

Mike Jason Tilley

RN103354742

Docket No. 2010-1385-LII-E

Order Type:

Default Order

Findings Order Justification:

N/A

Media:

LII

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

701 Buffalo Springs Drive, Allen, Collin County; 10121 Coolidge Drive, McKinney, Collin 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: May 27, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,018

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$1,018

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Mike Jason Tilley

RN103354742

Docket No. 2010-1385-LII-E

Investigation Information

Complaint Date(s): April 13, 2010; May 27, 2010
Complaint Information: Complaints alleged that an irrigation system repair by Respondent failed to stop leaks in the irrigation system, and that Respondent installed an irrigation system but was not a licensed irrigator.
Date(s) of Investigation: July 22, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): July 28, 2010

Violation Information

1. Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system, and failed to refrain from representing himself to the public as a person who can perform services for which a license or registration is required [30 TEX. ADMIN. CODE § 30.5(a), TEX. WATER CODE § 37.003, and TEX. OCC. CODE § 1903.251].
2. Failed to obtain all permits and inspections required to install an irrigation system [30 TEX. ADMIN. CODE §§ 344.35(a) and (d)(2)].
3. Failed to include in all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system the required statement regarding TCEQ authority and contact information [30 TEX. ADMIN. CODE § 344.71(b)].

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Immediately cease advertising, selling, designing, consulting, installing, maintaining, altering, repairing or servicing landscape irrigation systems until properly licensed.
2. Immediately after becoming properly licensed, begin including the required statement regarding TCEQ authority and contact information on all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system.
3. Within 30 days, obtain all required permits and inspections from the City of McKinney for the irrigation system.
4. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1 and 3.
5. Within 45 days after becoming properly licensed, submit written certification to demonstrate compliance with Technical Requirement No. 2.

Litigation Information

Date(s) Petition(s) Filed: March 28, 2011
Date(s) Green Card(s) Signed: April 4, 2011
Date Answer Filed: N/A
SOAH Referral Date: N/A
Hearing Dates: N/A

Mike Jason Tilley

RN103354742

Docket No. 2010-1385-LII-E

Contact Information

TCEQ Attorneys: Steven M. Fishburn, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: Miriam Hall, Air Enforcement Section, (512) 239-1044

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

Respondent: Mike Jason Tilley, 701 Buffalo Springs Drive, Allen, Texas 75013-5489

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-Aug-2010	Screening	17-Aug-2010	EPA Due	
	PCW	29-Nov-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Mike Jason Tilley		
Reg. Ent. Ref. No.	RN103354742		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40271	No. of Violations	3
Docket No.	2010-1385-LII-E	Order Type	1660
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
		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	\$900
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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	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for Compliance History.
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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	\$125	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$261	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$900
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OTHER FACTORS AS JUSTICE MAY REQUIRE	13.1%	Adjustment	\$118
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Avoided cost associated with obtaining an irrigator license as shown in Violation 1.
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Final Penalty Amount	\$1,018
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,018
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DEFERRAL		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	\$1,018
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Screening Date 17-Aug-2010

Docket No. 2010-1385-LII-E

PCW

Respondent Mike Jason Tilley

Policy Revision 2 (September 2002)

Case ID No. 40271

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103354742

Media [Statute] Irrigators

Enf. Coordinator Miriam Hall

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>)	0	0%
	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) 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 adjustment for Compliance History.

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

Screening Date 17-Aug-2010

Docket No. 2010-1385-LII-E

PCW

Respondent Mike Jason Tilley

Policy Revision 2 (September 2002)

Case ID No. 40271

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103354742

Media [Statute] Irrigators

Enf. Coordinator Miriam Hall

Violation Number 1

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

Violation Description Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system and failed to refrain from representing himself to the public as a person who can perform services for which a license or registration is required, as documented during a record review conducted July 22, 2010. Specifically, the Respondent installed an irrigation system at 10125 Coolidge Drive, McKinney, Collin County, Texas during March 2010, without holding a valid irrigator license.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	x			25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$1,875

\$625

Violation Events

Number of Violation Events 1 26 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$625

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 w th x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$118 Violation Final Penalty Total \$707

This violation Final Assessed Penalty (adjusted for limits) \$707

Economic Benefit Worksheet

Respondent Mike Jason Tilley
Case ID No. 40271
Req. Ent. Reference No. RN103354742
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
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$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]	\$111	29-Mar-2010	22-Jul-2010	1.23	\$7	\$111	\$118
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to obtain an irrigator license. The Date Required is the invoice date of the installation and the Final Date is the date of the record review.

Approx. Cost of Compliance

\$111

TOTAL

\$118

Screening Date 17-Aug-2010

Docket No. 2010-1385-LII-E

PCW

Respondent Mike Jason Tilley

Policy Revision 2 (September 2002)

Case ID No. 40271

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103354742

Media [Statute] Irrigators

Enf. Coordinator Miriam Hall

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 344.35(a) and (d)(2)

Violation Description Failed to obtain all permits and inspections required to install an irrigation system. Specifically, the Respondent failed to obtain the required permits before installing an irrigation system at 10125 Coolidge, McKinney, Collin County, Texas.

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%
100% of the rule requirement was not met.					

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1 26 Number of violation days

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 w th 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 \$5

Violation Final Penalty Total \$283

This violation Final Assessed Penalty (adjusted for limits) \$283

Economic Benefit Worksheet

Respondent Mike Jason Tilley
Case ID No. 40271
Req. Ent. Reference No. RN103354742
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
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	\$100	29-Mar-2010	18-Apr-2011	1.05	\$5	n/a	\$5
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to obtain the necessary permits from the City of McKinney, calculated from the invoice date of the installation to the estimated 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

\$100

TOTAL

\$5

Screening Date 17-Aug-2010

Docket No. 2010-1385-LII-E

PCW

Respondent Mike Jason Tilley

Policy Revision 2 (September 2002)

Case ID No. 40271

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103354742

Media [Statute] Irrigators

Enf. Coordinator Miriam Hall

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code 344.71(b)

Violation Description Failed to include in all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.state.tx.us." Specifically, the Respondent failed to include the statement on the invoice provided for the installation of the irrigation system at 10125 Coolidge, McKinney, Collin County, Texas.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1%

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment \$2,475

\$25

Violation Events

Number of Violation Events 1 26 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$25

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 w th x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$25

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2 Violation Final Penalty Total \$28

This violation Final Assessed Penalty (adjusted for limits) \$28

Economic Benefit Worksheet

Respondent Mike Jason Tilley
Case ID No. 40271
Req. Ent. Reference No. RN103354742
Media Irrigators
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$50	22-Jul-2010	18-Apr-2011	0.74	\$2	n/a	\$2

Notes for DELAYED costs

The delayed cost includes the estimated amount to include the required statement on all invoices, calculated from the date of the record review to the estimated 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

\$50

TOTAL

\$2

Compliance History Report

Customer/Respondent/Owner-Operator: CN601875339 TILLEY, MIKE JASON
Regulated Entity: RN103354742 TILLEY, MIKE JASON
ID Number(s):
Location: 701 BUFFALO SPRINGS DR, ALLEN, TX, 75013
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: August 23, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 17, 2005 to August 17, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Gena Hawkins Phone: (512) 239 - 2583

Classification:
Classification: Rating:
Site

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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. When did the change(s) in owner or operator occur? 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.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MIKE JASON TILLEY;
RN103354742**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-1385-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 Mike Jason Tilley ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned and operated a landscaping business located at 701 Buffalo Springs Drive in Allen, Collin County, Texas (the "Business"). Respondent held TCEQ irrigator license no. LI0006853, which expired on August 31, 2000, and sells, designs, offers consultations regarding, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Respondent is subject to TCEQ jurisdiction pursuant to TEX. WATER CODE ch. 37 and TEX. OCC. CODE ch. 1903.
2. During a record review conducted on July 22, 2010, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system, and failed to refrain from representing himself to the public as a person who can perform services for which a license or registration is required. Specifically, Respondent installed an irrigation system at 10125 Coolidge Drive in McKinney, Collin County, Texas in March 2010 without holding a valid irrigator license;
 - b. Failed to obtain all permits and inspections required to install an irrigation system. Specifically, Respondent failed to obtain the required permits before installing an irrigation system at 10125 Coolidge Drive in McKinney, Collin County, Texas; and
 - c. Failed to include in all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system the statement: "Irrigation

in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ)(MC-178), P. O. Box 13087, Austin, Texas 78711-3087. TCEQ's website is: www.tceq.state.tx.us." Specifically, Respondent failed to include the required statement on the invoice provided for the installation of the irrigation system at 10125 Coolidge Drive in McKinney, Collin County, Texas.

3. Respondent received notice of the violations on or about August 2, 2010. The
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 Mike Jason Tilley" (the "EDPRP") in the TCEQ Chief Clerk's office on March 28, 2011.
5. The Executive Director served Respondent with notice of the EDPRP via hand delivery at Respondent's last known address on April 4, 2011. According to the acknowledgment signed by the recipient at Respondent's last known address, Respondent received notice of the EDPRP on April 4, 2011.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP provided by the Executive Director. 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.a., Respondent failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system, and failed to refrain from representing himself to the public as a person who can perform services for which a license or registration is required, in violation of 30 TEX. ADMIN. CODE § 30.5(a), TEX. WATER CODE § 37.003, and TEX. OCC. CODE § 1903.251.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to obtain all permits and inspections required to install an irrigation system, in violation of 30 TEX. ADMIN. CODE § 344.35(a) and (d)(2).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to include in all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), (MC-178), P. O. Box 13087, Austin, Texas 78711-3087. TCEQ's website is: www.tceq.state.tx.us", in violation of 30 TEX. ADMIN. CODE § 344.71(b).
5. 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(b)(2).

6. 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.
7. 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.
8. An administrative penalty in the amount of one thousand eighteen dollars (\$1,018.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. 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 one thousand eighteen dollars (\$1,018.00) 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: Mike Jason Tilley; Docket No. 2010-1385-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 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 ch. 344;

- b. Immediately after becoming properly licensed, Respondent shall begin including the required statement on all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system, in accordance with 30 TEX. ADMIN. CODE § 344.71.
- c. Within 30 days after the effective date of this Order, Respondent shall obtain all required permits and inspections from the City of McKinney for the irrigation system installed at 10125 Coolidge Drive in McKinney, Collin County, Texas, in accordance with 30 TEX. ADMIN. CODE § 344.35;
- d. Within 45 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 3.f, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions Nos. 3.a and c.
- e. Within 45 days after becoming properly licensed, Respondent shall submit written certification as described in Ordering Provision No. 3.f. and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.b.
- f. The certifications required by these Ordering Provisions 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."

Respondent shall submit the written certification and copies of 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:

Tracy Miller, Landscape Irrigation Program
Texas Commission on Environmental Quality
Office of Compliance and Enforcement, MC 174
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 STEVEN M. FISHBURN

STATE OF TEXAS

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COUNTY OF TRAVIS

"My name is Steven M. Fishburn. 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 Mike Jason Tilley," (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 28, 2011.

The Executive Director served Respondent with notice of the EDPRP via hand delivery at Respondent's last known address on April 4, 2011. According to the acknowledgment signed by the recipient at Respondent's last known address, the Respondent received notice of the EDPRP on April 4, 2011.

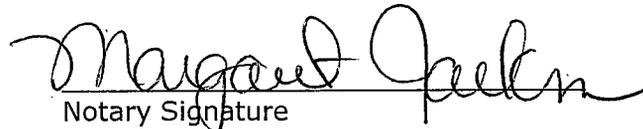
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."



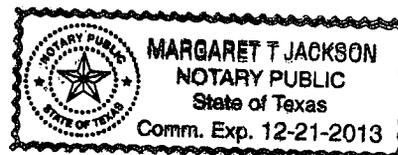
Steven M. Fishburn, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Steven M. Fishburn, 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 7th day of April, A.D. 2011.



Notary Signature



ATTACHMENT A

Acknowledgment of Receipt of EDPRP

ACKNOWLEDGMENT OF RECEIPT

I acknowledge receipt of the Texas Commission on Environmental Quality's document titled 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 Mike Jason Tilley" ("EDPRP") (Docket No. 2010-1385-LII-E) of March 28, 2011. The document was delivered to me by a TCEQ employee and is being delivered at the last known address of Mr. Mike Jason Tilley: 701 Buffalo Springs Drive, Allen, Texas 75013.

Louis Tilley
Printed Name

4-4-11
Date

[Signature]
Signature

Derek Snyder
Printed Name of TCEQ
Employee Delivering Document

4-4-11
Date

ATTACHMENT B

Affidavit of Derek T. Snyder

AFFIDAVIT OF DEREK T. SNYDER

STATE OF TEXAS

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COUNTY OF TARRANT

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"My name is Derek T. Snyder. 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.

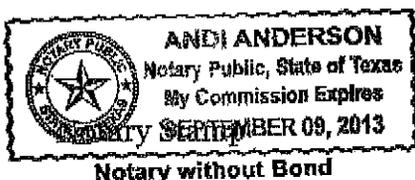
I am employed as an Investigator in the Texas Commission on Environmental Quality's Dallas/Fort Worth Regional Office and I certify to the following: On April 4, 2011 at 1:55 p.m., I went to 701 Buffalo Springs Drive, Allen, Texas 75013, the last known address of Mr. Mike Jason Tilley, for the purpose of hand delivering a copy of a document titled 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 Mike Jason Tilley (the "EDPRP"); Docket No. 2010-1385-LII-E dated March 28, 2011. Mr. Louis C. Tilley, who identified himself as Mr. Mike Jason Tilley's father, was at the residence and he accepted the document and he signed and dated an acknowledgment of receipt form I provided to him (see attached)."



Derek T. Snyder

Before me, the undersigned authority, on this day personally appeared Derek T. Snyder, 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 5th day of April, A.D., 2011.





Notary Signature