

More Information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.
Report ID:U80KGEG8C2

Filed
10 November 30 P2:58
Amalia Rodriguez-Mendoza
District Clerk
Travis District
D-1-CV-10-001692

No. D-1-GV-10-001692

STATE OF TEXAS,

IN THE DISTRICT COURT

Plaintiff,

v.

TRAVIS COUNTY, TEXAS

MICHAEL L. O'NEILL, d/b/a
FRONTIER PARK RESORT and
MARINA,

Defendant.

353rd JUDICIAL DISTRICT

AFFIDAVIT FOR ATTORNEY'S FEES

BEFORE ME, the undersigned authority, on this day personally appeared David Green, whose identity is known to me. After I administered an oath to him, upon his oath

he said:

1. My name is David Green and I am an Assistant Attorney General representing the State of Texas in the above captioned matter. I am capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2. I am a licensed attorney in the State of Texas and have been licensed since November 6, 2002.

3. I am generally familiar with the value of services of an attorney of my experience, reputation, and ability in Travis County and correspondingly value my time at \$225.00 per hour, which I believe to be a modest and reasonable rate. The rate for the legal assistants is \$85.00 per hour, which I believe to be a modest and reasonable rate.



4. I spent 115.25 hours working on this case. These hours comprised file review, legal research, drafting of pleadings, and conferring with agency personnel.

5. The amount of time for legal assistant services performed Wanda Pittman, a legal assistant employed by the Environmental Protection and Administrative Law Division of the Office of the Attorney General, working on the case totals 12.25 hours.

6. I consequently request that the court award attorney's fees in the amount of \$26,972.50, which I believe to be a modest and reasonable fee. These fees were reasonable and necessary for the services performed.

7. In the event that proceedings to collect judgment in this case become necessary, I believe that additional attorney's fees in the amount of \$2,000.00 would be a reasonable amount. In the event of an appeal of this judgment to the Court of Appeals, I believe that additional attorney's fees in the amount of \$5,000.00 would be a reasonable amount. In the event of a petition for review before the Texas Supreme Court by the Defendant of this judgment, I believe that additional attorney's fees in the amount of \$8,000.00 would be a reasonable amount. And, in the event that the Texas Supreme Court should grant review of the petition by the Defendant of this judgment, I believe that additional attorney's fees in the amount of \$15,000.00 would be a reasonable amount. I therefore request that the Court award attorney's fees in these amounts, which I believe to be modest and reasonable.



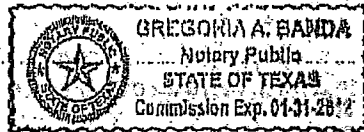
DAVID GREEN

Assistant Attorney General
State Bar No. 24037776

On this day personally appeared DAVID GREEN, known to me to be the person whose name is subscribed to the foregoing instrument, and after being duly sworn, acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on November 30th, 2010.

(Seal)



Megoria A. Banda
Notary Public in and for the State of Texas

My commission expires: 11/31/2012

Filed Date	Category	Description	Additional Info
10/4/2010	PET-PL	ORIGINAL PETITION/APPLICATION	PLAINTIFF'S ORIGINAL PETITION AND APPLICATION FOR PERMANENT INJUNCTION
10/5/2010	OTHER	LETTER	LETTER FROM WANDA PITTMAN (CITATION REQUEST)
11/18/2010	OTHER	AFFIDAVIT	PLAINTIFF'S SOLDIER'S & SAILOR'S AFFIDAVIT
11/30/2010	OTHER	AFFIDAVIT	AFFIDAVIT FOR ATTORNEY'S FEES
12/7/2010	OTHER	CERT OF LAST KNOWN ADDRESS	CERTIFICATE OF LAST KNOWN ADDRESS
12/7/2010	SRVPRO...	EXE SERVICE OF CITATION	MICHAEL L. ONEILL

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 27, 2014

Via Hand Delivery
Via Certified Mail Return Receipt Requested
Article No. 7002 2030 0005 7061 4067
Via First Class Mail, Postage Pre-Paid

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

Re: Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina
Docket No. 2013-1405-UCR-E;
Notice of Renewal of Emergency Order and of Hearing to Modify, Affirm, or
Set Aside

Dear Mr. O'Neill:

On January 27, 2014, the Executive Director of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") issued an Emergency Order pursuant to TEX. WATER CODE chs. 5, 13, and 26, TEX. HEALTH & SAFETY CODE ch. 341, and 30 TEX. ADMIN. CODE chs. 35, 291 and 305. The party made the subject to this order is Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina. The Emergency Order renewed the appointment of Sabine River Authority as temporary manager of the wastewater system located 6 miles east of Milam in Carrice Creek, Sabine County, Texas.

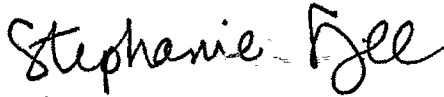
Pursuant to TEX. WATER CODE § 5.504 the Commission will consider whether to affirm, modify, or set aside the Emergency Order issued on January 27, 2014. Therefore, the Executive Director has scheduled this matter to be presented at the Commission's regular Agenda meeting on **February 26, 2014**. The Agenda begins at **9:30 a.m.** and will be held at **TCEQ Park 35 Complex, 12118 North I-35, Building E, Room 201 S, Austin, Texas**. A copy of the record of the materials that have been submitted to the Chief Clerk's Office and will be used in the Texas Commission on Environmental Quality Agenda process will be provided to you at a later time.

Additionally, please be advised that, pursuant to 30 TEX. ADMIN. CODE § 35.25(c), **you may request at the time of the Agenda an evidentiary hearing on issuance of the Emergency Order**. An Administrative Law Judge will be available to conduct a hearing at Agenda on February 26, 2014, should you so

Mr. O'Neill
January 27, 2014
Page 2

request. Should you have any questions, please contact the TCEQ Litigation Division at (512) 239-0600.

Sincerely,



Stephanie Frazee, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality
Stephanie.Frazee@tceq.texas.gov

Enclosure

cc: Mr. Ronald Hebert, Water Section Manager, Beaumont Regional Office
Mr. Terence Webb, Receivership Coordinator
Mr. Blas Coy, Office of Public Interest Counsel
Mr. Jerry Clark, Executive Vice President and General Manager, Sabine River
Authority, P.O. Box 579, Orange, Texas 77631

AFFIDAVIT OF BRITTANY MASON

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

My name is Brittany Mason. I am a Legal Secretary in the Office of Legal Services at 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 January 27, 2014, I prepared the mailings for the Emergency Order Renewing the Appointment of a Temporary Manager of a Wastewater Utility, Docket No. 2013-1405-UCR-E, and the Emergency Order Renewing the Appointment of a Temporary Manager of a Water Utility, Docket No. 2013-1429-UCR-E, set for the February 26, 2014, Commission Agenda. The Emergency Orders and cover letter were mailed via first class mail and via certified mail on January 27, 2014, to Michael Lantz O'Neill, 360 Frontier Drive, Hemphill, Texas 75948.



Brittany Mason
Texas Commission on Environmental Quality

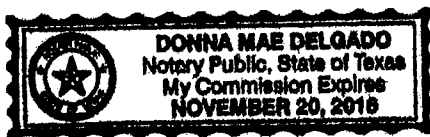
Before me, the undersigned authority, on this day personally appeared Brittany Mason, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 4th day of February, A.D., 2014.



Notary Signature

Notary Stamp



Notary without Bond

AFFIDAVIT OF RONALD HEBERT

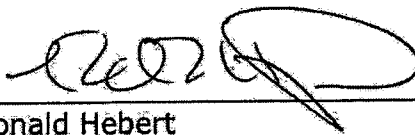
STATE OF TEXAS

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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.

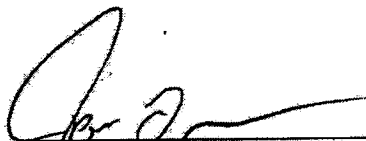
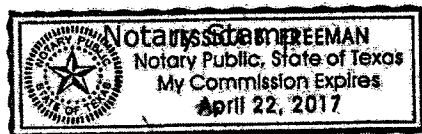
On January 30, 2014, on behalf of the Executive Director of the Texas Commission on Environmental Quality, I personally hand delivered to Michael Lantz O'Neill at 360 Frontier Drive, Hemphill, Texas 75948, the Emergency Order Renewing the Appointment of a Temporary Manager of a Wastewater Utility, Docket No. 2013-1405-UCR-E, and the Emergency Order Renewing the Appointment of a Temporary Manager of a Water Utility, Docket No. 2013-1429-UCR-E, set for the February 26, 2014, 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 4th day of February, A.D., 2014.


Notary Signature

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 27, 2014

Via Hand Delivery
Via Certified Mail Return Receipt Requested
Article No. 7002 2030 0005 7061 4067
Via First Class Mail, Postage Pre-Paid

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

Re: Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina
Docket No. 2013-1405-UCR-E;
Notice of Renewal of Emergency Order and of Hearing to Modify, Affirm, or
Set Aside

Dear Mr. O'Neill:

On January 27, 2014, the Executive Director of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") issued an Emergency Order pursuant to TEX. WATER CODE chs. 5, 13, and 26, TEX. HEALTH & SAFETY CODE ch. 341, and 30 TEX. ADMIN. CODE chs. 35, 291 and 305. The party made the subject to this order is Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina. The Emergency Order renewed the appointment of Sabine River Authority as temporary manager of the wastewater system located 6 miles east of Milam in Carrice Creek, Sabine County, Texas.

Pursuant to TEX. WATER CODE § 5.504 the Commission will consider whether to affirm, modify, or set aside the Emergency Order issued on January 27, 2014. Therefore, the Executive Director has scheduled this matter to be presented at the Commission's regular Agenda meeting on **February 26, 2014**. The Agenda begins at **9:30 a.m.** and will be held at **TCEQ Park 35 Complex, 12118 North I-35, Building E, Room 201 S, Austin, Texas**. A copy of the record of the materials that have been submitted to the Chief Clerk's Office and will be used in the Texas Commission on Environmental Quality Agenda process will be provided to you at a later time.

Additionally, please be advised that, pursuant to 30 TEX. ADMIN. CODE § 35.25(c), **you may request at the time of the Agenda an evidentiary hearing on issuance of the Emergency Order**. An Administrative Law Judge will be available to conduct a hearing at Agenda on February 26, 2014, should you so

Mr. O'Neill
January 27, 2014
Page 2

request. Should you have any questions, please contact the TCEQ Litigation Division at (512) 239-0600.

Sincerely,



Stephanie Frazee, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality
Stephanie.Frazee@tceq.texas.gov

Enclosure

cc: Mr. Ronald Hebert, Water Section Manager, Beaumont Regional Office
Mr. Terence Webb, Receivership Coordinator
Mr. Blas Coy, Office of Public Interest Counsel
Mr. Jerry Clark, Executive Vice President and General Manager, Sabine River
Authority, 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*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 27, 2014

Via Hand Delivery
Via Certified Mail Return Receipt Requested
Article No. 7002 2030 0005 7061 4074
Via First Class Mail, Postage Pre-Paid

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

A handwritten signature in dark ink, appearing to be "Michael Lantz O'Neill".

1/30/14
1447

Re: Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina
Docket No. 2013-1429-UCR-E;
Notice of Renewal of Emergency Order and of Hearing to Modify, Affirm, or
Set Aside

Dear Mr. O'Neill:

On January 27, 2014, the Executive Director of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") issued an 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 the subject to this order is Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina. The Emergency Order renewed the appointment of Sabine River Authority as temporary manager of the public water system located off Ranch Road 1, Box 1690, Hemphill, Sabine County, Texas.

Pursuant to TEX. WATER CODE § 5.504 the Commission will consider whether to affirm, modify, or set aside the Emergency Order issued on January 27, 2014. Therefore, the Executive Director has scheduled this matter to be presented at the Commission's regular Agenda meeting on **February 26, 2014**. The Agenda begins at **9:30 a.m.** and will be held at **TCEQ Park 35 Complex, 12118 North I-35, Building E, Room 201 S, Austin, Texas**. A copy of the record of the materials that have been submitted to the Chief Clerk's Office and will be used in the Texas Commission on Environmental Quality Agenda process will be provided to you at a later time.

Additionally, please be advised that, pursuant to 30 TEX. ADMIN. CODE § 35.25(c), **you may request at the time of the Agenda an evidentiary hearing on issuance of the Emergency Order**. An Administrative Law Judge will be available to conduct a hearing at Agenda on February 26, 2014, should you so

Mr. O'Neill
January 27, 2014
Page 2

request. Should you have any questions, please contact the TCEQ Litigation Division at (512) 239-0600.

Sincerely,



Stephanie Frazee, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality
Stephanie.Frazee@tceq.texas.gov

Enclosure

cc: Mr. Ronald Hebert, Water Section Manager, Beaumont Regional Office
Mr. Terence Webb, Receivership Coordinator
Mr. Blas Coy, Office of Public Interest Counsel
Mr. Jerry Clark, Executive Vice President and General Manager, Sabine River
Authority, 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

RECEIVED

JUL 01 2014

TCEQ
CENTRAL FILE ROOM

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 5, 2014

Michael Lantz O'Neill
Frontier Park Resort and Marina
360 Frontier Drive
Hemphill, Texas 75948

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

CHIEF OF STAFF
TCEQ
JUL 01 2014
CENTRAL FILE ROOM

Dear Mr. O'Neill:

Enclosed for your records are copies of documents which were filed in the Chief Clerk's Office of the Texas Commission on Environmental Quality (TCEQ) so that the above-referenced matter may be included on the agenda of items to be considered for approval by the Commission at a public meeting scheduled for **February 26, 2014, at 9:30 a.m.** The meeting will be held at the TCEQ Park 35 Campus, located at 12118 North I-35, in Building E, Room 201S, in Austin, Texas. If you have any questions you may contact me at the TCEQ Litigation Division at (512) 239-3400 or my e-mail address listed below.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Frazee".

Stephanie Frazee, Staff Attorney
Litigation Division
stephanie.frazee@tceq.texas.gov

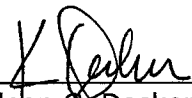
Enclosures

cc: Remington Burklund, Enforcement Division
Ronald Hebert, Beaumont Regional Office
Blas Coy, Public Interest Counsel
Lena Roberts, Litigation Division

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST**

Stephanie Frazee

2013-1429-UCR-E Consideration of whether to affirm, modify, or set aside the **Emergency Order** issued on January 27, 2014, by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code chs. 5 and 13, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality, to address the abandonment of a retail public utility (Water Utility) by Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina in Sabine County; TCEQ ID No. RN101278034; CCN12689; to ensure continued operation of the Utility and to provide continuous and adequate service to the customers. The Emergency Order renewed the appointment of Sabine River Authority as temporary manager of the Water Utility. (Stephanie Frazee)



Kathleen C. Decker, Director
Litigation Division

EXECUTIVE SUMMARY – ENFORCEMENT MATTER
Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina
RN101278034
Docket No. 2013-1429-UCR-E

Page 1 of 3

Order Type:

Emergency Order

Media:

UCR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Ranch Road 1, Box 1690, Hemphill, Sabine County, Texas

Type of Operation:

Public water system and retail public utility (Water Utility)

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$7,703.85 (Docket No. 2007-0712-PWS-E) \$64,794.01 (Docket No. 2007-0449-MLM-E)
Past-Due Fees:	\$932.13
Other:	Pending action for contempt, abstract of judgment, and at Office of Attorney General, referred on April 16, 2013; pending action for receivership at Office of Attorney General, referred on August 15, 2013
Interested Third-Parties:	None
Texas Register Publication Date:	N/A
Comments Received:	Pursuant to TEX. WATER CODE § 7.075, publication is not required for an Emergency Order.

Penalty Information

Total Penalty Assessed: N/A

Total Paid to General Revenue: N/A

Total Due to General Revenue: N/A

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: N/A

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: N/A

EXECUTIVE SUMMARY – ENFORCEMENT MATTER
Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina
RN101278034
Docket No. 2013-1429-UCR-E

Page 2 of 3

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: August 29, 2009; February 28, 2011; May 30, 2013; July 16, 2013; and July 29, 2013
Date(s) of NOV(s): N/A
Date(s) of NOE(s): N/A

Violation Information

Abandoned operations [TEX. WATER CODE §§ 13.412(f) and 13.4132 and 30 TEX. ADMIN. CODE § 291.142(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Immediately upon the effective date of the Emergency Order, Sabine River Authority ("SRA") shall serve as temporary manager until a receiver is appointed or 180 days after the effective date of the Emergency Order; i.e. July 26, 2014, whichever occurs first.
2. SRA 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.
3. SRA shall give the Executive Director an inventory of all Water Utility property received within sixty (60) days of the effective date of this Order.
4. SRA's 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).
5. SRA's compensation will come from Water Utility revenues in the amount of fifteen dollars (\$15.00) per month per customer.
6. SRA shall report to the Executive Director on a monthly basis in accordance with 30 TEX. ADMIN. CODE § 291.143(h).

Litigation Information

Date Petition(s) Filed: N/A
Date Green Card(s) Signed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s):
Preliminary hearing: N/A
Evidentiary hearing: N/A

Contact Information

TCEQ Attorneys: Stephanie Frazee, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Blas Coy, Public Interest Counsel, (512) 239-6363

EXECUTIVE SUMMARY – ENFORCEMENT MATTER
Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina
RN101278034
Docket No. 2013-1429-UCR-E

Page 3 of 3

TCEQ Enforcement Coordinator: Remington Burklund, Enforcement Division, MC 219, (512) 239-2611

TCEQ Regional Contact: Ronald Hebert, Section Manager, Beaumont Regional Office, MC R-10, (409) 898-3838

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

Respondent's Attorney: N/A

Background Facts:

The 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. No other source of water is available to the more than 60 people whose water is supplied by the Utility.

On August 26, 2008, the Commission issued Default Order Docket No. 2007-0449-MLM-E against Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina for numerous PWS and WW violations. On March 17, 2010, the case was referred to the Office of Attorney General. On December 20, 2010, the 353rd Judicial District in Travis County issued a Default Judgment and Permanent Injunction against Mr. O'Neill.

During an investigation conducted on February 28, 2011, a TCEQ Beaumont Regional investigator documented that Mr. O'Neill was not in compliance with the Default Judgment.

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.

On July 15, 2013, water service at the Utility ceased after a weather event. Mr. O'Neill claimed that he was attempting to restore service to the Utility. Sabine County Emergency Management provided bottled water to the customers at the Utility until July 25, 2013.

On July 25, 2013, a TCEQ Beaumont Regional investigator observed that water service was unavailable for all areas of the Utility. Mr. O'Neill had abandoned the Utility by failing to adequately maintain facilities, resulting in potential health hazards, extended outages, or repeated service interruptions.

A potential health hazard existed as a result of the Utility's failure to provide continuous and adequate service. Immediate repairs to the Utility were necessary to ensure the quality of water in the State and to ensure the Utility operates in a safe manner and meets requirements in the Texas Water Code, the Texas Health & Safety Code, and TCEQ rules. Therefore, a temporary manager is necessary to operate the Utility to ensure the quality of water meets TCEQ rule requirements, complies with the Texas Water Code and the Texas Health & Safety Code, and is safe for public use and consumption.

On August 1, 2013, the Executive Director issued an Emergency Order appointing Sabine River Authority as Temporary Manager for the Utility. On September 4, 2013, the Commission affirmed the Emergency Order with modifications.

On January 27, 2014, the Executive Director issued an Emergency Order renewing the appointment of Sabine River Authority as Temporary Manager for the Utility.

The Executive Director is requesting approval of the Emergency Order renewing the appointment of Sabine River Authority as the temporary manager for an additional 180 days.

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

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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

For the Commission

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 CLERK'S OFFICE

2014 JAN 27 AM 10 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 353rd 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.

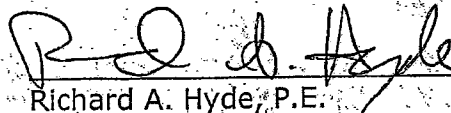
4. TEX. WATER CODE § 5.507 provides that the Commission may issue an emergency order appointing a willing person to temporarily manage and operate a utility under TEX. WATER CODE § 13.4132.
5. This Emergency Order may be issued without notice or hearing pursuant to TEX. WATER CODE § 5.501(b) and 30 TEX. 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

AFFIDAVIT OF BRITTNEY WORTHAM-TEAKELL

STATE OF TEXAS §
 §
COUNTY OF SABINE §

My name is Brittney Wortham-Teakell. I am an environmental Investigator 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.

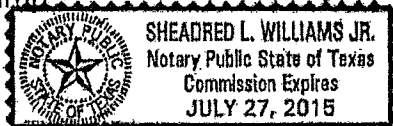
On July 25, 2013, I spoke with Michael O'Neill, owner and operator of Frontier Park and Marina (the "Utility"). Mr. O'Neill stated that due to extreme weather conditions which occurred on July 15, 2013, the Utility has been out of water. On July 25, 2013, I arrived at the Utility and observed that water service was unavailable for all areas of the Utility. While discussing the Utility with Mr. O'Neill, he stated that he would like to not be the operator for the Utility any longer and would like to ultimately "get rid" of the Utility. He stated he would like to be dissolved of all responsibility concerning the Utility. Mr. O'Neill stated that due to the condition of the plant and distribution system, it is difficult to manage and keep in good working condition for extended periods of time. Mr. O'Neill also stated that he has not made an attempt to attain a water operator license.


Brittney Wortham-Teakell
Texas Commission on Environmental Quality

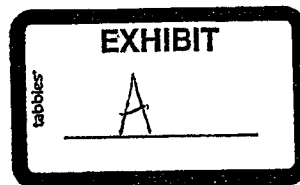
Before me, the undersigned authority, on this day personally appeared Brittney Wortham-Teakell, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 26th day of July, A.D., 2013.

Notary Stamp




Notary Signature

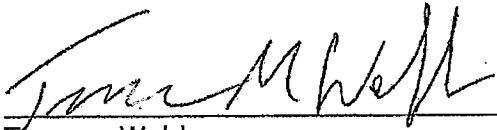


AFFIDAVIT OF TERENCE WEBB

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

My name is Terence Webb. I am the receivership coordinator for 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.

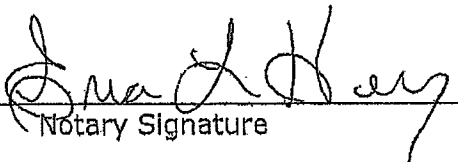
On July 24 and 26, 2013, I called and left messages for Michael O'Neill regarding the water outage at Frontier Park Marina (the "Utility"). In the messages, I told Mr. O'Neill that TCEQ is going to have a temporary manager appointed to operate the water system. I have not received a response from Mr. O'Neill.



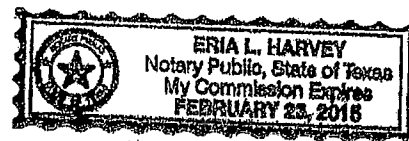
Terence Webb
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Terence Webb, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

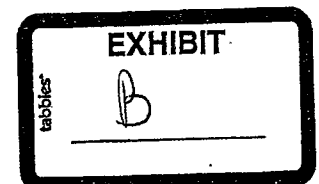
Given under my hand and seal of office this 26 day of July, A.D., 2013.


Notary Signature

Notary Stamp



Notary without Bond



No. D-1-GV-10-001692

STATE OF TEXAS,

Plaintiff,

v.

MICHAEL L. O'NEILL, d/b/a
FRONTIER PARK RESORT and
MARINA,

Defendant.

IN THE DISTRICT COURT

TRAVIS COUNTY, TEXAS

353rd JUDICIAL DISTRICT

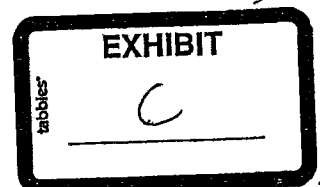
Filed in The District Court
of Travis County, Texas

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DEFAULT JUDGMENT AND PERMANENT INJUNCTION

ON THIS DAY the Court called the above-styled case for trial. Plaintiff, State of Texas, appeared by its attorney of record and announced ready for trial. Defendant, Michael L. O'Neill, an individual who does business as Frontier Park Resort and Marina, the owner and operator of a public water supply system (PWSS) and a wastewater treatment plant (WWTP), although having been duly and legally cited to appear and answer herein, failed to appear and answer, and wholly made default. The Court determined it had jurisdiction over the subject matter and the parties to this proceeding. Plaintiff moved for default judgment.

The Court, having considered the pleadings, evidence, and argument, is of the opinion that it has jurisdiction over the parties and subject matter of this case. Furthermore, the Court is of the opinion that the State is entitled to judgment against Defendant on the State's claim for injunctive relief, civil penalties, attorney's fees, unpaid administrative penalties, and court



costs.

THE COURT FINDS:

1. The State filed its Original Petition and Application for Permanent Injunction on October 4, 2010.

2. Citation was issued on October 7, 2010.

3. Defendant was properly served with citation and a copy of the State's petition by personal service upon Defendant on October 13, 2010.

4. The completed citation was filed on December 7, 2010. The citation and proof of service have been on file with the clerk of the court at least ten days, excluding the day of filing and today as required by Rule 107 of the Texas Rules of Civil Procedure.

5. Defendant's last known mailing address is Michael O'Neill, RR 1, Box 1690, Hemphill, Sabine County, Texas 75948. The State has filed a Certificate of Defendant's Last Known Address with the records in this cause. See Exhibit A, Certificate of Defendant's Last Known Address.

6. Defendant is not a member of the United States military. The State has filed a Soldiers' and Sailors' Affidavit in the records of this cause. See Exhibit B, Soldiers' and Sailors' Affidavit.

7. The deadline for Defendant to file an answer was November 8, 2010. Defendant failed to file an answer, or any pleading constituting an answer, and has not entered an appearance in this cause. Therefore, Defendant has admitted all facts alleged in

the State's Original Petition and Application for Permanent Injunction.

8. The administrative and civil penalties sought in the State's Original Petition and Application for Permanent Injunction are liquidated and proven by a written instrument that allows the Court to calculate the penalties without the necessity of a hearing.

9. At all times relevant to the violations in this matter, Defendant owned and operated the a PWSS and WWTP located six miles east of Milam on Highway 21 at Toledo Bend Reservoir, Sabine County, Texas (the facility).

FURTHER THE COURT FINDS THAT:

10. The State is entitled to judgment for civil penalties against Defendant of not less than \$50 nor more than \$25,000 for each day that Defendant violated the Tex. Water Code, Tex. Health and Safety Code and Texas Commission on Environmental Quality (TCEQ) rules. Tex. Water Code, § 7.102. Each day of a continuing violation is a separate violation. *Id.* The State is only seeking civil penalties against Defendant for the statutory minimum of \$50.00 per violation per day. The civil penalties for the violations are liquidated and proven by a written instrument that allows the Court to calculate the penalties without the necessity of a hearing.

Violation 1: Failure to Maintain Plant Operations Manual

11. The Court finds that the Defendant failed from February 13, 2007 to October 4, 2010 to compile and maintain a complete and up-to-date plant operations manual in violation of 30 TAC § 290.42(1) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering

Provision 2.f.i. Therefore, Defendant has violated 30 TAC § 290.42(1) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.f.i. for 1,328 days.

Violation 2: Failure to Maintain Chemical Monitoring Plan

12. The Court finds that the Defendant failed from February 13, 2007 to October 4, 2010 to prepare and maintain an up-to-date chemical and microbiological monitoring plan for the facility in violation of 30 TAC § 290.121(a) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.b.ii. Therefore, Defendant has violated 30 TAC § 290.121(a) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.b.ii. for 1,328 days.

Violation 3: Failure to Provide Meters

13. The Court finds that the Defendant failed from February 13, 2007 to October 4, 2010 to provide one meter at each residence in violation of 30 TAC § 290.44(d)(4) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.h.ii. Therefore, Defendant has violated 30 TAC § 290.44(d)(4) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.h.ii. for 1,328 days.

Violation 4: Failure to Dead-End Main Flushing Records

14. The Court finds that the Defendant failed from February 13, 2007 to October 4, 2010 to maintain records of the dates that dead-end mains were flushed for the facility and maintain those records for at least two years in violation of 30 TAC § 290.46(f)(3)(A)(iv) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.d.iii. Therefore, Defendant has violated 30 TAC § 290.46(f)(3)(A)(iv) and TCEQ Order Docket No. 2007-

0712-PWS-E, Ordering Provision 2.d.iii. for 1,328 days.

Violation 5: Failure to Maintain Distribution Map

15. The Court finds that the Defendant failed from February 13, 2007 to October 4, 2010 to compile and maintain an up-to-date distribution map in violation of 30 TAC § 290.46(n)(2) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.d.iv. Therefore, Defendant has violated 30 TAC § 290.46(n)(2) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.d.iv. for 1,328 days.

Violation 6: Failure to Install Well Sealing Block

16. The Court finds that the Defendant failed from February 13, 2007 to October 4, 2010 to install a proper sealing block around a well at the PWSS in violation of 30 TAC § 290.41(c)(3)(I) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.f.iii. Therefore, Defendant has violated 30 TAC § 290.41(c)(3)(I) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.f.iii. for 1,328 days.

Violation 7: Failure to Establish Backflow Prevention Program

17. The Court finds that the Defendant failed from February 13, 2007 to October 4, 2010 to establish an appropriate backflow prevention program for the facility in violation of 30 TAC § 290.44(h)(1) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.h.i. Therefore, Defendant has violated 30 TAC § 290.44(h)(1) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.h.i. for 1,328 days.

Violation 8: Failure to Record Chemicals Used

18. The Court finds that the Defendant failed from August 20, 2009 to October 4, 2010 to record the amount of chemicals used each week at the facility in violation of 30 TAC § 290.46(f)(3)(A)(i)(III). Therefore, Defendant has violated 30 TAC § 290.46(f)(3)(A)(i)(III) for 410 days.

Violation 9: Failure to Record Volume of Water Treated

19. The Court finds that the Defendant failed from August 20, 2009 to October 4, 2010 to record the volume of water treated each week at the facility in violation of 30 TAC § 290.46(f)(3)(A)(ii)(III). Therefore, Defendant has violated 30 TAC § 290.46(f)(3)(A)(ii)(III) for 410 days.

Violation 10: Failure to Monitor Disinfectant Residual Concentration

20. The Court finds that the Defendant failed from August 20, 2009 to October 4, 2010 to monitor and record the disinfectant residual concentration in the distribution system at the facility at least once every seven days in violation of 30 TAC § 290.110(c)(4)(A) and 30 TAC § 290.46(f)(3)(B)(iii). Therefore, Defendant has violated 30 TAC § 290.110(c)(4)(A) and 30 TAC § 290.46(f)(3)(B)(iii) for 410 days.

Violation 11: Failure to Inspect Tanks

21. The Court finds that the Defendant failed from August 20, 2009 to October 4, 2010 to inspect the ground storage and pressure tanks at the facility annually in violation of 30 TAC § 290.46(m)(1). Therefore, Defendant has violated 30 TAC § 290.46(m)(1) for 410 days.

Violation 12: Failure to Have Licensed Water Works Operator

22. The Court finds that the Defendant failed from August 20, 2009 to October 4, 2010 to operate the facility under the direct supervision of an appropriately licensed water works operator in violation of 30 TAC § 290.46(e). Therefore, Defendant has violated 30 TAC § 290.46(e) for 410 days.

Violation 13: Failure to Calibrate Well Meter

23. The Court finds that the Defendant failed from August 20, 2009 to October 4, 2010 to calibrate the well meter at the facility at least once every three years in violation of 30 TAC § 290.46(s)(1) and 30 TAC § 290.41(c)(N)(3). Therefore, Defendant has violated 30 TAC § 290.46(s)(1) and 30 TAC § 290.41(c)(N)(3) for 410 days.

Violation 14: Failure to Check Disinfectant Residual Analyzer

24. The Court finds that the Defendant failed from August 20, 2009 to October 4, 2010 to check the accuracy of the disinfectant residual analyzer at least once every 30 days in violation of 30 TAC § 290.46(s)(2)(C)(i). Therefore, Defendant has violated 30 TAC § 290.46(s)(2)(C)(i) for 410 days.

Violation 15: Failure to Provide Proper Well Capacity

25. The Court finds that the Defendant failed from August 20, 2009 to October 4, 2010 to provide a well capacity of 0.6 gallons per minute (gpm) per connection in violation of 30 TAC § 290.45(b)(1)(B)(i) and 30 TAC § 290.45(c)(1)(B)(i). Therefore, Defendant has violated 30 TAC § 290.45(b)(1)(B)(i) and 30 TAC § 290.45(c)(1)(B)(i) for 410 days.

Violation 16: Failure to Provide Proper Tank Capacity

26. The Court finds that the Defendant failed from February 13, 2007 to October 4, 2010 to provide a pressure tank capacity of at least 20 gallons per community connection and 10 gallons per non-community connection in violation of 30 TAC § 290.45(c)(1)(B)(iv) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.h.iii. Therefore, Defendant has violated 30 TAC § 290.45(c)(1)(B)(iv) and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.h.iii. for 1,328 days.

Violation 17: Failure to Provide an Inspection Port

27. The Court finds that the Defendant failed from August 20, 2009 to October 4, 2010 to equip the pressure tank with an inspection port in violation of 30 TAC § 290.43(d)(1). Therefore, Defendant has violated 30 TAC § 290.43(d)(1) for 410 days.

Violation 18: Failure to Provide 2004 Consumer Confidence Report (CCR)

28. The Court finds that the Defendant failed from June 3, 2008 to October 4, 2010 to provide the 2004 CCR to customers and to submit the required Certificate of Delivery to the TCEQ in violation of 30 TAC §§ 290.271(b), 290.274(a) and 290.274(c), and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.a, b and c. Therefore, Defendant has violated 30 TAC §§ 290.271(b), 290.274(a) and 290.274(c), and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.a, b and c for 849 days.

Violation 19: Failure to Provide 2005 CCR

29. The Court finds that the Defendant failed from June 3, 2008 to October 4, 2010 to provide the 2005 CCR to customers and to submit the required Certificate of Delivery to

the TCEQ in violation of 30 TAC §§ 290.271(b), 290.274(a) and 290.274(c), and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.a, b and c. Therefore, Defendant has violated 30 TAC §§ 290.271(b), 290.274(a) and 290.274(c), and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.a, b and c for 849 days.

Violation 20: Failure to Provide 2006 CCR

30. The Court finds that the Defendant failed from June 3, 2008 to October 4, 2010 to provide the 2006 CCR to customers and to submit the required Certificate of Delivery to the TCEQ in violation of 30 TAC §§ 290.271(b), 290.274(a) and 290.274(c), and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.a, b and c. Therefore, Defendant has violated 30 TAC §§ 290.271(b), 290.274(a) and 290.274(c), and TCEQ Order Docket No. 2007-0712-PWS-E, Ordering Provision 2.a, b and c for 849 days.

Violation 21: Failure to Provide 2007 CCR

31. The Court finds that the Defendant failed from October 15, 2009 to October 4, 2010 to provide the 2007 CCR to customers and to submit the required Certificate of Delivery to the TCEQ in violation of 30 TAC §§ 290.271(b), 290.274(a) and 290.274(c). Therefore, Defendant has violated 30 TAC §§ 290.271(b), 290.274(a) and 290.274(c) for 354 days.

Violation 22: Failure to Issue Boil Water Notice

32. The Court finds that the Defendant failed on January 12, 2010 to issue a proper boil water notice and notify the TCEQ of the issuance of the boil water notice in violation of 30 TAC § 290.46(q)(1). Therefore, Defendant violated 30 TAC § 290.46(q)(1) for one

day.

Violation 23: Failure to Issue Boil Water Notice

33. The Court finds that the Defendant failed from July 16, 2010 until July 23, 2010 to issue a proper boil water notice and notify the TCEQ of the issuance of the boil water notice in violation of 30 TAC § 290.46(q)(1). Therefore, Defendant violated 30 TAC § 290.46(q)(1) for eight days.

Violation 24: Failure to Submit Revised Discharge Monitoring Report (DMR)

34. The Court finds that the Defendant failed from February 13, 2007 to October 4, 2010 to submit a revised September 2006 DMR which reflected the correct pH data for that reporting period in violation of 30 TAC § 305.125 and TCEQ Order Docket No. 2007-0049-MLM-E, Ordering Provision 2.b.ii. Therefore, Defendant has violated 30 TAC § 305.125 and TCEQ Order Docket No. 2007-0049-MLM-E, Ordering Provision 2.b.ii. for 1,328 days.

Violation 25: Failure to Implement Procedures for the Lift Stations

35. The Court finds that the Defendant failed from February 13, 2007 to October 4, 2010 to develop and implement operational and maintenance procedures to prevent future discharges from the lift stations at the facility in violation of 30 TAC § 305.125(4) and TCEQ Order Docket No. 2007-0049-MLM-E, Ordering Provision 2.c. Therefore, Defendant has violated 30 TAC § 305.125(4) and TCEQ Order Docket No. 2007-0049-MLM-E, Ordering Provision 2.c. for 1,328 days.

Violation 26: Failure to Hire Licensed Operator

36. The Court finds that the Defendant failed from February 13, 2007 to October 4, 2010 to hire a licensed wastewater operator and/or complete training and licensing requirements to become a licensed wastewater operator in violation of 30 TAC § 30.331(b), Tex. Water Code §§ 26.0301 and 37.003, and TCEQ Order Docket No. 2007-0049-MLM-E, Ordering Provision 2.d. Therefore, Defendant has violated 30 TAC § 30.331(b), Tex. Water Code §§ 26.0301 and 37.003, and TCEQ Order Docket No. 2007-0049-MLM-E, Ordering Provision 2.d. for 1,328 days.

Violation 27: Failure to Submit Certification of Limitations and Monitoring

37. The Court finds that the Defendant failed from February 13, 2007 to October 4, 2010 to submit written certification of compliance with the effluent limitations and monitoring requirement specified in Permit No. WQ00114015001 in violation TCEQ Order Docket No. 2007-0049-MLM-E, Ordering Provision 2.e. Therefore, Defendant has violated Permit No. WQ00114015001 and TCEQ Order Docket No. 2007-0049-MLM-E, Ordering Provision 2.e. for 1,328 days.

Violation 28: Failure to Adjust Feed Rate of Chlorine

38. The Court finds that the Defendant failed from December 11, 2008 to October 4, 2010 to adjust the feed rate of chlorine tablets to ensure that the total chlorine residual is maintained between 1.0 and 4.0 mg/l in violation of 30 TAC § 305.125(1) and Permit No. WQ00114015001. Therefore, Defendant has violated 30 TAC § 305.125(1) and Permit No. WQ00114015001 for 617 days.

Violation 29: Failure to Properly Document Effluent Flow Rate Collection

39. The Court finds that the Defendant failed from December 11, 2008 to October 4, 2010 to record the time and identity of the individual who read the effluent flow rate, collected the sample and conducted the analyses for the effluent total chlorine for the months of September, October and November 2008 in violation of 30 TAC § 319.7(a) and Permit No. WQ00114015001. Therefore, Defendant has violated 30 TAC § 319.7(a) and Permit No. WQ00114015001 for 617 days.

Violation 30: Failure to Provide Duplex Pumping Capability

40. The Court finds that the Defendant failed from December 11, 2008 to October 4, 2010 to provide duplex pumping capability at the collection lift station in violation of 30 TAC § 305.125(5) and Permit No. WQ00114015001. Therefore, Defendant has violated 30 TAC § 305.125(5) and Permit No. WQ00114015001 for 617 days.

Violation 31: Failure to Provide High Water Alarm Systems

41. The Court finds that the Defendant failed from December 11, 2008 to October 4, 2010 to provide high water alarm systems at the collection system lift station and the influent lift station in violation of 30 TAC § 305.125(5) and Permit No. WQ00114015001. Therefore, Defendant has violated 30 TAC § 305.125(5) and Permit No. WQ00114015001 for 617 days.

Violation 32: Failure to Provide High Water Alarm Systems

42. The Court finds that the Defendant failed from December 11, 2008 to October 4, 2010 to provide provide noncompliance notification for effluent that deviates from the

permit limitation greater than 40% in violation of 30 TAC § 305.125(1) and Permit No. WQ00114015001. Therefore, Defendant has violated 30 TAC § 305.125(1) and Permit No. WQ00114015001 for 617 days.

Violation 33: Failure to Pay Administrative Penalties

43. The Court finds that the Defendant failed to pay \$55,921.00 in administrative penalties ordered to be paid by TCEQ Order No. 2007-0712-PWS-E (\$6,670.00 ordered administrative penalties), TCEQ Order No. 2008-1103-PWS-E (\$716.00 ordered administrative penalties), and TCEQ Order No. 2007-0449-MLM-E (\$48,535.00 ordered administrative penalties).

ATTORNEY'S FEES

THE COURT FURTHER FINDS THAT:

44. The State is entitled to recover from Defendant its reasonable attorney's fees, investigative costs, and court costs incurred in prosecuting this matter. Tex. Water Code § 7.108; Tex. Gov't Code § 402.006(c).

45. As evidenced by the State's affidavit, admitted by the Court, and filed with the records in this cause, the State's reasonable and necessary attorney's fees in this case are \$6,413.75. *See* Exhibit C, Affidavit for Attorney's Fees.

46. As evidenced by the State's affidavit, admitted by the Court, and filed with the records in this cause, the State's reasonable and necessary attorney's fees in the event that proceedings to collect this judgment become necessary are \$2,000.00. *See* Exhibit C, Affidavit for Attorney's Fees.

47. As evidenced by the State's affidavit, admitted by the Court, and filed with the records of this cause, the State's reasonable and necessary attorney's fees in the event of an appeal by the Defendant to the Court of Appeals are \$5,000.00. See Exhibit C; Affidavit for Attorney's Fees.

48. As evidenced by the State's affidavit, admitted by the Court, and filed with the records of this cause, the State's reasonable and necessary attorney's fees in the event of an appeal by the Defendant to the Texas Supreme Court for preparation of a petition for review are \$8,000.00. See Exhibit C; Affidavit for Attorney's Fees.

49. As evidenced by the State's affidavit, admitted by the Court, and filed with the records of this cause, the State's reasonable and necessary attorney's fees in the event that a petition for review by the Texas Supreme Court is granted are \$15,000.00. See Exhibit C; Affidavit for Attorney's Fees.

FURTHER THE COURT FINDS THAT:

OTHER

50. The Court finds that the civil penalties assessed herein are payable to and for the benefit of a government unit and are not compensation for actual pecuniary loss, and, therefore, are not dischargeable under federal bankruptcy laws.

51. The Court further finds that the applicable judgment interest rate for the date of this Default Judgment as published by the Texas Office of Consumer Credit in accordance with §304.003 of the Texas Finance Code is five percent.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

52. Immediately upon the date the Defendant receives this Default Judgment, Defendant, his agents, employees, and all persons in active concert or participation with him are hereby **permanently enjoined** as follows: Defendant shall ensure that the WWTP and PWSS are operated in compliance with all the provisions of the Tex. Health & Safety Code, the Tex. Water Code, TCEQ rules promulgated under the Tex. Health & Safety Code and the Tex. Water Code, and TCEQ issued permits.

53. Within thirty (30) days after the date Defendant receives this Default Judgment, Defendant, his agents, employees, and all persons in active concert or participation with him are hereby **permanently enjoined** as follows:

- A. Defendant shall compile and maintain a complete and up-to-date plant operations manual in accordance with 30 TAC § 290.42(l) and TCEQ Order Docket No. 2007-0712-PWS-E.
- B. Defendant shall prepare and maintain an up-to-date chemical and microbiological monitoring plan in accordance with 30 TAC § 290.121(a) and TCEQ Order Docket No. 2007-0712-PWS-E.
- C. Defendant shall provide one meter per residence in accordance with 30 TAC § 290.44(d)(4) and TCEQ Order Docket No. 2007-0712-PWS-E.
- D. Defendant shall maintain records of the dates that dead-end mains were flushed and maintain records of those dates for at least 2 years in accordance with 30 TAC § 290.46(f)(3)(A)(iv) and TCEQ Order Docket No. 2007-0712-PWS-E.

E. Defendant shall compile and maintain an up-to-date distribution map in accordance with 30 TAC § 290.46(n)(2) and TCEQ Order Docket No. 2007-0712-PWS-E.

F. Defendant shall install a proper sealing block around all wells at the PWSS in accordance with 30 TAC § 290.41(c)(3)(J) and TCEQ Order Docket No. 2007-0712-PWS-E.

G. Defendant shall establish an appropriate backflow prevention program in accordance with 30 TAC § 290.44(h)(1) and TCEQ Order Docket No. 2007-0712-PWS-E.

H. Defendant shall record the amount of chemical used each week in accordance with 30 TAC § 290.46(f)(3)(A)(i)(III).

I. Defendant shall record the volume of water treated each week in accordance with 30 TAC § 290.46(f)(3)(A)(ii)(III).

J. Defendant shall monitor and record the disinfectant residual concentration in the distribution system at least once every seven days in accordance with 30 TAC § 290.110(c)(4)(A) and 30 TAC § 290.46(f)(3)(B)(iii).

K. Defendant shall inspect the system's ground storage and pressure tanks annually in accordance with 30 TAC § 290.46(m)(1).

L. Defendant shall operate the public water system under the direct supervision of an appropriately licensed water works operator in

accordance with 30 TAC § 290.46(e).

- M. Defendant shall calibrate all well meters in accordance with 30 TAC § 290.46(s)(1) and 30 TAC § 290.41(c)(3)(N) and continue to do so every three years.
- N. Defendant shall check the accuracy of the disinfectant residual analyzer at least once every 30 days in accordance with 30 TAC § 290.46(s)(2)(C)(i).
- O. Defendant shall provide a well capacity of 0.6 gallons per minute (gpm) per connection in accordance with 30 TAC § 290.45(b)(1)(B)(i) and 30 TAC § 290.45(c)(1)(B)(i).
- P. Defendant shall provide a pressure tank capacity of at least 20 gallons per community connection and 10 gallons per non-community connection in accordance with 30 TAC § 290.45(c)(1)(B)(iv) and TCEQ Order Docket No. 2007-0712-PWS-E.
- Q. Defendant shall equip the pressure tank with an inspection port in accordance with 30 TAC § 290.43(d)(1).
- R. Defendant shall provide annual Consumer Confidence Reports to customers and submit required Certificates of Delivery to the TCEQ in accordance with 30 TAC § 290.271(b), 30 TAC § 290.274(a), 30 TAC § 290.274(c).
- S. Defendant shall issue proper boil water notices and notify the TCEQ of

the issuance of any boil water notices in accordance with 30 TAC

§ 290.46(q)(1).

T. Defendant shall submit the September 2006 Discharge Monitoring Report (DMR) that includes the correct pH data for that reporting period in accordance with 30 TAC § 305.125 and TCEQ Default Order Docket No. 2007-0449-MLM-E.

U. Defendant shall develop and implement operational and maintenance procedures to prevent future discharges from the lift stations in accordance with 30 TAC § 305.125(4), Tex. Water Code § 26.121 and TCEQ Default Order Docket No. 2007-0449-MLM-E.

V. Defendant shall hire a licensed operator and/or complete training to become a licensed wastewater operator in accordance with 30 TAC § 30.331(b), Tex. Water Code §§ 26.0301 and 37.003, and TCEQ Default Order Docket No. 2007-0449-MLM-E.

W. Defendant shall submit written certification of compliance with the effluent limitations and monitoring requirements specified in Water Quality Permit No. WQ0014015-00 and required under TCEQ Default Order Docket No. 2007-0449-MLM-E.

X. Defendant shall adjust the feed rate of chlorine tablets to ensure that the total chlorine residual is maintained between 1.0 and 4.0 mg/l, and submit one month's logs that include total chlorine residual results in

compliance with effluent limitations and monitoring requirements, as required by 30 TAC § 305.125(1) and TCEQ Default Order Docket No. 2007-0449-MLM-E.

- Y. Defendant shall submit one month's operations logs that include sample collection and analyses, and effluent flow reading results, and shall maintain all operations logs in accordance with 30 TAC § 319.7(a) and Permit No. WQ00114015001.
- Z. Defendant shall ensure that the collection system lift station has duplex pumping capacity at all times and that the lift stations serving the system are fully operational at all times, in accordance with 30 TAC § 305.125(5) and Permit No. WQ00114015001.
- AA. Defendant shall install audio-visual high level alarms on all lift stations serving the wastewater treatment plant and ensure that all such audio-visual high level alarms are properly maintained and properly functioning at all times, in accordance with 30 TAC § 305.125(5) and Permit No. WQ00114015001.
- BB. Defendant shall develop and implement a Standard Operating Procedure (SOP) for non-compliance reporting for effluent violations that deviate by more than 40% from the permitted effluent limitation and submit a copy of the SOP to TCEQ Region 10 office in accordance with 30 TAC § 305.125(1) and Permit No. WQ00114015001.

54. Defendant shall submit a report within 60 days of the issuance of the permanent injunction that documents that compliance with the above permanent injunctive provisions at the PWSS and WWTP. The report must be supported with photographs, logs and other documentation, and must be sent to the attention of David L. Green, Assistant Attorney General, Environmental Protection and Administrative Law Division, P.O. Box 12548, Austin, TX 78711-2548.

55. The Defendant shall provide the TCEQ access to PWSS and WWTP to perform investigations and evaluations.

56. The Clerk of this Court shall issue a Permanent Injunction against Defendant, and his agents, employees, and all persons in active concert or participation with Defendant, as set forth above.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT:

57. Defendant, is liable to the State for a civil penalty of ONE MILLION TWO HUNDRED EIGHTY-ONE THOUSAND FIFTY DOLLARS AND NO CENTS (\$1,281,050.00) for violations of the Tex. Health & Safety Code, the Tex. Water Code, TCEQ rules, and Permits and Orders issued by the TCEQ.

58. The State, therefore, shall have judgment against, in the amount of ONE MILLION TWO HUNDRED EIGHTY-ONE THOUSAND FIFTY DOLLARS AND NO CENTS (\$1,281,050.00), which constitutes Paragraphs 11 through 42, for 25,621 days of violations of the Tex. Health & Safety Code, the Tex. Water Code, TCEQ rules, and Permits and Orders issued by the TCEQ at \$50.00 per day.

59. Defendant, is liable to the State for administrative penalties of FIFTY-FIVE THOUSAND NINE HUNDRED TWENTY-ONE DOLLARS AND NO CENTS (\$55,921.00) for amounts owned under TCEQ Order No. 2007-0712-PWS-E (\$6,670.00 ordered administrative penalties), TCEQ Order No. 2008-1103-PWS-E (\$716.00 ordered administrative penalties), and TCEQ Order No. 2007-0449-MLM-E (\$48,535.00 ordered administrative penalties).

60. The State, therefore, shall have judgment against Defendant, for administrative penalties of FIFTY-FIVE THOUSAND NINE HUNDRED TWENTY-ONE DOLLARS AND NO CENTS (\$55,921.00) for the unpaid and owing administrative penalties.

61. The State shall also have judgment against Defendant, for its attorney's fees in the amount of TWENTY-SIX THOUSAND NINE HUNDRED SEVENTY-TWO DOLLARS AND FIFTY CENTS (\$26,972.50).

62. Should Defendant fail to make a timely payment of the amounts due and owing under this Default Judgment, the State shall also have judgment against the Defendant for the State's necessary and reasonable attorney's fees for proceedings to collect judgment in this case in the amount of TWO THOUSAND DOLLARS AND NO CENTS (\$2,000.00).

63. Should Defendant appeal this Default Judgment to the Court of Appeals, the State shall also have judgment against the appealing Defendant for the State's necessary and reasonable attorney's fees in the amount of FIVE THOUSAND DOLLARS AND NO CENTS (\$5,000.00).

64. Should Defendant appeal this Default Judgment to the Texas Supreme Court,

the State shall also have judgment against the appealing Defendant for the State's necessary and reasonable attorney's fees to prepare a petition for review in the amount of EIGHT THOUSAND DOLLARS AND NO CENTS (\$8,000.00).

65. Should Defendant appeal this Default Judgment to the Texas Supreme Court, and should a petition for review be granted by the Texas Supreme Court, the State shall also have judgment against Defendant for the State's necessary and reasonable attorney's fees in the amount of FIFTEEN THOUSAND DOLLARS AND NO CENTS (\$15,000.00).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT:

66. Defendant is ordered to pay all costs of court incurred through the date of this Default Judgment and those court costs which may be incurred to collect this Default Judgment if necessary.

67. Defendant shall pay post-judgment interest on all amounts in this cause and continually thereafter at the legal rate of five percent from the date of this Default Judgment until paid in full, for all of which execution shall issue.

68. Defendant shall pay all amounts awarded in this Default Judgment within 30 days of the entry of this Default Judgment.

69. Payment for all amounts awarded in this Default Judgment shall be made by certified check or money order made payable to the State of Texas and shall bear the identifying number "A.G. # 093142115." Checks shall be delivered to Division Chief, Environmental Protection and Administrative Law Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT:

70. The effective date of this Default Judgment is the date it is signed by the Judge Presiding.

71. Execution shall issue for all monies awarded herein.

72. The State of Texas is allowed such writs and processes as may be necessary in the enforcement and collection of this Default Judgment.

73. All relief not expressly herein granted is denied. This is a final judgment. This Default Judgment finally disposes, without reservation, of all parties and all claims brought or that reasonably could have been brought.

SIGNED on December 20, 2010.


JUDGE PRESIDING

ENTRY REQUESTED BY:

GREG ABBOTT
Attorney General of Texas

DANIEL T. HODGE
First Assistant Attorney General

BILL COBB
Deputy Attorney General for Civil Litigation

BARBARA B. DEANE
Chief, Environmental Protection and

Administrative Law Division

DAVID PREISTER

Chief, Environmental Protection Section



DAVID L. GREEN

State Bar No. 24037776

Assistant Attorney General

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ATTORNEYS FOR THE STATE OF TEXAS

CAUSE NO. D-1-GV-10-001692

Filed
10 December 7 A10:09
Amalia Rodriguez-Mendoza
District Clerk
Travis District
D-1-GV-10-001692

STATE OF TEXAS,

Plaintiff,

V.

MICHAEL L. O'NEILL, d/b/a
FRONTIER PARK RESORT and
MARINA,

Defendant.

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

353RD JUDICIAL DISTRICT

CERTIFICATE OF LAST KNOWN ADDRESS

TO THE CLERK OF COURT:

Pursuant to Texas Rule of Civil Procedure 239a, the State of Texas, Plaintiff in the above-entitled and numbered cause, certifies that the last known address of Michael L. O'Neill in the above-entitled and numbered cause against whom default judgment will be rendered, is as follows:

Michael L. O'Neill
RR 1, Box 1690
Hemphill, Sabine County, Texas 75948

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

DANIEL T. HODGE
First Assistant Attorney General

