



Control Number: 44211



Item Number: 9

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
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

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

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PUBLIC UTILITY COMMISSION
FILING CLERK

CHIEF CLERKS OFFICE

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**

**EMERGENCY ORDER
APPOINTING A TEMPORARY MANAGER
OF A WATER UTILITY**

On August 1, 2013, 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**

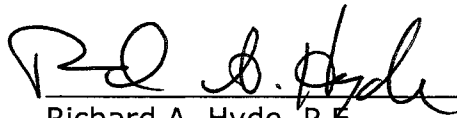
1. Mr. O'Neill owns a public water system located at Ranch Road 1 Box 1690, Hemphill, Sabine County, Texas (the "Utility").
2. The Utility provides potable water service for compensation to approximately 20 community and 89 non-community service connections, serves at least 25 people per day for at least 60 days per year, and provides water for human consumption. As such, the Utility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
3. The Utility operates pursuant to Certificate of Convenience and Necessity No. 12689.
4. The TCEQ alleges that the 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

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, 8 and 10 show that the Utility has abandoned operations and that the appointment of a new 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 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 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.

10. The Chief Clerk shall provide a copy of this Order to each of the parties.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

A handwritten signature in black ink, appearing to read "R. A. Hyde", is written over a horizontal line.

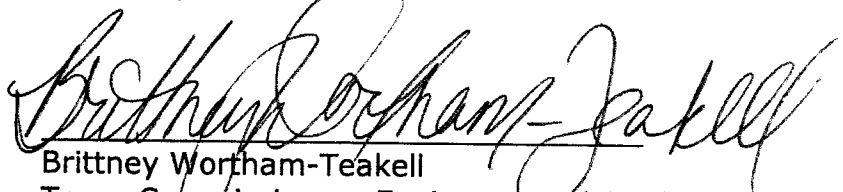
Richard A. Hyde, P.E.
Deputy Executive Director

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.

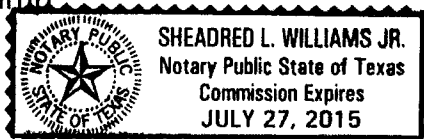
On July 25, 2013, I spoke with Michael O'Neill, owner and operator of Frontier Park and Marina (the "Utility"). Mr. O'Neill stated that due to extreme weather conditions which occurred on July 15, 2013, the Utility has been out of water. On July 25, 2013, I arrived at the Utility and observed that water 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

