

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 42601
Jasper Cindi, Inc. d/b/a Bullfrogs Bar and Grill
RN105973796
Docket No. 2011-1743-PWS-E

Order Type:

Default Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) 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:	\$1,079.50 (referred for collection)
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: May 11, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$3,542

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$3,542

Compliance History Classifications:

Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: September, 6, 2011
Date(s) of NOV(s): See Compliance History – 8 related NOVs
Date(s) of NOE(s): September 9, 2011

Violation Information

Failed to collect routine distribution water samples for coliform analysis, and failed to provide public notification of the failure [TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. 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 consecutive months of compliant monitoring and reporting;
2. Within 30 days implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility;
3. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 2;
4. Within 195 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.

Litigation Information

Date Petition(s) Filed: March 15, 2012
Date(s) Green Card(s) Signed: March 19, 2012
Date(s) Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Peipey Tang, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Amy Swanholm, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Bridgett Lee, Water Enforcement Section, (512) 239-2565

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

Respondent: Cynthia Adkins, Director, Jasper Cindi, Inc., 44 County Road 250, Jasper, Texas 75951

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Sep-2011	Screening	20-Sep-2011	EPA Due	31-Dec-2011
	PCW	12-Oct-2011				

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.	42601	No. of Violations	1
Docket No.	2011-1743-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Byington
		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	\$2,000
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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	65.0% Enhancement	Subtotals 2, 3, & 7	\$1,300
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Notes	Enhancement for eight NOVs with same/similar violations and one final default order.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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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	\$245	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$325	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,300
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OTHER FACTORS AS JUSTICE MAY REQUIRE	7.3%	Adjustment	\$242
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement recommended to recover avoided costs of compliance associated with the penalty.
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Final Penalty Amount	\$3,542
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,542
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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.
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PAYABLE PENALTY	\$3,542
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Screening Date 20-Sep-2011

Docket No. 2011-1743-PWS-E

PCW

Respondent Jasper Cindi, Inc. dba Bullfrogs Bar and Grill

Policy Revision 2 (September 2002)

Case ID No. 42601

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105973796

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

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>)	8	40%
	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	1	25%
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) 65%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for eight NOVs with same/similar violations and one final default order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 65%

Screening Date 20-Sep-2011

Docket No. 2011-1743-PWS-E

PCW

Respondent Jasper Cindi, Inc. dba Bullfrogs Bar and Grill

Policy Revision 2 (September 2002)

Case ID No. 42601

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105973796

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

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 for the months of December 2010 through July 2011 and failed to provide public notification of the failure to collect routine samples for the months of December 2010 through April 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$750

\$250

Violation Events

Number of Violation Events 8 242 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Eight monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$245

Violation Final Penalty Total \$3,542

This violation Final Assessed Penalty (adjusted for limits) \$3,542

Economic Benefit Worksheet

Respondent Jasper Cindi, Inc. dba Bullfrogs Bar and Grill
Case ID No. 42601
Req. Ent. Reference No. RN105973796
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
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	6-Sep-2011	31-Mar-2012	0.57	\$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, calculated from the record review date 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]	\$200	31-Dec-2010	31-Jul-2011	1.50	\$15	\$200	\$215
Other (as needed)	\$25	1-Apr-2011	1-Aug-2011	1.25	\$2	\$25	\$27

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount necessary to conduct routine monthly sampling (estimated at \$25 per sample), calculated for the months in which no sampling was performed. The other cost includes the estimated amount to provide public notice (estimated at \$5 per month), calculated for the months in which public notification should have been provided.

Approx. Cost of Compliance

\$325

TOTAL

\$245

Compliance History

Customer/Respondent/Owner-Operator: CN603714213 JASPER CINDI, INC. Classification: AVERAGE Rating: 3.01
 Regulated Entity: RN105973796 BULLFROGS BAR AND GRILL Classification: AVERAGE Site Rating: 3.01
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1210065
 Location: 4108 UNITED STATES HIGHWAY 96 N, JASPER COUNTY, TEXAS
 TCEQ Region: REGION 10 - BEAUMONT
 Date Compliance History Prepared: September 20, 2011
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: September 20, 2006 to September 20, 2011
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Andrea Byington Phone: (512) 239-2579

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. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
- Effective Date: 07/22/2011 ADMINORDER 2010-1498-PWS-E**
- Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(1)
 Description: Failed to provide disinfection facilities for microbiological control and distribution protection.
 Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)(1)
 30 TAC Chapter 290, SubChapter D 290.39(m)
 5A THSC Chapter 341, SubChapter A 341.035(c)
 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.
- 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) |
| 2 | 09/07/2011 | (952406) |
| 3 | 09/08/2011 | (952493) |
| 4 | 09/08/2011 | (952496) |
| 5 | 09/08/2011 | (952499) |
| 6 | 09/08/2011 | (952503) |
| 7 | 09/08/2011 | (952506) |
| 8 | 09/08/2011 | (952508) |
| 9 | 09/09/2011 | (955621) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 02/11/2011 (952406) CN603714213**
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 12/2010 - Failure to collect any routine monitoring sample(s).
- Date: 07/13/2011 (952406) CN603714213**
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 12/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).
- Date: 03/10/2011 (952493) CN603714213**
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 01/2011 - Failure to collect any routine monitoring sample(s).

Date: 03/31/2011 (952499) CN603714213
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 02/2011 - Failure to collect any routine monitoring sample(s).

Date: 04/29/2011 (952506) CN603714213
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 03/2011 - Failure to collect any routine monitoring sample(s).

Date: 06/03/2011 (952496) CN603714213
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 04/2011 - Failure to collect any routine monitoring sample(s).

Date: 07/07/2011 (952503) CN603714213
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 05/2011 - Failure to collect any routine monitoring sample(s).

Date: 08/26/2011 (952508) CN603714213
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 06/2011 - Failure to collect 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
ENFORCEMENT ACTION
CONCERNING
JASPER CINDI, INC. DBA
BULLFROGS BAR AND GRILL;
RN105973796**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-1743-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 and 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 1 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 a record review conducted on September 6, 2011, a TCEQ Central Office investigator documented that Respondent failed to collect routine distribution water samples for coliform analysis for the months of December 2010 through July 2011, and failed to provide public notification of the failure to collect routine samples for the months of December 2010 through April 2011.
3. Respondent received notice of the violations on or about September 14, 2011.
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 and Grill" (the "EDPRP") in the TCEQ Chief Clerk's office on March 15, 2012.
5. By letter dated March 15, 2012, 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. According to the return receipt "green card," Respondent received notice of the EDPRP on March 19, 2012, as evidenced by the signature on the card.

6. More than 20 days have elapsed since Respondent received notice of the EDPRP. 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, Respondent failed to collect routine distribution water samples for coliform analysis for the months of December 2010 through July 2011, and failed to provide public notification of the failure to collect routine samples for the months of December 2010 through April 2011, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B).
3. 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(a).
4. 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.
5. 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.
6. An administrative penalty in the amount of three thousand five hundred forty-two dollars (\$3,542.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.
7. 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 three thousand five hundred forty-two dollars (\$3,542.00) 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 and Grill; Docket No. 2011-1743-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 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 consecutive months of compliant monitoring and reporting;
 - b. Within 30 days after the effective date of this Order, Respondent shall implement procedures to ensure 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;
 - c. Within 45 days after the effective date of this Order, Respondent shall submit written certification as described below in Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision No. 3.b.;
 - d. Within 195 days after the effective date of this Order, Respondent shall submit written certification as described below in Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision No. 3.a.
 - e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certifications 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:

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

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

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"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 and Grill" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 15, 2012.

The EDPRP was mailed to Respondent's last known address on March 15, 2012, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on March 19, 2012, as evidenced by the signature on the card.

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

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 17th day of April, A.D. 2012.

Margaret T. Jackson

Notary Signature

