

Executive Summary – Enforcement Matter – Case No. 40382
JASPER CINDI, INC. d/b/a Bullfrogs Bar & Grill
RN105973796
Docket No. 2010-1498-PWS-E

Order Type:

Default Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

Yes

Location Where Violations Occurred:

4108 United States Highway 96 North, Jasper, Jasper County

Type of Operation:

Public water system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: April 15, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$850

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$850

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date: N/A
Dates of Investigation: June 9, 2010 to July 9, 2010
Date of NOV: N/A
Date of NOE: August 18, 2010

Violation Information

1. Failed to provide disinfection facilities for microbiological control and distribution protection [30 TEX. ADMIN. CODE § 290.42(b)(1)].
2. Failed to provide notification to the Commission of the startup of a public water supply system and failed to submit engineering plans and specifications for a new public water supply system [30 TEX. ADMIN. CODE § 290.39(e)(1) and (m) and TEX. HEALTH & SAFETY CODE § 341.035(c)].

Corrective Actions/Technical Requirements

Corrective Action Completed:
N/A

Technical Requirements:

1. Within 10 days, provide notification of the installation of disinfection equipment.
2. Within 45 days, install disinfection equipment so that continuous and adequate disinfection is maintained throughout the distribution system at all times.
3. Within 60 days, submit written certification demonstrating compliance with Technical Requirements Nos. 1 and 2.
4. Within 90 days, submit as-built plans, specifications and engineering reports for the Facility. Respondent shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning as-built plans and specifications within 30 days after the date of such requests, or by any other deadline specified in writing.
5. Within 105 days, submit written certification demonstrating compliance with Technical Requirement No. 4.

Litigation Information

Date(s) Petition(s) Filed: January 5, 2011; February 16, 2011
Date(s) Green Card(s) Signed: Unclaimed
Date Answer Filed: N/A
Hearing Date(s): N/A

Executive Summary – Enforcement Matter – Case No. 40382
JASPER CINDI, INC. d/b/a Bullfrogs Bar & Grill
RN105973796
Docket No. 2010-1498-PWS-E

Page 3 of 3

Contact Information

TCEQ Attorneys: Peipey Tang, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Stephen Thompson, Water Enforcement Section, (512) 239-2558

TCEQ Regional Contact: Ronald Hebert, Beaumont Regional Office, MC R-10, (409) 898-3838

Respondent: Cynthia Adkins, Director, JASPER CINDI, INC., 440 County Road 250, Jasper, Texas 75951; 2050 County Road 249, Jasper, Texas 75951; and/or 1502 Wheeler St., Jasper, Texas 75951

Respondent's Attorney: N/A

THIS PAGE INTENTIONALLY LEFT BLANK



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	23-Aug-2010		
	PCW	14-Dec-2010	Screening	9-Sep-2010
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	JASPER CINDI, INC. dba Bullfrogs Bar and Grill
Reg. Ent. Ref. No.	RN105973796
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40382	No. of Violations	2
Docket No.	2010-1498-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephen Thompson
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$850
---	-------------------	-------

ADJUSTMENTS (+/-) TO SUBTOTAL 1	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	0.0% Enhancement Subtotals 2, 3, & 7
Notes	No adjustment for compliance history.

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	\$487	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$6,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$850
-----------------------------	-----------------------	-------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes			
	Final Penalty Amount	\$850	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$850
-----------------------------------	-------------------------------	-------

DEFERRAL	0.0%	Reduction	Adjustment	\$0
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)				
Notes	Deferral not offered for non-expedited settlement.			

PAYABLE PENALTY	\$850
------------------------	-------

Screening Date 9-Sep-2010

Docket No. 2010-1498-PWS-E

PCW

Respondent JASPER CINDI, INC. dba Bullfrogs Bar and Grill

Policy Revision 2 (September 2002)

Case ID No. 40382

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105973796

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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) 0%

>> 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

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 9-Sep-2010 **Docket No.** 2010-1498-PWS-E **PCW**
Respondent JASPER CINDI, INC. dba Bullfrogs Bar and Grill *Policy Revision 2 (September 2002)*
Case ID No. 40382 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105973796
Media [Statute] Public Water Supply
Enf. Coordinator Stephen Thompson

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 290.42(b)(1)

Violation Description

Failed to provide disinfection facilities for microbiological control and distribution protection.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Failure to provide disinfection facilities prevents the water from being adequately disinfected and thereby could expose consumers to a significant amount of contaminants which would exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input checked="" type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Three monthly events are recommended, calculated from the date of the investigation, June 9, 2010, to the date of screening, September 9, 2010.

Good Faith Efforts to Comply

Reduction

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent JASPER CINDI, INC. dba Bullfrogs Bar and Grill
Case ID No. 40382
Req. Ent. Reference No. RN105973796
Media Violation No. Public Water Supply
 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$1,000	9-Jun-2010	1-Apr-2011	0.81	\$3	\$54	\$57
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: The delayed costs include the estimated amount necessary to install disinfection equipment, calculated from the date of the investigation to the estimated date of compliance.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$1,000

TOTAL \$57

Screening Date 9-Sep-2010

Docket No. 2010-1498-PWS-E

PCW

Respondent JASPER CINDI, INC. dba Bullfrogs Bar and Grill

Policy Revision 2 (September 2002)

Case ID No. 40382

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105973796

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.39(e)(1) and (m) and Tex. Health & Safety Code § 341.035(c)

Violation Description Failed to provide notification to the Commission of the startup of a public water supply system and failed to submit engineering plans and specifications for a new public water supply system.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (10%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 92

Table for frequency selection: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$431

Violation Final Penalty Total \$100

This violation Final Assessed Penalty (adjusted for limits) \$100

Economic Benefit Worksheet

Respondent JASPER CINDI, INC. dba Bullfrogs Bar and Grill
Case ID No. 40382
Req. Ent. Reference No. RN105973796
Media Violation No. Public Water Supply
 2

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	\$5,000	9-Jun-2010	1-Sep-2011	1.23	\$21	\$410	\$431
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
 The delayed costs include the estimated amount to have a professional engineer prepare and submit as-built plans and specifications of the existing Facility to the TCEQ for review and approval, calculated from the date of the investigation to the estimated date of compliance.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000

TOTAL \$431

Compliance History Report

Customer/Respondent/Owner-Operator: CN603714213 JASPER CINDI, INC Classification: Rating:
Regulated Entity: RN105973796 BULLFROGS BAR AND GRILL Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1210065
Location: 4108 US HWY 96 N, JASPER COUNTY, TX
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: September 13, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 13, 2005 to September 13, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Stephen Thompson Phone: (512) 239-2558

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 08/18/2010 (849263)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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

THIS PAGE INTENTIONALLY LEFT BLANK

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JASPER CINDI, INC. D/B/A
BULLFROGS BAR & GRILL;
RN105973796**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-1498-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is JASPER CINDI, INC. d/b/a Bullfrogs Bar & Grill ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located at 4108 United States Highway 96 North in Jasper, Jasper County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately one service connection, 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).
2. During an investigation conducted from June 9, 2010 to July 9, 2010, a TCEQ Beaumont Regional Office investigator documented that Respondent violated the following requirements:
 - a. Failed to provide disinfection facilities for microbiological control and distribution protection; and
 - b. Failed to provide notification to the Commission of the startup of a public water supply system and failed to submit engineering plans and specifications for a new public water supply system.
3. Respondent received notice of the violations on or about August 23, 2010.
4. 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 JASPER CINDI, INC. d/b/a Bullfrogs Bar & Grill" (the "EDPRP") in the TCEQ Chief Clerk's office on January 5, 2011, and February 16, 2011.

5. By letter dated February 16, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, 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 Finding of Fact No. 2.a., Respondent failed to provide disinfection facilities for microbiological control and distribution protection, in violation of 30 TEX. ADMIN. CODE § 290.42(b)(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide notification to the Commission of the startup of a public water supply system and failed to submit engineering plans and specifications for a new public water supply system, in violation of 30 TEX. ADMIN. CODE § 290.39(e)(1) and (m) and TEX. HEALTH & SAFETY CODE § 341.035(c).
4. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served 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).
5. As evidenced by Finding of Fact No. 6, Respondent 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 Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of eight hundred fifty dollars (\$850.00) is justified by the facts recited in this Order, and considered in light of the factors set forth TEX. HEALTH & SAFETY CODE § 341.049.
8. 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. Respondent is assessed an administrative penalty in the amount of eight hundred fifty dollars (\$850.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
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: JASPER CINDI, INC. d/b/a Bullfrogs Bar & Grill; Docket No. 2010-1498-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Order, Respondent shall provide notification of the installation of disinfection equipment, in accordance with 30 TEX. ADMIN. CODE § 290.39(j). The notification shall be submitted to:

Water Supply Division
Utility Creation & Plan Review Team, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - b. Within 45 days after the effective date of this Order, Respondent shall install disinfection equipment so that continuous and adequate disinfection is maintained throughout the distribution system at all times, in accordance with 30 TEX. ADMIN. CODE § 290.42.
 - c. Within 60 days after the effective date of this Order, Respondent shall submit written certification as described below in Ordering Provision No. 3.f. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b.
 - d. Within 90 days after the effective date of this Order, Respondent shall submit as-built plans, specifications and engineering reports for the Facility, as required by 30 TEX. ADMIN. CODE § 290.39. The plans, specifications and reports shall be submitted to the address specified in Ordering Provision No.

- 3.a. Respondent shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning as-built plans and specifications within 30 days after the date of such requests, or by any other deadline specified in writing.
- e. Within 105 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 3.f. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.d.
- f. The certifications required by Ordering Provision Nos. 3.c. and 3.e. shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted 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."

Respondent 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

with a copy to:

Ronald Hebert, Water Section Manager
Texas Commission on Environmental Quality
Beaumont Regional Office
3860 Eastex Highway
Beaumont, Texas 77703-1830

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives 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 Respondent if the Executive Director determines that Respondent has 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.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF PEIPEY TANG

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, 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 JASPER CINDI, INC. d/b/a Bullfrogs Bar & Grill" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on January 5, 2011 and February 16, 2011.

The EDPRP was mailed to Respondent's last known address on February 16, 2011 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."

Peipey Tang
Peipey Tang, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Peipey Tang, 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 31st day of March, A.D. 2011.

Margaret Jackson
Notary Signature

