

Roger Alan Biggs
RN103232138
Docket No. 2014-1879-LII-E

Order Type:

Default Order

Media:

Landscape Irrigation Installation

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1200 Farm to Market Road 720, Frisco, Denton County (Business address);

2705 Vasey Oak, Little Elm, Denton County (Site address)

Type of Operation:

licensed irrigator/landscaping business

Other Significant Matters:

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: Respondent's landscape irrigator license, No. LI0004376, expires on May 31, 2016.

Interested Third-Parties: None

Texas Register Publication Date: August 28, 2015**Comments Received:** None**Penalty Information****Total Penalty Assessed:** \$502**Total Paid to General Revenue:** \$0**Total Due to General Revenue:** \$502**Compliance History Classifications:**

Person/CN –N/A

Site/RN – N/A

Major Source: No**Statutory Limit Adjustment:** None**Applicable Penalty Policy:** April 2014

Roger Alan Biggs
RN103232138
Docket No. 2014-1879-LII-E

Investigation Information

Complaint Date(s): November 20, 2013
Complaint Information: Alleged that Respondent, doing business as Complete Services, failed to complete an irrigation system installation.

Date(s) of Investigation: February 14, 2014

Date(s) of NOV(s): N/A

Date(s) of NOE(s): November 14, 2014

Violation Information

1. Failed to comply with local regulations and obtain a permit prior to installing a landscape irrigation system [30 TEX. ADMIN. CODE § 344.24(a)].
2. Failed to provide a complete irrigation plan prior to construction [30 TEX. ADMIN. CODE §§ 344.43(g) and 344.61(c)].
3. Failed to include all required information in a contract [TEX. ADMIN. CODE §§ 344.43(g) and 344.71(a)].
4. Failed to include all required information in an invoice [30 TEX. ADMIN. CODE § 344.71(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Ensure required permits are obtained prior to installing irrigation systems;
 - b. Ensure all irrigation system plans include all the requirements listed in 30 TEX. ADMIN. CODE 344.61(c);
 - c. Ensure all contracts include all the requirements listed in 30 TEX. ADMIN. CODE § 344.71(a); and
 - d. Ensure all invoices include all the requirements listed in 30 TEX. ADMIN. CODE § 344.71(b).
2. Within 45 days submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: June 8, 2015

Date Green Card(s) Signed: June 11, 2015

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Jess Robinson, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Amancio Gutierrez, Enforcement Division, (512) 239-3921

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

Respondent Contact: Roger Alan Biggs, 9302 Mirror Fountain Circle, Frisco, Texas 75033

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	8-Dec-2014	Screening	15-Dec-2014	EPA Due	
	PCW	26-May-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	Roger Alan Biggs
Reg. Ent. Ref. No.	RN103232138
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	49839	No. of Violations	4
Docket No.	2014-1879-LII-E	Order Type	1660
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amancio R. Gutierrez
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$475
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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.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

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: \$219
 Estimated Cost of Compliance: \$2,025
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$475
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OTHER FACTORS AS JUSTICE MAY REQUIRE	5.7%	Adjustment	\$27
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with Violation No. 1.

Final Penalty Amount	\$502
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$502
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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.

PAYABLE PENALTY	\$502
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Screening Date 15-Dec-2014

Docket No. 2014-1879-LII-E

PCW

Respondent Roger Alan Biggs

Policy Revision 4 (April 2014)

Case ID No. 49839

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103232138

Media [Statute] Irrigators

Enf. Coordinator Amancio R. Gutierrez

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 judgments 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 Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date 15-Dec-2014 **Docket No.** 2014-1879-LII-E **PCW**
Respondent Roger Alan Biggs *Policy Revision 4 (April 2014)*
Case ID No. 49839 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN103232138
Media [Statute] Irrigators
Enf. Coordinator Amancio R. Gutierrez

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 344.24(a)

Violation Description

Failed to comply with local regulations and obtain a permit prior to installing a landscape irrigation system. Specifically, the Respondent failed to obtain the required permit from the City of Little Elm prior to installing an irrigation system at 2705 Vasey Oak, Little Elm, Denton County, Texas.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Roger Alan Biggs
Case ID No. 49839
Reg. Ent. Reference No. RN103232138
Media Violation No. Irrigators
 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)	\$500	19-Jul-2013	19-Jun-2015	1.92	\$48	n/a	\$48

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures to ensure that permits are obtained prior to installation of irrigation systems. The Date Required is the date the irrigation system was installed and the Final Date is 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]	\$25	19-Jul-2013	14-Feb-2014	1.49	\$2	\$25	\$27
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to obtain a permit prior to installing the irrigation system. The Date Required is the date the irrigation system was installed and the Final Date is the record review date.

Approx. Cost of Compliance

\$525

TOTAL

\$75

Screening Date 15-Dec-2014

Docket No. 2014-1879-LII-E

PCW

Respondent Roger Alan Biggs

Policy Revision 4 (April 2014)

Case ID No. 49839

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103232138

Media [Statute] Irrigators

Enf. Coordinator Amancio R. Gutierrez

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 344.43(g) and 344.61(c)

Violation Description

Failed to provide a complete irrigation plan prior to construction. Specifically, the Respondent did not provide an irrigation plan prior to construction that included the location and type of rain sensor, location and type of water meter, scale, north arrow, a legend, the irrigator's seal, signature, and date of signing for the irrigation system that was installed at 2705 Vasey Oak, Little Elm, Denton County, Texas.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes

Between 30% to 70% of the rule requirement was met.

Adjustment \$4,875

\$125

Violation Events

Number of Violation Events 1

514 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$125

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$48

Violation Final Penalty Total \$132

This violation Final Assessed Penalty (adjusted for limits) \$132

Economic Benefit Worksheet

Respondent Roger Alan Biggs
Case ID No. 49839
Reg. Ent. Reference No. RN103232138
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				0.00	\$0	n/a	\$0
Other (as needed)	\$500	19-Jul-2013	19-Jun-2015	1.92	\$48	n/a	\$48

Notes for DELAYED costs Estimated cost to implement measures and/or procedures to ensure that all irrigation system plans include all of the requirements listed in 30 Tex. Admin. Code § 344.61(c). The Date Required is the date the irrigation system was installed and the Final Date is 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 \$500

TOTAL \$48

Screening Date 15-Dec-2014

Docket No. 2014-1879-LII-E

PCW

Respondent Roger Alan Biggs

Policy Revision 4 (April 2014)

Case ID No. 49839

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103232138

Media [Statute] Irrigators

Enf. Coordinator Amancio R. Gutierrez

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 344.43(g) and 344.71(a)

Violation Description

Failed to include all required information in a contract. Specifically, the contract written by the Respondent on July 18, 2013 for installing an irrigation system at 2705 Vasey Oak, Little Elm, Denton County, Texas did not include the current business telephone number, a licensed irrigator's seal, and the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-128, P.O. Box 13087, Austin, Texas 78711-3087. The TCEQ's website is www.tceq.state.tx.us."

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

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

Adjustment \$4,950

\$50

Violation Events

Number of Violation Events 1

515 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$48

Violation Final Penalty Total \$53

This violation Final Assessed Penalty (adjusted for limits) \$53

Economic Benefit Worksheet

Respondent Roger Alan Biggs
Case ID No. 49839
Reg. Ent. Reference No. RN103232138
Media Violation No. Irrigators
 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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)	\$500	18-Jul-2013	19-Jun-2015	1.92	\$48	n/a	\$48

Notes for DELAYED costs
 Estimated cost to implement measures and/or procedures to ensure that all contracts include all of the requirements listed in 30 Tex. Admin. Code § 344.71(a). The Date Required is the date of the contract and the Final Date is 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 \$500 **TOTAL** \$48

Screening Date 15-Dec-2014

Docket No. 2014-1879-LII-E

PCW

Respondent Roger Alan Biggs

Policy Revision 4 (April 2014)

Case ID No. 49839

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103232138

Media [Statute] Irrigators

Enf. Coordinator Amancio R. Gutierrez

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 344.71(b)

Violation Description

Failed to include all required information in an invoice. Specifically, the invoice issued by the Respondent on July 18, 2013 for installing an irrigation system at 2705 Vasey Oak, Little Elm, Denton County, Texas did not include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-128, P.O. Box 13087, Austin, Texas 78711-3087. The TCEQ's website is www.tceq.state.tx.us."

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

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

Adjustment \$4,950

\$50

Violation Events

Number of Violation Events 1

515 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$48

Violation Final Penalty Total \$53

This violation Final Assessed Penalty (adjusted for limits) \$53

Economic Benefit Worksheet

Respondent Roger Alan Biggs
Case ID No. 49839
Reg. Ent. Reference No. RN103232138
Media Violation No. Irrigators
 4

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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)	\$500	18-Jul-2013	19-Jun-2015	1.92	\$48	n/a	\$48

Notes for DELAYED costs Estimated cost to implement measures and/or procedures to ensure that all invoices include all of the requirements listed in 30 Tex. Admin. Code § 344.71(b). The Date Required is the date of the invoice and the Final Date is 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 \$500

TOTAL \$48

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN601752728, RN103232138, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN601752728, Roger Alan Biggs **Classification:** N/A **Rating:** N/A

Regulated Entity: RN103232138, BIGGS, ROGER ALAN **Classification:** N/A **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 1200 FARM-TO-MARKET ROAD 720, FRISCO, TX, DENTON COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s): **LANDSCAPE IRRIGATION LICENSING** LICENSE LI0004376

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: May 19, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 19, 2009 to December 19, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Amancio R. Gutierrez **Phone:** (512) 239-3921

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:**
N/A
- B. Criminal convictions:**
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.):**
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
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
ROGER ALAN BIGGS;
RN103232138**

§
§
§
§
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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2014-1879-LII-E

On _____, 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 Roger Alan Biggs ("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 1200 Farm to Market Road 720 in Frisco, Denton County, Texas (the "Business"). Respondent holds TCEQ irrigator license no. 0004376 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 February 14, 2014, an investigator documented that Respondent:
 - a. Failed to comply with local regulations and obtain a permit prior to installing a landscape irrigation system. Specifically, Respondent failed to obtain the required permit from the City of Little Elm prior to installing an irrigation system at 2705 Vasey Oak in Little Elm, Denton County, Texas (the "Site").
 - b. Failed to provide a complete irrigation plan prior to construction. Specifically, Respondent did not provide an irrigation plan prior to construction that included the location and type of rain sensor, location and type of water meter, scale, north arrow, a legend, the irrigator's seal, signature, and date of signing for the irrigation system that was installed at the Site.
 - c. Failed to include all required information in a contract. Specifically, the contract written by Respondent on July 18, 2013, for installing an irrigation system at the Site did not include the current business telephone number, a licensed irrigator's seal, and the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-128, P.O. Box 13087, Austin, Texas 78711-3087. The TCEQ's website is www.tceq.state.tx.us."
 - d. Failed to include all required information in an invoice. Specifically, the invoice issued by Respondent on July 18, 2013, for installing an irrigation system at the Site did not include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-128, P.O. Box 13087, Austin, Texas 78711-3087. The TCEQ's website is www.tceq.state.tx.us."

3. 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 Roger Alan Biggs" (the "EDPRP") in the TCEQ Chief Clerk's office on June 8, 2015.
4. By letter dated June 8, 2015, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on June 11, 2015.
5. 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 TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to comply with local regulations and obtain a permit prior to installing a landscape irrigation system, in violation of 30 TEX. ADMIN. CODE § 344.24(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide a complete irrigation plan prior to construction, in violation of 30 TEX. ADMIN. CODE §§ 344.43(g) and 344.61(c).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to include all required information in a contract, in violation of TEX. ADMIN. CODE §§ 344.43(g) and 344.71(a).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to include all required information in an invoice, in violation of 30 TEX. ADMIN. CODE § 344.71(b).
6. As evidenced by Findings of Fact Nos. 3 and 4, 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)(1).
7. As evidenced by Finding of Fact No. 5, 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.
8. 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 TCEQ'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 two dollars (\$502.00) 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. Respondent is assessed an administrative penalty in the amount of five hundred two dollars (\$502.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only 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 violations which are not raised here.

2. The 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 the TCEQ and shall be sent with the notation "Re: Roger Alan Biggs; Docket No. 2014-1879-LII-E" to:

Financial Administration Division, Revenue Operations 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. Within 30 days after the effective date of this Order, implement measures and/or procedures to:

- i. Ensure required permits are obtained prior to installing irrigation systems;
- ii. Ensure all irrigation system plans include all the requirements listed in 30 TEX. ADMIN. CODE § 344.61(c);
- iii. Ensure all contracts include all the requirements listed in 30 TEX. ADMIN. CODE § 344.71(a); and
- iv. Ensure all invoices include all the requirements listed in 30 TEX. ADMIN. CODE § 344.71(b).

b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iv. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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 based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent 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. 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. 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.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the Executive Director determines 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 fully executed 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 JESS ROBINSON

STATE OF TEXAS

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COUNTY OF TRAVIS

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"My name is Jess Robinson. 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 Roger Alan Biggs" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on June 8, 2015.

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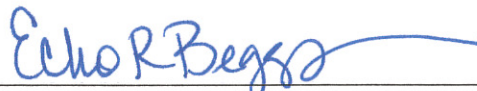
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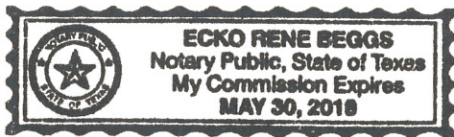
Jess Robinson, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jess Robinson, 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.

Subscribed and sworn to before me on this 5TH day of August, A.D. 2015.



Notary Public, State of Texas



Notary without Bond