

NUMBER: 2015-2679

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS

v.

HARRY C. CONNER

7/6/15

Jimmy Guidry  
Louisiana

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PETITION FOR PRELIMINARY AND PERMANENT INJUNCTION

The petition of the Louisiana Department of Health and Hospitals, Office of Public Health (hereinafter "DHH"), represented herein by Jimmy Guidry, M.D., its duly appointed State Health Officer, acting herein through undersigned counsel, respectfully represents:

1.

Petitioner DHH is an executive branch agency of the State of Louisiana, with the capacity to sue and be sued, domiciled in the Parish of East Baton Rouge, State of Louisiana. DHH is the primary agency in the state concerned with the regulation of drinking water, including primary enforcement of the federal Safe Drinking Water Act and the federal regulations promulgated pursuant thereto. Pursuant to its authority under 42 U.S.C. 300-g et seq., La. R.S. 40:4, et seq., and 51 LAC Part XII, DHH regulates all drinking water systems in the state that are classified as "public water systems" under La. R.S. 40:5.8. Pursuant to La. R.S. 40:5.9, the DHH State Health Officer may take such action and issue such orders as are deemed necessary, including injunctive relief, to aid in the enforcement of the state and federal drinking water statutes and regulations.

2.

DHH also has jurisdiction and authority to enact and enforce the La. Sanitary Code (Louisiana Administrative Code, Title 51) pursuant to La. R.S. 40:4, 40:5, and is expressly authorized to seek injunctive relief for violations thereof by La. R.S. 40:6(C)(2).

3.

Made defendant herein is Harry C. Conner ("Defendant"), a person of full age of majority domiciled in Calcasieu Parish, Louisiana, whose address is 7994 Clearview Drive, Lake Charles, LA 70605.

4.

Defendant is the owner of *Clearview Mobile Home Park* (hereinafter the "MHP"), located at 7994 Clearview Drive, Lake Charles, LA 70605, and also of the following public water system (hereinafter sometimes referred to as the "System") located at and serving the residents of the MHP:

<u>Name and PWSID# of System</u>	<u>Service Connections</u>	<u>Population Served</u>
Clearview MHP Water System (#1019122)	47	141

5.

DHH surveys, inspections, and data audits of the System show that the System has exhibited numerous, continuous, and severe violations of the federal drinking water regulations and La. Sanitary Code Part XII, including failure to provide any chlorination or equivalent disinfection, all as more particularly shown on **Exhibit A** attached hereto.

6.

La. Sanitary Code Part XII §369(A) provides:

A. It shall be the duty of the owner or manager of any premises occupied as a residence, hotel, lodging house, tenement house, office building, shop, factory, or waiting room or depot of a railroad or other common carrier to provide a safe supply of potable water for human consumption and for sanitary purposes.

7.

Defendant's operation of the MHP falls within the scope of Sanitary Code Part XII §369(A), and Defendant is in violation thereof. Based upon the System's deficiencies and violations, particularly the failure to provide any chlorine or equivalent disinfection and the failure to routinely monitor for total coliforms, the Defendant is not providing a safe supply of potable water to the residents of the MHP.

8.

Although not required, DHH's filing of this Petition was preceded by amicable demand in the form of the certified letter attached hereto as **Exhibit B**. DHH received no reply or response to said letter.

9.

Pursuant to La. R.S. 13:4581, DHH is not required to furnish the security otherwise required by La. Code of Civil Procedure Article 3610 for the issuance of injunctive relief.

10.

Defendant should be ordered to show cause why a preliminary writ of injunction should not issue herein restraining, enjoining, and prohibiting Defendant from continuing to rent, lease, or otherwise allow paid occupancy of any lots, spaces, mobile homes, or recreational vehicles in the MHP until such time as the System complies with La. Sanitary Code Part XII and all other applicable drinking water statutes and regulations.

11.

In due course, a final injunction should issue herein in the form and substance of the preliminary writ of injunction.

12.

Venue is proper in Calcasieu Parish pursuant to La. Code of Civil Procedure Art. 42.

13.

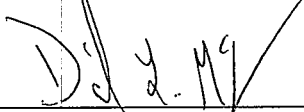
DHH's filing of this Petition and attached/related documents should be free from payment of any costs of court in accordance with La. R.S. 40:31, which exempts DHH, and its agents and subdivisions, from court costs in any suit.

WHEREFORE, Petitioner prays that the Defendant be served with citation and a certified copy of this petition, the rule to show cause, and order of this Honorable Court assigning the date and hour of the trial thereon, and after due proceedings, that there be judgment in favor of Petitioner, DHH, and against Defendant, Harry C. Conner, as follows, and that the following orders issue herein:

- A. Ordering the issuance of a rule nisi directed to the Defendant to show cause why a preliminary writ of injunction should not issue herein restraining, enjoining, and prohibiting Defendant from renting, leasing, or otherwise allowing paid occupancy of any lots, spaces, mobile homes, or recreational vehicles in the *Clearview Mobile Home Park* until such time as the System complies with La. Sanitary Code Part XII and all other applicable drinking water statutes, regulations, and requirements.
- B. In due course, ordering the issuance of a final injunction in the form and substance of the preliminary injunction.
- C. Assessing all costs of this proceeding against Defendant.

D. Granting DHH any other relief as the Court deems just and proper.

Respectfully Submitted:



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David L. McCay (Bar Roll No. 23527)  
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Bureau of Legal Services  
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FOURTEENTH JUDICIAL DISTRICT COURT  
PARISH OF CALCASIEU  
STATE OF LOUISIANA

NUMBER: 2015-2679

SECTION: 7

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS

v.

HARRY C. CONNER

7/6/15  
Quay Lauergne

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VERIFICATION

BEFORE ME, the undersigned Notary, personally came and appeared Jimmy Guidry, M.D., who did depose and say that he is the DHH State Health Officer, and that all of the allegations contained in the foregoing Petition for Preliminary and Permanent Injunction are true and correct to the best of his knowledge, information and belief.

THUS DONE AND PASSED, before me the undersigned Notary, this 23<sup>rd</sup> day of June, 2015, at Baton Rouge, Parish of East Baton Rouge, State of Louisiana.

*Jimmy Guidry, M.D.*  
\_\_\_\_\_  
Jimmy Guidry, M.D.  
State Health Officer

*David L. McCay*  
\_\_\_\_\_  
NOTARY PUBLIC  
DAVID L. McCAY  
LA BAR ROLL #23527  
NOTARY PUBLIC, STATE OF LOUISIANA  
MY COMMISSION IS FOR LIFE

FOURTEENTH JUDICIAL DISTRICT COURT  
PARISH OF CALCASIEU  
STATE OF LOUISIANA

NUMBER: 2015-2679

SECTION: 7

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS 7/16/15  
v. FILED

HARRY C. CONNER

May Lavergne

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**ORDER**

Considering the foregoing Petition for Preliminary and Permanent Injunction filed by  
Petitioner, the Louisiana Department of Health and Hospitals:

IT IS ORDERED that the Defendant, Harry C. Conner, appear and show cause on the  
3rd day of August, 2015, at 9:00 o'clock, A.M., why a  
preliminary and, in due course, a final injunction should not be issued enjoining Defendant from  
renting, leasing, or otherwise allowing paid occupancy of any lots, spaces, mobile homes, or  
recreational vehicles in the *Clearview Mobile Home Park* until such time as the System complies  
with La. Sanitary Code Part XII and other applicable drinking water statutes and regulations; and  
why the Defendant should not be cast with all costs of these proceedings.

THUS DONE AND SIGNED, this 14th day of July, 2015, at  
Lake Charles, Louisiana.

Sharon Darville Wilson  
JUDGE  
Fourteenth Judicial District Court  
Sharon Darville Wilson

**PLEASE SERVE CITATION, PETITION, ORDER, AND MEMORANDUM ON:**

Harry C. Conner  
7994 Clearview Drive  
Lake Charles, LA 70605

FOURTEENTH JUDICIAL DISTRICT COURT  
PARISH OF CALCASIEU  
STATE OF LOUISIANA

NUMBER: 2015 - 2679

SECTION: 9

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS 7/16/15

v.

HARRY C. CONNER

Quay Lavergne

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**MEMORANDUM IN SUPPORT OF  
PETITION FOR PRELIMINARY AND PERMANENT INJUNCTION**

NOW INTO COURT, through undersigned counsel, comes the Louisiana Department of Health & Hospitals (“DHH”), through undersigned counsel, who respectfully offers the following in support of the *Petition for Preliminary and Permanent Injunction* filed herein.

FACTUAL BACKGROUND

The relevant facts concerning the actions/omissions of the Defendant, Harry C. Conner, are straightforward and are delineated in the *Petition for Preliminary and Permanent Injunction* that this memorandum accompanies. Defendant owns and operates a Mobile Home Park but has failed or refused to provide the residents thereof with a safe supply of potable water as required by La. Sanitary Code Part XII §369(A).

LAW AND ARGUMENT

DHH has express authority under La. R.S. 40:6(C)(2) to seek injunctive relief for violations of the La. Sanitary Code (Louisiana Administrative Code Title 51). Injunctive relief is necessary and proper in this matter because of Defendant’s blatant refusal to comply with Sanitary Code Part XII, including refusal to comply with even the most basic requirements thereof (e.g. chlorination or equivalent disinfection) necessary to ensure the safety of drinking water. Because such injunctive relief is expressly provided for by La. R.S. 40:6(C)(2), and because the Defendant’s actions are expressly prohibited by law, there is no requirement that DHH demonstrate irreparable harm.

CONCLUSION

For the foregoing reasons, in addition to the facts and details set forth in the petition filed herein, petitioner DHH requests that this court order injunctive relief as prayed for in said petition.

Respectfully Submitted:

of David L. McCay

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