

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1646-PWS-E TCEQ ID: RN101217693 CASE NO.: 38504
RESPONDENT NAME: The Jarvis Adventure, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Tomball Bowl, 14435 Farm-to-Market Road 2920, Tomball, Harris County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 29, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Jecha, P.G., Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. John Jarvis, President, The Jarvis Adventure, Inc., 14435 Farm-to-Market Road 2920, Tomball, Texas 77377 Mr. Billy Smith, Assistant General Manager, The Jarvis Adventure, Inc., 14435 Farm-to-Market Road 2920, Tomball, Texas 77377 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 1, 2009</p> <p>Date of NOV/NOE Relating to this Case: September 9, 2009 (NOB)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to collect routine distribution system water samples for coliform analysis and failure to provide public notification of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p>	<p>Total Assessed: \$6,730</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$220 (remaining \$6,510 due in 35 monthly payments of \$186 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 10 days after the effective date of this Agreed Order:</p> <p>i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility; and</p> <p>ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliant monitoring and reporting.</p> <p>b. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS Registration No. 1012205



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Sep-2009	Screening	7-Oct-2009	EPA Due	1-Sep-2010
	PCW	7-Oct-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	The Jarvis Adventure, Inc.
Reg. Ent. Ref. No.	RN101217693
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38504	No. of Violations	1
Docket No.	2009-1646-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Jecha, P.G.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	79.0% Enhancement	Subtotals 2, 3, & 7 \$2,765
Notes	Enhancement for 15 prior NOV's containing violations that are the same as the violations in the current enforcement action and two NOV's with dissimilar violations.	
Culpability	No 0.0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments		Subtotal 5 \$0
Economic Benefit	0.0% Enhancement	Subtotal 6 \$0
Total EB Amounts	\$466	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$420	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,265
OTHER FACTORS AS JUSTICE MAY REQUIRE	7.4%	Adjustment \$465
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
Notes	Enhancement recommended for recovery of avoided costs of compliance.	
	Final Penalty Amount	\$6,730
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$6,730
DEFERRAL	0.0% Reduction	Adjustment \$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	No deferral is recommended for Findings Orders.	
PAYABLE PENALTY		\$6,730

Screening Date 7-Oct-2009

Docket No. 2009-1646-PWS-E

PCW

Respondent The Jarvis Adventure, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38504

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101217693

Media [Statute] Public Water Supply

Enf. Coordinator Thomas Jecha, P.G.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	15	75%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 79%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 15 prior NOVs containing violations that are the same as the violations in the current enforcement action and two NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 79%

Screening Date 7-Oct-2009	Docket No. 2009-1646-PWS-E	PCW			
Respondent The Jarvis Adventure, Inc.	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 38504	<i>PCW Revision October 30, 2008</i>				
Reg. Ent. Reference No. RN101217693					
Media [Statute] Public Water Supply					
Enf. Coordinator Thomas Jecha, P.G.					
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and Tex. Health & Safety Code § 341.033(d)				
Violation Description	Failed to collect routine distribution system water samples for coliform analysis and provide public notification of the failure to sample during the months of December 2007, January through October and December 2008, and February and March 2009.				
Base Penalty		\$1,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	x	<input type="text"/>	<input type="text"/>		
		Percent	25%		
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	0%		
Matrix Notes	Failure to collect water samples for coliform analysis may expose the public to a significant amount of undetected contaminants that exceed levels that are protective of human health.				
Adjustment		\$750			
		\$250			
Violation Events					
Number of Violation Events		14	455		Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	x			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
		Fourteen monthly events are recommended.			
Good Faith Efforts to Comply		0.0% Reduction		\$0	
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="text"/>				
Ordinary	<input type="text"/>				
N/A	x		(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal		\$3,500			
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$466		Violation Final Penalty Total	\$6,730
		This violation Final Assessed Penalty (adjusted for limits)		\$6,730	

Economic Benefit Worksheet

Respondent The Jarvis Adventure, Inc.
Case ID No. 38504
Reg. Ent. Reference No. RN101217693
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$420	31-Dec-2007	31-Mar-2009	2.17	\$46	\$420
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to collect and submit monthly water samples for coliform analysis (\$25 per sample) and provide public notification (\$5 per month) of the failure to collect monthly samples. The date required is the last day of the first month the Respondent failed to sample and the final date is the last month the Respondent failed to sample.

Approx. Cost of Compliance

\$420

TOTAL

\$466

Compliance History Report

Customer/Respondent/Owner-Operator: CN602838351 The Jarvis Adventure, Inc. **Classification:** **Rating:**
Regulated Entity: RN101217693 TOMBALL BOWL **Classification:** **Site Rating:**
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1012205
 WATER LICENSING LICENSE 1012205
Location: 14435 FM RD 2920, TOMBALL, HARRIS CO.
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: October 05, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 05, 2004 to October 05, 2009

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

Name: Thomas Jecha, P.G. **Phone:** 239 - 2576

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
- 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	05/19/2005	(379427)
2	08/20/2008	(688518)
3	08/27/2009	(759146)
4	08/27/2009	(759469)
5	08/27/2009	(759490)
6	08/27/2009	(759500)
7	08/27/2009	(759509)
8	08/27/2009	(759520)
9	08/27/2009	(759528)
10	08/27/2009	(759536)
11	08/27/2009	(759543)
12	08/27/2009	(759548)
13	08/27/2009	(759552)
14	08/27/2009	(759556)
15	08/27/2009	(759603)
16	08/27/2009	(759608)
17	08/27/2009	(759614)
18	09/20/2009	(767707)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 05/09/2005 (379427) CN602838351
 Self NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to properly maintain the regulated entity by not cleaning the inside of the hypochlorinator solution container.
 Self NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to properly maintain the regulated entity by not cleaning the well site area.
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)
 Description: Failure to perform at least once every seven days, chlorine residual tests on water collected from various locations within the distribution system.
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to properly maintain the regulated entity by not repairing or replacing the missing barbed wire on the fence at the well site.
 Date: 02/21/2008 (759146) CN602838351
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 12/2007 - Failure to collect any routine monitoring sample(s).
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 12/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 03/11/2008 (759469) CN602838351
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 01/2008 - Failure to collect any routine monitoring sample(s).
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 01/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 04/16/2008 (759490) CN602838351
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 02/2008 - Failure to collect any routine monitoring sample(s).
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 02/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 04/29/2008 (759500) CN602838351
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 03/2008 - Failure to collect any routine monitoring sample(s).
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 03/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 05/22/2008 (759509) CN602838351
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 04/2008 - Failure to collect any routine monitoring sample(s).
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 04/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 06/27/2008 (759520) CN602838351
 Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 05/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 05/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
Date: 07/31/2008 (759528) CN602838351
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(I)
Description: 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)(B)
Description: TCR PN Routine Monitoring Violation 06/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
Date: 09/03/2008 (759543) CN602838351
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 07/2008 - Failure to collect any routine monitoring sample(s).
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 07/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
Date: 09/20/2008 (688518) CN602838351
Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to properly maintain the regulated entity by not cleaning the inside of the hypochlorinator solution container.
Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to properly maintain the regulated entity by not cleaning the well site area.
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)
Description: Failure to perform at least once every seven days, chlorine residual tests on water collected from various locations within the distribution system.
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to properly maintain the regulated entity by not repairing or replacing the missing barbed wire on the fence at the well site.
Date: 10/10/2008 (759548) CN602838351
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
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)(B)
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 (759552) CN602838351
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
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)(B)
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 (759536) CN602838351
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
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)(B)

Description: TCR PN Routine Monitoring Violation 10/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/09/2009 (759603) CN602838351

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 12/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 12/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 05/06/2009 (759608) CN602838351

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 02/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 02/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 05/26/2009 (759614) CN602838351

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 03/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 03/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/14/2009 (759558) CN602838351

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 05/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 05/2009 - 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 § **BEFORE THE**
ENFORCEMENT ACTION §
CONCERNING § **TEXAS COMMISSION ON**
THE JARVIS ADVENTURE, INC. §
RN101217693 § **ENVIRONMENTAL QUALITY**

AGREED ORDER **DOCKET NO. 2009-1646-PWS-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding The Jarvis Adventure, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 14435 Farm-to-Market Road 2920 in Tomball, Harris County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on September 1, 2009, TCEQ staff documented that the Respondent did not collect routine distribution system water samples for coliform analysis and provide public notification of the failure to sample during the months of December 2007, January through October and December 2008, and February and March 2009.
3. The Respondent received notice of the violations on or about September 14, 2009.

II. CONCLUSIONS OF LAW

1. The Respondent is 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 Findings of Fact No. 2, the Respondent failed to collect routine distribution system water samples for coliform analysis and failed to provide public notification of the failure to sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent 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.
4. An administrative penalty in the amount of Six Thousand Seven Hundred Thirty Dollars (\$6,730) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid Two Hundred Twenty Dollars (\$220) of the administrative penalty. The remaining amount of Six Thousand Five Hundred Ten Dollars (\$6,510) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Eighty-Six Dollars (\$186) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Six Thousand Seven Hundred Thirty Dollars (\$6,730) as set forth in Section II, Paragraph 4 above, for violations of

TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: The Jarvis Adventure, Inc., Docket No. 2009-1646-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed order:
 - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six months of compliant monitoring and reporting.
 - b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and should 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."

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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 the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallier
For the Executive Director

3/9/2010
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of The Jarvis Adventure, Inc. I am authorized to agree to the attached Agreed Order on behalf of The Jarvis Adventure, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, The Jarvis Adventure, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Billy Smith
Signature

12-28-09
Date

Billy Smith
Name (Printed or typed)
Authorized Representative of
The Jarvis Adventure, Inc.

Asst. G.M.
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.

