

Executive Summary – Enforcement Matter – Case No. 43688
Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge
RN106083355
Docket No. 2012-0490-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Cozy Lounge, 5556 Highway 90A, Eagle Lake, Colorado County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 20, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,708

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,708

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: 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 and September 2011

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RN106083355
Docket No. 2012-0490-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 30, 2012

Date(s) of NOE(s): February 10, 2012

Violation Information

1. Failed to provide the results of triennial minerals to the Executive Director (“ED”) [30 TEX. ADMIN. CODE § 290.106(e)].
2. Failed to provide the results of annual nitrate sampling to the ED [30 TEX. ADMIN. CODE § 290.106(e)].
3. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notice 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)].
4. Failed to pay public health service fees, including late fees, for TCEQ Financial Administration (“FA”) Account No. 90450099 [30 TEX. ADMIN. CODE § 290.51(a)(3), TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondents to:

- a. Within 10 days, 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.
- b. Within 30 days:
 - i. Ensure that all delinquent drinking water chemical analysis results are reported to the ED or demonstrate that a compliance schedule has been established;
 - ii. Update the Facility’s written process procedure and/or guidance to ensure that future drinking water chemical sample results are released by the Facility’s laboratories and reported to the ED within ten days of the ED request or of their receipt by the Facility, whichever is later;

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- iii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility with a copy to the Commission; and
- iv. Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 90450099.
- c. Within 45 days, submit written certification to demonstrate compliance with Ordering Provisions b.i., b.ii., b.iii., and b.iv.
- d. Within 195 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-04, (361) 825-3425; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Brenda Cunningham Byrd, Owner, Cozy Lounge, LLC, 21126 Amber Crossing Drive, Richmond, Texas 77406
George DeVille, Manager, Cozy Lounge, 5556 Highway 90A, Eagle Lake, Texas 77434
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	27-Feb-2012	Screening	28-Feb-2012	EPA Due	
	PCW	28-Feb-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge
Reg. Ent. Ref. No.	RN106083355
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	43688	Order Type	Findings
Docket No.	2012-0490-PWS-E	Government/Non-Profit	No
Media Program(s)	Public Water Supply	Enf. Coordinator	Epifanio Villarreal
Multi-Media		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* **\$1,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **25.0%** Enhancement *Subtotals 2, 3, & 7* **\$312**

Notes: Enhancement for five NOV's with same/similar violations.

Culpability **No** **0.0%** Enhancement *Subtotal 4* **\$0**

Notes: The Respondents do 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: \$160
Approx. Cost of Compliance: \$150
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$1,562**

OTHER FACTORS AS JUSTICE MAY REQUIRE **10.2%** *Adjustment* **\$160**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance for violation no. 1.

Final Penalty Amount **\$1,722**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$1,722**

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: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$1,722**

Screening Date 28-Feb-2012

Docket No. 2012-0490-PWS-E

PCW

Respondent Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge

Policy Revision 2 (September 2002)

Case ID No. 43688

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106083355

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

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>)	5	25%
	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%

Please Enter Yes or No

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) 25%

>> 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 five NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 28-Feb-2012

Docket No. 2012-0490-PWS-E

PCW

Respondent Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge

Policy Revision 2 (September 2002)

Case ID No. 43688

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106083355

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

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 water samples for coliform analysis and failed to provide public notice of the failure to sample for the months of April through August 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	Failure to collect coliform monitoring samples could expose consumers of the water supply to a significant amount of undetected contaminants, which would exceed levels protective of human health.				

Adjustment \$750

\$250

Violation Events

Number of Violation Events 5 Number of violation days 152

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
single event		

Violation Base Penalty \$1,250

Five monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$160 Violation Final Penalty Total \$1,723

This violation Final Assessed Penalty (adjusted for limits) \$1,723

Economic Benefit Worksheet

Respondent Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge
Case ID No. 43688
Reg. Ent. Reference No. RN106083355
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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]	\$125	1-Apr-2011	31-Aug-2011	1.33	\$8	\$125	\$133
Other (as needed)	\$25	1-May-2011	30-Nov-2011	1.50	\$2	\$25	\$27

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a total of five routine samples (\$25 per sample) and provide public notice for the failure to collect the samples (\$5 per notice), calculated for the months in which no samples were collected and during the period that a public notice was required.

Approx. Cost of Compliance

\$150

TOTAL

\$160



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	27-Feb-2012	Screening	28-Feb-2012	EPA Due	
	PCW	28-Feb-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge
Reg. Ent. Ref. No.	RN106083355
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	4	
Enf./Case ID No.	43688		Order Type	Findings
Docket No.	2012-0490-PWS-E	Government/Non-Profit	No	
Media Program(s)	Public Water Supply	Enf. Coordinator	Epifanio Villarreal	
Multi-Media		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	\$700
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7 \$175

Notes: Enhancement for five NOVs with same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$133
 Approx. Cost of Compliance: \$540
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	12.7%	Adjustment	\$111
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance for violation no. 3.

Final Penalty Amount	\$986
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$986
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$986
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Screening Date 28-Feb-2012

Docket No. 2012-0490-PWS-E

PCW

Brenda Cunningham Byrd and Cozy Lounge, LLC

Respondent dba Cozy Lounge

Case ID No. 43688

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106083355

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

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>)	5	25%
	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) 25%

>> **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 five NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 25%

Screening Date 28-Feb-2012

Docket No. 2012-0490-PWS-E

PCW

Respondent Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge

Policy Revision 3 (September 2011)

Case ID No. 43688

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106083355

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.106(e)

Violation Description Failed to provide the results of triennial minerals monitoring to the Executive Director. Specifically, the Respondents failed to provide minerals monitoring results for the monitoring period from January 1, 2009 through December 31, 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (5.0%).

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

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 1095

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

Violation Base Penalty \$50

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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$70

This violation Final Assessed Penalty (adjusted for limits) \$70

Economic Benefit Worksheet

Respondent Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge

Case ID No. 43688

Reg. Ent. Reference No. RN106083355

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$155	31-Dec-2011	1-Oct-2012	0.75	\$0	\$8	\$8
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 to pay any outstanding lab fees so that the lab will release the mineral sample results and the Respondents can provide them to the Executive Director. The date required is the last date of the monitoring period in which mineral sample results were not provided and the final date is 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	\$155	TOTAL	\$8
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Screening Date 28-Feb-2012

Docket No. 2012-0490-PWS-E

PCW

Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy

Respondent Lounge

Policy Revision 3 (September 2011)

Case ID No. 43688

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106083355

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.106(e)

Violation Description Failed to provide the results of annual nitrate monitoring to the Executive Director. Specifically, the Respondents failed to provide nitrate monitoring results for the 2011 reporting period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			5.0%

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

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 365

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$50

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes: The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$70

This violation Final Assessed Penalty (adjusted for limits) \$70

Economic Benefit Worksheet

Respondent Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge
Case ID No. 43688
Reg. Ent. Reference No. RN106083355
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$180	31-Dec-2011	1-Oct-2012	0.75	\$0	\$9	\$9
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 to pay any outstanding lab fees so that the lab will release the nitrate sample results and the Respondents can provide them to the Executive Director. The date required is the last date of the monitoring period in which nitrate sample results were not provided and the final date is 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	\$180	TOTAL	\$9
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Screening Date 28-Feb-2012

Docket No. 2012-0490-PWS-E

PCW

Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy

Respondent Lounge

Policy Revision 3 (September 2011)

Case ID No. 43688

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106083355

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

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 water samples for coliform analysis for the months of September through December 2011 and failed to provide public notice of the failure to sample for the month of September 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes Failure to collect coliform monitoring samples could expose consumers to a significant amount of undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 4 Number of violation days 121

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

Violation Base Penalty \$600

Four monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$600

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$115

Violation Final Penalty Total \$845

This violation Final Assessed Penalty (adjusted for limits) \$845

Economic Benefit Worksheet

Respondent Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge
Case ID No. 43688
Reg. Ent. Reference No. RN106083355
Media Public Water Supply
Violation No. 3

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				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)	\$100	30-Jan-2012	1-Oct-2012	0.67	\$3	n/a	\$3

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner. The date required is the record review date. The final date is 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]	\$100	1-Sep-2011	31-Dec-2011	1.25	\$6	\$100	\$106
Other (as needed)	\$5	1-Oct-2011	31-Dec-2011	1.17	\$0	\$5	\$5

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a total of four routine samples (\$25 per sample) and provide public notice for the failure to collect the samples (\$5 per notice), calculated for the months in which no samples were collected and during the period that a public notice was required.

Approx. Cost of Compliance

\$205

TOTAL

\$115

Screening Date 28-Feb-2012

Docket No. 2012-0490-PWS-E

PCW

Respondent Lounge

Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy

Policy Revision 3 (September 2011)

Case ID No. 43688

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106083355

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.51(a)(3), Tex. Water Code § 5.702

Violation Description Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 90450099 for Fiscal Year 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0.0%

Matrix Notes

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A		(mark with x)

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge

Case ID No. 43688

Reg. Ent. Reference No. RN106083355

Media Public Water Supply

Violation No. 4

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				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

N/A

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

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN603810789 Brenda Cunningham Byrd Classification: Rating:
Regulated Entity: RN106083355 COZY LOUNGE Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0450099

Location: 5556 HIGHWAY 90A, EAGLE LAKE, COLORADO COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 29, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 28, 2007 to February 29, 2012

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

Name: Epi Villarreal Phone: 361-825-3425

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? NO
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. If YES, 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 02/17/2012 (983035)

2 02/02/2012 (983097)

3 02/08/2012 (983449)

4 02/08/2012 (983616)

5 02/08/2012 (983622)

6 02/08/2012 (983628)

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

Date: 10/07/2011

(983097) CN603810789

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 08/2011 - Failure to collect any routine monitoring sample(s).

Date: 11/08/2011 (983616) CN603810789
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: Jun/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 06/2011.

Date: 11/17/2011 (983449) CN603810789
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 09/2011 - Failure to collect any routine monitoring sample(s).

Date: 11/28/2011 (983622) CN603810789
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: Jul/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 07/2011.

Date: 01/25/2012 (983628) CN603810789
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: Aug/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 08/2011.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History Report

Customer/Respondent/Owner-Operator: CN603810755 Cozy Lounge, LLC Classification: Rating:
Regulated Entity: RN106083355 COZY LOUNGE Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0450099

Location: 5556 HIGHWAY 90A, EAGLE LAKE, COLORADO COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 29, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 28, 2007 to February 29, 2012

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

Name: Epi Villarreal Phone: 361-825-3425

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? NO
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. If YES, 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 02/17/2012 (983035)

2 02/02/2012 (983097)

3 02/08/2012 (983449)

4 02/08/2012 (983616)

5 02/08/2012 (983622)

6 02/08/2012 (983628)

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

Date: 10/07/2011 (983097)

CN603810755

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 08/2011 - Failure to collect any routine monitoring sample(s).

Date: 11/08/2011 (983616) CN603810755
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: Jun/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 06/2011.

Date: 11/17/2011 (983449) CN603810755
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 09/2011 - Failure to collect any routine monitoring sample(s).

Date: 11/28/2011 (983622) CN603810755
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: Jul/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 07/2011.

Date: 01/25/2012 (983628) CN603810755
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: Aug/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 08/2011.

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	§	
BRENDA CUNNINGHAM BYRD AND	§	TEXAS COMMISSION ON
COZY LOUNGE, LLC DBA COZY	§	
LOUNGE	§	
RN106083355	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2012-0490-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 Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge (“the Respondents”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents presented this agreement to the Commission.

The Respondents understand that they have 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 Respondents agree 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 Respondents.

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

I. FINDINGS OF FACT

1. The Respondents own and operate a public water supply at 5556 Highway 90A, Eagle Lake, Colorado 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 January 30, 2012, TCEQ staff documented that the Respondents did not provide minerals monitoring results for the monitoring period from January 1, 2009 through December 31, 2011.
3. During a record review conducted on January 30, 2012, TCEQ staff documented that the Respondents did not provide the results of nitrate monitoring results for 2011.
4. During a record review conducted on January 30, 2012, TCEQ staff documented that the Respondents did not collect routine distribution water samples for coliform analysis for the months of April through December 2011 and failed to provide public notice of the failure to sample for the months of April through September 2011.
5. During a record review conducted on February 28, 2012, TCEQ staff documented that the Respondents did not pay public health service fees, including late fees, for TCEQ Financial Administration ("FA") Account No. 90450099 for Fiscal Year 2012.
6. The Respondents received notice of the violations on February 15, 2012.

II. CONCLUSIONS OF LAW

1. The Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondents failed to provide the results of triennial minerals to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
3. As evidenced by Findings of Fact No. 3, the Respondents failed to provide the results of annual nitrate sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
4. As evidenced by Findings of Fact No. 4, the Respondents failed to collect routine distribution water samples for coliform analysis and failed to provide public notice 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).
5. As evidenced by Findings of Fact No. 5, the Respondents failed to pay public health service fees, including late fees, for TCEQ FA Account No. 90450099, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3), TEX. WATER CODE § 5.702.

6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondents for violations of the Texas Water Code and the Texas Health & 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.
7. An administrative penalty in the amount of Two Thousand Seven Hundred Eight Dollars (\$2,708) 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 Respondents have paid the Two Thousand Seven Hundred Eight Dollar (\$2,708) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondents are assessed an administrative penalty in the amount of Two Thousand Seven Hundred Eight Dollars (\$2,708) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondents' 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: Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge, Docket No. 2012-0490-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 Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. The Respondents shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order, 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 30 days after the effective date of this Agreed Order:
- i. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established, in accordance with 30 TEX. ADMIN. CODE § 290.106 (Inorganic Contaminants);
 - ii. Update the Facility's written process procedure and/or guidance to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the Executive Director within ten days of the Executive Director request or of their receipt by the Facility, whichever is later, in accordance with 30 TEX. ADMIN. CODE § 290.106 (Inorganic Contaminants);
 - iii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility with a copy to the Commission, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - iv. Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 90450099. The payment shall be sent with the notation, "Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge FA Account No. 90450099" 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
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 3.d., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.b.i., 3.b.ii., 3.b.iii., and 3.b.iv.
- d. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification 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 fines 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:

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

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

8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents 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.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. 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

Pam Sawyer Jr
For the Executive Director

8/30/12
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge. I am authorized to agree to the attached Agreed Order on behalf of Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge 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, Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge 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.

Brenda C. Byrd
Signature

05-14-12
Date

Brenda C. Byrd
Name (Printed or typed)

Owner
Title

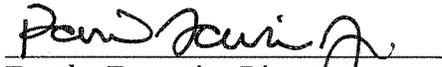
Authorized Representative of
Brenda Cunningham Byrd dba Cozy Lounge

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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/10/12

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge. I am authorized to agree to the attached Agreed Order on behalf of Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge, 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, Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge 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.

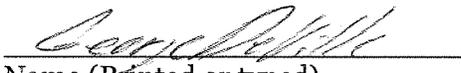
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- 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.



Signature



Name (Printed or typed)
Authorized Representative of
Cozy Lounge, LLC dba Cozy Lounge

5-14-12

Date

Manager

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.