

ORIGINAL



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JOHNSON UTILITIES COMPANY, LLC

5230 East Shea Boulevard * Scottsdale, Arizona 85254

P.H: (480) 998-3300; FAX: (480) 483-7908

August 4, 2005

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

AZ CORP COMMISSION
DOCUMENT CONTROL

2005 AUG -5 P 3:38

RECEIVED

RE: Johnson Utilities Company, H2O, Diversified Water Utilities,
Queen Creek Water Company: Compliance with Decision No. 65840
Notice of Violation from ADEQ dated July 26, 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 August 1, 2005, Johnson Utilities Company received a letter from the Arizona Department of Environmental Quality ("ADEQ") dated July 26, 2005, regarding exceedances in the Discharge Limit for Total Nitrogen that occurred during the 1st and 2nd quarters of 2005. A copy of the letter and Notice of Violation ("NOV") dated July 26, 2005, is attached hereto as Attachment 1. Also attached hereto is a response to the NOV from Brian Tompsett, Executive Vice President of Johnson Utilities, dated August 3, 2005 as Attachment 2. Johnson Utilities will continue to supply the Utilities Division with any correspondence between ADEQ in regards to the NOV until final resolution, or closure as required by Decision No. 65840.

Should you have any questions or concerns, please do not hesitate to contact me. Thank you for your time and consideration in this matter.

Sincerely,

Daniel Hodges
Johnson Utilities, LLC

Enclosure

Cc: Brian Tompsett, Johnson Utilities (w/out enc.)
Steve Olea, Assistant Director (w/enc.)
Brian Bozzo, Compliance Manager (w/enc.)
Dick Sallquist, Sallquist & Drummond (w/enc.)
Docket Control (w/enc.)

ATTACHMENT 1

AUG 0 1 2005



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: #FS05-128
July 26, 2005

CERTIFIED MAIL
Return Receipt Requested

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

Re: Johnson Utilities Section 11 Wastewater Plant, Place ID 142, Aquifer Protection Permit (APP) No. P103081, LTF No. 24069, and Issuance of a Notice of Violation (NOV) for monitoring violations.

Enclosed is a Notice of Violation ("NOV") prepared by William J. Hare concerning a file review conducted on May 26, 2005 and on July 14, 2005. The NOV is being issued for exceedances in the Discharge Limit (DL) for Total Nitrogen in effluent monitoring that occurred during the 1st and 2nd quarters of 2005.

Johnson Utilities Company (JUC) should increase the frequency of the monitoring for Total Nitrogen in the effluent from monthly to weekly in accordance with section 2.6.2.3.2 paragraph 2, of the Aquifer Protection Permit (APP). JUC also should satisfy the investigations and reporting requirements of sections 2.6.2.2 and 2.6.3 of the APP.

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

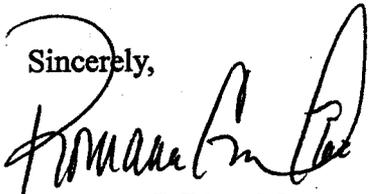
Northern Regional Office
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004
(928) 779-0313

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

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.

Sincerely,



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.azdeq.gov



Stephen A. Owens
Director

CERTIFIED MAIL
Return Receipt Requested

Case ID #: 35075

July 26, 2005

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

Subject: Mgd Precision Golf Course 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 Mgd Precision Golf Course 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 file review completed on May 26, 2005.

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

1. Permit 24069 - Section 4

The permit requires that monthly effluent monitoring for Total Nitrogen cannot exceed 10 mg/L. The data is reported as the five month Geometric Mean.

A file review for the 1st quarter 2005 self monitoring report forms (SMRFs) and recent data submitted by Johnson Utilities to ADEQ indicates that the facility exceeded the Discharge Limit for Total Nitrogen on five consecutive months from January 2005 - May 2005. These exceedances meet ADEQ's criteria for significant non compliance.

II. DOCUMENTING COMPLIANCE

1. Within 60 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or an explanation for the cause of the exceedances and efforts being implemented by the utility to prevent or mitigate any additional exceedances of the discharge limit (DL) for Total Nitrogen in the effluent monitoring.

III. SUBMITTING COMPLIANCE DOCUMENTATION

Please send all compliance documentation and any other written correspondence regarding this Notice

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

to ADEQ at the following address:

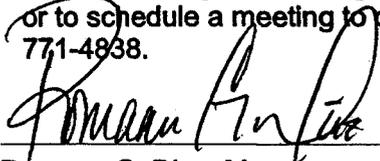
Arizona Department of Environmental Quality, Attention: William J. (Bill) Hare, Water Quality Field Service Compliance Unit, 1110 W Washington St, Phoenix, AZ 85007 MC: 5415B-1

IV. STATEMENT OF CONSEQUENCES

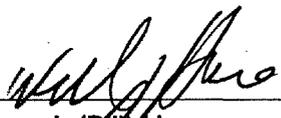
1. The time frames within this Notice for achieving and documenting compliance are firm limits. Failure to achieve or document compliance within the time frames established in this Notice will result in an administrative compliance order or civil action requiring compliance within a reasonable time frame, 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 L.L.C

5230 East Shea Boulevard * Scottsdale, Arizona 85254
PH: (480) 998-3300; FAX: (480) 483-7908

August 3, 2005

Mr. 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 #: 35075

Dear Mr. Hare:

On July 26, 2005, the Arizona Department of Environmental Quality (ADEQ) issued Johnson International a Notice of Violation (NOV) for exceeding the Discharge Limit for Total Nitrogen, Permit 24069, Section 4, on five consecutive months from January 2005 – May 2005 at the MGD Precision Golf Course WWTP, 142, 1877 E. Bella Vista Rd, Queen Creek, AZ 85242. The NOV was received by Johnson Utilities, LLC (JUC) on August 1, 2005. Please be advised that the MGD Precision Golf Course WWTP, Permit No. 23124, is under construction and is not operating at this time. The MGD Precision Golf Course WWTP has never been placed in service. Permit 24069 refers to the Section 11 Wastewater Treatment Plant (WWTP), APP P-103081, 5632 E. Hunt Highway, Queen Creek, AZ 85242.

Be advised that you have once again incorrectly addressed the NOV to Johnson International, Inc.. Johnson International, Inc is not the permittee for the above referenced facility. The permittee and owner of the Section 11 WWTP is Johnson Utilities, LLC (dba Johnson Utilities Company).

Please correct all future correspondence immediately.

The following is the Johnson Utilities Company (JUC) response with respect to the Notice of Violation. On June 10, 2005, JUC submitted a letter and supporting spreadsheets to ADEQ depicting the current status of the Nitrate-Nitrite and Total Nitrogen reporting parameters. The Nitrate-Nitrite concentrations remained far below the Alert Level value of 8.0 mg/L and the 5-month geometric mean for Total Nitrogen remained slightly over the 10 mg/L Discharge limit. JUC further explained, that under AAC R18-9-204(A)(3), ADEQ can approve soil aquifer treatment for removal of Total Nitrogen as an alternative to meeting the performance requirement of 10 mg/L. During the turf growing season, 100% of the effluent is used by the Oasis Golf course through spray irrigation. During this period, the ammonia in the effluent is absorbed and taken up by the turf and is also volatilized. When the effluent is being recharged, the ammonia is volatilized from the standing water and is further reduced by assimilation. The ammonia that is converted to nitrates is further reduced by denitrification prior to leaching into the aquifer. After taking a very conservative reduction of 15% for the additional soil aquifer

William J. Hare
August 3, 2005
Page 2 of 3

treatment, the 5-month geometric mean meets the discharge limit. The 15% reduction of nitrogen through the soil has been accepted by ADEQ during reviews of on-site subdivisions. The depth to groundwater in this area is in excess of approximately 300 feet. The soil column further reduces the ammonia by adsorption. As of this date, ADEQ has not responded to the June 10th letter from JUC with respect to approving soil aquifer treatment for removal of Total Nitrogen.

On June 23, 2005, JUC submitted another letter and updated spreadsheet (attached) that depicted the current status of Nitrate-Nitrite and Total Nitrogen reporting parameters through the 2nd quarter. The 5-month geometric mean for Total Nitrogen remained slightly over the 10 mg/L Discharge limit but was reduced by June's Total Nitrogen concentration of 8.9 mg/L. The letter again stated that ADEQ can approve soil aquifer treatment for removal of Total Nitrogen. As of this date, ADEQ has not responded to the June 10th letter with respect to approving soil aquifer treatment for removal of Total Nitrogen.

On March 4, 2005, JUC submitted a significant amendment requesting approval to replace the wetland facility with an extended aeration plant identical to the Pecan and San Tan Water Reclamation Plants permitted by ADEQ. The application was found to be administratively complete on May 4, 2004. As of this date, ADEQ has not conducted the substantive review.

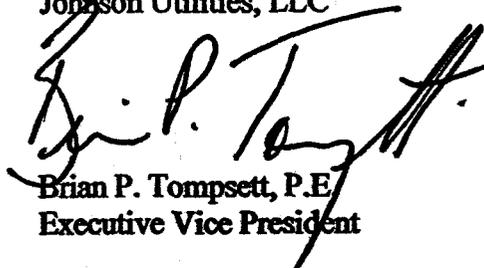
In June 2005 samples of the raw sewage were tested for Total Nitrogen which ranged from 40 mg/L to 65 mg/L. The average concentration was 48 mg/L. A summary of the operating performances of North American Wetland Treatment Systems was published in the *Arizona Guidance Manual for Constructed Wetlands for Water Quality Improvement*, ADEQ, May 1995. The attached Table 3.3 shows that the expected Total Nitrogen removal efficiency is 53%. Based on this value, the expected effluent would have a concentration of $48 \text{ mg/L} * 0.53 = 22.6 \text{ mg/L}$. However, the plant in June experience a removal efficiency of $(48 - 8.9)/48 * 100\% = 81.5\%$, which is substantially above the expected efficiency. For the month of May the Total Nitrogen in the effluent was 18.07 mg/L. Assuming an influent of 48 mg/L, the removal efficiency is 62.5%, which is still better than expected.

The calculations performed by ADEQ during the review of this plant were based on a Total Nitrogen influent concentration of 16.5 mg/L with an effluent concentration of 10 mg/L for a removal efficiency of 40%. As shown, the plant's performance exceeds ADEQ's calculated 40% removal.

William J. Hare
August 3, 2005
Page 3 of 3

JUC requests that ADEQ review the previously submitted documentation and the current excellent performance of this facility and approve soil aquifer treatment for the removal of Total Nitrogen as an alternative to meeting the performance requirement of 10 mg/L. If ADEQ had considered the information submitted by JUC on June 10, 2005, it would have realized that the WWTP is operating correctly and the NOV should never have been issued. We therefore request that this NOV be closed immediately. We would also like to meet with you and Mr. Mike Traubert regarding this matter at your earliest convenience. If you have any questions or additional comments, please contact me directly at (480) 998-3300.

Sincerely,
Johnson Utilities, LLC

A handwritten signature in black ink, appearing to read "Brian P. Tompsett". The signature is written in a cursive, flowing style with a large initial "B".

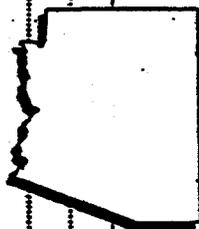
Brian P. Tompsett, P.E.
Executive Vice President

Cc: Greg Brown (Specific)
Mike Traubert (ADEQ)

Section 11 WWTP
8/3/2005

Quarter	Date	Average Monthly Flow [MGD]	Discharge Effluent			5-Month Geometric Mean	15% Reduction From Soil Treatment
			TKN [mg/L]	Nitrate-Nitrite [mg/L]	Total N [mg/L]		
4th 2004	Oct-04	0.580	9.82	0.43	10.25	11.0	9.35
	Nov-04	0.634	5.74	4.08	9.82	8.8	7.48
	Dec-04	0.687	13.1	1.83	14.93	9.9	8.45
1st 2005	Jan-05	0.741	11.4	1.44	12.84	10.6	9.02
	Feb-05	0.774	9.9	0.4	10.3	11.5	9.75
	Mar-05	0.954	12.8	0.43	13.23	12.1	10.26
2nd 2005	Apr-05	1.09	7.7	0.12	7.82	11.5	9.81
	May-05	1.1	17.3	0.77	18.07	12.0	10.19
	Jun-05	1.11	0	8.9	8.9	11.1	9.47
3rd 2005	Jul-05				0	0.0	0.00
	Aug-05				0	0.0	0.00
	Sep-05				0	0.0	0.00

Arizona Guidance Manual for Constructed Wetlands for Water Quality Improvement



Arizona Department of
Environmental Quality

Principal Authors

Robert L. Knight, Richard Randall, and Michelle Girts (CH2M HILL)
James A. Tress (SWCA Inc.)
Mel Wilhelm (3C Consulting)
Robert H. Kadlec (Wetland Management Services)

May 1995

TM 95-1

Table 3-3. Summary of North American Wetland Treatment System Operational Performance.

Parameter	Type ^a	Average Concentration (mg/L)			Average Mass (kg/ha/d) ^b		
		In	Out	Eff (%)	Loading	Removal	Eff (%)
BOD ₅	SF	30.3	8.0	74	7.2	5.1	71
	SSF	27.5	8.6	69	29.2	18.4	63
	ALL	29.8	8.1	73	10.9	7.5	68
TSS	SF	45.6	13.5	70	10.4	7.0	68
	SSF	48.2	10.3	79	48.1	35.3	74
	ALL	46.0	13.0	72	16.8	11.9	71
NH ₄ -N	SF	4.88	2.23	54	0.93	0.35	38
	SSF	5.98	4.51	25	7.02	0.62	9
	ALL	4.97	2.41	52	1.46	0.38	26
NO ₂ + NO ₃ -N	SF	5.56	2.15	61	0.80	0.40	51
	SSF	4.40	1.35	69	3.10	1.89	61
	ALL	5.49	2.10	62	0.99	0.54	55
ORG-N	SF	3.45	1.85	46	0.90	0.51	56
	SSF	10.11	4.03	60	7.28	4.05	56
	ALL	4.01	2.03	49	1.71	0.95	56
TKN	SF	7.60	4.31	43	2.20	1.03	47
	SSF	14.21	7.16	50	9.30	3.25	35
	ALL	8.11	4.53	44	2.99	1.29	43
TN	SF	9.03	4.27	53	1.94	1.06	55
	SSF	18.92	8.41	56	13.19	5.85	44
	ALL	9.67	4.53	53	2.98	1.52	51
ORTHO-P	SF	1.75	1.11	37	0.29	0.12	41
	SSF	ND	ND	ND	ND	ND	ND
	ALL	1.75	1.11	37	0.29	0.12	41
TP	SF	3.78	1.62	57	0.50	0.17	34
	SSF	4.41	2.97	32	5.14	1.14	22
	ALL	3.80	1.68	56	0.73	0.22	31

Notes:

^aSF - Surface Flow, SSF - Subsurface Flow.

^bkg/ha/d x 0.892 = lb/ac/d.

ND = No data.

Eff (%) = Efficiency of concentration reduction or mass removal.