

Roger Alan Biggs
RN103232138
Docket No. 2015-1712-LII-E

Order Type:

Default Order

Media:

LII

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1200 FM 720, Frisco, Denton County;
3120 Osceola Drive, Plano, Collin County

Type of Operation:

landscaping business

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: \$640.05 (2014-1879-LII-E; referred for collection)
Past-Due Fees: None
Other: None
Interested Third-Parties: Complainant

Texas Register Publication Date: July 29, 2016

Comments Received: None

Penalty Information

Total Penalty Assessed: \$609

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$609

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. 2015-1712-LII-E

Investigation Information

Complaint Date(s): October 12, 2015
Complaint Information: Alleged that Respondent installed an irrigation system without obtaining a permit.

Date(s) of Investigation: October 19, 2015

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

Date(s) of NOE(s): November 10, 2015

Violation Information

1. Failed to include all required information in written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system [30 TEX. ADMIN. CODE § 344.71(b)].
2. Failed to include all required information in a contract to install an irrigation system [30 TEX. ADMIN. CODE §§ 344.42(a) and 344.71(a)].
3. Failed to comply with local landscape irrigation regulations for permitting or inspections as required by the city, town, county, special purpose district, public water supply, or political subdivision of the state [30 TEX. ADMIN. CODE §§ 344.35(d)(2) and (3) and 344.24(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Implement measures and/or procedures to ensure that all written estimates, proposals, bids, and invoices relating to installation or repair of an irrigation system include all requirements listed in 30 TEX. ADMIN. CODE § 344.71(b);
 - b. Implement measures and/or procedures to ensure that all contracts for the installation or repair of an irrigation system include all requirements listed in 30 TEX. ADMIN. CODE § 344.71(a); and
 - c. Implement measures and/or procedures to ensure that all required permits are obtained prior to installing an irrigation system.
2. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: April 21, 2016; May 17, 2016

Date Green Card(s) Signed: Unclaimed; May 19, 2016

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Isaac Ta, 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: Jeff Tate, Dallas/Fort Worth Regional Office, (817) 588-5800

Respondent Contact: Roger 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	16-Nov-2015		
	PCW	4-Mar-2016	Screening	17-Nov-2015
			EPA Due	

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.	51543	No. of Violations	3
Docket No.	2015-1712-LII-E	Order Type	1660
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amancio 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	\$425
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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	25.0% Adjustment	Subtotals 2, 3, & 7	\$106
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Notes: Enhancement for one order without denial of liability.

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: \$260
 Estimated Cost of Compliance: \$4,575
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$531
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OTHER FACTORS AS JUSTICE MAY REQUIRE	14.7%	Adjustment	\$78
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with Violation Nos. 1, 2, and 3.

Final Penalty Amount	\$609
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$609
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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	\$609
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Screening Date 17-Nov-2015

Docket No. 2015-1712-LII-E

PCW

Respondent Roger Alan Biggs

Policy Revision 4 (April 2014)

Case ID No. 51543

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103232138

Media [Statute] Irrigators

Enf. Coordinator Amancio 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	1	25%
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) 25%

>> 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 one order without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 17-Nov-2015

Docket No. 2015-1712-LII-E

PCW

Respondent Roger Alan Biggs

Policy Revision 4 (April 2014)

Case ID No. 51543

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103232138

Media [Statute] Irrigators

Enf. Coordinator Amancio Gutierrez

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 344.71(b)

Violation Description

Failed to include all required information in written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system. Specifically, the invoice issued by the Respondent on August 25, 2015 for installing an irrigation system at 3120 Osceola Drive, Plano, Collin County, Texas did not include 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."

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 84 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an 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 \$87

Violation Final Penalty Total \$72

This violation Final Assessed Penalty (adjusted for limits) \$72

Economic Benefit Worksheet

Respondent Roger Alan Biggs
Case ID No. 51543
Reg. Ent. Reference No. RN103232138
Media Violation No. Irrigators
 1

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)	\$1,500	25-Aug-2015	14-Jun-2016	0.81	\$60	n/a	\$60

Notes for DELAYED costs
 Estimated cost to implement measures and/or procedures to ensure that all estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system include all of the requirements listed in 30 Tex. Admin. Code § 344.71(b). The Date Required is the date of the invoice. 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	25-Aug-2015	19-Oct-2015	1.07	\$1	\$25	\$26
Other (as needed)			0.00	\$0	\$0	\$0	

Notes for AVOIDED costs
 Estimated avoided cost to include all of the requirements listed in 30 Tex. Admin. Code § 344.71(b) on the invoice. The Date Required is the date of the invoice. The Final Date is the date of the record review.

Approx. Cost of Compliance \$1,525

TOTAL \$87

Screening Date 17-Nov-2015

Docket No. 2015-1712-LII-E

PCW

Respondent Roger Alan Biggs

Policy Revision 4 (April 2014)

Case ID No. 51543

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103232138

Media [Statute] Irrigators

Enf. Coordinator Amancio Gutierrez

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 344.42(a) and 344.71(a)

Violation Description

Failed to include all required information in contracts to install an irrigation system. Specifically, the contract entered into by the Respondent on August 25, 2015 for installing an irrigation system at 3120 Osceola Drive, Plano, Collin County, Texas did not include the irrigator's name, current business telephone number(s), irrigator's seal, and 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."

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 2.5%

Matrix Notes

Between 30% to 70% of the rule requirement was not met.

Adjustment \$4,875

\$125

Violation Events

Number of Violation Events 1

84 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 with 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 \$87

Violation Final Penalty Total \$179

This violation Final Assessed Penalty (adjusted for limits) \$179

Economic Benefit Worksheet

Respondent Roger Alan Biggs
Case ID No. 51543
Reg. Ent. Reference No. RN103232138
Media Violation No. Irrigators
 2

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)	\$1,500	25-Aug-2015	14-Jun-2016	0.81	\$60	n/a	\$60

Notes for DELAYED costs
 Estimated cost to implement measures and/or procedures to ensure that all contracts to install an irrigation system include all of the requirements listed in 30 Tex. Admin. Code § 344.71(a). The Date Required is the date of the contract. 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	25-Aug-2015	19-Oct-2015	1.07	\$1	\$25	\$26
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs
 Estimated avoided cost to include all of the requirements listed in 30 Tex. Admin. Code § 344.71(a) on the contract. The Date Required is the date of the contract. The Final Date is the date of the record review.

Approx. Cost of Compliance \$1,525

TOTAL \$87

Screening Date 17-Nov-2015

Docket No. 2015-1712-LII-E

PCW

Respondent Roger Alan Biggs

Policy Revision 4 (April 2014)

Case ID No. 51543

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103232138

Media [Statute] Irrigators

Enf. Coordinator Amancio Gutierrez

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 344.35(d)(2) and (3) and 344.24(a)

Violation Description

Failed to comply with local landscape irrigation regulations for permitting or inspections as required by the city, town, county, special purpose district, public water supply, or political subdivision of the state. Specifically, the Respondent did not obtain a permit from the City of Plano prior to installing an irrigation system at 3120 Osceola Drive, Plano, Collin 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
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1

84 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$87

Violation Final Penalty Total \$358

This violation Final Assessed Penalty (adjusted for limits) \$358

Economic Benefit Worksheet

Respondent Roger Alan Biggs
Case ID No. 51543
Reg. Ent. Reference No. RN103232138
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)	\$1,500	25-Aug-2015	14-Jun-2016	0.81	\$60	n/a	\$60

Notes for DELAYED costs
 Estimated cost to implement measures and/or procedures to ensure that all permits are obtained prior to installing irrigation systems. The Date Required is the date the irrigation system was installed. 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	25-Aug-2015	19-Oct-2015	1.07	\$1	\$25	\$26
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. The Final Date is the record review date.

Approx. Cost of Compliance \$1,525

TOTAL \$87

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 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN601752728, Roger Alan Biggs **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN103232138, BIGGS, ROGER ALAN **Classification:** NOT APPLICABLE **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, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: November 17, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 17, 2010 to November 17, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Amancio 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:

- 1 Effective Date: 10/12/2015 ADMINORDER 2014-1879-LII-E (Findings Order-Default)
Classification: Moderate
Citation: 30 TAC Chapter 344, SubChapter B 344.24(a)
Description: Failed to comply with local regulations and obtain a permit prior to installing a landscape irrigation system.
Classification: Moderate
Citation: 30 TAC Chapter 344, SubChapter C 344.61(c)
30 TAC Chapter 344, SubChapter D 344.43(g)
Description: Failed to provide a complete irrigation plan prior to construction.
Classification: Moderate
Citation: 30 TAC Chapter 344, SubChapter D 344.43(g)
30 TAC Chapter 344, SubChapter G 344.71(a)
Description: Failed to include all required information in a contract.
Classification: Moderate
Citation: 30 TAC Chapter 344, SubChapter G 344.71(b)
Description: Failed to include all required information in an invoice.

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**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2015-1712-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 business located at 1200 FM 720 in Frisco, Denton County, Texas (the "Business"). Respondent holds TCEQ irrigator license no. LI0004376 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 October 19, 2015, an investigator documented that Respondent:
 - a. Failed to include all required information in written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system. Specifically, an invoice issued by Respondent on August 25, 2015, for installation of an irrigation system at 3120 Osceola Drive, Plano, Collin County, Texas 75074, did not include the following 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";
 - b. Failed to include all required information in a contract to install an irrigation system. Specifically, a contract entered into by Respondent on August 25, 2015, for installation of an irrigation system at 3120 Osceola Drive, Plano, Collin County, Texas 75074, did not include the irrigator's name, current business telephone number(s), irrigator's seal, nor the following 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"; and

- c. Failed to comply with local landscape irrigation regulations for permitting or inspections as required by the city, town, county, special purpose district, public water supply, or political subdivision of the state. Specifically, Respondent did not obtain a permit from the City of Plano prior to installing an irrigation system at 3120 Osceola Drive, Plano, Collin County, Texas 75074.
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 April 21, 2016.
4. The EDPRP was mailed to Respondent's last known address on April 21, 2016, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
5. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on May 17, 2016.
6. By letter dated May 17, 2016, 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 May 19, 2016, as evidenced by the signature on the card.
7. 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 include all required information in written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system, in violation of 30 TEX. ADMIN. CODE § 344.71(b).
3. As evidenced by Finding of Fact No. 2.b, Respondent failed to include all required information in a contract to install an irrigation system, in violation of 30 TEX. ADMIN. CODE §§ 344.42(a) and 344.71(a).
4. As evidenced by Finding of Fact No. 2.c, Respondent failed to comply with local landscape irrigation regulations for permitting or inspections as required by the city, town, county, special purpose district, public water supply, or political subdivision of the state, in violation of 30 TEX. ADMIN. CODE §§ 344.35(d)(2) and (3) and 344.24(a).
5. As evidenced by Findings of Fact Nos. 3 through 6, 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).

6. As evidenced by Finding of Fact No. 7, 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 TCEQ'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 six hundred nine dollars (\$609.00) 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 six hundred nine dollars (\$609.00) 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 TCEQ and shall be sent with the notation "Re: Roger Alan Biggs; Docket No. 2015-1712-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:
 - i. Implement measures and/or procedures to ensure that all written estimates, proposals, bids, and invoices relating to installation or repair of an irrigation system include all requirements listed in 30 TEX. ADMIN. CODE § 344.71(b);

- ii. Implement measures and/or procedures to ensure that all contracts for the installation or repair of an irrigation system include all requirements listed in 30 TEX. ADMIN. CODE § 344.71(a); and
 - iii. Implement measures and/or procedures to ensure that all required permits are obtained prior to installing an irrigation system.
- 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.iii. 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 ("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. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. 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.
11. 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

Date

AFFIDAVIT OF ISAAC TA

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

"My name is Isaac Ta. 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 April 21, 2016.

The EDPRP was mailed to Respondent's last known address on April 21, 2016, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on May 17, 2016.

The EDPRP was mailed to Respondent's last known address on May 17, 2016, 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 May 19, 2016, 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."

Isaac Ta, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Isaac Ta, 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 12th day of July, A.D. 2016.

Notary Public, State of Texas



Notary Without Bond