

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

JULIE A. SU, Acting Secretary of Labor,
UNITED STATES DEPARTMENT OF LABOR,

Plaintiff,

v.

BROOKHAVEN IRRIGATION CORP. and
MICHAEL COGGINS, individually and as officer
of Brookhaven Irrigation Corp.,

Defendants.

CONSENT JUDGMENT

Civil Action No. 2:22-cv-03907-
~~2022~~-AYS

Plaintiff Julie A. Su, Acting Secretary of Labor, United States Department of Labor (the “Acting Secretary” or “Plaintiff”) filed a Complaint on July 5, 2022, against Defendants, Brookhaven Irrigation Corp. and owner Michael Coggins (“Defendants”), alleging violation of Sections 7, 11(c), 15(a)(2), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201 *et seq.*) (the “FLSA”), by failing, for the period July 5, 2019 to July 5, 2022 (the “relevant period”), to pay their employees proper overtime wages, and failing to make, keep, maintain, and produce to Plaintiff for inspection, records of persons employed, including records of wages, hours, and other conditions and practices of employment. Plaintiff’s Complaint sought to recover back wages, to obtain liquidated damages, and to permanently enjoin violations of the FLSA.

Defendants admit that during the relevant period they were employers of the employees listed on Exhibit A to the Complaint, within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d), and admit that, pursuant to Sections 3(r) and 3(s) of the FLSA, they were an employer covered by the provisions of the FLSA. Subject to the foregoing, Plaintiff and Defendants (the “Parties”) have agreed to a resolution of this matter.

It is, therefore, upon motion of the Acting Secretary, and for good cause shown, ORDERED AND ADJUDGED as follows:

1. Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with Defendants are permanently enjoined and restrained from violating any provision of the FLSA, including the following:

a) Defendants will not, contrary to Section 6 of the FLSA, pay any of their employees at a rate less than the applicable statutory minimum wage now, or which in the future becomes, prescribed by Section 6 of the FLSA.

b) Defendants will not, contrary to Section 7 of the FLSA, employ any of their employees for workweeks longer than the hours set forth in Sections 7 and 15(a)(2) of the FLSA, unless each of those employees receives compensation for hours over the number of hours set forth in Sections 7 and 15(a)(2) at a rate not less than one and a half times the employee's regular rate of pay.

c) Defendants will, in compliance with Sections 11(c) and 15(a)(5) of the FLSA, make, keep, maintain, and preserve adequate records of their employees and of the wages, hours, and other conditions and practices of employment. Defendants will make available for review and inspection to authorized agents of the Secretary of Labor for inspection, upon such agents' demand for access, the records of persons employed and of the wages, hours, and other conditions and practices of employment, as prescribed in the regulations issued pursuant to Sections 11(c) and 15(a)(5) of the FLSA and found at 29 C.F.R. Part 516.

d) Defendants will not discharge or in any other manner discriminate against any employee because such employee engages in or is believed to have engaged in (i)

disclosing or protesting any activity, policy, or practice of Defendants, or another employer with whom Defendant has a business relationship, that the employee reasonably believes is in violation of the FLSA or a rule or regulation promulgated pursuant to the FLSA; (ii) providing information to, or testifying before, any public agency or entity conducting an investigation, hearing, or inquiry into any alleged violation of the FLSA or a rule or regulation promulgated pursuant to the FLSA, by the employer or another employer with whom Defendants have a business relationship; or (iii) objecting to, or refusing to participate in any activity, policy, or practice that the employee reasonably believes is in violation of the FLSA or a rule or regulation promulgated pursuant to the FLSA.

2. Pursuant to the parties' agreement that Defendants will pay to the individuals listed on Exhibit A to this Consent Judgment, the amount of \$60,000.00 in back wages, plus an equal additional amount of liquidated damages, and a civil money penalty¹ in the amount of \$10,000.00, for a total amount of \$130,000.00, it is ORDERED that Defendants and all persons acting on Defendants' behalf are enjoined and restrained from withholding the payment of \$60,000.00 in back wages to the individuals listed in Exhibit A. In addition, Defendants will pay a total of \$60,000.00 in liquidated damages to Defendants' employees listed in Exhibit A, and \$10,000.00 as a civil monetary penalty. Defendants agree to make payment as described in this paragraph, but neither admit nor deny that back wages are owed. Defendants will make all payments in accordance with Paragraph 3 of this Consent Judgment.

¹ On April 27, 2022, Plaintiff assessed Defendants with a civil monetary penalty (CMP) for alleged violations of Section 7 of the FLSA. On or about May 10, 2022, Defendants wrote a letter to Plaintiff objecting to the assessment. The Parties now agree that Defendants will pay a CMP of \$10,000.00 to resolve the assessment, and that Defendants waive their right, pursuant to 29 C.F.R. Part 580, to a hearing on determination of the CMP.

3. Defendants will pay a total of \$130,000.00 in a lump sum within 14 days following entry of this Consent Judgment, as follows:

a) Defendants will make payment of \$120,000.00 in back wages and liquidated damages, electronically by ACH transfer, credit card, debit card, or digital wallet on www.pay.gov by following the procedures set forth below:

- i. Visit <https://pay.gov/public/form/start/77689032>;
- ii. Select “Continue to Form” and complete the required fields;
- iii. The “BW Case Number” is 1947438;
- iv. The “Date of Assessment” is the date the Court signs this Consent Judgment.

b) Defendants will pay the CMP totaling \$10,000.00, electronically by ACH transfer, credit card, debit card, or digital wallet on www.pay.gov by following the procedures set forth below:

- i. Visit <https://pay.gov/public/form/start/7773413>;
- ii. Select “Continue to Form” and complete the required fields;
- iii. The “CMP Case Number is 61108;
- iv. The “Date of Assessment” is the date the Court signs this Consent Judgment.

4. Defendants will provide the Acting Secretary with the social security number (if such is available), the last known home address, e-mail address, and phone number of each person listed in Exhibit A, within 21 days of the date of execution of this Consent Judgment. By the same date, Defendants will also make best efforts to determine and to provide the Acting Secretary the full

name of any employee or former employee in Exhibit A for whom Exhibit A lists the employee's last name as unknown, or the first name as a nickname.

5. Defendants, and anyone acting on their behalf, may not solicit or accept the return or refusal of any sums paid under this Consent Judgment, nor retaliate against any person because of their receipt of funds due under the terms of this Consent Judgment or the FLSA. Violation of this Paragraph may subject Defendants to equitable and legal damages, including punitive damages and civil contempt.

6. If Defendants fail to make payment in accordance with Paragraphs 2 through 5 of this Consent Judgment, Defendants consent to the entry of a Writ of Execution, pursuant to Federal Rule of Civil Procedure 69, to enforce the monetary terms of this Consent Judgment. The Secretary may seek such a writ at any time after any such failure to make payment and represent in filing for such a writ that Defendants consent to its issuance.

7. Plaintiff will distribute the sum of \$120,000.00, less the appropriate deductions for social security and withholding taxes, to the current or former employees listed in Exhibit A, to their heirs, or to their legal representatives, in the amounts set forth in Exhibit A. Any amount that remains undistributed for three years after the date of entry of this Order because of Plaintiff's inability to locate the proper persons or because of their refusal to accept the funds, will be deposited into the Treasury of the United States as miscellaneous receipts, pursuant to Section 16(c) of the FLSA, and Defendants will have no right to undistributed funds. Defendants will remain responsible for paying the employers' share of any applicable taxes to the appropriate state and federal revenue authorities.

8. Within 10 days of the date of entry of this Consent Judgment, Defendants will display, in a conspicuous place for employee viewing, at each location of their business, the poster

“Employee Rights Under the Fair Labor Standards Act” issued by the U.S. Department of Labor, both the English and Spanish versions. Defendants will permanently maintain this posting.


9. Neither the commencement of this action nor the provisions of this Consent Judgment shall in any way affect, determine, or prejudice the legal rights of any current or former employees of Defendants not listed in Exhibit A of this Consent Judgment, to file any action against Defendants under Section 16(b) of the FLSA, or likewise for any current or former employee listed on Exhibit A to file any action against Defendants under Section 16(b) of the FLSA, for violations alleged to have occurred after July 5, 2022.

10. Each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

11. The Court retains jurisdiction over this matter for the purposes of enforcing this Consent Judgment.

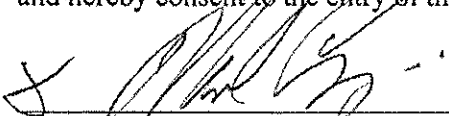
SO ORDERED.

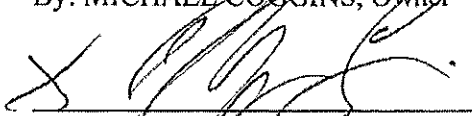
DATED: May 20, 2024

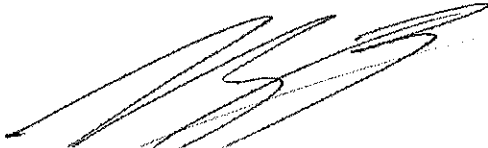

Magistrate
UNITED STATES DISTRICT JUDGE

Anne Y. Shields

Defendants appeared by the undersigned counsel and hereby consent to the entry of this Judgment.


BROOKHAVEN IRRIGATION CORPORATION
By: MICHAEL COGGINS, Owner


MICHAEL COGGINS, Individually



SAUL ZABELL, ESQ.
Attorney for Defendants

STATE OF NY)

COUNTY OF Suffolk :SS:

On the 14 day of March 2024, before me came **MICHAEL COGGINS**, to me known, who, being by me duly sworn, did depose and say that he is a duly authorized officer of **BROOKHAVEN IRRIGATION CORPORATION**, described in and which executed the foregoing instrument, that he signed his name thereto by like order.



NOTARY PUBLIC

SAUL D. ZABELL
Notary Public, State of New York
No. 022A5068081
Qualified in Suffolk County
Commission Expires January 5, 2025

STATE OF NY)

COUNTY OF Suffolk :SS:

On the 14 day of March 2024 before me came **MICHAEL COGGINS**, to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



NOTARY PUBLIC

SAUL D. ZABELL
Notary Public, State of New York
No. 022A5068081
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Commission Expires January 5, 2025