

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 46846  
Yetta Husted dba High Five Bar & Grill  
RN101221240  
Docket No. 2013-0936-PWS-E

**Order Type:**

Default Order

**Media:**

PWS

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

7805 Farm-to-Market Road 2918, Brazoria, Brazoria County

**Type of Operation:**

public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: None  
Past-Due Penalties: \$959.83 (2010-1633-PWS-E; referred for collection);  
\$2,030 (2000-0385-PWS-E; returned uncollectable).  
Past-Due Fees: None  
Other: None  
Interested Third-Parties: None

**Texas Register Publication Date:** September 27, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$702

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$702

**Compliance History Classifications:**

Person/CN – N/A

Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002 (PCW 1); September 2011 (PCW 2)

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** February 18, 2013  
**Date(s) of NOV(s):** June 22, 2012  
**Date(s) of NOE(s):** March 13, 2013

**Violation Information**

1. Failed to provide the results of annual nitrate/nitrite sampling to the Executive Director [30 TEX. ADMIN. CODE § 290.106(e)].
2. Failed to provide public notification regarding the failure to conduct routine coliform monitoring [30 TEX. ADMIN. CODE § 290.122(c)(2)(A)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**  
None

**Technical Requirements:**

1. Within 10 days, implement procedures to ensure that all necessary public notifications are provided in a timely manner.
2. Within 30 days:
  - a. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established; and
  - b. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight 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 Executive Director request or of their receipt by the Facility, whichever is later.
3. Within 45 days, submit written certification demonstrating compliance.

**Litigation Information**

**Date Petition(s) Filed:** May 17, 2013; June 11, 2013  
**Date Green Card(s) Signed:** Unclaimed; Unclaimed  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Jennifer Cook, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Eli Martinez, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Epi Villareal, Enforcement Division, (361) 825-3425  
**TCEQ Regional Contact:** Steve Smith, Houston Regional Office, (713) 767-3500  
**Respondent:** Yetta Hustead, 7805 Farm-to-Market Road 2918, Brazoria, Texas 77422  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

|              |                 |             |                  |            |                            |
|--------------|-----------------|-------------|------------------|------------|----------------------------|
| <b>DATES</b> | <b>Assigned</b> | 18-Mar-2013 |                  |            |                            |
|              | <b>PCW</b>      | 15-May-2013 | <b>Screening</b> | 2-Apr-2013 | <b>EPA Due</b> 31-Mar-2010 |

## RESPONDENT/FACILITY INFORMATION

|                             |   |                           |       |  |  |
|-----------------------------|---|---------------------------|-------|--|--|
| <b>Respondent</b>           | Yetta Hustead dba High Five Bar & Grill |                           |       |  |  |
| <b>Reg. Ent. Ref. No.</b>   | RN101221240                             |                           |       |  |  |
| <b>Facility/Site Region</b> | 12-Houston                              | <b>Major/Minor Source</b> | Minor |  |  |

## CASE INFORMATION

|  |                     |                              |                     |
|--|---------------------|------------------------------|---------------------|
| <b>Enf./Case ID No.</b>                | 46846               | <b>No. of Violations</b>     | 1                   |
| <b>Docket No.</b>                      | 2013-0936-PWS-E     | <b>Order Type</b>            | 1660                |
| <b>Media Program(s)</b>                | Public Water Supply | <b>Government/Non-Profit</b> | No                  |
| <b>Multi-Media</b>                     |                     | <b>Enf. Coordinator</b>      | Epifanio Villarreal |
|  |                     | <b>EC's Team</b>             | Enforcement Team 2  |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$50                | <b>Maximum</b>               | \$1,000             |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for one NOV with a same/similar violation and two default orders.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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**

**Screening Date** 2-Apr-2013

**Docket No.** 2013-0936-PWS-E

**Respondent** Yetta Hustead dba High Five Bar & Grill

Policy Revision 2 (September 2002)

**Case ID No.** 46846

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101221240

**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> )  | 1                 | 5%      |
|                               | 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 | 2                 | 50%     |
| 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)** 55%

>> **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 one NOV with a same/similar violation and two default orders.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 55%

|                                |  |                   |                 |   |
|--------------------------------|--|-------------------|-----------------|---|
| <b>Screening Date</b>          | 2-Apr-2013                             | <b>Docket No.</b> | 2013-0936-PWS-E | <b>PCW</b>                                |
| <b>Respondent</b>              | Yetta Husted dba High Five Bar & Grill |                   |                 | <i>Policy Revision 2 (September 2002)</i> |
| <b>Case ID No.</b>             | 46846                                  |                   |                 | <i>PCW Revision October 30, 2008</i>      |
| <b>Reg. Ent. Reference No.</b> | RN101221240                            |                   |                 |   |
| <b>Media [Statute]</b>         | Public Water Supply                    |                   |                 |   |
| <b>Enf. Coordinator</b>        | Epifanio Villarreal                    |                   |                 |   |

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 290.106(e)

**Violation Description**

Failed to provide the results of annual nitrate/nitrite sampling to the Executive Director for the 2008, 2009, and 2010 monitoring periods.

**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 type="text"/> | <input type="text"/> | <input type="text"/> |

**Percent**

>> **Programmatic Matrix**

| Falsification        | Major                                     | Moderate             | Minor                |
|----------------------|---|----------------------|----------------------|
| <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> |

**Percent**

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

|              |   |
|--------------|---|
| daily        | <input type="text"/>                      |
| weekly       | <input type="text"/>                      |
| monthly      | <input type="text"/>                      |
| quarterly    | <input type="text"/>                      |
| semiannual   | <input type="text"/>                      |
| annual       | <input checked="" type="text" value="x"/> |
| single event | <input type="text"/>                      |

**Violation Base Penalty**

Three annual events are recommended.

**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** Yetta Husted dba High Five Bar & Grill  
**Case ID No.** 46846  
**Reg. Ent. Reference No.** RN101221240  
**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                |       |             |            | 0.00 | \$0 | \$0  | \$0  |
| Buildings                |       |             |            | 0.00 | \$0 | \$0  | \$0  |
| Other (as needed)        | \$125 | 31-Dec-2008 | 1-Dec-2013 | 4.92 | \$2 | \$41 | \$43 |
| 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 | 18-Feb-2012 | 1-Dec-2013 | 1.79 | \$9 | n/a  | \$9  |

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to pay any outstanding lab fees (\$125 for nitrates/nitrites so that the lab will release all drinking water chemical analysis results. The date required is the last date of the first monitoring period for which results were not provided, and the final date is the estimated date of compliance. The other delayed cost includes the estimated amount to implement improvements to the Facility's process, procedures, guidance training and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the Executive Director, calculated from the date of the record review 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 \$225

**TOTAL** \$52



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

|              |                 |             |                  |            |                            |
|--------------|-----------------|-------------|------------------|------------|----------------------------|
| <b>DATES</b> | <b>Assigned</b> | 18-Mar-2013 |                  |            |                            |
|              | <b>PCW</b>      | 15-May-2013 | <b>Screening</b> | 2-Apr-2013 | <b>EPA Due</b> 31-Mar-2010 |

**RESPONDENT/FACILITY INFORMATION**

|                             |   |                           |       |  |
|-----------------------------|---|---------------------------|-------|--|
| <b>Respondent</b>           | Yetta Hustead dba High Five Bar & Grill |                           |       |  |
| <b>Reg. Ent. Ref. No.</b>   | RN101221240                             |                           |       |  |
| <b>Facility/Site Region</b> | 12-Houston                              | <b>Major/Minor Source</b> | Minor |  |

**CASE INFORMATION**

|  |                     |                              |                     |
|--|---------------------|------------------------------|---------------------|
| <b>Enf./Case ID No.</b>                | 46846               | <b>No. of Violations</b>     | 2                   |
| <b>Docket No.</b>                      | 2013-0936-PWS-E     | <b>Order Type</b>            | 1660                |
| <b>Media Program(s)</b>                | Public Water Supply | <b>Government/Non-Profit</b> | No                  |
| <b>Multi-Media</b>                     |                     | <b>Enf. Coordinator</b>      | Epifanio Villarreal |
|  |                     | <b>EC's Team</b>             | Enforcement Team 2  |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$50                | <b>Maximum</b>               | \$1,000             |

**Penalty Calculation Section**

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

**PAYABLE PENALTY**

Screening Date 2-Apr-2013

Docket No. 2013-0936-PWS-E

PCW

Respondent Yetta Hustead dba High Five Bar &amp; Grill

Policy Revision 3 (September 2011)

Case ID No. 46846

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101221240

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

## Compliance History Worksheet

## &gt;&gt; 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> )  | 1                 | 5%      |
|                               | 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 | 2                 | 50%     |
| 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) 55%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement for one NOV with a same/similar violation and two default orders.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 55%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 55%

|                                |  |                   |                 |   |
|--------------------------------|--|-------------------|-----------------|---|
| <b>Screening Date</b>          | 2-Apr-2013                             | <b>Docket No.</b> | 2013-0936-PWS-E | <b>PCW</b>                                |
| <b>Respondent</b>              | Yetta Husted dba High Five Bar & Grill |                   |                 | <i>Policy Revision 3 (September 2011)</i> |
| <b>Case ID No.</b>             | 46846                                  |                   |                 | <i>PCW Revision August 3, 2011</i>        |
| <b>Reg. Ent. Reference No.</b> | RN101221240                            |                   |                 |   |
| <b>Media [Statute]</b>         | Public Water Supply                    |                   |                 |   |
| <b>Enf. Coordinator</b>        | Epifanio Villarreal                    |                   |                 |   |

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 290.106(e)

**Violation Description**

Failed to provide the results of annual nitrate/nitrite sampling to the Executive Director for the 2011 and 2012 monitoring periods.

**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 type="text"/> | <input type="text"/> | <input type="text"/> |

**Percent**

>> **Programmatic Matrix**

| Falsification        | Major                                     | Moderate             | Minor                |
|----------------------|---|----------------------|----------------------|
| <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> |

**Percent**

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

|              |   |
|--------------|---|
| daily        | <input type="text"/>                      |
| weekly       | <input type="text"/>                      |
| monthly      | <input type="text"/>                      |
| quarterly    | <input type="text"/>                      |
| semiannual   | <input type="text"/>                      |
| annual       | <input checked="" type="text" value="x"/> |
| single event | <input type="text"/>                      |

**Violation Base Penalty**

Two annual events are recommended.

**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** Yetta Hustead dba High Five Bar & Grill  
**Case ID No.** 46846  
**Reg. Ent. Reference No.** RN101221240  
**Media Violation No.** Public Water Supply  
 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

### Delayed Costs

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

**Notes for DELAYED costs** The delayed costs of compliance are captured in the economic benefit for Violation No. 1 of Revision 2 PCW.

### 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**       **TOTAL**

|                                |  |                   |                 |   |
|--------------------------------|--|-------------------|-----------------|---|
| <b>Screening Date</b>          | 2-Apr-2013                             | <b>Docket No.</b> | 2013-0936-PWS-E | <b>PCW</b>                                |
| <b>Respondent</b>              | Yetta Husted dba High Five Bar & Grill |                   |                 | <i>Policy Revision 3 (September 2011)</i> |
| <b>Case ID No.</b>             | 46846                                  |                   |                 | <i>PCW Revision August 3, 2011</i>        |
| <b>Reg. Ent. Reference No.</b> | RN101221240                            |                   |                 |   |
| <b>Media [Statute]</b>         | Public Water Supply                    |                   |                 |   |
| <b>Enf. Coordinator</b>        | Epifanio Villarreal                    |                   |                 |   |

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

| OR | Release   | Harm                 |                      |                      | Percent                           |
|----|-----------|----------------------|----------------------|----------------------|-----------------------------------|
|    |           | Major                | Moderate             | Minor                |                                   |
|    | Actual    | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0.0%"/> |
|    | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> |                                   |

>> **Programmatic Matrix**

|  | Falsification        | Major                                     | Moderate             | Minor                | Percent                           |
|--|----------------------|---|----------------------|----------------------|-----------------------------------|
|  | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="5.0%"/> |

Matrix Notes

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

|              |   |
|--------------|---|
| daily        | <input type="text"/>                      |
| weekly       | <input type="text"/>                      |
| monthly      | <input type="text"/>                      |
| quarterly    | <input type="text"/>                      |
| semiannual   | <input type="text"/>                      |
| annual       | <input type="text"/>                      |
| single event | <input checked="" type="text" value="x"/> |

**Violation Base Penalty**

**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

**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** Yetta Husted dba High Five Bar & Grill  
**Case ID No.** 46846  
**Reg. Ent. Reference No.** RN101221240  
**Media Violation No.** Public Water Supply  
 2

| 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 | 18-Feb-2013 | 1-Dec-2013 | 0.78 | \$4 | n/a | \$4 |

**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]    | \$5 | 1-May-2012 | 31-Jul-2012 | 1.17 | \$0 | \$5 | \$5 |
| Other (as needed)             |     |            |             | 0.00 | \$0 | \$0 | \$0 |

**Notes for AVOIDED costs** The avoided cost includes the estimated amount to provide public notification of the failure to sample, calculated for the period when public notification was not provided.

Approx. Cost of Compliance \$105

**TOTAL** \$9

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600662647, RN101221240, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN600662647, Husted, Yetta

**Classification:** NOT APPLICABLE

**Rating:** N/A

**Regulated Entity:** RN101221240, HIGH FIVE BAR & GRILL

**Classification:** NOT APPLICABLE

**Rating:** N/A

**Complexity Points:** N/A

**Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 7805 FM 2918 RD, BRAZORIA COUNTY, TEXAS

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):** PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0200492

**Compliance History Period:** September 01, 2007 to August 31, 2012

**Rating Year:** 2012

**Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** April 02, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** April 02, 2008 to April 02, 2013

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Epi Villarreal

**Phone:** (361) 825-3425

### Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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 Are Listed in Sections A - J

#### **A. Final Orders, court judgments, and consent decrees:**

**1 Effective Date: 05/04/2008 ADMINORDER 2006-0944-PWS-E (Findings Order-Default)**

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine bacteriological of the public water supply for the month of September and November 2004, and June 2005, as well as failed to provide notice for those events.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to collect four repeat samples following each total coliform-positive sample found on a routine sample during the month of August 2005 and failed to provide notice.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to collect at least five distribution samples the month following a total coliform-positive result during the month of September 2005 and failed to provide public notice.

**2 Effective Date: 09/02/2011 ADMINORDER 2010-1633-PWS-E (Findings Order-Default)**

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(1)(C)(ii)  
Description: Failed to measure the free chlorine residual within the distribution system using a test kit that employs a diethyl-p-phenylendiamine ("DPD") colorimetric method.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(4)(A)

Description: Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failed to obtain a sanitary control easement that covers the land within 150 feet of the Facility's well.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failed to provide the well with a casing vent that has an opening that is covered with a 16-mesh or finer corrosion-resistant screen, facing downward, and is elevated and located so as to minimize the drawing of contaminants into the well.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(A)(ii)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a pressure tank capacity of at least 220 gallons.

Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)  
 Description: Failed to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system at all times.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)  
 30 TAC Chapter 290, SubChapter F 290.122(b)  
 Description: Failed to provide an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)  
 Description: Failed to provide a plant operations manual for operator review and reference.

Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)  
 Description: Failed to ensure that the building that encloses the pressure maintenance facilities remains locked when unattended.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 **Date:** 06/22/2012 (1073511) CN600662647  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 30 TAC Chapter 290, SubChapter F 290.122(f)  
 Description: APR/2012 TCR Routine MR 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 04/2012.

**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  
YETTA HUSTEAD DBA HIGH  
FIVE BAR & GRILL;  
RN101221240**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2013-0936-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 Yetta Hustead dba High Five 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 7805 Farm-to-Market Road 2918 in Brazoria, Brazoria 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 a record review conducted on February 18, 2013, a TCEQ Central Office Investigator documented that Respondent:
  - a. Failed to provide the results of annual nitrate/nitrite sampling to the Executive Director for the 2008, 2009, 2010, 2011 and 2012 monitoring periods; and
  - b. Failed to provide public notification regarding the failure to conduct routine coliform monitoring during the month of April 2012.
3. Respondent received notice of the violations on or about March 18, 2013.
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 Yetta Hustead dba High Five Bar & Grill" (the "EDPRP") in the TCEQ Chief Clerk's office on May 17, 2013.
5. The EDPRP was mailed to Respondent's last known address on May 17, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on June 11, 2013.

7. By letter dated June 11, 2013, 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.
8. 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.a., Respondent failed to provide the results of annual nitrate/nitrite sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide public notification regarding the failure to conduct routine coliform monitoring, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A).
4. As evidenced by Findings of Fact Nos. 4, 5, 6 and 7, 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.8, 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 seven hundred two dollars (\$702.00) 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.
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 seven hundred two dollars (\$702.00) 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: Yetta Hustead dba High Five Bar & Grill; Docket No. 2013-0936-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 implement procedures to ensure that all necessary public notifications are provided in a timely manner, in accordance with 30 TEX. ADMIN. CODE § 290.122.
  - b. Within 30 days after the effective date of this Order, Respondent shall:
    - 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); and
    - ii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight 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 Executive Director request or of their receipt by the Facility, whichever is later, in accordance with 30 TEX. ADMIN. CODE § 290.106 (Inorganic Contaminants).
  - c. Within 45 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a. and 3.b. The certification 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 certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Bob Patton, Jr., Section Manager  
Texas Commission on Environmental Quality  
Public Drinking Water Section, MC 155  
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

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For the Commission

**AFFIDAVIT OF JENNIFER COOK**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

§

§

"My name is Jennifer Cook. 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 Yetta Husted dba High Five Bar & Grill" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on May 17, 2013.

The EDPRP was mailed to Respondent's last known address on May 17, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on June 11, 2013.

The EDPRP was mailed to Respondent's last known address on June 11, 2013, 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.

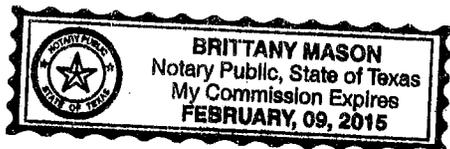
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

\_\_\_\_\_  
Jennifer Cook, Special Counsel  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jennifer Cook, 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 5<sup>th</sup> day of September, A.D. 2013.

\_\_\_\_\_  
Notary Signature



Notary without Bond