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2002 JAN 28 P 4: 22

AZ CORP COMMISSION
DOCUMENT CONTROL

1 Richard L. Sallquist (002677)
Sallquist & Drummond, P.C.
2 2525 East Arizona Biltmore Circle
Suite 117
3 Phoenix, Arizona 85016-2129
(602) 224-9222
4 Attorneys for Johnson Utilities Company

5 **BEFORE THE ARIZONA CORPORATION COMMISSION**

6 IN THE MATTER OF THE APPLICATION)
OF JOHNSON UTILITIES, L.L.C. DBA)
7 JOHNSLN UTILITIES COMPANY FOR AN)
EXTENSION OF ITS CERTIFICATE OF)
8 CONVENIENCE AND NECESSITY TO)
PROVIDE WATER AND WASTEWATER)
9 SERVICE TO THE PUBLIC IN THE)
DESCRIBED AREA IN PINAL COUNTY,)
10 ARIZONA.)

DOCKET NO. WS-02987A-99-0583
Arizona Corporation Commission

DOCKETED

JAN 28 2002

DOCKETED BY

11 IN THE MATTER OF THE APPLICATON OF)
JOHNSON UTILITIES, L.L.C. DBA)
12 JOHNSON UTILITIES COMPANY FOR AN)
EXTENSION OF ITS CERTIFICATE OF)
13 CONVENIENCE AND NECESSITY TO)
PROVIDE WATER AND WASTEWATER)
14 SERVICE TO THE PUBLIC IN THE)
DESCRIBED AREA IN PINAL COUNTY,)
15 ARIZONA.)

DOCKET NO. WS-02987A-00-0618

**EMERGENCY REQUEST FOR
EXTENSION OF TIME TO
COMPLY AND ISSUANCE OF A
PROCEDURAL ORDER NUN
PRO TUNC**

16 1. Johnson Utilities Company L.L.C. dba Johnson Utilities Company (" JUC" or the
17 "Company") hereby requests the Administrative Law Judge issue a Procedural Order Nun Pro
18 Tunc, extending the time to comply with certain requirements of the Certificate of Convenience
19 and Necessity issued Decision No. 63960, dated September 4, 2001, as amended in Decision No.
20 64062, dated October 4, 2001, (the "Decision") and declaring that the Decision is, and at all
21 times since October 4, 2001, has been in full force and effect.

22 2. The Decision states in part at page 34, "IT IS FURTHER ORDERED that in the
23 event the Johnson Utilities, dba Johnson Utilities... fail(s) to cure any major or minor violations

1 cited by ADEQ within 90 days from the date of notice or request an extension there from, then
2 such conditional Certificate granted herein...shall be rendered null and void without further order
3 of the Commission."

4 3. On October 16, 2001 the Arizona Department of Environmental ("ADEQ) issued
5 a Notice of Violation ("NOV") citing four items alleged to be violations of ADEQ regulations.
6 (See attached)

7 4. Arizona Corporation Commission Compliance Manager, Patrick Williams, sent a
8 letter to the Company dated October 24, 2001 requesting notification of compliance with that
9 NOV. That letter was not received by the Company nor any of its consultants or lawyers.

10 5. On January 18, 2002 Mr Williams sent another letter to Mr. Johnson indicating
11 the Certificate granted in the Decision was "null and void". (See attached)

12 6. On January 23, 2002 counsel for the Company responded to the January 18, 2002
13 letter indicating that the October 24, 2001 letter had not been received, and that all alleged
14 violations have been "cured" well in advance of the deadline and requesting written confirmation
15 that the Certificate remained in full force and effect. (See attached)

16 7. The Commission's Utilities and Legal Divisions advised the Company on January
17 25, 2002 that in their opinion the Commission Staff did not have authority to assure the requested
18 letter, and that the appropriate remedy was for the Company to file the subject Motion.

19 8. The NOV lists four alleged violations which in summary were as follows:

20 A. Failure to obtain Approval to Construction for replacement of the Sun Valley
21 Farms Unit V collapsed well.

22 B. Failure to obtain Approval to Construct the Ricke Well and related pipeline.

23 C. Failure to obtain Approval of Construction for facilities referenced in Item B.

1
2 D. Failure to maintain residential chlorine logs for 6 days of water hauling to Sun Valley Farm Unit V.

3 9. Those violations were "cured" by Company and/or ADEQ actions as follows and
4 are attached to undersigned counsel's letter to Mr. Williams, dated January 23, 2002:

5 A. Approval of Construction for Reverse Osmosis Unit and new well at Sun Valley Farms Unit V, issued on April 10, 2001.

6 B. Approval to Construct the Ricke Well and related piping, issued October 18,
7 2001.

8 C. The Ricke Well facilities have not been completed. An Approval of
9 Construction will be requested when construction is completed. In the meantime, there is
10 no violation since the well is not being operated.

11 D. Letter from Mike Denby to William DePaul, dated April 23, 2001.

12 10. The Company's "cures" to all of the alleged violations were provided to ADEQ
13 prior to or within **TWO** days of the October 16, 2001 NOV. It is submitted that there is nothing
14 more that the Company can do to remedy those violations, nor is there any addition approval
15 ADEQ can issue in that regard. The Company and ADEQ are negotiating the final resolution of
16 this NOV.

17 11. The Commission Staff concurs that the "cure" contemplated by the Decision did
18 not require the issuance of any Consent Order ADEQ may require.

19 12. The Company did not notify the Commission that it had provided ADEQ with the
20 "cure", although it should be noted that the Decision did not required that notice. Had Mr.
21 Williams' letter of October 24, 2001 been received, notice of compliance would have been
22 provided at that time.

23 13. Attached hereto is the Affidavit of Mike Denby of Lewis & Roca, the Company's
ADEQ attorney, indicating that he had a discussion on January 28, 2002, with William DePaul,

1 the ADEQ employee who issued the NOV, confirming that the Company has, in fact, "cured" all
2 violations.

3 14. The developers within the subject certificated area, including Bezer Homes, El
4 Dorado Holdings, and the Pecan Ranch, are in various stages of negotiating certain sales and/or
5 financings regarding the development of those properties. Bezar Homes has a requirement from
6 its financier that it have a commitment as to water and wastewater service before February 1,
7 2002 which obviously can not be made based on Mr. Williams January 18, 2002 letter. Those
8 developers must immediately be assured that the Certificate of Convenience and Necessity is in
9 full force and effect.

10 WHEREFORE, the Company hereby requests, that to the extent necessary, the
11 Administrative Law Judge grant an extension of time for the Company to comply with the
12 Decision, and further requests that the Judge issue an Order Nun Pro Tunc declaring that the
13 Certificate of Convenience and Necessity granted to JUC in Decision 64062 dated October 4,
14 2002 is, and has been at all time since October 4, 2002, been in full force and effect.

15 Respectfully submitted this 23TH day as January, 2002.

16 SALLQUIST & DRUMMOND, P.C.

17
18
19 By 
20 Richard L. Sallquist
21 2525 East Arizona Biltmore Circle, Suite 117
22 Phoenix, Arizona 85016
23 Attorney for Johnson Utilities, L.L.C.

1 Original and ten copies of the
2 foregoing filed this 28th day
of January, 2002, with:

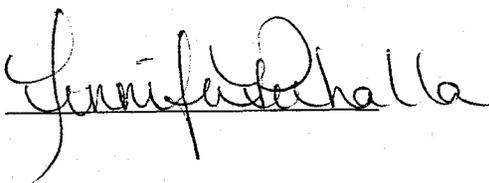
3 Docket Control
4 Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

5 A copy of the foregoing was
6 mailed this 28th day of
January, 2002, to:

7 Marc Stern
8 Administrative Law Judge
9 Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

10 Janice Alward
11 Legal Division
12 Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

13 Patrick Williams
14 Utilities Division
15 Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

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17 
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19
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21
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23



Jane Dee Hull
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

3033 North Central Avenue • Phoenix, Arizona 85012-2809
(602) 207-2300 • www.adeq.state.az.us



Jacqueline E. Schafer
Director

DW-02-098
October 16, 2001

CERTIFIED MAIL
Return Receipt Requested
7099-3400-0016-2571-6260

Mr. George Johnson, President
Johnson Utilities, LLC
5230 East Shea Boulevard
Scottsdale, Arizona 85254

Subject: Sun Valley Farms Unit V, Public Water System (PWS) PWS ID #11-116

NOTICE OF VIOLATION

The Arizona Department of Environmental Quality (ADEQ), Water Quality Division, Water Quality Compliance Section, Drinking Water Compliance and Enforcement Unit has reason to believe that Mr. George Johnson, President, Johnson Utilities Co. as the owner and operator of PWS ID # 11-116, Sun Valley farms Unit V (Water Supplier), located near the City of Queen Creek in Pinal County, Arizona, has violated the Arizona Revised Statutes (A.R.S.) § 49-101 *et seq.* or the applicable rules found in the Arizona Administrative Code (A.A.C.). ADEQ discovered the violations alleged below during review of the facility's file completed on October 5, 2001.

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

Legal Authority

Nature of Violation

A. A.A.C. R18-4-507.

Failure of the Water Supplier to receive an Approval of Construction (AOC) from ADEQ, prior to operating a newly constructed facility.

No documentation exists in the public record at ADEQ that proves the required AOC (project # 20000368) was received by the water supplier prior to March 2, 2001. Johnson Utilities placed a newly constructed facility into service on October 3, 2000, and continued serving water to the Sun Valley Farms Unit V drinking water distribution system until March 27, 2001, a total of 178 days of operation.

Northern Regional Office
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004
(520) 779-0313

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

Notice of Violation

PWS ID# 11-116, Sun Valley Farms Unit V water system

October 16, 2001

- B. A.A.C. R18-4-505. Failure of the water supplier to receive an Approval to Construct (ATC) from ADEQ, prior to starting construction of a modification to an existing facility.

No documentation exists in the public record that proves the required ATC was received by the water supplier prior to the construction of the "Rickie well", (ADWR # 55-570372) the associated line extension and connection to the Sun Valley Farms Unit V distribution system PWS ID # 11-116. Johnson Utilities began construction of the "Rickie well", the associated pipe line (Copper Road water transmission main) and the connection to PWS ID # 11-116, on December 2, 1998 and completed the construction on March 31, 1999, a total of 120 days.

- C. A.A.C. R18-4-507 Failure of the Water Supplier to receive an Approval of Construction (AOC) from ADEQ, prior to operating a newly constructed facility.

No documentation exists in the public record at ADEQ that proves the required AOC (Rickie Well/Cooper Road water transmission main project) was received by the water supplier from ADEQ, prior to March 12, 2001. Johnson Utilities placed a newly constructed facility into service on March 12, 2001, and continued serving water to the Sun Valley Farms Unit V distribution system until March 27, 2001, a total of 15 days of operation.

- D. A.A.C. R18-4-125.F Failure of the water hauler to maintain a log of all on-loading, chlorine disinfectant additions and redissolved chlorine measurements.

Johnson Utilities reported that water was hauled from September 1, 2000, until October 3, 2000. The log provided to ADEQ by Johnson Utilities indicates water hauling was discontinued on September 28, 2000. Therefore, the required log was not maintained for 6 days when water was being hauled to the Sun Valley Farms Unit V water system.

II. DOCUMENTING COMPLIANCE

- A. ~~Within 7 days of the effective date of this notice~~, Johnson Utilities Co., as owner and operator of PWS # 11-116, Sun Valley Farms Unit V water system, shall provide information as follows:

A report relating to the current status of the Ricki Well and the associated pipe line which will connect the Ricki well to the Sun Valley Farms Unit V distribution system. The status report should include a written description of the current status in obtaining, from ADEQ, the required Approval to Construct (ATC) and the Approval of Construction (AOC).

III. SUBMITTING COMPLIANCE DOCUMENTATION

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

Bill DePaul, Case Manager
Arizona Department of Environmental Quality
Drinking Water Compliance & Enforcement Unit
3033 North Central Avenue M0501B
Phoenix, Arizona 85012-2809

IV. STATEMENT OF CONSEQUENCES

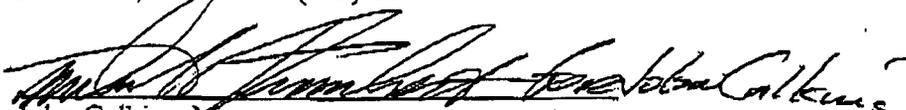
- A. The time frames within this Notice for achieving and documenting compliance are firm limits. Failure to achieve or document compliance within the time frames established in this Notice will result in an administrative order or civil action requiring compliance within a reasonable time frame and/or substantial civil penalties. 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.
- B. Achieving compliance does not preclude ADEQ from seeking civil penalties for the violations alleged in this Notice as allowed by law.

DW-02-098
Notice of Violation
PWS ID# 11-116, Sun Valley Farms Unit V water system
October 16, 2001

Page 4

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 Bill DePaul at 1-800-234-5677, ext 4652 or (602) 207-4652.



John Calkins, Manager
Drinking Water Compliance & Enforcement Unit



Bill DePaul, Enforcement Coordinator
Drinking Water Compliance & Enforcement Unit

JAC:WAD:mf3

cc: DWCEU Reading File
Facility File PWS 11-116
Bill DePaul, Case Manager

Certified Mail, Return Receipt

7099-3400-0016-2571-6277

Delator Corporation, Statutory Agent
Johnson Utilities, L.I.C.
7201 E. Camelback Road, # 330
Scottsdale, AZ 85251

Regular U.S. Mail

Karen Berry, Field Inspector
Arizona Department of Environmental Quality
Water Quality Compliance Section
Drinking Water Compliance Enforcement Unit
3033 N. Central, M0501B
Phoenix, AZ 85012-2809

Reg Glos, Director of Environmental Health
Pinal County Health Department
P.O. Box 2517
Florence, AZ 85232

Steve Olea, Assistant Director
Arizona Corporation Commission
Utilities Division
1200 West Washington
Phoenix, Arizona 85007

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER



BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

January 18, 2002

Mr. George Johnson
Johnson Utilities Company
5320 East Shea Blvd
Scottsdale, Arizona 85254

Dear Mr. Johnson:

On October 24, 2001, I sent you a letter indicating that I was in receipt of an Arizona Department of Environmental Quality (ADEQ) "Notice of Violation" (NOV) dated October 16, 2001. In that letter, I advised you that Arizona Corporation Commission (Commission) Decision No. 63960, dated September 4, 2001 (amended in Decision No. 64062, dated October 4, 2001) granted Johnson Utilities Company's (Johnson) a Certificate extension conditioned on it correcting any major or minor violations contained within an ADEQ NOV within 90 days from the date of the NOV to cure the defect or request an extension from the Commission in order to remedy the violation. I also indicated that Johnson's failure to do so will result in the Certificate authorized in Decision No. 63960 (64062) becoming null and void without further order of the Commission.

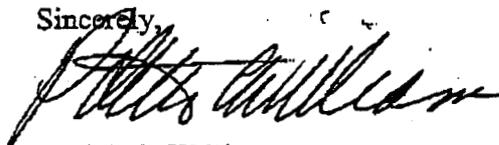
Further, I requested that you provide me with documentation showing that Johnson has corrected the deficiencies noted in the October 16, 2001, NOV by January 14, 2002. I have not received any response from you nor has the Commission received any documentation indicating the NOV or the major or minor deficiencies noted therein have been corrected. I have contacted Mr. Bill DePaul at ADEQ. He has indicated to me that Johnson has not corrected the deficiencies stated in the NOV, nor has Johnson entered into a consent order. Therefore, pursuant to Commission Decision No. 63960 (64062) the Certificate granted to Johnson is null and void as of January 16, 2002. Consequently, Johnson is not authorized to provide service, or

Mr. Johnson
January 18, 2002
Page 2

to collect any monies from developers in anticipation of service, to any areas conditionally granted to it in Decision No. 63960 (64062). The areas conditionally granted to Johnson will be removed from the maps at the Commission.

If you have any questions, I may be contacted at 602-542-0818.

Sincerely,



Patrick C. Williams
Manager, Compliance and Enforcement
Utilities Division

:pcw
cc: Docket Control

RICHARD L. SALLQUIST

January 23, 2002

PHONE (602) 224-9222
FACSIMILE (602) 224-9366
E-MAIL dick@sd-law.com

HAND-DELIVERED

Patrick Williams
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

Re: Johnson Utilities Company Compliance with Decision No. 63960, dated September 4, 2001, as Amended by Decision No. 64062, dated October 4, 2001.

Dear Mr. Williams:

Regarding your January 18, 2002 letter to George Johnson, the Company believes it has "cure(d) any major or minor violation cited by ADEQ within 90 days from the date of notice..." as required in Decision No. 64062 (the "Decision"), and is in compliance with all matters as of the date of your letter. We do acknowledge that there are other compliance items due under the Decision at future dates.

Your letter indicated that you had requested a notice of compliance by January 14, 2002 regarding the October 16, 2001 Notice of Violation ("NOV") issued by the Arizona Department of Environmental Quality ("ADEQ"). Although the compliance items and dates were clearly set forth in the Decision, neither the Company, nor any of its consultants or lawyers received your letter. Your letter was not disregarded; it was just not received. The Company's substantive response would have been as indicated in this letter. The Company is of the opinion that they complied with the Decision in a timely fashion, before January 14, 2002. If the Company failed at all, it was not in notifying you of its compliance with ADEQ, although the Decision did not require such a notification to Staff.

The October 16, 2001, NOV, a copy of which is attached for your ready reference, itemizes four violations and we shall address those issues serially. It must be noted that in none of the "violations" was there a question of on going public health or safety. The Company recognizes the importance of the regulatory compliance with the mandated paperwork, but as discussed below, ADEQ only issued this NOV in an effort to document the alleged violations and to support the penalties ADEQ wishes to impose upon the Company through a consent order. Please note there has not been a "Cease and Desist Order" issued by ADEQ regarding these or any alleged health or safety violation, since the violations are not on going.

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JAN 23 P 3:11

ARIZONA CORPORATION COMMISSION

Item 1A of the NOV is regarding the required approvals associated with the new well at Sun Valley Farms, Unit Five. The Company obtained the Approval of Construction ("AOC") on April 10, 2001 (See attached). Incidentally, this new well is part of the Company's continuing effort to bring that system into compliance. You may recall that at the hearing on the Company's Certificate Application it was established that the prior owner's of that system had been in violation of ADEQ Regulation for over 15 years, with criminal violations in over half of those years. After acquiring the troubled system, the Company has spent over \$300,000 on that system in an attempt to bring it within compliance. This violation was noted by ADEQ after a meeting, which Johnson Utilities initiated, to advise ADEQ that its consulting engineer had failed to properly document the new well, and had commenced pumping that well prior to receiving the required approvals. At that time the Company ceased pumping the well, and did not resume pumping until after receipt of approval from ADEQ.

Regarding Item 1 B and C of the October 16, 2001 NOV, both relate to the new "Ricke Well". Those Items allege failure to obtain the ATC and AOC for that new well. Again, a communications problem with the Company's former engineering consultant resulted in the failure to obtain the ATC prior to construction and the operation of the well, which was operated for a period of two days without an AOC. The ATC was obtained on October 19, 2001, and "cured" that violation. (Please see attached copy). The AOC Application has not been filed with ADEQ because construction has not been completed. Since the well is not being operated, there is no current on going violation.

As to Item I D, during the one month in 2000 that the only operating well able to serve Sun Valley Farms was out of service, the Company did haul water from other wells to serve those customers. On August 23, 2001, the required "logs" were filed with ADEQ for 28 days, but inexplicably the data for the last six days was not available. (Please see attached). As with the other "violations", there were no water quality issues, only a filing omission. Again, the Company does not dismiss the importance of the compliance filing issues, but the NOV was merely the vehicle necessary to set up ADEQ's legal entry into the Consent Order.

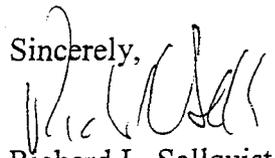
Your letter states that no Consent Order has been entered into by Johnson Utilities. Although this is correct, it is not due to delays by Johnson Utilities. The Company's stipulated form of that Consent Order has been "in process" at ADEQ for several months. However, we do not believe that the Consent itself is a "cure [of] any major or minor violation cited by ADEQ" as ordered by the Decision. The "cure" of all items has been provided to ADEQ in a timely fashion, and no major or minor violations exist today. ADEQ has agreed with the Company that no on-going violations exist under this NOV.

Based upon the above, we believe your letter is incorrect in concluding that the Company has not complied with Decision No. 64062, and further believe that the Certificate of Convenience and Necessity is in full force and effect. We would appreciate your written confirmation to that effect. In the event this explanation does not resolve

your concerns and you do not concur with our position, please let me know as soon as possible.

The Company is very concerned with its regulatory reputation, and although there have been typical issues with regulatory agencies during the Company's startup period, the Company has worked diligently to correct all outstanding issues and legal requirements in a timely fashion. As indicated above, certain of the Company's problems came about due to consultants (who are no longer working with the Company) failing to file the appropriate documents, improperly advising the Company, and in some instances, outright lying to the Company and the regulators about certain matters. The Company believes it now has reorganized its team of consultants so that these incidents will not occur in the future. To that end, I will contact you and other Staff members in the near future to request a meeting so that the Company can "clear the air" by explaining its actions as well as seeking your input as to how the Company's actions and communications can be improved for this long-term relationship. In the event you have any questions regarding any of these matters, please do not hesitate to call.

Sincerely,



Richard L. Sallquist
For the Firm

cc: Docket Control
George Johnson
Paul Gardner
Mike Denby
Brian Tompsett



Jane Dee Hull
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

3033 North Central Avenue • Phoenix, Arizona 85012-2809
(602) 207-2300 • www.adeq.state.az.us



Jacqueline E. Schafer
Director

DW-02-098
October 16, 2001

CERTIFIED MAIL
Return Receipt Requested
7099-3400-0016-2571-6260

Mr. George Johnson, President
Johnson Utilities, LLC
5230 East Shea Boulevard
Scottsdale, Arizona 85254

Subject: Sun Valley Farms Unit V, Public Water System (PWS) PWS ID #11-116

NOTICE OF VIOLATION

The Arizona Department of Environmental Quality (ADEQ), Water Quality Division, Water Quality Compliance Section, Drinking Water Compliance and Enforcement Unit has reason to believe that Mr. George Johnson, President, Johnson Utilities Co. as the owner and operator of PWS ID # 11-116, Sun Valley farms Unit V (Water Supplier), located near the City of Queen Creek in Pinal County, Arizona, has violated the Arizona Revised Statutes (A.R.S.) § 49-101 *et seq.* or the applicable rules found in the Arizona Administrative Code (A.A.C.). ADEQ discovered the violations alleged below during review of the facility's file completed on October 5, 2001.

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

<u>Legal Authority</u>	<u>Nature of Violation</u>
A. A.A.C. R18-4-507.	Failure of the Water Supplier to receive an Approval of Construction (AOC) from ADEQ, prior to operating a newly constructed facility.

No documentation exists in the public record at ADEQ that proves the required AOC (project # 20000368) was received by the water supplier prior to March 2, 2001. Johnson Utilities placed a newly constructed facility into service on October 3, 2000, and continued serving water to the Sun Valley Farms Unit V drinking water distribution system until March 27, 2001, a total of 178 days of operation.

Northern Regional Office
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004
(520) 779-0313

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

Notice of Violation

PWS ID# 11-116, Sun Valley Farms Unit V water system

October 16, 2001

- B. A.A.C. R18-4-505. Failure of the water supplier to receive an Approval to Construct (ATC) from ADEQ, prior to starting construction of a modification to an existing facility.

No documentation exists in the public record that proves the required ATC was received by the water supplier prior to the construction of the "Rickie well", (ADWR # 55-570372) the associated line extension and connection to the Sun Valley Farms Unit V distribution system PWS ID # 11-116. Johnson Utilities began construction of the "Rickie well", the associated pipe line (Copper Road water transmission main) and the connection to PWS ID # 11-116, on December 2, 1998 and completed the construction on March 31, 1999, a total of 120 days.

- C. A.A.C. R18-4-507 Failure of the Water Supplier to receive an Approval of Construction (AOC) from ADEQ, prior to operating a newly constructed facility.

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- D. A.A.C. R18-4-125.F Failure of the water hauler to maintain a log of all on-loading, chlorine disinfectant additions and residual-free chlorine measurements.

Johnson Utilities reported that water was hauled from September 1, 2000, until October 3, 2000. The log provided to ADEQ by Johnson Utilities indicates water hauling was discontinued on September 28, 2000. Therefore, the required log was not maintained for 6 days when water was being hauled to the Sun Valley Farms Unit V water system.

II. DOCUMENTING COMPLIANCE

- A. ~~Within 7 days of the effective date of this notice~~, Johnson Utilities Co., as owner and operator of PWS # 11-116, Sun Valley Farms Unit V water system, shall provide information as follows:

A report relating to the current status of the Ricki Well and the associated pipe line which will connect the Ricki well to the Sun Valley Farms Unit V distribution system. The status report should include a written description of the current status in obtaining, from ADEQ, the required Approval to Construct (ATC) and the Approval of Construction (AOC).

III. SUBMITTING COMPLIANCE DOCUMENTATION

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

Bill DePaul, Case Manager
Arizona Department of Environmental Quality
Drinking Water Compliance & Enforcement Unit
3033 North Central Avenue M0501B
Phoenix, Arizona 85012-2809

IV. STATEMENT OF CONSEQUENCES

- A. 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 order or civil action requiring compliance within a reasonable time frame and/or substantial civil penalties. 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.
- B. Achieving compliance does not preclude ADEQ from seeking civil penalties for the violations alleged in this Notice as allowed by law.

DW-02-098
Notice of Violation
PWS ID# 11-116, Sun Valley Farms Unit V water system
October 16, 2001

Page 4

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 Bill DePaul at 1-800-234-5677, ext 4652 or (602) 207-4652.



John Calkins, Manager
Drinking Water Compliance & Enforcement Unit



Bill DePaul, Enforcement Coordinator
Drinking Water Compliance & Enforcement Unit

JAC:WAD:mfb

cc: DWCEU Reading File
Facility File PWS 11-116
Bill DePaul, Case Manager

Certified Mail, Return Receipt

7099-3400-0016-2571-6277

Delator Corporation, Statutory Agent
Johnson Utilities, L.L.C.
7201 E. Camelback Road, # 330
Scottsdale, AZ 85251

Regular U.S. Mail

Karen Berry, Field Inspector
Arizona Department of Environmental Quality
Water Quality Compliance Section
Drinking Water Compliance Enforcement Unit
3033 N. Central, M0501B
Phoenix, AZ 85012-2809

Reg Glos, Director of Environmental Health
Pinal County Health Department
P.O. Box 2517
Florence, AZ 85232

Steve Olea, Assistant Director
Arizona Corporation Commission
Utilities Division
1200 West Washington
Phoenix, Arizona 85007



Jane Dee Hull
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

3033 North Central Avenue • Phoenix, Arizona 85012-2809
(602) 207-2300 • www.adeq.state.az.us



Jacqueline E. Schafer
Director

APPROVAL OF CONSTRUCTION

Project Description: Construct Reverse Osmosis (R/O) Unit water treatment system to remove nitrates and construct new well (DWR #55-280641) to replace collapsed well for Sun Valley Farms water system and

NOTE: Approval is contingent upon the operation of the R/O Unit according to the Blending Plan contained in the Approval of Construction issued on July 19, 2000 (ADEQ Project #20000368).

Location: Sun Valley Farms V

Project Owner: Johnson Utilities Co
Address: 5230 East Shea Blvd
Scottsdale, Arizona 85254

The Arizona Department of Environmental Quality (ADEQ) hereby issues an Approval of Construction for the above-described facility based on the following provisions of Arizona Administrative Code (A.A.C.) R18-4-307 et seq.

On May 25, 2000 and July 19, 2000, ADEQ issued a Certificate of Approval to Construct for the referenced project.

On March 5, 2001, S. Daniel Cohn, P.E., certified the following:

- a final construction inspection was conducted on March 3, 2001;
- the referenced project was constructed according to the as-built plans and specifications and ADEQ's Certificate of Approval to Construct;

A microbiological sample was collected on June 25, 2000, and analyzed on June 27, 2000, by Aquatic Consulting & Testing, Inc., ADHS License No. AZ0003. The sample result was negative for total coliform.

This Approval of Construction authorizes the owner to begin operating the above-described facilities as represented in the approved plan on file with the ADEQ. Be advised that A.A.C. R18-4-124 requires the owner of a public water system to maintain and operate all water production, treatment and distribution facilities in accordance with ADEQ Safe Drinking Water Rules.

WHS:sak

PWS No.: 11-116

ADEQ Projects No.: 20000227 and 20000368
LTF No.: 22672



William H. Schafer, P.E., Manager
Technical Engineering Unit
Drinking Water Section

7/10/01

Date Approved

c: DWCEU Facility File
TEU Construction File
CRO Approval of Construction File
Pinal County Health Department
Pinal County Planning & Zoning Department
AZ Corporation Commission
Engineer

Northern Regional Office
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004
(320) 779-0313

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
(320) 620-6733



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
CERTIFICATE OF APPROVAL TO CONSTRUCT
DRINKING WATER WELL FACILITIES

Page 1 Of 2

ADEQ File No: 20010431	
System Name: Ricke Well Dvimp	System Number: 11116
Project Owner: Johnson Utility Company	
Address: 5230 E. Shea Blvd., #200, Scottsdale, AZ 85254	
Project Location: Queen Creek	County: Pinal
Description: INSTALL A NEW WELL (REGISTRATION NO. 55-570372) AND RELATED PIPING AT THE RICKE WELL SITE.	

Approval to construct the above-described facilities as represented in the approved documents on file with the Arizona Department of Environmental Quality is hereby given subject to provisions 1 through 4 continued on page 2 through 2

1. Notice shall be given to the Central Regional office located in Phoenix when construction of the project begins to allow for inspection during construction per A.R.S. §49-104.B.10.
2. The project owner shall retain a professional engineer as soon as possible to provide detailed construction inspections of this project. Upon completion of construction, the engineer shall fill out the Engineer's Certificate of Completion (attached), and forward it to the Regional Office. If all requirements have been completed the Regional Office will issue a Certificate of Approval of Construction.
3. Operation of a newly constructed facility shall not begin until a Certificate of Approval of Construction has been issued by the Department.

The State law, A.R.S. §49-104.B.10, requires that construction of the project must be in accordance with rules and regulations of the Arizona Department of Environmental Quality. This certificate will be void if construction has not started within one year of the approval date. Upon request a written time extension may be granted by the Department.

Reviewed by KNS

By: Ahmed Hossein 10/19/01
Ahmed Hossein, P.E., Manager Date
Technical Engineering Unit
Water Quality Division

File No: 20010431
Regional Office: Central
Owner: Johnson Utility Company
County Health Department: Pinal
Engineer: Coen Engineering
Planning and Zoning/Az Corp. Commission
Engineering Review Database - 8/02/01

**CERTIFICATE OF APPROVAL
WELL
ADEQ FILE NO. 20010431
PAGE 2 OF 2: PROVISION**

4. The fence gates shall be of lockable type.

FILE COPY
File Number 40123-00001

April 23, 2001

VIA FACSIMILE

William DePaul
Arizona Department of Environmental Quality
3033 N. Central Avenue
Phoenix, Arizona 85012-2809

Re: Chlorination Records for Water Hauled to the Sun Valley Farms
System

Dear Mr. DePaul:

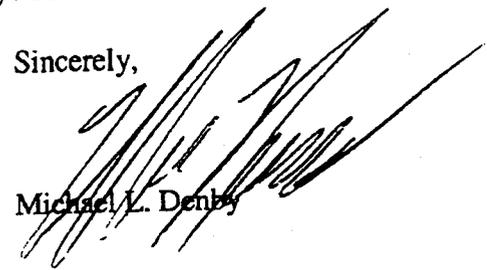
Pursuant to our discussion yesterday afternoon, I asked Johnson Utilities to locate the chlorination records for any water hauled to the Sun Valley Farms Unit V system. Johnson Utilities was able to locate chlorination records for the water shipments and those records are enclosed.

The chlorination records appear to end on September 27, 2000. Although the records appear to end prior to the October 3, 2000 date, there are several reasons why this information may be missing. First, it is my understanding that, although the samples were taken on time, the information was not always input into the log on a daily basis. It is presumed that the employee at the time had taken the samples for the missing six days, but had failed to enter them into the log. Second, if the water shipments ceased shortly after September 27, 2000, the employee may have seen no reason to enter the last few days of samples into the log. Finally, Johnson Utilities has recently moved offices and the person responsible for the water shipments is no longer with the company. Therefore, it is possible that records exist for the final six days, but that they have been misplaced. Johnson Utilities will continue to search for these records and will let ADEQ know as soon as they find something.

Due to the proximity of September 27, 2000 to the October 3, 2000 inspection date, Johnson Utilities remains confident that water was hauled to the Sun Valley system up until the time of the ADEQ inspection.

Please feel free to contact me if you need additional information.

Sincerely,



Michael L. Denby

MLD/mld
Attachments

AFFIDAVIT OF MICHAEL L. DENBY

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, Michael L. Denby, state as follows:

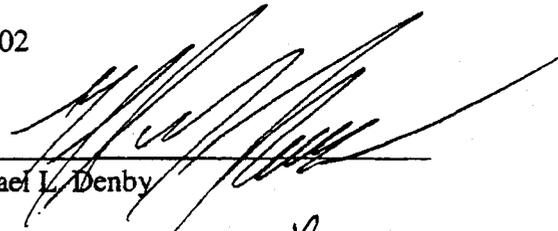
1. On January 23, 2002 and again on January 28, 2002, I had a telephone conversation with Mr. William DePaul, Environmental Enforcement Coordinator at the Arizona Department of Environmental Quality.

2. The purpose of the January 23, 2002 and January 28, 2002 telephone calls with Mr. DePaul was to clarify whether there were any ongoing compliance issues associated with the items listed in the October 16, 2001 NOV issued by the Arizona Department of Environmental Quality.

3. Mr. DePaul informed me that the Department was not requiring nor expecting that Johnson Utilities undertake any additional action in order to comply with the items listed in the NOV, because Johnson Utilities has obtained the required ATC, AOC, disconnected the Ricke well system from the Sun Valley distribution system, and submitted the materials requested in the NOV.

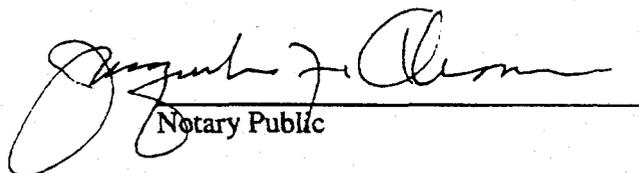
4. Mr. DePaul did state that the matter was not closed and that the Department would be continuing to pursue some form of order to finalize and close the NOV.

DATED this 28th day of January 2002



Michael L. Denby

SWORN AND SUBSCRIBED to before me this 28th day of January, 2002,



Notary Public

My Commission Expires

