

ORIGINAL

LAW OFFICES

FENNEMORE CRAIG

A PROFESSIONAL CORPORATION



0000020323

PATRICK J. BLACK

Direct Phone: (602) 916-5400

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OFFICES IN:
PHOENIX, TUCSON,
NOGALES, AZ; LINCOLN, NE

3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, ARIZONA 85012-2913
PHONE: (602) 916-5000
FAX: (602) 916-5999

April 15, 2005

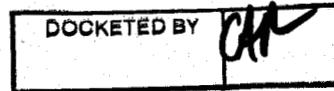
HAND DELIVERY

Ernest Johnson, Director
Utilities Division
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, Arizona 85007

Arizona Corporation Commission

DOCKETED

APR 18 2005



AZ CORP COMMISSION
DOCUMENT CONTROL

2005 APR 18 A 11:35

RECEIVED

Re: Johnson Utilities Company: Compliance with Decision No. 65840
Notice of Violation from ADEQ dated April 6, 2005

WS-02987A-99-0583; WS-02987A-00-0618 W-02234A-00-0371
W-02859A-00-0774
W-01395A-00-0784

Dear Mr. Johnson:

On April 8, 2005, Johnson Utilities Company ("Johnson") received a letter from the Arizona Department of Environmental Quality ("ADEQ") dated April 6, 2005, regarding an unauthorized discharge on Bella Vista Road. A copy of the NOV is attached hereto as Attachment No. 1.

Decision No. 65840 (April 22, 2003) requires that:

In the event that JUC receives any Notices of Violation ("NOV") from ADEQ, it will within seven days from receipt of such notice, provide a copy of such NOV to the Utilities Division Director ("Director"). Subsequent to the transmission of such NOV, JUC will continue to provide copies to the Director of all relevant documents, including but not limited to any documents, or pleadings filed with ADEQ and or by JUC relating to the NOV and the steps JUC takes to come into compliance, until the ultimate resolution of the NOV.

Attached hereto as Attachment No. 2 is an April 11, 2005 letter from Gary Larsen, Johnson's Operations Manager, responding to the April 6, 2005, NOV from ADEQ. Attached hereto as Attachment No. 3 is an e-mail dated April 14, 2005, from William Hare of ADEQ to Gary Larsen, requesting additional information. Attached hereto as Attachment No. 4 is Mr. Larsen's response to William Hare's April 14, 2005 e-mail.

FENNEMORE CRAIG

Ernest Johnson, Director
April 15, 2005
Page 2

Johnson will continue to provide the Utilities Division with any correspondence between Johnson and ADEQ regarding this matter until final resolution. In the meantime, if you have any questions or concerns, please do not hesitate to call me.

Thank you for your time and consideration in this matter.

Very truly yours,



Patrick J. Black

cc: Brian Tompsett, Johnson Utilities (w/out enc.)
Steve Olea, Assistant Director (w/enc.)
Brian Bozzo, Compliance Manager (w/enc.)
Docket Control (w/enc.)

1657853.1/51239.001

ATTACHMENT

1



Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov



Stephen A. Owens
Director

Ref: #FS05-553
April 6, 2005

CERTIFIED MAIL
Return Receipt Requested

Mr. Brian Tompsett, Vice President
Johnson Utilities Company
5230 East Shea Blvd.
Scottsdale, Arizona 85254

Re: Sewage Spill from the 4A Liftstation on Bella Vista Road in Pinal County and Issuance of a Notice of Violation, Inventory No. 103081, Place ID No. 142

Enclosed is a Notice of Violation ("NOV") prepared by William J. Hare concerning the reported sewage spill that occurred at the 4A liftstation on March 24, 2005. The NOV is being issued for the unauthorized discharge of approximately 30,000 gallons of raw sewage to a stormwater impoundment on March 24, 2005 in violation of A.R.S. § 49-241(B)(1).

The attached Notice of Violation ("NOV") is an informal compliance assurance tool used by the Arizona Department of Environmental Quality ("ADEQ") to put a responsible party (such as a facility owner or operator) on notice that the Department believes a violation of an environmental requirement has occurred. It describes the facts known to ADEQ at the time of issuance and cites the requirement that ADEQ believes the party has violated.

Although ADEQ has the authority to issue appealable administrative orders compelling compliance, an NOV has no such force or effect. Rather, an NOV provides the responsible party an opportunity to do any of the following before ADEQ takes formal enforcement action: (1) meet with ADEQ and discuss the facts surrounding the violation, (2) demonstrate to ADEQ that no violation has occurred, or (3) document that the violation has been corrected.

ADEQ reserves the right to take a formal enforcement action, such as issuing an administrative order or filing a civil lawsuit, regardless of whether the Department has issued an NOV. Neither ADEQ's issuance of an NOV nor its failure to do so precludes the Department from pursuing these remedies. However, the timeliness of a complete response to this notice will be considered by ADEQ in determining if and how to pursue such remedies.

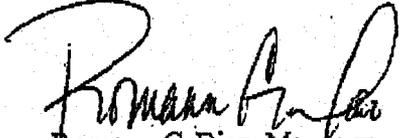
If you have any questions, regarding the above, please contact William J. Hare at (602) 771-4838.

Northern Regional Office
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004
(928) 779-0313

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

Page 2 of 2

Cover Letter for NOV Re: Sewage Spill from 4A Liftstation
April 6, 2005



Romann G. Diaz, Manager
Water Quality Field Services Unit

cc: Pinal County Health Department
Facility File, Inventory No.103081
WQFSU Reading File
Vivian Burns, Program and Project Specialist



Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street Phoenix, Arizona 85007
(602) 771-2300 www.adeq.state.az.us



Stephen A. Owens
Director

CERTIFIED MAIL
Return Receipt Requested

Case ID #: 34537

April 6, 2005

Johnson International Inc
Attention: Brian Tompsett
5230 E Shea Blvd Ste 200
Scottsdale, AZ 85254-5750

Subject: Johnson Utilities Section 11- WWTP, 142
1877 E Bella Vista Rd / Queen Creek, AZ 85242

NOTICE OF VIOLATION

The Arizona Department of Environmental Quality (ADEQ), has reason to believe that Johnson International Inc as the owner/operator of Johnson Utilities Section 11- WWTP, has violated a requirement of the Arizona Revised Statutes (A.R.S.), a rule within the Arizona Administrative Code (A.A.C.), or an applicable permit/license, administrative order or civil judgment. ADEQ discovered the violations alleged below during a review of a report from the facility received on March 28, 2005.

I. LEGAL AUTHORITY and NATURE OF ALLEGED VIOLATION(S)

1. **A.R.S. § 49-241(B)(1)**

Operation of a surface impoundment without an aquifer protection permit

On March 24, 2005 the Bella Vista Liftstation discharged approximately 30,000 gallons of sewage to a roadside ditch and nearby stormwater impoundment.

II. DOCUMENTING COMPLIANCE

1. Within 60 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or a report that outlines a plan of action (POA) regarding implementation of procedures to prevent a reoccurrence of sewage spill(s) from the Bella Vista Liftstation.

III. SUBMITTING COMPLIANCE DOCUMENTATION

Please send all compliance documentation and any other written correspondence regarding this Notice to ADEQ at the following address:

Northern Regional Office
1515 East Cedar Avenue Suite F Flagstaff, AZ 86004
(928) 779-0313

Southern Regional Office
400 West Congress Street Suite 433 Tucson, AZ 85701
(520) 628-6733

Printed on recycled paper

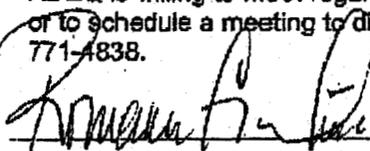
Arizona Department of Environmental Quality, Attention: William J. (Bill) Hare, Water Quality Field Service Compliance Unit, 1110 W Washington St, Phoenix, AZ 85007 MC: 5415B-1

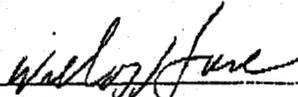
IV. STATEMENT OF CONSEQUENCES

1. The time frames within this Notice for achieving and documenting compliance are firm limits. Failure to achieve or document compliance within the time frames established in this Notice will result in an administrative compliance order or civil action requiring compliance within a reasonable time frame, substantial civil penalties, and/or the suspension or revocation of an applicable permit/license. ADEQ will agree to extend the time frames only in a compliance schedule negotiated in the context of an administrative consent order or civil consent judgment.
2. Achieving compliance does not preclude ADEQ from seeking civil penalties, and/or suspending or revoking an applicable permit/license for the violation(s) alleged in this Notice as allowed by law.

V. OFFER TO MEET

ADEQ is willing to meet regarding this Notice. To obtain additional information about this Notice or to schedule a meeting to discuss this Notice, please contact William J. (Bill) Hare at (602) 771-4838.


Romann G. Diaz, Manager
Water Quality Field Service Compliance Unit


William J. (Bill) Hare
Water Quality Field Service Compliance Unit

ATTACHMENT

2

JOHNSON UTILITIES COMPANY

5231 East Shea Boulevard * Scottsdale, Arizona 85254
PH: (480) 898-3300; FAX: (480) 483-7908

April 11, 2005

William J. Hare
Water Quality Field Service Compliance Unit, MC 5415B-1
Arizona Department of Environmental Quality
1110 W. Washington Street
Phoenix, AZ 85007

RE: Notice of Violation, Case ID #: 34537

Dear Mr. Hare:

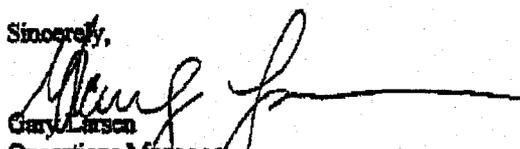
On April 6 2005, the Arizona Department of Environmental Quality (ADEQ) issued Johnson Utilities Company (JUC) a Notice of Violation, Case ID #:34537, for operating a surface impoundment without an squire protection permit for a discharge of approximately 30,000 gallons of sewage to a roadside ditch and stormwater impoundment from the Bella Vista Lift Station (aka 4-A Lift Station). The 4-A Lift Station is operating under an ADEQ Approval to Operate for sewage collection systems issued on April 20, 2000, under ADEQ file No. 19990364. In accordance with the Operation & Maintenance Manual for the facility, all appropriate actions were followed including the notification of ADEQ and submittal of the attached Spill/Discharge Notification Memorandum. On March 30, 2005, you inspected the site and noted that there were no solids visible and the site had been cleaned and restored.

The cause of this spill was construction debris fouling the pump impellers resulting in an amperage overload and tripping of the breakers as reported to ADEQ. However, this failure would not have resulted in a spill if the supervisory control and data acquisition (SCADA) system was functioning properly. JUC is in the process of improving the SCADA system as evidenced by the attached letter from Horine Electrical Service. The improved SCADA system will prevent future spills like this from accruing by providing early detection and notification.

This letter serves as the documentation required in accordance with the Notice of Violation, II Documenting Compliance, regarding implementation of procedures to prevent a recurrence of a sewage spill from the 4-A Lift Station.

If you have any questions or comments, please contact me at (480) 987-9870.

Sincerely,



Gary Larson
Operations Manager
Johnson Utilities Company

cc: Brian Tompsett, JUC

Enclosures: Spill/Discharge Notification Memorandum, dated March 24, 2005
Horine Electrical Service letter, dated April 11, 2005

SPILL/DISCHARGE NOTIFICATION MEMORANDUM

If spills occurs in Maricopa, Gila, La Paz or Yuma county, please notify the Central Office at (602) 771-4620, Fax (602) 771-4505 and mail to: Manager, Water Quality Field Services Unit, Arizona Department Of Environmental Quality, 1110 West Washington, Phoenix, AZ 85007

If spills occurs in Mohave, Coconino, Yavapai, Navajo or Apache county, please notify the Northern regional Office at (520) 779-0313, Fax (520) 773-2700 and mail to: Manager, Northern Regional Office, Arizona Department of Environmental Quality, 1515 e. Cedar Avenue, Suite F, Flagstaff, AZ 86004

If spills occurs in Pima, Cochise, Santa Cruz, Graham or Greenlee county, please notify the Southern Regional Office at (520) 628-6733, Fax (520) 628-6745 and mail to: Manager, Southern Regional Office, Arizona Department of Environmental Quality, 400 W. Congress, Ste. 433, Tucson, AZ 85701

From: Johnson Utilities Date: 03/24/05

UNAUTHORIZED SEWAGE SPILL/DISCHARGE REPORT

Facility Name: 4-A Lift Station Facility Address: 1885 E. Bella Vista Rd Facility No: _____

Contact Name: Gary Larsen Contact Phone #: 480/987-9870

This will voluntarily in form ADEQ of an unauthorized sewage spill/discharge which occurred from the referenced facility and/or the collection system as specified below:

Date(s): 03/24/05 Known Time (from-to): 3: a.m. - 7:30 a.m.

Location(s): 1885 E. Bella Vista Rd. Queen Creek, AZ. 85242

Discharge reached "waters of the U.S."? (Circle one) Yes No Name of receiving stream/wash: _____

Was the U.S. EPA notified of the spill (required, if it reached "water of the U.S.")? (Circle one) Yes No

Approximate volume of discharge (#gallons discharged): 30,000 - 40,000

When and how did you become aware of the discharge? Daily field check of Lift Station @ 7:30 a.m. on March 24, 2005.

The cause of the discharge/determined by: Construction debris was caught in the pump impellers causing an amperage overload and tripping the breakers. Determined by Gary Larsen

Remedial/Restorative/Corrective Actions: Pumps were unclogged and reset into service. Spill Area: All liquid and solids removed by Aardvark Septic Service and entire area was treated with 12.5% Hypochlorite.

HORINE ELECTRICAL SERVICE

230 E Highland Suite #10
Chandler, Arizona
(480) 855-5771
Fax (480) 855-5791
E-mail dshorine@cox.net

4/11/2005

Re: Bella Vista Lift Station

Johnson International Inc.
Attention: Gary Larsen
5230 E Shea Blvd Ste 200
Scottsdale, AZ 85244-5750

Gary, Regarding the sewage spill that occurred on March 24, 2005 from the 4A liftstation. It is my understanding that construction debris locked the pump motors from operating. On this station you have a high level alarm beacon and SCADA system is installed. As you are aware the SCADA equipment provided from AGM electronics is not operating properly due to programming and heat issues.

We are in the process of changing the complete SCADA system out from AGM to a few different choice suppliers. Because we have had several problems with AGM we have not been replacing faulty control components, in this transition from AGM to Possible, US Filter, Allen Bradley, Modicon, or Indicon.

We are waiting for the best and most feasible way to approach this situation without replacing all AGM SCADA equipment. This equipment is approximately 6 to 8 weeks from date of delivery. Installation should be quick due to having antennas and existing radios in place at each site. Programming is the key due to trying to use some of the existing equipment.

This AGM equipment was specified on drawings for Johnson Utilities water and waste water master plan.

Any questions or concerns please contact me.

Sincerely,

David Horine
(602)757-7002

ATTACHMENT

3

Greg Brown

From: Gary Larsen [glarsen@cenazcom.net]
Sent: Thursday, April 14, 2005 10:28 AM
To: Brian Tompsatt WK; Greg Brown; Dave Horine
Subject: FW: NOV response for 30,000 sewage spill from Bella Vista liftstation

-----Original Message-----

From: William Hare [mailto:William.Hare@azdeq.gov]
Sent: Thursday, April 14, 2005 8:47 AM
To: glarsen@cenazcom.net
Cc: Romann Diaz
Subject: NOV response for: 30,000 sewage spill from Bella Vista liftstation

Gary, thanks for the quick response to the NOV. After reviewing your written response and after discussing the matter with ADEQ management, we are requesting additional detail from JU before we can close out the NOV. I noted in the attached letter from Horne Electric Service that you have retained a contractor in this matter.

(1) Some more detail as to why did the existing SCADA system at the liftstation NOT work properly. Was there a problem with the modem or receiver unit for the on call operator?

(2) Can you provide ADEQ with a written copy of the on call policy that will be implemented by JU personnel after the SCADA is upgraded. i.e, number of personnel that will be on call for weekends and nights to carry a pager or similar mechanism to alert off duty personnel when high water alarms are triggered from the SCADA at the Bella Vista liftstation.

Thanks for your cooperation in this matter

Bill Hare
602 771 4838

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No virus found in this incoming message.
Checked by AVG Anti-Virus.
Version: 7.0.308 / Virus Database: 266.9.10 - Release Date: 4/14/2005

ATTACHMENT

4

JOHNSON UTILITIES COMPANY

5230 E. Shea Blvd., Suite 200
Scottsdale, AZ 85254
(480) 998-3300, Fax (480) 483-7908

To: William Hare

Date: April 15, 2005

Water Quality Field Service Unit

Job No.: _____

ADEQ

Drawing/Spec Reference: _____

Re: Notice of Violation, Case ID 334537

We Transmit: Herewith Under Separate Cover Via _____

Material Format

Requested Action

- | | | | |
|--|--|---|---|
| <input checked="" type="checkbox"/> Letter | <input type="checkbox"/> Shop Drawings | <input type="checkbox"/> For Your Approval | <input type="checkbox"/> Your Review |
| <input type="checkbox"/> Memo | <input type="checkbox"/> Clarification Drawing | <input type="checkbox"/> For Your Signature | <input type="checkbox"/> Please Comment |
| Prints | <input type="checkbox"/> Modification Drawing | Information | <input type="checkbox"/> Make Recommendation |
| <input type="checkbox"/> Sketch | <input type="checkbox"/> Specifications | <input type="checkbox"/> Resubmit | <input type="checkbox"/> Issue Construction Order |
| <input type="checkbox"/> Reports | <input type="checkbox"/> Sepias | As Requested | <input type="checkbox"/> For Your Use |
| <input type="checkbox"/> Mylars | <input type="checkbox"/> _____ | <input type="checkbox"/> Issue Change Order | <input type="checkbox"/> _____ |

Remarks: Attached is Johnson Utilities response to your April 14, 2005 email concerning ADEQ's Notice of Violation, Case No 34537

Copies To: _____

Signed: _____

Gary Larsen

Operation Manager

Received By: _____

Date: _____

HORINE ELECTRICAL SERVICE

Horine Electrical Service

From: Dave Horine [dhorine@cox.net]
Sent: Friday, April 15, 2005 10:07 AM
To: Horine Electrical Service
Subject: bella vista spill 2

HORINE ELECTRICAL SERVICE

230 E Highland Blvd #10
Chandler, Arizona
(480) 855-5771
Fax (480) 855-5791
E-mail dhorine@cox.net

4/15/2005

Re: Bella Vista Lift Station

Johnson International Inc.
Attention: Gary Larson
5230 E Shea Blvd Ste 200
Scottsdale, AZ 85254-5750

Gary, Regarding the sewage spill that occurred on March 24, 2005 from the 4A liftstation.

With the AGM equipment we have lost countless number of data paks which is the brains of each individual site. The data pak receives 24 volt dc and communicates back to the master site located at Johnson Utilities office. The 4A lift station is a local site with a specified address. When you loose this pak all programming at the local site locks up and does not function properly. We changed the radios out due to suggestions from AGM but there are still issues with the data paks. This is the reason we are changing software and communication ports.

Also when there is a problem with the SCADA we have to contact AGM for them to dial into the system and troubleshoot through the phone line. The technical support is not there if you do not get floy you have to wait until he returns.

Any questions or concerns please contact me.

Sincerely,

David Horine
(602) 757-7002

4/15/2005

JOHNSON UTILITY COMPANY

CALL OUT PROCEDURE

February 2005

**Johnson Utility Company
Corporate Office
5230 E. Shea Boulevard, Suite #200
Scottsdale, Arizona 85254
Phone: (480) 998-3300
Fax: (480) 483-7908**

A. INTRODUCTION

Johnson Utilities ensures that a minimum of four (4) company personnel are "on call" at all times for response to calls or supervisory control and data acquisition (SCADA) system alarms. The SCADA system automatically dials the on-call Operations Manager's cell phone.

B. EMERGENCY CONTROL CENTER

The Emergency Control Center for the Company is the Johnson Utilities office on Hunt Highway. The emergency control center contains a mobile telephone, a list of reserve equipment and supplies and their location, standby generator data, and emergency-response procedures' check lists for the most probable emergencies. Special notices or and instructions will also be posted at this center.

C. ROLE OF UTILITY'S PERSONNEL IN RESPONSE PROGRAM

A minimum of four (4) Johnson Utilities employees are "on call" at all times (24/7).

On-call Manager:

The responsibility of the on-call manager is to evaluate the situation and initiate the proper action based on the emergency. If necessary the manager shall call the other on-call employees to assist in the emergency response. In addition, the manager shall contact the necessary contacts provided in the Emergency Contact List to respond to the emergency.

The on-call manager is also responsible to equip the EMERGENCY CONTROL CENTER, stock and inventory reserve supplies, stock and inventory spare parts, and inform all employees of the basic emergency procedures. It is important at the beginning of a potential response that it be clear exactly who will give orders in case of an emergency so that the response program will run as smoothly as possible.

On-call employees:

Utility employees are responsible to have received periodic emergency response procedure training. During emergencies, on-call personnel shall report to their posts and proceed as directed by the on-call manager.

D. OPERATION AND EQUIPMENT FAILURES PROCEDURES

The first step in any potential emergency is to obtain the essential facts, analyze the specific situation, and determine the most effective course of action. The following are possible causes for an emergency call-out:

1. Collection System Break or Blockage
2. Pump Station Equipment Failures
3. Force Main Break or Blockage
4. Wastewater Reclamation Plant Failure

EMERGENCY CONTACT LIST (revised 12/22/04)

DISTRICT OFFICE:

Office:	(480) 987-9870
Fax:	(480) 987-9819
Gary Larsen Operations Manager	(480) 987-9870 office (480) 797-2660 cell
Level 4 Operator	(602) 679-0988 cell
Brian Tompsett Chief of Operations	(480) 998-3300 office (602) 859-3300 cell (480) 483-7908 Fax

UTILITIES:

Salt River Project (SRP)	(602) 236-8811
A. P. S.	(520) 421-8400
Mesa Gas	(480) 644-4277
Qwest	1-(800) 954-1211
Arizona Bluestake	(602)-263-1100

TESTING:

Aquatic Consulting	(480) 921-8044
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ELECTRICAL:

D-N-D Dave Horine	(602) 757-7002 cell
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EXCAVATION CONTRACTOR:

S & J Grading (480) 987-1287 office
(480) 220-7820 cell

PIPE AND MISC. PARTS

Dana Kepner (602) 225-0234 office
(602) 254-6121 fax
(602)290-3522 cell

Hughes Supply (480) 926-0979

EQUIPMENT RENTAL:

San Tan Rental (480) 988-7909

REGULATORY AGENCIES:

Pinal Sheriff's Dept (480) 987-3492
ADEQ (602) 771-2300
Az Corp Comn (602) 542-4251
Specific Engineering (480) 596-6335
(engineers)
Pinal County (800) 208-6897

EMERGENCY WATER HAULING:

Artic Ice and Water (480) 984-1495

WELL PUMP REPAIR:

Preston Drilling (480) 984-4747

WELL PUMP PARTS:

Preston Drilling (480) 984-4747