

ORIGINAL

JOHNSON UTILITIES, L.L



0000075806

5230 East Shea Boulevard * Scottsdale, Arizona 8525
PH: (480) 998-3300; FAX: (480) 998-7968

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August 10, 2007

AZ CORP COMMISSION
DOCKET CONTROL

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

RE: Johnson Utilities, H2O, Diversified Water Utilities, Queen Creek Water Company:
Compliance with Decision No. 65840
Notice of Violation from ADEQ dated August 2, 2007
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 6, 2007, Johnson Utilities, L.L.C. received a letter from the Arizona Department of Environmental Quality ("ADEQ") dated August 2, 2007, regarding the issuance of a Notice of Violation ("NOV") for the accusation of an accidental, unpermitted discharge of effluent on May 21, 2007 into the Pecan Creek Wastewater Treatment plant. The NOV was incorrectly addressed to Johnson International, Inc. A copy of the letter and the NOV are attached hereto as Attachment 1. Also attached hereto is a response to the NOV from Mr. Brian P. Tompsett, Executive Vice President of Johnson Utilities, dated August 9, 2007 as Attachment 2. Pursuant to the decision we will continue to provide any correspondence between ADEQ until closure of the NOV has been reached.

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

Cc: Steve Olea, Assistant Director
Brian Bozzo, Compliance Manager
Dick Sallquist, Sallquist, Drummond & O'Connor
Brian Tompsett, Johnson Utilities
Docket Control - 23 copies

Arizona Corporation Commission
DOCKETED

AUG 10 2007

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ATTACHMENT 1

AUG 06 2007



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

August 2, 2007

COPY

Mr. Brian Tompsett, Executive Vice President
Johnson Utilities L.L.C.
d/b/a Johnson Utilities Company
5230 East Shea Blvd.
Scottsdale, Arizona 85254

Re: Issuance of Notice of Violation ("NOV") to Johnson Utilities regarding the Pecan WRP,
case ID No. 84092

Dear Mr. Tompsett:

Enclosed is a Notice of Violation ("NOV") regarding the recent effluent spill at the Pecan WRP that occurred on May 21, 2007. The NOV is being issued for the application of reclaimed water to other than a direct reuse site.

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.

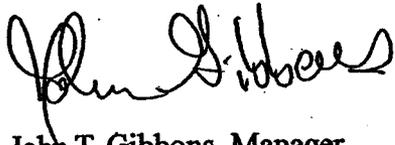
ADEQ reserves the right to take a formal enforcement action, such as issuing an administrative order or filing a civil lawsuit, regardless of whether the Department has issued an NOV. Neither ADEQ's issuance of an NOV nor its failure to do so precludes the Department from pursuing these remedies. However, 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 should have any questions please contact me at (602) 771-4841, or Bill Hare at (602) 771-4838.

Northern Regional Office
1801 W. Route 66 • Suite 117 • Flagstaff, AZ 86001
(928) 779-0313

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

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Gibbons". The signature is written in a cursive style with a large initial "J".

John T. Gibbons, Manager
Water Quality Field Services Unit

cc: Pinal County Health Department
Facility File, Inventory No.105324
WQFSU Reading File



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 #: 84092

August 2, 2007

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

Subject: Pecan Water Reclamation Plant, Place ID 18583
28539 N Gantzel 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 Pecan Water Reclamation Plant 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 an inspection completed on May 22, 2007.

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

1. A.A.C. R18-9-704(G)(3)(b)

Application of reclaimed water to an area other than a direct reuse site.

On May 21, 2007 the facility experienced a berm failure of the southwest Pecan Orchard pond that resulted in the discharge of an estimated 500,000 gallons of A+ effluent onto plant grounds. An estimated 5-10% of the effluent was discharged via sub-surface methods onto Ironwood Road causing two soil subsidence's (sink holes) near the WWTP.

II. DOCUMENTING COMPLIANCE

1. Within 90 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or a plan of action that outlines efforts to prevent a re-occurrence of the discharge of effluent onto plant grounds and offsite areas.

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
1801 West Route 66 Suite 117 Flagstaff, AZ 86001
(928) 779-0313

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

Printed on recycled paper

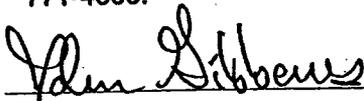
Arizona Department of Environmental Quality, Attention: William J. (Bill) Hare, Water Quality Field Service Compliance Unit, 1110 W Washington St, Phoenix, AZ 85007 MC: 5415B-1

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.



John T. Gibbons, Manager
Water Quality Field Service Compliance Unit



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



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

June 27, 2007

Brian Tompsett, Vice President
Johnson Utilities Company
5230 E. Shea Blvd., Suite 200
Scottsdale, AZ 85254

Re: Spill Inspection of the Pecan Water Reclamation Plant (WRP), Inventory No. 105324, Place ID 18583, APP No. P105324, Type 2 Reclaimed Water General Permit Nos. R105491 and Type 3 Reclaimed Water General Permit No. R105778, Middle Gila River Watershed, Inspection ID No. 103508

Dear Mr. Tompsett:

The Water Quality Field Services (WQFSU) of the Arizona Department of Environmental Quality (ADEQ) has enclosed an inspection report regarding the inspection conducted at the above referenced facility on May 22, 2007. The inspection was conducted to determine compliance with Arizona Revised Statute (A.R.S.) Title 49, Chapter 2, Article 3 and Arizona Administrative Code (A.A.C.) Title 18, Chapter 9, and pursuant to the authority in A.R.S. §49-203(B)(1) and A.A.C. R18-9-110 (A).

As indicated in the enclosed "Summary of Inspection," the inspection noted that the facility had experienced a 500,000 gallon spill of A+ effluent mostly contained on plant grounds on May 21, 2007.

Potential deficiencies were noted during the course of the inspection, so additional correspondence regarding the inspection may be forthcoming. ADEQ will provide monthly updates on the status of any agency action resulting from the inspection as required by A.R.S. § 41-1009(H).

ADEQ thanks you for your efforts in protecting the public health and the environment.

Sincerely,

William J. Hare, E.P.S.
Water Quality Field Services Unit

cc: Pinal County Health Department
Michele Robertson, Manager, WPS, ADEQ

Northern Regional Office
1801 W. Route 66 • Suite 117 • Flagstaff, AZ 86001
(928) 779-0313

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

**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER QUALITY DIVISION - WATER QUALITY COMPLIANCE SECTION
Field Services Unit**

SUMMARY OF INSPECTION - WASTEWATER

Facility: Pecan Ranch WRP

Inventory No: 105324

Aquifer Protection Permit (APP) No: P105324

AZPDES Permit No: N/A

Reuse Permit No: R105491

Place ID: 18583

Inspected by: William J. Hare, E.P.S.

Inspection Date: May 22, 2007

Entry Time: 6:30am

Exit Time: 7:45am

Accompanied by: Rod Spencer, Operator

Report Date: June 27, 2007

YES NO N/A Pending

1. WWTF quality meets the following permit requirements:
 - A. Aquifer Protection Permit
 - B. Reuse Permit
 - C. AZPDES Permit
2. A certified operator is employed by the owner per ADEQ regulations.
3. This system meets ADEQ requirements for operation and maintenance as noted in the APP

			X*
			X*
X			
X			
			X*

*The inspection focused on the reported effluent spill of Class A+ effluent onto plant grounds and onto adjacent Ironwood Road. The 1st quarter SMRFs for 2007 were reviewed for the APP. No exceedances noted. The inspection noted that the spill was caused by a berm failure in the southeast corner of the southwest Pecan Orchard, which contained A+ effluent.

Facility Description:

The Pecan Water Reclamation Plant (WRP) Phase II has the capacity to collect and treat a maximum average monthly flow of 2.0 MGD of wastewater from an ADEQ approved service area. The WRP treatment process consists of an influent lift station, headworks with barscreen, extended aeration with nitrification-denitrification, clarifiers, disc filters, ultraviolet (UV) disinfection, sludge digesters, sludge dewatering belt filter press, and an effluent pump station. All the WRP units are constructed of either reinforced concrete or steel. All the odor and noise

producing units which include the headworks, the extended aeration process including the blower room, and the sludge dewatering belt filter press are enclosed inside a metal building with odor control scrubbers installed on all vents. The entire WRP is surrounded by an aesthetic, 6 foot tall, chain link fence and block wall. All the effluent generated is discharged for reuse as regulated under valid Reclaimed Water Reuse Permits. All of the sludge, including the screenings, grit, and scum, is hauled off site for proper disposal at an approved landfill. Depth to groundwater at the WRP site is approximately 377 feet and the direction of groundwater flow is to the northwest.

The WRP produces reclaimed water meeting Class A+ Reclaimed Water Standards (A.A.C. R18-11, Article 3) and may be delivered for beneficial use under a valid reclaimed water permit under A.A.C. R18-9 Article 7.

INSPECTION PURPOSE AND SCOPE

The purpose of the site visit was to inspect the details of a 500,000 gallon reported spill of A+ effluent onto plant grounds. A small portion of the spill reached Ironwood Road.

APP Status, P105324, LTF No. 41570

The Pecan WRP operates under the authority of an APP that was issued on November 20, 2006. This permit amendment contains various tables for effluent monitoring regarding the four phases of construction. The Pecan WRP is currently in Phase II, with flows up 2.0 MGD. The permit also contains monitoring for reclaimed water as noted in Table 1B. Daily fecal coliform and turbidity monitoring is required.

Summary of Field Observations:

The following comments are based on observations made by WOFSU staff during the inspection and information furnished by the operator:

During the early morning hours of May 21, 2007, the Pecan Ranch WRP experienced an estimated 500,000 gallon effluent spill from the southwest Pecan Orchard pond that adjoins the Pecan WRP. The 500,000 estimate was provided by the operator at the plant based on the amount the water levels from the impacted Pecan Orchard. The spill was mostly discharged onto plant grounds. The reported cause of the spill was berm failure of the southeast corner of the southwest Pecan Orchard pond. The following details and observations regarding the spill were collected during the inspection:

- The berm area for the southeast corner of the southwest Pecan Orchard Pond had been breached causing the discharge of approximately 500,000 gallons of A+ effluent.
- The effluent flowed onto plant grounds and into the effluent wetwell located on the east side of the plant. Some of the effluent also spilled into the effluent pond also located on the east side of the WRP. The effluent that was spilled into the effluent wetwell/effluent pond was automatically pumped into the Pecan Orchard Ponds via pumps and motors within those components.

- A portion of the effluent spill, estimated at 5-10% of the total spill, reached Ironwood Road. There was a large subsidence on Ironwood Road directly in front of the plant. The effluent flowed about 50-100 yards south on Ironwood Road near two road subsidence areas on the shoulder of Ironwood Road.
- It is believed that the effluent had leached into the piping (about eight feet below grade) located on the south side of the plant and traveled the piping area to Ironwood and then flowed south on Ironwood Road in the piping subsurface area. This event is believed to have been a contributing factor to the sink hole(s) that developed in Ironwood Road directly in front of the plant. The operator speculated that poor soil compaction in the piping might have contributed to this event.
- The repair was ongoing at the time of the inspection, but the discharge of effluent had ceased on May 21, 2007.
- The erosion patterns within the plant grounds substantiated that most of the effluent spilled into the effluent wetwell and adjacent effluent pond.

Spill Calculation Estimates:

The southwest Pecan Orchard pond area is estimated @ 1 1/2-2 surface areas. The high water mark from previous day's levels was noted by the operator to be about 10-12 inches lower. The spill amount was estimated between 1 -2 surface acre feet of water.

Flow Rate information:

The operator noted that flows during recent weeks have averaged near 1.2 MGD. This includes the connections from Pecan Creek and various other communities including Cambria, Links Estates, etc. The facility is currently operating in Phase II with a design capacity of 2.0 MGD. Phases III and IV will be constructed when flow rates require an expansion.

Effluent quality and a review of the self monitoring report forms (SMRFs)

Effluent quality during the last quarter was good. No exceedances were noted. The rolling geometric mean for Total Nitrogen has ranged from 2-4 mg/L. No Fecal Coliform exceedances were noted during the last several months including the 1st quarter of 2007 and the 1st quarter of 2007.

Inspection of WWTP components:

An inspection of the WWTP indicated that all of the components were functioning adequately. Effluent quality was good on day of the inspection, with the turbidity of 1.0 N.T.U. The facility utilizes disc filtration with ultraviolet (UV) disinfection and liquid chlorine as a backup. During the last several months, effluent sampling has not revealed any exceedances as the results have been < 1 c.f.u./100ml.

Type 3 Reclaimed Water General Permit, R105778, LTF No. 42539
Type 2 Reclaimed Water General Permit, R105491, Pecan Orchard

The inspection noted that the pecan tree orchard was being irrigated with treated effluent. Flood irrigation is permissible with non-open access areas such as vineyards and orchards. The operator noted that daily inspections of the reuse area (orchard) were conducted. No fissures or other observations were made during routine inspections of the Pecan Orchard to indicate that the berm would fail. Much of the reclaimed water is also being utilized for dust control for construction of home sites in an area known as Johnson Farms. At the time of the inspection there was about three feet of standing water within Pecan Orchard bermed area.

These reuse activities are permitted with above noted Reclaimed Water Type 2 and Type 3 General Permits.

Efforts underway for additional disposal options of Class A+ effluent:

- APP P105324 is pending a permit amendment under LTF No. 33656 that will authorize the discharge of treated effluent into Queen Creek as a sub-surface discharge.
- Johnson Utilities has also applied for an AZPDES Permit to discharge treated effluent into Queen Creek as a subsurface discharge.
- The utility has constructed a force main to deliver Class A+ effluent to a golf course currently being constructed at Johnson Farms. The golf course will be an 18 hole golf course with several lakes for effluent storage and numerous greens. The golf course should be operational within 60-90 days. This site will be able to accept over 1 MGD and larger amounts of effluent depending on weather conditions.

Findings:

The inspection found that an estimated 500,000 gallons of Class A+ effluent was spilled onto plant grounds, after a bermed area for the Pecan Orchard failed and caused the discharge. Most of the effluent was contained on plant grounds and flowed into the effluent wetwell and/or the onsite effluent pond and thereby automatically recycled into the Pecan Orchard ponds. An estimated 5-10% of the spill reached the piping area underneath Ironwood Road via a subsurface flow. This is believed to be a contributing factor in the soil subsidence and sink holes that occurred on the east shoulder of the Ironwood Road near the plant.

Compliance Summary

1. Aquifer Protection Permit (APP). (a) The APP requires daily effluent monitoring for flow. Fecal Coliform and Total Nitrogen is monitored on a monthly basis. Thirteen metals are monitored on a quarterly basis and volatile organic compounds (VOCs) are monitored on a semi-annual basis. Operational monitoring is also required on a daily basis. A review of the 1st quarter of 2007 SMRFs did not reveal any deficiencies.

2. Operator Certification Requirements. This facility is rated as a Grade 3 WWT and a Grade 2 WWC wastewater treatment facility. Rod Spencer is the onsite operator who is certified by

ADEQ both as a Grade 3 WWT and a Grade 2 WWC. In addition, Greg Brown is certified by ADEQ as a Grade 4 WWT and a Grade 4 WWC.

3. Operation & Maintenance (O&M) Requirements. The inspection found the WRP activated sludge plant to be performing good at the time of the inspection. The various components including the motors and blowers were functioning adequately.

END OF REPORT

ATTACHMENT 2

JOHNSON UTILITIES, L.L.C

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

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

August 9, 2007

RE: Pecan Wastewater Reclamation Plant, Place ID 18583
Notice of Violation, Case ID #: 84092

Dear Mr. Hare:

On August 2, 2007, Arizona Department of Environmental Quality ("ADEQ") issued Johnson International, Inc. a Notice of Violation ("NOV"), Case ID #:84092. The NOV was issued for alleged violations at the Pecan Water Reclamation Plant operated and owned by Johnson Utilities, L.L.C. ("JU") Johnson International is not the owner of the facility and it is inappropriate for ADEQ to address the NOV to this entity. First we would like to address the alleged violation of Aquifer Protection Permit, P-105324. The alleged violation was for a berm failure of the southwest Pecan Orchard pond that resulted in the discharge of an estimated 500,000 gallons of A+ effluent onto the plant grounds. An estimated 5-10% of the effluent was discharged via sub-surface methods onto Ironwood Road causing two soil subsidences. The legal authority cited by ADEQ of the alleged violation is A.A.C. R18-9-704(G)(3)(b). The wording of this rule clearly envisions an active, intentional reuse. The discharge this NOV is referring to was an accident. We did not note any accidental discharge requirements within this rule. We would appreciate an explanation as to why ADEQ feels the application of this Section is appropriate.

It is also inappropriate for ADEQ to issue the NOV against the Pecan WRP as the violation is for the reclaimed water site operating under a Type 2 Reclaimed Water General Permit, R105491. If ADEQ continues to think this NOV is appropriate and justified, we would request that ADEQ, terminate this NOV and reassign this NOV to the Type 2 General Permit, R105491 under the name of Johnson Utilities, L.L.C.

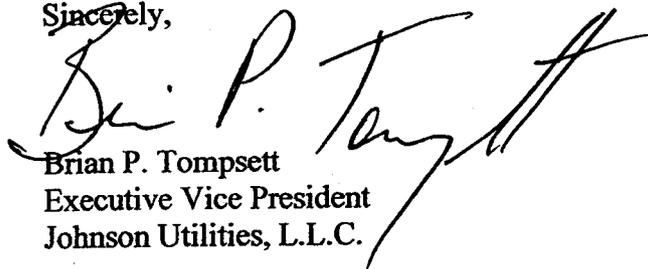
The berm failure was repaired the day of the failure. No subsequent failure has been reported or occurred. The operation under the Type 2 General Permit has been modified to ensure that excessive loading of the pond will not happen again. The valves going to the ponds were left open for some time allowing for the excessive loading. The operators at the plant have received additional training on the correct operation of the reuse site.

This letter serves as the documentation required in accordance with the Notice of Violation, Section II. Documenting Compliance, regarding implementation of procedures to prevent a reoccurrence of these violations.

William J. Hare
August 9, 2007
Page 2 of 2

It is also my understanding that this documentation will result in the closure of the Notice of Violation, Case ID #: 34567. If you have any questions or comments, please contact me at (480) 998-3300.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian P. Tompsett". The signature is written in a cursive style with a large, sweeping flourish at the end.

Brian P. Tompsett
Executive Vice President
Johnson Utilities, L.L.C.