



Control Number: 44211



Item Number: 15

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014

44211

RECEIVED

**AFFIDAVIT OF RONALD HEBERT**

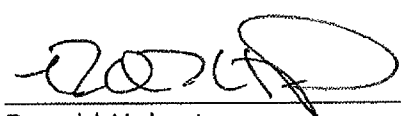
**2015 JAN 12 AM 7:48**

PUBLIC UTILITY COMMISSION  
FILING CLERK

STATE OF TEXAS                   §  
  §  
COUNTY OF SABINE           §

My name is Ronald Hebert. I am the Water Section Manager for the Beaumont Regional office of the Texas Commission on Environmental Quality. 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.

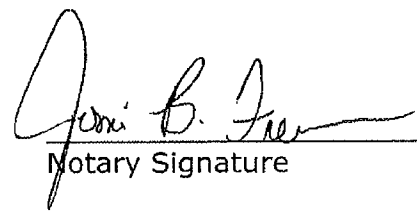
On August 6, 2013, on behalf of the Executive Director of the Texas Commission on Environmental Quality, I personally hand delivered to Michael Lantz O'Neill at 360 Frontier Drive, Hemphill, Texas 75948, the wastewater and drinking water Notices and Emergency Orders set for the September 4, 2013, Commission Agenda.



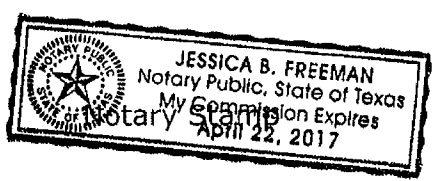
Ronald Hebert  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day appeared Ronald Hebert, personally known to me to be the person whose name is subscribed to the foregoing instrument and upon his oath acknowledged to me that the facts herein are true and correct.

Given under my hand and seal of office this 6<sup>th</sup> day of August, A.D., 2013.



Notary Signature



Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Zak Covar, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



CCN/12689/CO/  
2014 0318/EMERGENCY ORDER.

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 18, 2014

**RECEIVED**

**JUL 01 2014**

**TCEQ  
CENTRAL FILE ROOM**

TO: Persons on the attached list.

RE: Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina  
TCEQ Docket No. 2013-1405-UCR-E

Enclosed is a copy of an order issued by the Commission regarding the above-referenced matter.

Should you have any questions, please contact Melissa Schmidt of the Texas Commission on Environmental Quality's Office of the Chief Clerk (MC 105) at (512) 239-3317.

Sincerely,

*Bridget C. Bohac*

Bridget C. Bohac  
Chief Clerk

BCB/ms

Enclosure

MAILING LIST  
for  
Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina  
TCEQ Docket No. 2013-1405-UCR-E

FOR THE RESPONDENT:

Michael Lantz O'Neill  
360 Frontier Drive  
Hemphill, Texas 75948

FOR THE EXECUTIVE DIRECTOR  
via electronic mail:

Stephanie Frazee, Staff Attorney  
Texas Commission on Environmental  
Quality  
Litigation Division MC-175  
P.O. Box 13087  
Austin, Texas 78711-3087

Terence Webb, Receivership Coordinator  
Texas Commission on Environmental  
Quality  
Water Supply Division MC-153  
P.O. Box 13087  
Austin, Texas 78711-3087

Ronald Hebert, Water Section Manager  
Texas Commission on Environmental  
Quality  
Regional Office MC-R10  
3870 Eastex Freeway  
Beaumont, Texas 77703

FOR PUBLIC INTEREST COUNSEL  
via electronic mail:

Blas J. Coy, Jr., Attorney  
Texas Commission on Environmental  
Quality  
Public Interest Counsel MC-103  
P.O. Box 13087  
Austin, Texas 78711-3087

FOR THE CHIEF CLERK  
via electronic mail:

Bridget C. Bohac, Chief Clerk  
Texas Commission on Environmental  
Quality  
Office of Chief Clerk MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

COURTESY COPY:

Jerry Clark, Executive Vice President and  
General Manager  
Sabine River Authority of Texas  
P.O. Box 579  
Orange, Texas 77631

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Zak Covar, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



CCN/12689/CO/  
20140318/EMERGENCY ORDER

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 18, 2014

**RECEIVED**

**JUL 01 2014**

**TCEQ  
CENTRAL FILE ROOM**

TO: Persons on the attached list.

RE: Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina  
TCEQ Docket No. 2013-1429-UCR-E

Enclosed is a copy of an order issued by the Commission regarding the above-referenced matter.

Should you have any questions, please contact Melissa Schmidt of the Texas Commission on Environmental Quality's Office of the Chief Clerk (MC 105) at (512) 239-3317.

Sincerely,

*Bridget C. Bohac*

Bridget C. Bohac  
Chief Clerk

BCB/ms

Enclosure

MAILING LIST

for

Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina  
TCEQ Docket No. 2013-1429-UCR-E

FOR THE RESPONDENT:

Michael Lantz O'Neill  
360 Frontier Drive  
Hemphill, Texas 75948

FOR THE EXECUTIVE DIRECTOR  
via electronic mail:

Stephanie Frazee, Staff Attorney  
Texas Commission on Environmental  
Quality  
Litigation Division MC-175  
P.O. Box 13087  
Austin, Texas 78711-3087

Terence Webb, Receivership Coordinator  
Texas Commission on Environmental  
Quality  
Water Supply Division MC-153  
P.O. Box 13087  
Austin, Texas 78711-3087

Ronald Hebert, Water Section Manager  
Texas Commission on Environmental  
Quality  
Regional Office MC-R10  
3870 Eastex Freeway  
Beaumont, Texas 77703

FOR PUBLIC INTEREST COUNSEL  
via electronic mail:

Blas J. Coy, Jr., Attorney  
Texas Commission on Environmental  
Quality  
Public Interest Counsel MC-103  
P.O. Box 13087  
Austin, Texas 78711-3087

FOR THE CHIEF CLERK  
via electronic mail:

Bridget C. Bohac, Chief Clerk  
Texas Commission on Environmental  
Quality  
Office of Chief Clerk MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

COURTESY COPY:

Jerry Clark, Executive Vice President and  
General Manager  
Sabine River Authority of Texas  
P.O. Box 579  
Orange, Texas 77631

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF  
AN ENFORCEMENT ACTION  
CONCERNING MICHAEL LANTZ  
O'NEILL D/B/A FRONTIER PARK  
RESORT AND MARINA;  
RN101278034;  
CCN12689**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**ORDER AFFIRMING EMERGENCY ORDER  
DOCKET NO. 2013-1429-UCR-E**

On February 26, 2014, the Texas Commission on Environmental Quality ("TCEQ" or "Commission") considered whether to affirm, modify, or set aside an Emergency Order in the matter regarding Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina ("Mr. O'Neill"). The Emergency Order was issued by the Executive Director without a hearing on January 27, 2014. The Emergency Order and the notice of the February 26, 2014, agenda hearing to affirm, modify, or set aside the Emergency Order were sent by certified mail return receipt requested, and sent by first class mail, postage prepaid to the last known address of Mr. O'Neill on January 27, 2014. The Emergency Order was also hand delivered to Mr. O'Neill on January 30, 2014. The Commission finds that the Executive Director appropriately issued the Emergency Order and that the requirements for an emergency order found in Chapters 5 and 13 of the Texas Water Code have been satisfied.

**THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
ORDERS THAT:**

The January 27, 2014, Emergency Order, attached hereto as Exhibit A and incorporated into this Order by reference, is affirmed.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

A handwritten signature in black ink that reads "Bryan W. Shaw". The signature is written in a cursive style with a horizontal line underneath it.  
For the Commission

# EXHIBIT A

**TCEQ DOCKET NO. 2013-1429-UCR-E**

**IN THE MATTER OF  
AN ENFORCEMENT ACTION AGAINST  
MICHAEL LANTZ O'NEILL D/B/A  
FRONTIER PARK RESORT AND  
MARINA;  
RN101278034;  
CCN12689**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

CHIEF CLERKS OFFICE

2014 JAN 27 AM 38

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**EMERGENCY ORDER  
RENEWING THE APPOINTMENT OF A TEMPORARY MANAGER  
OF A WATER UTILITY**

On January 27, 2014, the Executive Director of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") issued this Emergency Order pursuant to TEX. WATER CODE chs. 5 and 13, TEX. HEALTH & SAFETY CODE ch. 341, and 30 TEX. ADMIN. CODE chs. 35, 290, and 291. The party made subject to this order is Michael Lantz O'Neill d/b/a Frontier Park Resort & Marina ("Mr. O'Neill").

**I.  
FINDINGS OF FACT**

1. Mr. O'Neill owns a public water system located at Ranch Road 1 Box 1690, Hemphill, Sabine County, Texas (the "Water Utility").
2. The Water Utility provides potable water service for compensation to approximately 20 community and 89 non-community service connections, serves at least 25 people per day for at least 60 days per year, and provides water for human consumption. As such, the Water Utility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
3. The Water Utility operates pursuant to Certificate of Convenience and Necessity No. 12689.
4. The TCEQ alleges that the Water Utility has discontinued the provision of service and necessary repairs to ensure continuous and adequate water service (Exhibits A and B).
5. Commission records show that the mailing address for Mr. O'Neill is 360 Frontier Drive, Hemphill, Texas 75948.
6. No other source of water is available to the more than 60 people whose water is supplied by the Water Utility.
7. During an inspection of the Water Utility conducted on August 29, 2009, a Beaumont Regional investigator documented that Mr. O'Neill violated

numerous requirements. The case was referred to the Office of Attorney General on March 17, 2010. On December 20, 2010, the 353<sup>rd</sup> Judicial District Court in Travis County issued a Default Judgment and Permanent Injunction ("Default Judgment") against Mr. O'Neill. The violations are listed in the Default Judgment attached as Exhibit C.

8. On February 28, 2011, a TCEQ Beaumont Regional investigator documented that Mr. O'Neill was not in compliance with the Default Judgment.
9. On April 16, 2013, the TCEQ referred the case back to the Office of Attorney General to pursue contempt and abstract of judgment for the Default Judgment.
10. A potential health hazard exists as a result of the Water Utility's failure to provide continuous and adequate service. Immediate repairs on the Water Utility are necessary to ensure the quality of the water in the State and to ensure the Water Utility operates in a safe manner and meets requirements in the Texas Water Code, the Texas Health and Safety Code, and TCEQ rules. Sabine River Authority is currently serving as the temporary manager of the Water Utility through an Emergency Order issued on August 1, 2013. A temporary manager is necessary to continue operations of the Water Utility to ensure the quality of the water meets TCEQ rule requirements and complies with the Texas Water Code as well as the Texas Health and Safety Code and is safe for public use and consumption.
11. Sabine River Authority of Texas has agreed to serve as temporary manager of the Water Utility for an additional 180 days, and its mailing address is P.O. Box 579, Orange, TX 77631-0579 and telephone number is (409)746-2192.
12. This Order is necessary to ensure that continuous and adequate water service is provided to the customers of the Water Utility to effectuate the purposes of the Texas Water Code and the Texas Health and Safety Code.
13. This matter has been referred to the Office of Attorney General so that a petition may be filed to appoint a receiver under TEX. WATER CODE § 13.412 to guarantee continuous and adequate service to customers of the Water Utility.

## **II. CONCLUSIONS OF LAW**

1. As evidenced by Findings of Fact Nos. 1, 2, and 3, Mr. O'Neill owns a retail public utility as defined in TEX. WATER CODE § 13.002(19).
2. Findings of Fact Nos. 4, 6, 7, and 8 show that the Water Utility has abandoned operations and that the appointment of a temporary manager is justified as defined in TEX. WATER CODE §§ 13.412(f) and 13.4132, and 30 TEX. ADMIN. CODE § 291.142(c).
3. TEX. WATER CODE § 13.4132 authorizes the Commission to appoint a willing person to temporarily manage and operate a utility if the utility has

discontinued service or abandoned operations or the provision of services or has been or is being referred to the Attorney General for the appointment of a receiver under TEX. WATER CODE § 13.412.

4. TEX. WATER CODE § 5.507 provides that the Commission may issue an emergency order appointing a willing person to temporarily manage and operate a utility under TEX. WATER CODE § 13.4132.
5. This Emergency Order may be issued without notice or hearing pursuant to TEX. WATER CODE § 5.501(b) and 30 TEX. ADMIN. CODE § 35.25.
6. TEX. WATER CODE §§ 5.501(c) and 5.505 and 30 TEX. ADMIN CODE §§ 35.12 and 291.143(a) authorize the TCEQ Executive Director to issue this Emergency Order.
7. TEX. WATER CODE §§ 5.501 and 5.507 and 30 TEX. ADMIN. CODE § 291.143(a) authorize the Executive Director to appoint a person to temporarily manage and operate a utility that has discontinued or abandoned operations or which is being referred to the office of the Attorney General for the appointment of a receiver.
8. TEX. WATER CODE § 13.4132 provides to the temporary manager the powers and duties necessary to ensure continued operation of the utility and the provision of continuous and adequate services to customers including the power and duty to read meters, bill for services, collect revenues, disburse funds, access all system components, and request rate increases.
9. Notice of the emergency order, once it has been issued, is adequate if the notice is mailed or hand delivered to the last known address of the Water Utility's headquarters, in accordance with TEX. WATER CODE § 5.507. The last known address of Mr. O'Neill is set forth in Finding of Fact No. 5.

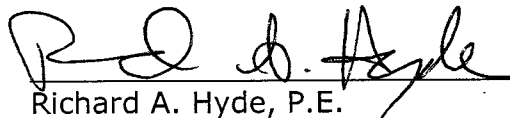
### **III. ORDER**

1. This Order shall be effective on the date it is executed by the TCEQ Executive Director, January 27, 2014.
2. Immediately upon the effective date of this Emergency Order, the Sabine River Authority of Texas is hereby appointed to temporarily manage and operate the Water Utility.
3. The Sabine River Authority of Texas shall serve as temporary manager until such time as a receiver is appointed to operate the Water Utility by a court of proper jurisdiction, or 180 days after the effective date of this Order, July 26, 2014, whichever occurs first.
4. The Sabine River Authority of Texas is authorized to exercise those powers and duties necessary to ensure the continued operations of the Water Utility

and the provision of continuous and adequate services to customers, including the powers and duties set forth in TEX. WATER CODE § 13.4132.

5. The Sabine River Authority of Texas shall give the Executive Director an inventory of all Water Utility property received within sixty (60) days of the effective date of this Order.
6. The Sabine River Authority of Texas' requirement to post financial assurance with the TCEQ in an amount and type acceptable to the Executive Director has been waived by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 291.143(c).
7. The Sabine River Authority of Texas compensation will come from Water Utility revenues in the amount of fifteen dollars (\$15.00) per month per connection.
8. The Sabine River Authority of Texas shall report to the Executive Director on a monthly basis in accordance with 30 TEX. ADMIN. CODE § 291.143(h).
9. Pursuant to TEX. WATER CODE § 5.504, the Commission will consider whether to affirm, modify or set aside this Order at its regular Agenda meeting on February 26, 2014, at 9:30 a.m., at TCEQ Park 35 Complex, 12118 North I-35, Building E, Room 201S, Austin, Texas. **At the February 26, 2014, Agenda meeting, Mr. O'Neill may request an evidentiary hearing pursuant to 30 TEX. ADMIN. CODE § 35.25(c) for the purpose of presenting evidence and cross-examining witnesses regarding whether to affirm, modify, or set aside this Emergency Order. An Administrative Law Judge will be present at the Agenda to immediately hear the matter should a hearing be requested.**
10. The Chief Clerk shall provide a copy of this Order to each of the parties.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



Richard A. Hyde, P.E.  
Executive Director