

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 21, 2009

**Via Certified Mail, Return Receipt Requested
Via First Class Mail, Postage Pre-Paid**

Alberto Chavez, Director
Cain Addition HomeOwners Association CAHA
1160 E. County Road 2327
Riviera, Texas 78379
Article Number 7003 1680 0000 4271 1226

John Lamar Cain
124 East Sycamore Avenue
McAllen, Texas 78501-9566
Article Number 7003 1680 0000 4271 1219

Re: Cain Addition HomeOwners Association CAHA and John Lamar Cain
Docket No. 2009-1069-UCR-E

Dear Mr. Chavez and Mr. Cain:

On July 16, 2009, 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, 288, 290, and 291. The parties made subject to this order are Cain Addition HomeOwners Association CAHA and John Lamar Cain. The Emergency Order appoints Rio Bravo Resource Conservation & Development Corporation ("RC&D") as temporary manager of the public water system located at 1160 E. County Road 2327, Riviera, Kleberg 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 July 16, 2009. **Therefore, the Executive Director has scheduled this matter to be presented at the Commission's regular Agenda meeting on September 9, 2009.** 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.** The enclosed documentation is provided to you as a record of the materials which have been submitted to the Chief Clerk's Office and will be used in the Commission's Agenda process.

Mr. Chavez and Mr. Cain
August 21, 2009
Page 2

Additionally, please be advised that, pursuant to 30 TEX. ADMIN. CODE § 35.25(c), **you each may request at the time of the Agenda on September 9, 2009 an evidentiary hearing on the issuance of the Emergency Order.** An Administrative Law Judge will be available to conduct a hearing at Agenda on **September 9, 2009**, should you so request. Should you have any questions, please contact the TCEQ Litigation Division at (512) 239-3400.

Sincerely,



Dinniah C. Tadema
Litigation Division MC 175

Enclosures

cc: Mr. Raul Villarreal, Jr., Rio Bravo Resource Conservation & Development, 123 County Road 205, Falfurias, Texas 78235
Mr. David Kennebeck, Corpus Christi Regional Office, MC R-14
Ms. Epifanio Villarreal, Enforcement Division, R-14
Mr. Terence Webb, Receivership Coordinator, MC 153
Mr. Blas Coy, Public Interest Counsel, MC 103
Office of the Chief Clerk, MC 105
Ms. Lena Roberts, Agenda Coordinator, Litigation Division, MC 175

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|------------------------|--|
| <p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: October 15, 2007</p> <p>Dates of Investigation Relating to this Case: November 28, 2007 (Complaint); February 20, 2009 (Records Review); March 2, 2009 (Records Review) and May 29, 2009</p> <p>Date of NOV's Relating to this Case: June 5, 2008 and February 20, 2009</p> <p>Background Facts: This public water system was abandoned by Cain Addition HomeOwners Association CAHA ("CAHA") and John Lamar Cain ("Mr. Cain"). CAHA and Mr. Cain have abandoned the Utility by: 1) failing to provide appropriate water treatment; 2) failing to adequately maintain facilities; and 3) failing to secure an alternative available water supply during an outage as evidenced by the affidavits of Hector Gonzales and Kelly Cook.</p> <p>During an inspection conducted on November 28, 2007, a TCEQ Corpus Christi Regional Office investigator documented that CAHA and Mr. Cain: a) failed to provide disinfection facilities for microbiological control and distribution protection and b) failed to provide written notification to the Commission of the startup of a new public water system and failed to provide plans and specifications, and a business plan for the water system.</p> <p>During records review conducted on February 20, 2009 and March 2, 2009, a TCEQ Central Office investigator documented that, CAHA and Mr. Cain: a) failed to collect routine distribution water samples for coliform analysis for the months of May 2008 through January 2009, and failed to provide public notification of the failure to sample for the months of May 2008 through January 2009 and b) failed to pay all annual and late Public Health Service ("PHS") fees for TCEQ Financial Administration Account No. 91370036 for Fiscal Year 2009.</p> <p>On May 29, 2009, Hector Gonzales, a TCEQ Corpus Christi Regional Office investigator, conducted a site inspection and found that there was no electricity being provided to the Utility and the Utility was non-operational.</p> <p>On June 6, 2009, the TCEQ Emergency Response Team began providing water to the Utility customers.</p> <p>A potential health hazard exists as a result of the abandonment of the Utility. Immediate repairs on the Utility are necessary to</p> | <p>N/A</p> | <p>Ordering Provisions:</p> <ol style="list-style-type: none"> 1. Immediately upon the effective date of this Order, RC&D shall serve as temporary manager until 180 days after the effective date of the Emergency Order, i.e. January 12, 2010. 2. RC&D is authorized to exercise those powers and duties necessary to ensure the continued operations of the 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. RC&D shall give the Executive Director an inventory of all Utility property received within sixty (60) days of the effective date of this Order. 4. RC&D'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. RC&D's compensation will come from Utility revenues in the amount of fifteen dollars (\$15.00) per month per connection. 6. RC&D shall report to the Executive Director on a monthly basis in accordance with 30 TEX. ADMIN. CODE § 291.143(h). |

**RESPONDENT NAME: CAIN ADDITION HOMEOWNERS ASSOCIATION CAHA
AND JOHN LAMAR CAIN
DOCKET NO.: 2009-1069-UCR-E**

ensure the quality of the 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. Because the Utility has no electricity and is non-operational, a temporary manager is necessary to assume operations of the Utility to ensure that water is provided to Utility customers and to ensure the quality of the water meets TCEQ rule requirements and complies with the Texas Water Code as well as the Texas Health & Safety Code, and is safe for public use and consumption.

On July 16, 2009, the Executive Director issued an Emergency Order appointing Rio Bravo Resource Conservation & Development Corporation (RC&D) as the Temporary Manager of the Utility.

The Executive Director is requesting approval of the Emergency Order appointing RC&D as the Temporary Manager for 180 days.

UCR:

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

Compliance History Report

Customer/Respondent/Owner-Operator: CN603349812 Cain Addition HomeOwners Association Classification: Rating:
 CAHA

Regulated Entity: RN105504567 CAIN SUBDIVISION WATER SUPPLY Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1370036

Location: COUNTY ROAD 2327

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: August 21, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 21, 2004 to August 21, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Bonham Phone: 239 - 1000

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
- 6.

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
- Effective Date: 07/05/2009 ADMINORDER. 2008-0975-PWS-E
 Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(1)
 Description: Failed to provide disinfection facilities for microbiological control and distribution protection.
- Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(c)(3)(A)
 30 TAC Chapter 290, SubChapter D 290.39(c)(3)(B)
 30 TAC Chapter 290, SubChapter D 290.39(m)
 5A THSC Chapter 341, SubChapter A 341.035(c)
 Description: Failed to provide written notification to the Commission of the startup of a new public water system and failed to provide plans and specifications, and a business plan for the water system.
- 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 | 02/10/2009 | (725132) |
| N/A | | |
| 2 | 02/16/2009 | (726722) |
| 3 | 02/16/2009 | (726724) |
| 4 | 02/17/2009 | (735614) |
| 5 | 02/17/2009 | (735665) |
| 6 | 02/20/2009 | (735705) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 07/31/2008 (725132) CN603349812
- N/A
- Self NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: 5A THSC Chapter 341, SubChapter A 341.033(d)
 TCR Routine Monitoring Violation 06/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 06/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 10/10/2008 (726722) CN603349812
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 11/19/2008 (726724) CN603349812
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 09/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 12/09/2008 (735614) CN603349812
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 10/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 01/13/2009 (735665) CN603349812
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

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

Compliance History Report

| | | | | |
|---|------------------------------------|-------------------------------|-------------------|--------------|
| Customer/Respondent/Owner-Operator: | CN603441098 | John Lamar Cain | Classification: | Rating: |
| Regulated Entity: | RN105504567 | CAIN SUBDIVISION WATER SUPPLY | Classification: | Site Rating: |
| ID Number(s): | PUBLIC WATER SYSTEM/SUPPLY | REGISTRATION | | 1370036 |
| Location: | COUNTY ROAD 2327 | | | |
| TCEQ Region: | REGION 14 - CORPUS CHRISTI | | | |
| Date Compliance History Prepared: | August 21, 2009 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | August 21, 2004 to August 21, 2009 | | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | | |
| Name: | <u>Bonham</u> | Phone: | <u>239 - 1000</u> | |

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
- 6.

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 | Effective Date: 07/05/2009 | ADMINORDER 2008-0975-PWS-E |
| | Classification: Major | |
| | Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(1) | |
| | Description: Failed to provide disinfection facilities for microbiological control and distribution protection. | |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 290, SubChapter D 290.39(c)(3)(A) | |
| | 30 TAC Chapter 290, SubChapter D 290.39(c)(3)(B) | |
| | 30 TAC Chapter 290, SubChapter D 290.39(m) | |
| | 5A THSC Chapter 341, SubChapter A 341.035(c) | |
| | Description: Failed to provide written notification to the Commission of the startup of a new public water system and failed to provide plans and specifications, and a business plan for the water system. | |
- 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.)
- | | | | |
|-----|---|------------|----------|
| N/A | 1 | 02/10/2009 | (725132) |
| | 2 | 02/16/2009 | (726722) |
| | 3 | 02/16/2009 | (726724) |
| | 4 | 02/17/2009 | (735614) |
| | 5 | 02/17/2009 | (735665) |
| | 6 | 02/20/2009 | (735705) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | |
|-----|---------------------------|---|
| N/A | Date: 07/31/2008 (725132) | CN603441098 |
| | Self | NO |
| | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii) |

Description: 5A THSC Chapter 341, SubChapter A 341.033(d)
 TCR Routine Monitoring Violation 06/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 06/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 10/10/2008 (726722) CN603441098
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 11/19/2008 (726724) CN603441098
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 09/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 12/09/2008 (735614) CN603441098
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 10/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 01/13/2009 (735665) CN603441098
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

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 CAIN ADDITION
HOMEOWNERS ASSOCIATION
CAHA AND JOHN LAMAR CAIN
RN1055044567

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

ORDER MODIFYING EMERGENCY ORDER
DOCKET NO. 2009-1069-UCR-E

On September 9, 2009 the Texas Commission on Environmental Quality ("TCEQ" or "Commission") considered whether to affirm, modify, or set aside an Emergency Order in the matter regarding Cain Addition HomeOwners Association CAHA and John Lamar Cain ("CAHA and Mr. Cain"). The Emergency Order was issued by the Executive Director without a hearing on July 16, 2009. The Emergency Order and the notice of the September 9, 2009 agenda hearing to affirm, modify, or set aside the Emergency Order were sent by UPS Express Delivery, sent certified mail return receipt requested, and sent first class mail, postage prepaid to the last known address of CAHA and Mr. Cain on July 16, 2009. The Emergency Order was also hand delivered to CAHA on July 22, 2009 and Mr. Cain on July 21, 2009. 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 July 16, 2009 Emergency Order, attached hereto as Exhibit A and incorporated into this Order by reference, is affirmed with the following modifications:

1. The style of the case shall be changed to include the RN for the Utility, RN105504567.
2. Findings of Fact, Paragraph 1 shall be changed to include the correct spelling of the county name for the Utility. The new paragraph shall read as follows, "CAHA and Mr. Cain own and operate a public water system located at 1160 E. County Road 2327, Riviera, Kleberg County, Texas (the "Utility")."
3. Findings of Fact, Paragraph 3 shall be changed to include the correct name of the affiant contained in Attachment A. The new paragraph will read as follows, "CAHA and Mr. Cain have abandoned the Utility by: 1) failing to provide appropriate water treatment; 2) failing to adequately maintain facilities; and 3) failing to secure an alternative available water supply during an outage as evidenced by the affidavits of Hector Gonzales and Kelly Cook ("Attachment A")."

Cain Addition HomeOwners Association CAHA and John Lamar Cain
Docket No. 2009-1069-UCR-E
Page 2

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Exhibit A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TCEQ DOCKET NO. 2009-1069-UCR-E

IN THE MATTER OF
AN ENFORCEMENT ACTION
CONCERNING CAIN ADDITION
HOMEOWNERS ASSOCIATION
CAHA AND JOHN LAMAR CAIN

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

2009 JUL 16 PM 4: 45
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

EMERGENCY ORDER
APPOINTING A TEMPORARY MANAGER
OF A WATER UTILITY

On July 16, 2009, the Executive Director of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") issued this Emergency Order pursuant to TEX. WATER CODE §§ 5.501, 5.507, and 13.4132, TEX. HEALTH & SAFETY CODE ch. 341, and 30 TEX. ADMIN. CODE chs. 35, 290, and 291. The parties made subject to this order are Cain Addition HomeOwners Association CAHA ("CAHA") and John Lamar Cain ("Mr. Cain").

I.
FINDINGS OF FACT

1. CAHA and Mr. Cain own and operate a public water system located at 1160 E. County Road 2327, Riviera, Kleburg County, Texas (the "Utility").
2. The Utility provides potable water service for compensation to approximately 17 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(63).
3. CAHA and Mr. Cain have abandoned the Utility by: 1) failing to provide appropriate water treatment; 2) failing to adequately maintain facilities; and 3) failing to secure an alternative available water supply during an outage as evidenced by the affidavits of Melanie Edwards and Kelly Cook ("Attachment A").
4. The TCEQ alleges that CAHA and Mr. Cain refuse to make necessary repairs to the Utility to ensure continuous and adequate water service.
5. Commission records indicate the following two mailing addresses for the Utility headquarters: 1) 124 East Sycamore Avenue, McAllen, Texas 78501-9566 and 2) 1160 E.

County Road 2327, Riviera, Texas, 78379.

6. No other source of water is available to the more than 51 people whose water is supplied by CAHA and Mr. Cain.
7. During an inspection conducted on November 28, 2007, a TCEQ Corpus Christi Regional Office investigator documented and now alleges that, CAHA and Mr. Cain violated the following requirements:
 - a. 30 TEX. ADMIN. CODE § 290.42(b)(1) by failing to provide disinfection facilities for microbiological control and distribution protection. Specifically, the Utility did not have any disinfection facilities to disinfect the groundwater supplied from the well; and
 - b. 30 TEX. ADMIN. CODE §§ 290.39(m), (c)(3)(A) and (B), and TEX. HEALTH & SAFETY CODE § 341.035(c) by failing to provide written notification to the Commission of the startup of a new public water system and failing to provide plans and specifications, and a business plan for the water system.
8. During record review investigations conducted on February 20, 2009 and March 2, 2009, a TCEQ Central Office investigator documented and now alleges that, CAHA and Mr. Cain violated the following requirements:
 - a. 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d) by failing to collect routine distribution water samples for coliform analysis for the months of May 2008 through January 2009, and failed to provide public notification of the failure to sample for the months of May 2008 through January 2009; and
 - b. 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702 by failing to pay all annual and late Public Health Service ("PHS") fees for TCEQ Financial Administration Account No. 91370036 for Fiscal Year 2009.
9. On May 29, 2009, Hector Gonzales, a TCEQ Corpus Christi Regional Office investigator, conducted a site inspection and found that there was no electricity being provided to the Utility and the Utility was non-operational.
10. On June 6, 2009, the TCEQ Emergency Response Team began providing water to the Utility customers.
11. A potential health hazard exists as a result of the abandonment of the Utility. Immediate repairs on the Utility are necessary to ensure the quality of the 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. Because the Utility has no electricity and is non-operational, a temporary manager is necessary to assume operations of the Utility to ensure that water is provided to Utility customers and to ensure the quality of the water meets TCEQ rule requirements and complies with the Texas Water Code as well as the Texas Health & Safety Code, and is safe for public use and consumption

12. Rio Bravo Resource Conservation & Development Corporation ("RC&D") has agreed to serve as temporary manager of the Utility and its mailing address is 123 CR 205, Falfurias, Texas 78355-5655. Its telephone number is (361) 325-5340.
13. This Order is necessary to ensure that continuous and adequate water service is provided to the customers of the Utility to effectuate the purposes of the Texas Water Code and the Texas Health and Safety Code.
14. Because the Utility has been abandoned, this matter will be referred to the Attorney General's office 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 Utility.

II. CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2 CAHA and Mr. Cain operate a retail public utility as defined in TEX. WATER CODE § 13.002(19).
2. Findings of Fact Nos. 3, 4, 6, 7, 8, 9, 10, and 11 show that the Utility has been abandoned and that the appointment of temporary manager is justified as defined in TEX. WATER CODE §§ 13.412(f) and 13.4132 and 30 TEX. ADMIN. CODE § 291.42(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 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 addresses of the Utility's headquarters, in accordance with TEX. WATER CODE § 5.507. The last known address of CAHA and Mr. Cain is set forth in Finding of Fact No. 5.

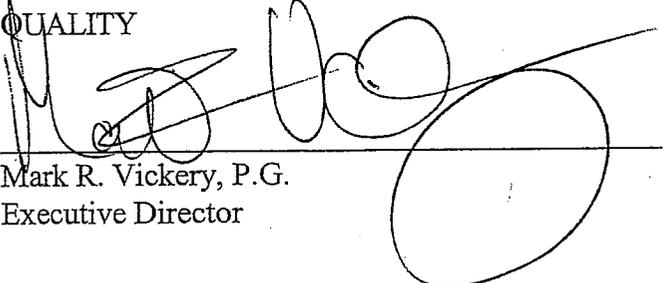
III. ORDER

1. This Order shall be effective on the date it is executed by the TCEQ Executive Director, i.e. July 16, 2009.
2. Immediately upon the effective date of this Order, RC&D is hereby appointed to temporarily manage and operate the Utility.
3. RC&D shall serve as temporary manager until such time as a receiver is appointed to operate the Utility by a court of proper jurisdiction, or 180 days after the effective date of this Order i.e. January 12, 2010, whichever occurs first.
4. RC&D is authorized to exercise those powers and duties necessary to ensure the continued operations of the 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. RC&D shall give the Executive Director an inventory of all Utility property received within sixty (60) days of the effective date of this Order.
6. RC&D'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).

7. RC&D's compensation will come from Utility revenues in the amount of fifteen dollars (\$15.00) per month per connection.
8. RC&D 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 September 9, 2009, at TCEQ Park 35 Complex, 12118 North I-35, Building E, Room 201S, Austin, Texas. **At the September 9, 2009 Agenda meeting, CAHA and Mr. Cain 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



Mark R. Vickery, P.G.
Executive Director

Attachment A

AFFIDAVIT OF KELLY COOK

STATE OF TEXAS §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned notary, on this day personally appeared Kelly Cook, an employee of the Texas Commission on Environmental Quality, whose identity is known to me. Upon being duly sworn he stated:

My name is Kelly Cook. 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.

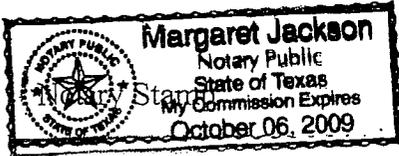
On June 6, 2009, the Texas Commission on Environmental Quality Emergency Response Team began providing water to the residents of Cain Subdivision because the public water system located at 1160 E. County Road 2327, Riviera, Kleburg County, Texas was non-operational.

Kelly Cook

Kelly Cook
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Kelly Cook, 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 16 day of July, A.D., 2009.



Margaret Jackson

Notary Signature

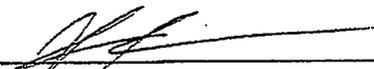
AFFIDAVIT OF HECTOR GONZALES

STATE OF TEXAS §
 §
COUNTY OF NUECES §

BEFORE ME, the undersigned notary, on this day personally appeared Hector Gonzales, an employee of the Texas Commission on Environmental Quality, whose identity is known to me. Upon being duly sworn she stated:

My name is Hector Gonzales. 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 May 29, 2009, I conducted a site visit on the public water system located at 1160 E. County Road 2327, Riviera, Kleburg County, Texas (the "Utility"). During the site visit, I found that there was no electricity being provided to the Utility and that the Utility was non-operational.



Hector Gonzales
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Hector Gonzales, 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 16 day of July, A.D., 2009.

Notary Stamp



Notary Signature

