & Landscape ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a landscaping business located at 4101 West Green Oaks Boulevard in Arlington, Tarrant County, Texas (the "Business"). Respondent represents to the public that he sells, designs, offers consultations regarding, installs, maintains, alters, repairs, and/or services landscape irrigation systems and is required to be licensed under 30 TEX. ADMIN. CODE ch. 30. Therefore, Respondent is subject to TCEQ jurisdiction pursuant to TEX. WATER CODE ch. 37 and TEX. OCC. CODE ch. 1903.
2. During an investigation conducted on June 21, 2011, and a record review conducted on August 12, 2011, a TCEQ Central Office staff member documented that Respondent failed to refrain from advertising or representing himself to the public as a holder of a license or registration or unless he employs an individual who holds a current license. Specifically, Respondent displayed the license number of a former employee (License Number LI17754) on his company vehicle, and neither Respondent nor any of his employees hold a current TCEQ landscape irrigation license.
3. Respondent received notice of the violation on or about August 22, 2011.
4. 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 Terry Lee Middleton d/b/a Five Star Lawn & Landscape" (the "EDPRP") in the TCEQ Chief Clerk's office on July 26, 2012.

5. By letter dated July 26, 2012, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on July 28, 2012, as evidenced by the signature on the card.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 37, TEX. OCC. CODE ch. 1903, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to refrain from advertising or representing himself to the public as a holder of a license or registration or unless he employs an individual who holds a current license, in violation of TEX. WATER CODE § 37.003 and 30 TEX. ADMIN. CODE § 30.5(b).
3. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent 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. 6, Respondent failed to file a timely answer 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 Respondent 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 Respondent for violations of state statutes 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 seventy-five dollars (\$275.00) 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. Respondent is assessed an administrative penalty in the amount of two hundred seventy-five dollars (\$275.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent'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.

2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Terry Lee Middleton d/b/a Five Star Lawn & Landscape; Docket No. 2011-1630-LII-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

3. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Respondent shall remove all references to license number LI17754 from company vehicles; and
 - b. Within 15 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

FOSD Water Program, Team Leader
Landscape Irrigation Program, MC 174
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Business operations referenced in this Order.
6. If Respondent 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF KARI L. GILBRETH

STATE OF TEXAS

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COUNTY OF TRAVIS

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"My name is Kari L. Gilbreth. 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 Terry Lee Middleton d/b/a Five Star Lawn & Landscape" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 26, 2012.

The EDPRP was mailed to Respondent's last known address on July 26, 2012, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on July 28, 2012, as evidenced by the signature on the card.

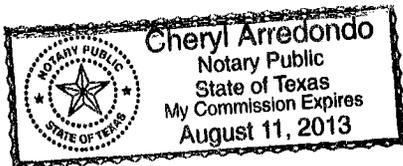
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Kari L. Gilbreth, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Kari L. Gilbreth, 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 4th day of September, A.D. 2012.


Notary Signature