

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2008-1103-PWS-E TCEQ ID: RN101183986 CASE NO.: 36135
RESPONDENT NAME: MICHAEL L. O'NEILL DBA FRONTIER PARK MARINA**

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: RR 1, Box 1690, east of Milam on Highway 21, Hemphill, Sabine County</p> <p>TYPE OF OPERATION: Public water system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 26, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Jim Sallans, Litigation Division, MC 175, (512) 239-2053 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Tel Croston, Water Enforcement Section, MC 169, (512) 239-5717 TCEQ Regional Contact: Mr. Ron Hebert, Beaumont Regional Office, MC R-10, (409) 898-3838 Respondent: Mr. Michael L. O'Neill, RR 1, Box 1690, Hemphill, Texas 75942 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 2, 2008</p> <p>Date of NOE Relating to this Case: June 23, 2008</p> <p>Background Facts: The EDPRP was filed on September 23, 2008 and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP. The Respondent has failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent has not completed Ordering Provisions.</p> <p>PWS: Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1, of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data provided to the TCEQ by July 1 of each year [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].</p>	<p>Total Assessed: \$716</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$716</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: The violations are a gross deviation from a standard of conduct common in a given industry defined as the absence of management practices designed to ensure compliance.</p>	<p>Ordering Provisions: Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 30 days, mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2007 to each bill paying customer, and make a good-faith effort to deliver to non-bill paying customers. 2. Within 45 days, submit to the Commission a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customer of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data. 3. Within 60 days, submit written notarized certification to demonstrate compliance with the above Ordering Provisions.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	9-Jun-2008			
	PCW	8-Jul-2008	Screening	17-Jun-2008	EPA Due 14-Nov-2008

RESPONDENT/FACILITY INFORMATION	
Respondent	Michael L. O'Neill dba Frontier Park Marina
Reg. Ent. Ref. No.	RN101183986
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36135	No. of Violations	1
Docket No.	2008-1103-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Tel Croston
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$300**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 6.0% Enhancement *Subtotals 2, 3, & 7* **\$18**

Notes: Penalty enhancement due to three dissimilar Notices Of Violations (NOVs) in the past five years.

Culpability No 0.0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$0**

Economic Benefit 0.0% Enhancement *Subtotal 6* **\$0**

Total EB Amounts	\$398	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$347	

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$318**

OTHER FACTORS AS JUSTICE MAY REQUIRE 125.2% Adjustment **\$398**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Penalty enhancement recommended for the recovery of the avoided costs of compliance.

Final Penalty Amount **\$716**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$716**

DEFERRAL 0.0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral offered with a Findings Order.

PAYABLE PENALTY **\$716**

Screening Date 17-Jun-2008

Docket No. 2008-1103-PWS-E

PCW

Respondent Michael L. O'Neill dba Frontier Park Marina

Policy Revision 2 (September 2002)

Case ID No. 36135

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101183986

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 6%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Penalty enhancement due to three dissimilar Notices Of Violations (NOVs) in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 6%

Screening Date 17-Jun-2008

Docket No. 2008-1103-PWS-E

PCW

Respondent Michael L. O'Neill dba Frontier Park Marina

Policy Revision 2 (September 2002)

Case ID No. 36135

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101183986

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number

Rule Cite(s)

30 Tex. Admin. Code §§ 290.271(b), and 290.274(a) and (c)

Violation Description

Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year. Specifically, the Respondent did not mail or directly deliver the CCRs to the water system's customers for the years 2004 through 2006 nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2004 through 2006.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

Respondent failed to comply with 100% of the rule requirement.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input checked="" type="checkbox"/>
single event	<input type="text"/>

Violation Base Penalty

Three annual events are recommended for the three years during which no CCR or certification of delivery was submitted to the TCEQ.

Good Faith Efforts to Comply

0.0% Reduction

	Before NOV	NOV to EDRP/Settlement Offer
	Extraordinary	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Michael L. O'Neill dba Frontier Park Marina
 Case ID No. 36135
 Reg. Ent. Reference No. RN101183986
 Media Public Water Supply
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$347	1-Jul-2005	1-Jul-2007	2.92	\$51	\$347	\$398
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply, calculated for the years in which no report was distributed.

Approx. Cost of Compliance \$347

TOTAL \$398

Compliance History

Customer/Respondent/Owner-Operator:	CN601121452	O'NEILL, MICHAEL LANTZ	Classification: AVERAGE	Rating: 1.95
Regulated Entity:	RN101183986	FRONTIER PARK MARINA	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		2020028
	WATER LICENSING	LICENSE		2020028
Location:	East of Milam on Highway 21 at Toledo Bend Reservoir, Sabine County, Texas, TX, 75948			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	June 11, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 11, 2003 to June 11, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Tel Croston	Phone:	239-5717	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 10/05/2004 | (334734) |
| 2 | 08/07/2006 | (487434) |
| 3 | 03/07/2007 | (540174) |
| 4 | 04/12/2007 | (543229) |
| 5 | 04/10/2008 | (670566) |
| 6 | 06/06/2008 | (682037) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | | |
|---|------------------|---|-----------------|----------|
| 1 | Date: 08/07/2006 | (487434) | | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.42(l) | | |
| | Description: | Failure to provide a plant operations manual. | | |
| | Self Report? | NO | Classification: | Minor |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.43(e) | | |
| | Description: | Failure to maintain the intruder resistant fence at Water Plant #1. | | |
| | Self Report? | NO | Classification: | Minor |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.42(e)(3) | | |
| | Description: | Failure to provide working continuous chlorination equipment at Water Plant #2. | | |
| | Self Report? | NO | Classification: | Minor |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.44(a)(4) | | |
| | Description: | Failure to install all water transmission and distribution lines at least 24 inches below ground surface. | | |

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to provide a monitoring plan at the time of the investigation.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)
Description: Failure to install all electrical wiring in conduit and all covers on electrical boxes.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to remove an old bleach bulk tank.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
Description: Failure to maintain a packing gland on a service pump at Water Plant #1.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)
Description: Failure to provide an ownership sign at Water Plant #2.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(4)
Description: Failure to have one meter per residence on 28 residences.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)
Description: Failure to provide a working pressure gauge on the pressure tank at Water Plant #2.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
Description: Failure to provide a sight glass on the 1750 gallon pressure tank at Water Plant #2.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
Description: Failure to repair a leak on the pressure tank at Water Plant #2.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
Description: Failure to repair a leak near the office waterfall.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(A)
Description: Failure to take representative microbiological samples.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)
Description: Failure to record monthly flushing dates.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Failure to provide an appropriate distribution map.
Date 11/10/2006 (516869)

2 Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
Description: Failure to fix a water leak.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(B)(iii)
Description: Failure to meet this agency's "Minimum Water System Capacity Requirements" (1 working service pump).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 291, SubChapter G 291.101(a)
Description: Failure to have a Certificate of Convenience and Necessities (CCN).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)
Description: Failure to employ a licensed water works operator.
Date 04/10/2008 (670566)

3 Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)
Description: BACT - MONITORING/REPORTING VIOLATIONS

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MICHAEL L. O'NEILL DBA
FRONTIER PARK MARINA
RN101183986

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2008-1103-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Michael L. O'Neill dba Frontier Park Marina ("Mr. O'Neill").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. O'Neill owns and operates a public water system located east of Milam, Sabine County Texas on Highway 21 with an address of RR 1, Box 1690, Hemphill, Sabine County, Texas 75948, (the "Facility").
2. The Facility has 131 service connections, serves at least 25 individuals at least 60 days per year, and provides water for human consumption. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(63).
3. During an inspection conducted on February 2, 2008, a TCEQ Beaumont Regional Office investigator documented that Mr. O'Neill failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1, of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data provided to the TCEQ by July 1 of each year. Specifically, Mr. O'Neill did not mail or deliver the CCRs to the water system's customers for the years 2004, 2005 and 2006, nor did he submit the CCRs or the required certification to the TCEQ for the years 2004, 2005 and 2006.

4. Mr. O'Neill received notice of the violation on or about June 28, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael O'Neill dba Frontier Park Marina" (the "EDPRP") in the TCEQ Chief Clerk's office on September 23, 2008
6. By letter dated September 23, 2008 sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. O'Neill with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. O'Neill received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. O'Neill received notice of the EDPRP, provided by the Executive Director. Mr. O'Neill failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. O'Neill is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE § 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. O'Neill failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1, of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data provided to the TCEQ by July 1 of each year in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. O'Neill with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c).
4. As evidenced by Finding of Fact No. 7 has failed to file a timely answer to the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. O'Neill and assess the penalty recommended by the Executive Director.

5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mr. O'Neill for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of seven hundred sixteen dollars (\$716.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b).
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. O'Neill is assessed an administrative penalty in the amount of seven hundred sixteen dollars (\$716.00) for violations of TEX. HEALTH & SAFETY CODE ch. 341 and rules of the TCEQ. The payment of this administrative penalty and Mr. O'Neill's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Michael L. O'Neill dba Frontier Park Marina; Docket No. 2008-1103-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. O'Neill shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, Mr. O'Neill shall mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2007 to each bill paying customer, and make a good-faith effort to deliver to non-bill paying customers, as required by 30 TEX. ADMIN. CODE §§ 290.271 and 290.274.
- b. Within 45 days after the effective date of this Order, Mr. O'Neill shall submit to the Commission a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customer of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN CODE § 290.274.

Public Drinking Water Section
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of the Commission Order, Mr. O'Neill shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2a and 2b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information. I believe that the submitted is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for the following violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. O'Neill. Mr. O'Neill is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. O'Neill shall be made in writing to the Executive Director. Extensions are not effective until Mr. O'Neill receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. O'Neill if the Executive Director determines that Mr. O'Neill has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

MICHAEL L. O'NEILL dba FRONTIER PARK MARINA
DOCKET NO. 2008-1103-PWS-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

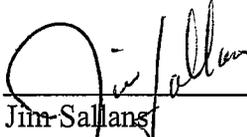
STATE OF TEXAS §
§
COUNTY OF TRAVIS §

“My name is Jim Sallans. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael O’Neill dba Frontier Park Marina” (the “EDPRP”) with the Office of the Chief Clerk on September 23, 2008.

I sent the EDPRP to Mr. O’Neill to his last known address on September 23, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

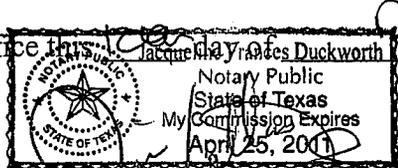
More than 20 days have elapsed since Mr. O’Neill received notice of the EDPRP. O’Neill failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



Jim Sallans
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 25th day of December, A.D., 2008.



Notary Signature

Notary Stamp