

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 17, 2011

Via Hand Delivery
Via Certified Mail Return Receipt Requested
Article No. 7011 0470 0000 2420 9724
Via First Class Mail, Postage Pre-Paid

Leann Baker
761 Norris St.
Zavalla, Texas 75980

Re: Leann Baker, Allan Stuart, Terri Stuart, Lee Willis, Tommy Carrell, and
Pleasure Point Homeowners Association, Inc.
Docket No. 2011-0976-UCR-E;
Notice of Emergency Order and of Hearing to Modify, Affirm, or Set Aside

Dear Ms. Baker:

On June 17, 2011, 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 parties made the subject to this order are Leann Baker, Allan Stuart, Terri Stuart, Lee Willis, Tommy Carrell, and Pleasure Point Homeowners Association, Inc. The Emergency Order appointed Kelley Holcomb ("Mr. Holcomb") as temporary manager of the public water system located off State Highway 147, on Allen Street, about 3.5 miles from Zavalla, Angelina County, Texas.

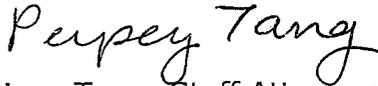
Pursuant to TEX. WATER CODE § 5.504 the Commission will consider whether to affirm, modify, or set aside the Emergency Order issued on June 17, 2011. Therefore, the Executive Director has scheduled this matter to be presented at the Commission's regular Agenda meeting on **August 3, 2011**. The Agenda 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 which 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

Ms. Baker
June 17, 2011
Page 2

available to conduct a hearing at Agenda on August 3, 2011, should you so request. Should you have any questions, please contact the TCEQ Litigation Division at (512) 239-0654.

Sincerely,



Peipey Tang, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality
Peipey.Tang@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. Kelly Holcomb, P.O. Box 387, Lufkin, Texas 75902

Bryan W. Shaw, Ph.D., *Chairman*
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 17, 2011

Via Hand Delivery
Via Certified Mail Return Receipt Requested
Article No. 7011 0470 0000 2420 9700
Via First Class Mail, Postage Pre-Paid

Allan Stuart
201 Garrison St.
Zavalla, Texas 75980

Re: Leann Baker, Allan Stuart, Terri Stuart, Lee Willis, Tommy Carrell, and
Pleasure Point Homeowners Association, Inc.
Docket No. 2011-0976-UCR-E;
Notice of Emergency Order and of Hearing to Modify, Affirm, or Set Aside

Dear Mr. Stuart:

On June 17, 2011, 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 parties made the subject to this order are Leann Baker, Allan Stuart, Terri Stuart, Lee Willis, Tommy Carrell, and Pleasure Point Homeowners Association, Inc. The Emergency Order appointed Kelley Holcomb ("Mr. Holcomb") as temporary manager of the public water system located off State Highway 147, on Allen Street, about 3.5 miles from Zavalla, Angelina 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 June 17, 2011. Therefore, the Executive Director has scheduled this matter to be presented at the Commission's regular Agenda meeting on **August 3, 2011**. 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 which 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.

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Mr. Stuart
June 17, 2011
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Sincerely,



Peipey Tang, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality
Peipey.Tang@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. Kelly Holcomb, P.O. Box 387, Lufkin, Texas 75902

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Protecting Texas by Reducing and Preventing Pollution

June 17, 2011

Via Hand Delivery
Via Certified Mail Return Receipt Requested
Article No. 7011 0470 0000 2420 9717
Via First Class Mail, Postage Pre-Paid

Terri Stuart
201 Garrison St.
Zavalla, Texas 75980

Re: Leann Baker, Allan Stuart, Terri Stuart, Lee Willis, Tommy Carrell, and
Pleasure Point Homeowners Association, Inc.
Docket No. 2011-0976-UCR-E;
Notice of Emergency Order and of Hearing to Modify, Affirm, or Set Aside

Dear Ms. Stuart:

On June 17, 2011, 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 parties made the subject to this order are Leann Baker, Allan Stuart, Terri Stuart, Lee Willis, Tommy Carrell, and Pleasure Point Homeowners Association, Inc. The Emergency Order appointed Kelley Holcomb ("Mr. Holcomb") as temporary manager of the public water system located off State Highway 147, on Allen Street, about 3.5 miles from Zavalla, Angelina County, Texas.

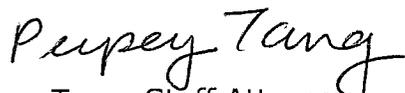
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Ms. Stuart
June 17, 2011
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Sincerely,



Peipey Tang, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality
Peipey.Tang@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. Kelly Holcomb, P.O. Box 387, Lufkin, Texas 75902

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June 17, 2011

Via Hand Delivery
Via Certified Mail Return Receipt Requested
Article No. 7011 0470 0000 2420 9687
Via First Class Mail, Postage Pre-Paid

Lee Willis
800 County Road 4445
Spurger, Texas 77660

Re: Leann Baker, Allan Stuart, Terri Stuart, Lee Willis, Tommy Carrell, and
Pleasure Point Homeowners Association, Inc.
Docket No. 2011-0976-UCR-E;
Notice of Emergency Order and of Hearing to Modify, Affirm, or Set Aside

Dear Mr. Willis:

On June 17, 2011, 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 parties made the subject to this order are Leann Baker, Allan Stuart, Terri Stuart, Lee Willis, Tommy Carrell, and Pleasure Point Homeowners Association, Inc. The Emergency Order appointed Kelley Holcomb ("Mr. Holcomb") as temporary manager of the public water system located off State Highway 147, on Allen Street, about 3.5 miles from Zavalla, Angelina 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 June 17, 2011. Therefore, the Executive Director has scheduled this matter to be presented at the Commission's regular Agenda meeting on **August 3, 2011**. 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 which 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.

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Mr. Willis
June 17, 2011
Page 2

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Sincerely,



Peipey Tang, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality
Peipey.Tang@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. Kelly Holcomb, P.O. Box 387, Lufkin, Texas 75902

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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June 17, 2011

Via Hand Delivery
Via Certified Mail Return Receipt Requested
Article No. 7011 0470 0000 2420 9694
Via First Class Mail, Postage Pre-Paid

Tommy Carrell
333 Pleasure Dr.
Zavalla, Texas 75980

Re: Leann Baker, Allan Stuart, Terri Stuart, Lee Willis, Tommy Carrell, and
Pleasure Point Homeowners Association, Inc.
Docket No. 2011-0976-UCR-E;
Notice of Emergency Order and of Hearing to Modify, Affirm, or Set Aside

Dear Mr. Carrell:

On June 17, 2011, 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 parties made the subject to this order are Leann Baker, Allan Stuart, Terri Stuart, Lee Willis, Tommy Carrell, and Pleasure Point Homeowners Association, Inc. The Emergency Order appointed Kelley Holcomb ("Mr. Holcomb") as temporary manager of the public water system located off State Highway 147, on Allen Street, about 3.5 miles from Zavalla, Angelina County, Texas.

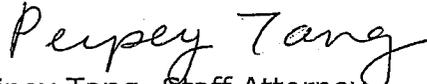
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Additionally, please be advised that, pursuant to 30 TEX. ADMIN. CODE § 35.25(c), **you may request at the time of the Agenda an evidentiary hearing on issuance of the Emergency Order**. An Administrative Law Judge will be

Mr. Carrell
June 17, 2011
Page 2

available to conduct a hearing at Agenda on August 3, 2011, should you so request. Should you have any questions, please contact the TCEQ Litigation Division at (512) 239-0654.

Sincerely,



Peipey Tang, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality
Peipey.Tang@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. Kelly Holcomb, P.O. Box 387, Lufkin, Texas 75902

TCEQ DOCKET NO. 2011-0976-UCR-E

IN THE MATTER OF	§	BEFORE THE
AN ENFORCEMENT ACTION AGAINST	§	
LEANN BAKER, ALLAN STUART,	§	
TERRI STUART, LEE WILLIS, TOMMY	§	TEXAS COMMISSION ON
CARRELL, AND PLEASURE POINT	§	
HOMEOWNERS ASSOCIATION, INC.;	§	
RN101281749; RN101217982	§	
CCN11734	§	ENVIRONMENTAL QUALITY

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

On June 17, 2011, 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 parties made subject to this order are Leann Baker, Allan Stuart, Terri Stuart, Lee Willis, Tommy Carrell, and Pleasure Point Homeowners Association, Inc.¹ (collectively, "Respondents").

**I.
FINDINGS OF FACT**

1. Respondents own and operate a public water system off State Highway 147, on Allen Street, about 3.5 miles from Zavalla, Angelina County, Texas (the "Utility").
2. The Utility provides potable water service for compensation to approximately 56 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. 11734.
4. Respondents have abandoned the Utility by failing to adequately maintain facilities, resulting in potential health hazards, extended outages, or repeated service interruptions. ("Exhibit A")
5. Commission records show that the mailing addresses for Respondents are:

¹ The corporate charter for Pleasure Point Homeowners Association, Inc. was involuntarily dissolved on July 11, 2007. However, CCN 11734, issued to Pleasure Point Homeowners Association, Inc., remains in effect.

Leann Baker
761 Norris St.
Zavalla, Texas 75980

Allan Stuart,
201 Garrison St.
Zavalla, Texas 75980

Terri Stuart
201 Garrison St.
Zavalla, Texas 75980

Lee Willis
800 County Road 4445
Spurger, Texas 77660

Tommy Carrell
333 Pleasure Dr.
Zavalla, Texas 75980

6. No other source of water is available to the more than 168 people whose water is supplied by the Utility.
7. On April 6, 2011, the Commission issued Default Order Docket No. 2009-0973-PWS-E against Leann Baker, Allan Stuart, Terri Stuart, and Lee Willis. ("Exhibit B")
8. During an investigation conducted on October 7, 2010 through October 11, 2010, a TCEQ Beaumont Regional Office investigator documented that the Utility failed to provide an operator and also documented a low chlorine residual. As a result of this investigation, the Beaumont Regional Office issued a boil water notice to the Utility customers.
9. A potential health hazard exists as a result of the Utility's failure to provide continuous and adequate service. 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 and Safety Code, and TCEQ rules. Therefore, a temporary manager is necessary to assume operations of the 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.
10. Kelley Holcomb ("Mr. Holcomb") has agreed to serve as temporary manager of the Utility and his mailing address is P.O. Box 387, Lufkin, Texas 75902. His telephone number is (936) 632-7795.

11. 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.
12. This matter has been 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, 2, and 3, Respondents own and operate the 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 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 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 the 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 addresses of Respondents are set forth in Finding of Fact No. 5.

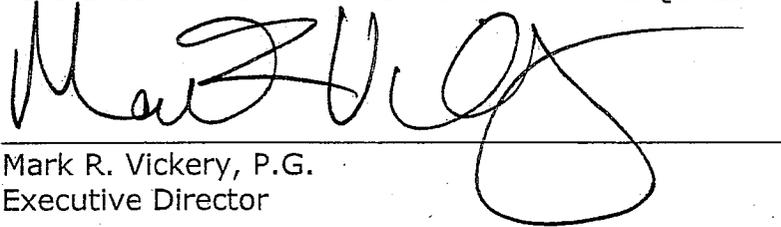
III. ORDER

1. This Order shall be effective on the date it is executed by the TCEQ Executive Director, i.e. June 17, 2011.
2. Immediately upon the effective date of this Emergency Order, Mr. Holcomb is hereby appointed to temporarily manage and operate the Utility.
3. Mr. Holcomb 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. December 14, 2011, whichever occurs first.
4. Mr. Holcomb 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. Mr. Holcomb shall give the Executive Director an inventory of all Utility property received within sixty (60) days of the effective date of this Order.
6. Mr. Holcomb'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. Mr. Holcomb's compensation will come from Utility revenues in the amount of twelve dollars and fifty cents (\$12.50) per month per connection.
8. Mr. Holcomb 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 August 3, 2011 at 9:30 a.m., at TCEQ Park 35 Complex, 12118 North I-35, Building E, Room 201S, Austin, Texas. **At the August 3, 2011 Agenda meeting, Respondents 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

AFFIDAVIT OF REGINA DUNCAN

STATE OF TEXAS §
 §
COUNTY OF ANGELINA §

My name is Regina Duncan. 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 June 13, 2011, the Beaumont Region received a complaint regarding water outages at the public water system off State Highway 147, on Allen Street, about 3.5 miles from Zavalla, Angelina County, Texas (the "Utility"). The complainant stated that the Utility had been out of water for the past week. On June 16, 2011, I arrived at the Utility and observed that water service was unavailable for all areas of the Utility. I also observed that a PVC piping joined to the ground storage tank was disconnected from the service pump.

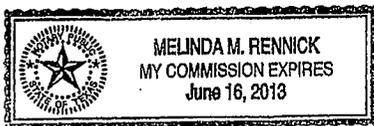
Regina Duncan
Regina Duncan
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Regina Duncan, 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 17 day of June, A.D., 2011.

Melinda M. Rennick
Notary Signature

Notary Stamp



PWS/0030007/CO

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING LEANN BAKER, ALLAN STUART, TERRI STUART, AND LEE WILLIS, DBA PLEASURE POINT WATER SUPPLY CORPORATION; RN101281749

§ § § § § § §

BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

DEFAULT ORDER

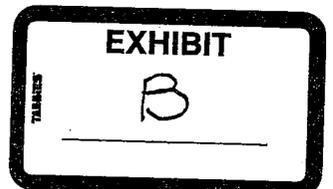
DOCKET NO. 2009-0973-PWS-E

At its APR 06 2011 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 respondents. The respondents made the subject of this Order are LeAnn Baker, Allan Stuart, Terri Stuart, and Lee Willis, d/b/a Pleasure Point Water Supply Corporation ("Respondents").

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

FINDINGS OF FACT

- 1. Respondents own and operate a public water system located on State Highway 147 approximately 3.5 miles from Zavalla in Angelina County, Texas (the "Facility").
2. The Facility provides water for human consumption, has approximately 56 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
3. During a record review conducted on October 8, 2008, a TCEQ Central Office Investigator documented that Respondents:
a. Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on running annual averages. Specifically, the running annual average concentration for TTHM was 0.115 mg/L for the fourth quarter of 2007, 0.154 mg/L for the first quarter of 2008, and 0.271 mg/L for the second quarter of 2008; and
b. Failed to comply with the MCL of 0.060 mg/L for haloacetic acid ("HAA5") based on running annual averages. Specifically, the running annual average concentration for HAA5 was 0.075 mg/L for the first quarter of 2008, and 0.118 mg/L for the second quarter of 2008.



4. During a record review conducted on January 12, 2009, a TCEQ Beaumont Regional Office Investigator documented that Respondents:
 - a. Failed to provide Well No. 3 with a flow measuring device to measure production yields and provide for the accumulation of water production data. Specifically, Well No. 3 did not have a flow meter;
 - b. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, the sealing block of Well No. 2 was cracked and in need of repair;
 - c. Failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies. Specifically, the Facility did not have all mains and valves identified for all portions of the distribution system;
 - d. Failed to have a complete and up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements. Specifically, the Facility did not have a monitoring plan;
 - e. Failed to provide ground storage tank overflows with a gravity-hinged and weighted cover that fits tightly with no gap over 1/16 inch. Specifically, the overflow pipe for the 3,200-gallon steel ground storage tank did not have a cover, and the overflow pipe cover on the two 3,000 gallon polyethylene ground storage tanks had gaps greater than 1/16 inch and are susceptible to infiltration;
 - f. Failed to operate the disinfection equipment to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.2 mg/L of free chlorine. Specifically, a field test conducted on September 26, 2007, at the Baker residence on Lynn Street revealed a free chlorine residual of 0.04 mg/L;
 - g. Failed to maintain and make available to the Commission upon request an accurate and up-to-date record of water works operation and maintenance activities. Specifically, the following documents were not available: records of the amount of chemicals used each week, amount of water treated each week, flushing records for the dead-end mains, records of the annual inspection of the ground storage tanks and pressure tanks, and completed customer service agreements for all customers of the Facility;
 - h. Failed to provide sanitary control easements covering all land within 150 feet of the Facility's wells. Specifically, the Facility did not have sanitary control easements for Well Nos. 2 and 3;
 - i. Failed to provide a minimum well capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, the Facility has 56 service connections, which requires 34 gpm. Currently, the Facility provides approximately 13 gpm, which indicates a 62% deficiency;

- j. Failed to provide a total storage capacity of 200 gallons per connection. Specifically, the Facility has 56 service connections, which requires 11,200 gallons of total storage capacity. Currently, the Facility has a total storage capacity of 9,200 gallons, which indicates an 18% deficiency;
 - k. Failed to provide two or more service pumps having a total capacity of 2.0 gpm per connection. Specifically, the Facility has 56 service connections, which requires 112 gpm. Currently, the Facility operates two 30 gpm service pumps producing a total of 60 gpm, which indicates a 46% deficiency; and
 - l. Failed to provide a pressure tank capacity of 20 gallons per connection. Specifically, the Facility has 56 service connections, which requires a minimum pressure tank capacity of 1,120 gallons. Currently, the Facility operates two 125-gallon pressure tanks which provide 250 gallons of pressure tank capacity, which indicates a 78% deficiency.
5. During a record review conducted on March 1, 2009, a TCEQ Central Office Investigator documented that Respondents:
 - a. Exceeded the MCL for coliform bacteria and failed to provide public notice for the MCL exceedance for June 2008;
 - b. Failed to collect at least five routine distribution coliform samples during the month following a total coliform-positive sample result and failed to provide public notice of the failure to conduct bacteriological sampling for the month of July 2008; and
 - c. Failed to collect and submit routine distribution coliform samples for the months of December 2008 through February 2009.
6. Respondents received notice of the violations in Finding of Fact No. 3 on or about October 15, 2008. Respondents received notice of the violations in Finding of Fact No. 4 on or about March 7, 2009. Respondents received notice of the violations in Finding of Fact No. 5 on or about June 8, 2009.
7. 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 Robert Baker,¹ LeAnn Baker, Allan Stuart, Terri Stuart, and Lee Willis, dba Pleasure Point Water Supply Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on February 9, 2010. Service was unsuccessful.
8. 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 Robert Baker, LeAnn Baker, Allan Stuart, Terri Stuart, and Lee Willis, dba Pleasure Point Water Supply Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on May 3, 2010. Service was unsuccessful.

¹ Robert Baker has been severed from this enforcement action.

9. 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 Robert Baker, LeAnn Baker, Allan Stuart, Terri Stuart, and Lee Willis, dba Pleasure Point Water Supply Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on July 29, 2010.
10. By letter dated July 29, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, and via hand delivery, the Executive Director served each Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRPs sent by certified mail to LeAnn Baker and Lee Willis as "Refused,"² and returned the EDPRPs sent by certified mail to Allan Stuart and Terri Stuart as "Unclaimed." The first class mail has not been returned, indicating that each Respondent received notice of the EDPRP.
11. More than 20 days have elapsed since Respondents received notice of the EDPRP, provided by the Executive Director. Respondents 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 Findings of Fact Nos. 1 and 2, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Respondents failed to comply with the MCL of 0.080 mg/L for TTHM based on running annual averages, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Finding of Fact No. 3.b., Respondents failed to comply with the MCL of 0.060 mg/L for HAA5 based on running annual averages, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. As evidenced by Finding of Fact No. 4.a., Respondents failed to provide Well No. 3 with a flow measuring device to measure production yields and provide for the accumulation of water production data, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N).
5. As evidenced by Finding of Fact No. 4.b., Respondents failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m).
6. As evidenced by Finding of Fact No. 4.c., Respondents failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2).

² Pursuant to *Wright v. Wentzel*, "[w]hen a letter is returned as 'refused' or 'unclaimed,' the notice is sufficient if it is apparent that the address was valid and could be located by the postal office." (*Wright v. Wentzel*, 749 S.W.2d 228, 232 (Tex. App.--Houston [1st Dist.] Mar. 31, 1988, no pet.)

7. As evidenced by Finding of Fact No. 4.d., Respondents failed to have a complete and up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b).
8. As evidenced by Finding of Fact No. 4.e., Respondents failed to provide ground storage tank overflows with a gravity-hinged and weighted cover that fits tightly with no gap over 1/16 inch, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3).
9. As evidenced by Finding of Fact No. 4.f., Respondents failed to operate the disinfection equipment to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.2 mg/L of free chlorine, in violation of 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(4).
10. As evidenced by Finding of Fact No. 4.g., Respondents failed to maintain and make available to the Commission upon request an accurate and up-to-date record of water works operation and maintenance activities, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(i)(III), (f)(3)(A)(ii)(III), (f)(3)(A)(iv), (f)(3)(D)(ii), and (I).
11. As evidenced by Finding of Fact No. 4.h., Respondents failed to provide sanitary control easements covering all land within 150 feet of the Facility's wells, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F).
12. As evidenced by Finding of Fact No. 4.i., Respondents failed to provide a minimum well capacity of 0.6 gpm per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
13. As evidenced by Finding of Fact No. 4.j., Respondents failed to provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
14. As evidenced by Finding of Fact No. 4.k., Respondents failed to provide two or more service pumps having a total capacity of 2.0 gpm per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
15. As evidenced by Finding of Fact No. 4.l., Respondents failed to provide a pressure tank capacity of 20 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
16. As evidenced by Finding of Fact No. 5.a., Respondents exceeded the MCL for coliform bacteria and failed to provide public notice for the MCL exceedance for June 2008, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a).
17. As evidenced by Finding of Fact No. 5.b., Respondents failed to collect at least five routine distribution coliform samples during the month following a total coliform-positive sample result and failed to provide public notice of the failure to conduct bacteriological sampling for the month of July 2008, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A).

18. As evidenced by Finding of Fact No. 5.c., Respondents failed to collect and submit routine distribution coliform samples for the months of December 2008 through February 2009, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(II) and TEX. HEALTH & SAFETY CODE § 341.033(d).
19. As evidenced by Findings of Fact Nos. 9 and 10, the Executive Director timely served each Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
20. As evidenced by Finding of Fact No. 11, Respondents failed to file a timely answer 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 Respondents and assess the penalty recommended by the Executive Director.
21. Pursuant to TEX. WATER CODE § 7.051 and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondents 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.
22. An administrative penalty in the amount of seven thousand three hundred eighty-nine dollars (\$7,389.00) 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.
23. 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. Respondents are assessed an administrative penalty in the amount of seven thousand three hundred eighty-nine dollars (\$7,389.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' 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.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: LeAnn Baker, Allan Stuart, Terri Stuart, and Lee Willis, d/b/a Pleasure Point Water Supply Corporation; Docket No. 2009-0073-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

3. Respondents shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, Respondents shall operate the disinfection equipment to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.2 mg/L of free chlorine, in accordance with 30 TEX. ADMIN. CODE §§ 290.46 and 290.110 (Conclusion of Law No. 9).
 - b. Within 10 days after the effective date of this Order, Respondents shall begin complying with applicable coliform monitoring requirements by collecting routine distribution coliform samples, and shall provide water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109 (Conclusions of Law Nos. 16, 17, and 18). This requirement will be satisfied upon six consecutive months of compliant monitoring and reporting.
 - c. Within 30 days after the effective date of this Order, Respondents shall submit written certification as described in Ordering Provision No. 3.j. below, and include detailed supporting documentation including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 3.a.
 - d. Within 60 days after the effective date of this Order, Respondents shall:
 - i. Provide an operational flow measuring device on Well No. 3 to facilitate daily reading to measure production yields and provide for the accumulation of water production data, in accordance with 30 TEX. ADMIN. CODE § 290.41 (Conclusion of Law No. 4);
 - ii. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, including but not limited to repairing the cracked sealing block of Well No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 5);
 - iii. Provide a gravity-hinged and weighted cover that fits tightly with no gap over 1/16 inch on the overflows of the 3,200 gallon steel ground storage tank and the two 3,000 gallon polyethylene ground storage tanks, in accordance with 30 TEX. ADMIN. CODE § 290.43 (Conclusion of Law No. 8);
 - iv. Compile and began maintaining an accurate and up-to-date record of water works operation and maintenance activities, including but not limited to: records of the amount of chemicals used each week, amount of water treated each week, flushing records for the dead-end mains, records of the annual inspection of the ground storage and pressure tanks, completed customer service agreements for all customers of the Facility, and an up-to-date chemical and microbiological monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 10);

- v. Provide an accurate and up-to-date map of the distribution system, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 6); and
 - vi. Complete and begin maintaining an up-to-date chemical and microbiological monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.121 (Conclusion of Law No. 7).
- e. Within 90 days after the effective date of this Order, Respondents shall:
- i. Submit written certification as described in Ordering Provision No. 3.j. below, and include detailed supporting documentation including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 3.d.; and
 - ii. Secure from adjacent landowners a sanitary control easement covering all property within 150 feet of Well Nos. 2 and 3, and record the deeds at the county courthouse, as required by 30 TEX. ADMIN. CODE § 290.41, or obtain an exception in accordance with 30 TEX. ADMIN. CODE § 290.39 (Conclusion of Law No. 11).
- f. Within 120 days after the effective date of this Order, Respondents shall submit written certification as described in Ordering Provision No. 3.j. below, and include detailed supporting documentation including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 3.e.ii.
- g. Within 195 days after the effective date of this Order, Respondents shall submit written certification as described in Ordering Provision No. 3.j. below, and include detailed supporting documentation including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 3.b.
- h. Within 365 days after the effective date of this Order, Respondents shall:
- i. Return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113 (Conclusion of Law No. 2);
 - ii. Return to compliance with the running annual average MCL for HAA5, in accordance with 30 TEX. ADMIN. CODE § 290.113 (Conclusion of Law No. 3);
 - iii. Provide a minimum well capacity of 0.6 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 12);
 - iv. Provide a total storage capacity of 200 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 13);

- v. Provide two or more service pumps having a total capacity of 2.0 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 14); and
- vi. Provide a pressure tank capacity of 20 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 15).
- i. Within 380 days after the effective date of this Order, Respondents shall submit written certification as described in Ordering Provision No. 3.j. below, and include detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 3.h.
- j. The certifications required by these Ordering Provisions shall be notarized by a State of Texas Notary Public and shall 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 information 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 knowing violations."

Respondents shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Ronald Hebert, Water Section Manager
Texas Commission on Environmental Quality
Beaumont Regional Office
3870 Eastex Freeway
Beaumont, Texas 77703-1892

- 4. All relief not expressly granted in this Order is denied.
- 5. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

6. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Respondents if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY


For the Commission

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

April 15, 2011

TO: Persons on the attached mailing list.

RE: LeAnn Baker, Allan Stuart, Terri Stuart, and Lee Willis
dba Pleasure Point Water Supply Corporation
TCEQ Docket No. 2009-0973-PWS-E; Registration No. 0030007
Default Order Assessing Administrative Penalties and Requiring Certain Action

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Enforcement Coordinator or the Staff Attorney. If there are questions pertaining to the mailing of the order, then please contact Leslie Gann of the Texas Commission on Environmental Quality's Office of the Chief Clerk (MC 105) at (512) 239-3319.

Sincerely,

A handwritten signature in cursive script that reads "LaDonna Castañuela".

LaDonna Castañuela
Chief Clerk

LDC/lg

Enclosure

Mailing List
LeAnn Baker, Allan Stuart, Terri Stuart, and Lee Willis
dba Pleasure Point Water Supply Corporation
TCEQ Docket No. 2009-0973-PWS-E

FOR THE RESPONDENT:

***Mailed Via First Class Mail
and Via Certified Mail***

LeAnn Baker
761 Norris Street
Zavalla, Texas 75980

Allan Stuart
201 Garrison Street
Zavalla, Texas 75980

Terri Stuart
201 Garrison Street
Zavalla, Texas 75980

Lee Willis
800 County Road 4445
Spurger, Texas 77660

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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

Andrea Linson-Mgbeoduru,
Enforcement Coordinator
Texas Commission on Environmental
Quality
Enforcement Division MC-169
P.O. Box 13087
Austin, Texas 78711-3087

Ronald Hebert, Regional Contact
Texas Commission on Environmental
Quality
Beaumont Regional Office MC R-10
3870 Eastex Freeway
Beaumont, Texas 77703-1830