

ORIGINAL



0000094842

RECEIVED

2009 MAR 24 P 4: 54

Arizona Corporation Commission

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

DOCKETED

MAR 24 2009

DOCKETED BY

1 FENNEMORE CRAIG, P.C.  
A Professional Corporation  
2 Jay L. Shapiro (No. 014650)  
Patrick J. Black (No. 017141)  
3 3003 N. Central Ave., Suite 2600  
Phoenix, Arizona 85012  
4 Telephone (602) 916-5000  
Attorneys for Coronado Utilities, Inc.

BEFORE THE ARIZONA CORPORATION COMMISSION

8 IN THE MATTER OF THE  
APPLICATION OF CORONADO  
9 UTILITIES, INC. FOR A CERTIFICATE  
OF CONVENIENCE AND NECESSITY  
10 TO PROVIDE WASTEWATER SERVICE  
IN PINAL COUNTY, ARIZONA.

DOCKET NO: SW-04305A-05-0086

12 IN THE MATTER OF THE  
APPLICATION OF CORONADO  
13 UTILITIES, INC., AN ARIZONA  
CORPORATION, FOR AUTHORITY TO  
14 ISSUE SHORT AND LONG-TERM  
DEBT INSTRUMENTS IN  
15 CONNECTION WITH FINANCING  
THE ACQUISITION OF THE  
16 WASTEWATER UTILITY PLANT OF  
BHP COPPER, INC. AND  
17 CONSTRUCTING IMPROVEMENTS  
THERE TO.

DOCKET NO. SW-04305A-05-0087

(Consolidated)

NOTICE OF COMPLIANCE WITH  
DECISION NO. 68608

19 Coronado Utilities, Inc. ("Coronado Utilities" or "Company") hereby files this  
20 Notice of Compliance pursuant to Decision No. 68608 (March 23, 2006). Decision 68608  
21 requires the Company to annually file certification from the Arizona Department of  
22 Occupational Safety and Health ("ADOSH") that the Company has utilized ADOSH  
23 consultation services, and that the Company's operators, agents, and employees have  
24 taken appropriate training.

25 Attached hereto is as Exhibit 1 is a confirmation letter from Babak Emami, CET  
26 Supervisor, and the Consultation Report. The Company has taken steps to correct the two

1 hazards identified during the consultation (*see* Attachment B to the Consultation Report).

2 DATED this 24<sup>th</sup> day of March, 2009.

3 FENNEMORE CRAIG, P.C.

4  
5 By   
6 Jay L. Shapiro  
7 Patrick J. Black  
8 Attorneys for Coronado Utilities, Inc.

8 ORIGINAL and 15 copies of the foregoing  
9 filed this 24<sup>th</sup> day of March, 2009 with:

10 Arizona Corporation Commission  
11 Docket Control  
12 1200 West Washington Street  
13 Phoenix, Arizona 85007

12 COPY of the foregoing hand-delivered  
13 this 24<sup>th</sup> day of March, 2009 to:

14 Kim Battista  
15 Compliance Section  
16 Arizona Corporation Commission  
17 1200 West Washington Street  
18 Phoenix, AZ 85007

17 By   
18 2179659.1/12923.001

19  
20  
21  
22  
23  
24  
25  
26

# **EXHIBIT**

**1**

# THE INDUSTRIAL COMMISSION OF ARIZONA

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH  
P. O. BOX 19070  
PHOENIX, AZ 85005-9070



BRIAN C. DELFS, CHAIRMAN  
JOE GOSIGER, VICE CHAIRMAN  
LOUIS W. LUJANO, SR., MEMBER  
MARCIA WEEKS, MEMBER  
JOHN A. MCCARTHY, JR., MEMBER

DARIN PERKINS, ADOSH DIRECTOR  
(602) 542-5795  
FAX (602) 542-1614

LAURA MCGRORY, ICA DIRECTOR  
TERESA HILTON, SECRETARY

February 24, 2009

Mr. Jason Williamson, President  
Coronado Utilities, Inc.  
6825 E. Tennessee Ave., Suite 547  
Denver, CO 80224

Dear Mr. Williamson:

In response to your request, on 02/13/2009 Luis Lopez conducted a Full Service Health survey of the waste water treatment plant located at 88606 E. Magma Plant Rd., San Manuel, AZ. As agreed upon, those hazards that were identified and classified as **serious** show a projected schedule for correction. Included with this report is attachment B - Employer Report of Action Taken, a form to record the actions you are taking to correct those hazards identified. **This form must be returned to us on or before the scheduled correction date.**

The enclosed report presents recommendations for correcting identified hazards and for preventing their recurrence. These recommendations also include a discussion concerning management practices to ensure ongoing, systematic hazard prevention.

Accompanying this report is a list of hazards which includes a description of the serious hazard(s) and the date by which we mutually determined that the hazard(s) would be corrected. This List of Hazards must be posted, unedited, in a prominent location where it is readily observable by all employees for three working days or until the hazard(s) have been corrected, whichever is later. If we approve an extension to the correction due dates, a new List of Hazards will be sent to you showing the revised date(s).

During the time that you are working on correcting these hazard(s), ADOSH may not conduct a scheduled inspection at your work site, provided that: a) you are within the correction due dates, b) interim protection is in place and c) the List of Hazards is posted. Should these conditions not be met, an ADOSH compliance inspection may be conducted.

Also enclosed is a survey form. ADOSH is constantly striving to improve our consultation service and we would appreciate receiving feedback from you regarding the service you received. You may return the survey with the form indicating the corrective action taken.

We look forward to hearing from you concerning the steps you took in response to this report. This information will help us to assist you in providing a safe and healthful workplace for your employees. It can also provide us with information about the effectiveness of your program.

We encourage you to inform your employees of the action you take. This knowledge will help them to do their part in maintaining a safe and healthful workplace and it will let them know of your concern for their welfare.

Thank you for seeking our assistance. If you need additional information, we encourage you to contact us.

Sincerely,



Babak Emami  
CET Supervisor  
Phoenix ADOSH Office

**CONSULTATION REPORT**

**for**

**Coronado Utilities, Inc.  
6825 E. Tennessee Ave. Suite # 547  
Denver, CO 80224**

**Submitted By:**

**Consultation, Education & Training, ADOSH  
P. O. Box 19070  
800 W. Washington Street, Room 207  
Phoenix, AZ 85005-9070**

THE INDUSTRIAL COMMISSION COMPLIES WITH THE AMERICANS WITH  
DISABILITIES ACT OF 1990. IF YOU NEED THIS DOCUMENT IN ALTERNATIVE  
FORMAT, CONTACT SPECIAL SERVICES AT (602) 542-5991.

## TABLE OF CONTENTS

### Executive Summary

- Introduction
- Summary of the Visit
- Safety and Health Program Management
- Safety and Health Hazards Found
- Notice of Obligation

### Attachments

- A - Report of Hazards Found
- B - Employer Report of Action Taken
- C - Safety and Health Program Management
  - Safety and Health Program Management, with Employee Involvement . . . . . 1
  - Management Leadership and Employee Involvement . . . . . 1
  - Worksite Analysis to Identify Hazards and Potential Hazards . . . . . 2
  - Hazard Correction And Control . . . . . 3
  - Safety and Health Training . . . . . 4

## Executive Summary

### Introduction

This report provides the results of a full service health survey. When referring to this report, please reference the Visit Number 504966391.

### Summary of the Visit

Mr. Jason Williamson, President of Coronado Utilities, Inc., requested a full service, safety and health survey of the waste water treatment plant, located at 88606 E Magma Plant Rd, San Manuel, AZ. This waste water treatment plant is owned by Coronado Utilities, Inc., and is partially managed, as a contractor, by Algonquin Water Services, LLC. This report is addressed to Mr. Williamson, representing the plant's owner and Mr. Tony Moreno, the plant's operator.

On 02/13/2009, an opening conference was conducted by Luis Lopez, ADOSH Industrial Hygiene Consultant. During this opening, I met with Mr. Moreno, who was in charge of the waste water treatment facility at the time of the survey. Steve Chiquete of Algonquin Water Services, LLC was also present during this opening conference. I discussed with Mr. Moreno and Mr. Chiquete the purpose and scope of this survey. Also, we discussed the responsibility of the employer to correct any serious hazards if found.

After the opening conference, I reviewed the existing written safety & health programs, which included confined space entry, hazard communication, and lockout/tagout, which addressed the potential hazards present at this location. After the programs' review, we walked around the plant, accompanied by Mr. Moreno and Mr. Chiquete. This is a relatively new (about 2 y/o) waste water treatment facility providing sewer services to the town of San Manuel, AZ. Mr. Moreno and Mr. Chiquete are the only employees regularly exposed to the hazards of this facility.

### OCCUPATIONAL HAZARDS

The occupational exposures of confined space entry has almost been eliminated at this facility by the fact that all the underground tanks are equipped with pumps capable of being pulled out of the tank to be serviced outside. However, the potential exposure still exists due to the fact that on rare occasion, Mr. Moreno or Mr. Chiquete may have to enter the confined space. If the pump was to get stuck on the railing, one of the two employees would have to enter the tank to release the pump and fix the rail. A permit would have to be completed for that entry, and the proper procedures would need to be followed, including (but not limited to) documentation of the air monitoring conducted prior to entry. According to their written confined space program, a retrieval system is required to be in place during a confined space entry. This equipment would be used for non-entry rescue, in case it was needed, and would include a retrieval line, full-body harness, and a lifting device. Also, a rescue service designated to rescue employees from this location's permit space is the Town of San Manuel's Fire Department. The employer's rescue arrangements with this local fire department have room for improvements, which are addressed in the recommendations section below.

Other than those associated with the entry to permit spaces, no respiratory hazards that would require the use of respirators was observed or reported during the survey. Emergency medical services are available locally by calling 911. Similarly, other than in association with permit space entry, no LO/TO is needed since all major equipment repair or maintenance is done by outside contractors.

During the review of OSHA-required programs and walk around the facility, the following OSHA standards' violations were found and discussed in detail:

### FORKLIFT TRAINING

During this survey, a powered industrial truck (PIT), equipped with forks, was available for hauling a container of waste produced by the raw sewage screening process. This PIT was operated by Mr. Moreno, who had been trained in the operation of other types of forklifts, and more than 3 years ago. Initial training and scheduled refresher training is required by the OSHA standards.

### HAZARD COMMUNICATION TRAINING

The most significant occupational health exposure for employees in this facility are the chemicals being used for water treatment. Primarily, a sodium hypochlorite (12.5%) aqueous solution is used in the water treatment process. This chemical is stored in a 900-gallon, plastic tank, from where the chemical is fed (piped) automatically. The employees have very limited exposure to this chemical since the supplier refills the dispensing plastic tank. No other chlorination system is used in this plant. Other incidental chemicals used include lubricant (grease), and a small amounts of chemical reagents used for testing the water pH level. The employer has a written hazard

communication program on site, with most program elements properly implemented, including (but not limited to) availability of all the required material safety data sheets (MSDSs), and container labeling. However, Mr. Moreno, who has been employed with Coronado Utilities, Inc. for about 4 months, had not received training as required by the OSHA hazard communication standard.

The above hazards are further identified and described in this report under Attachment A - Report of Hazards Found.

### RECOMMENDATIONS

The following safety and health issues, for which no hazard details were necessary, were reviewed with the employer, and the corresponding recommendations made:

#### **CONFINED SPACE RESCUE SERVICE**

During this survey, a written confined space entry program was available for my review, and included the requirements of a permit system. Although Coronado's current policy is not to allow employees to enter any confined space, there is a potential for entry any time in the future, if an emergency situation would require fixing of the pumps' railing retrieval system. Review of the existing policies and procedures in place at this location indicate room for improvement in the rescue service arrangements. Although the written confined space entry program addresses the OSHA standards' requirement for the evaluation and selection of the most qualified rescue service prior to any employee entering a permit required confined space, the actual procedures have not been conducted by Mr. Moreno or any one else at this location. Similarly, Mr. Moreno has not been trained on confined space entry. The fact that the two OSHA standards' requirements mentioned above have not been done is not a violation of the OSHA standards because currently Coronado employees are not allowed to enter confined spaces. However, if Coronado employees were required in the future to enter a confined space, the required evaluation and selection of the rescue service, and the employee training shall be performed prior to entry. To be ready for when such time comes, it is strongly recommended that procedures for the evaluation and selection of a rescue service, as well as training of Mr. Moreno, be completed in advance to the time when it may be required.

#### **EYE WASH TESTING**

An eye wash/shower station provided for the employees' protection from accidental exposure to the sodium hypochlorite solution had not been tested per the ANSI standard specifications. The eye wash/shower station must be inspected and tested weekly to ensure its continued operating conditions. Also, a written record of this periodic testing needs to be maintained.

This recommendation was made before, during the last consultation visit to this facility. Because Mr. Moreno is a new employee, he was not aware of this necessary testing procedure. In order to avoid any future discontinuity in the performance of necessary eye wash/shower testing procedures, it is recommended that a written policy and procedures be added to Coronado's safety & health programs to address these requirements.

After the walk-around, I conducted a closing conference with Mr. Moreno or Mr. Chiquete. We discussed the above findings, explaining to them which one was serious, and how to abate them in detail. I further explained their responsibility to abate the hazards described in the Hazards Found form. I also expressed that they are more than welcome to contact me if they should have any questions regarding this survey.

### **Safety and Health Program Management**

We encourage employers to create, implement and maintain a Safety and Health Program which provides policies, procedures and practices that provide employees with safe and sanitary working conditions. This Program must identify occupational hazards that employees might encounter in their work. This Program should contain five basic elements:

1. Management commitment, and leadership that in turn provides for employee input and involvement. Management commitment is essential as a first step in establishing employee safety. That commitment should follow through the entire operation every day. Employee involvement is equally essential to have a functioning safety program.
2. Every work site must be analyzed for hazard identification and hazard assessment. This is a management function that should not be delegated. Employee involvement is equally critical, and a commitment to avoid or protect against the hazards identified is paramount if injuries are to be avoided.
3. Identified hazards should be controlled, eliminated or protected against injury to employees. The controls can be in many forms, but must be active and enforced. Again a commitment from management and a strong commitment from employees are required to maintain a safe workplace.

4. Training is central to all safety programs. Management should commit assets as required to complete effective training, and employees should commit to learning from the training, and placing the concepts learned into operation in their work.
5. Finally, records should be kept, and used for trend analysis, cluster development of injuries, and should record reasons for all accidents and near misses. Having this information to analyze will supplement the above portions of the program, and allow management insight to the effectiveness of the program, and a means to determine where corrective action needs to be applied. In addition, records must be kept for all recordable injuries as per the OSHA 300 log requirements. The OSHA Log 300 information will be requested at every survey, or Compliance Inspection.

During this survey, I determined that the employer is pro-active in their approach to the safety and health of its employees. Once the violations addressed above are corrected and the recommendations made are implemented, this employer should be performing at a level that is required for compliance with the OSHA standards. Coronado Utilities, Inc. provides the necessary written programs for compliance with the OSHA standards. However, the program weaknesses identified above and OSHA violations found in this waste water treatment plant are in part a direct reflection on corporate management's failure to periodically audit this facility for compliance with the OSHA standards. Perhaps, corporate safety & health audits, in addition to the annual ADOSH surveys, need to be conducted more frequently, and every time there are personnel changes (new employees). Coronado Utilities' corporate management contacted ADOSH consultation to ensure that the facility was in compliance with the OSHA standards.

### Safety and Health Hazards Found

The hazards found during the survey of your workplace is attachment A - Report of Hazards Found. Each hazard is categorized and described and recommendations are given for its correction. Hazards are in order of item number, not necessarily in order of importance.

Hazards could be in any of the following categories:

**IMMINENT DANGERS** - are hazards that can reasonably be expected to cause death or serious physical harm immediately or before this written report is received. Any such hazards would have been corrected immediately, and no correction dates or space for correction method would appear in a Report of Hazards Found.

**SERIOUS HAZARDS** - can cause an accident or health hazard exposure resulting in death or serious physical harm. Each such hazard would be assigned a mutually agreed-upon date by which correction is to be completed.

**NONSERIOUS HAZARDS** - lack the potential for causing serious physical harm, but could have a direct impact on employee safety and health. We encourage you to correct these hazards and notify us of the action taken.

**REGULATORY HAZARDS** - reflect violations of the Arizona Division of Occupational Safety and Health (ADOSH) posting requirements, recordkeeping requirements, and reporting requirements as found in A.A.C. R20-5-609, 29 CFR 1903 and 29 CFR 1904. No correction dates have been set, but we request notification of their correction.

Under ADOSH regulations, each cited piece of equipment (machine or device) must be tagged at or near the controls or hazard with a warning tag, until the hazard is corrected or the item is permanently removed from service. This is in addition to rather than in place of the current requirement to post citations, and is meant to enhance employee knowledge, a prerequisite for employee involvement in the management of workplace safety and health. The regulation also requires certification to ADOSH of correction, including a signature and signature date as well as the correction information requested in attachment B - Employer Report of Action Taken to this report. We recommend that you treat attachment A - Report of Hazards Found as a group of citations, tagging any piece of equipment on which a serious violation was found.

### **Notice of Obligation**

As you know, we are required to notify the ADOSH Compliance Section if serious hazards are not corrected within the agreed-upon time. Extensions may be granted if you encounter difficulties completing correction within these time frames, but we must receive your request for an extension in writing before the correction due date. Although we are not required to notify ADOSH if nonserious hazards are not corrected, these hazards could result in injury

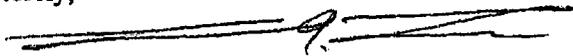
to your employees. Moreover, your company would be subject to citation for them in the event of an ADOSH compliance inspection. Please mail or FAX attachment B - Employer Report of Action Taken, completed to show correction methods, on or before March 24, 2009.

In the event of an ADOSH compliance inspection, it is important to remember that the Compliance Officer is not legally bound by the consultant's advice or by the consultant's failure to point out a specific hazard. You may, but are not required to, furnish a copy of this report to the Compliance Officer, who may use it to determine your good faith efforts toward safety and health and reduce any proposed penalties. You are, however, required to furnish any employee exposure data from this report as required by 29 CFR 1910.1020.

**Notice of Safety and Health Achievement Recognition Program**

Employers who commit to correcting all the hazards identified by consultants in the course of a full service safety and health survey and establishing an effective safety and health program, and who meet certain other requirements, can be recognized under ADOSH's Safety and Health Achievement Recognition Program (SHARP).

Sincerely,



---

Luis A. Lopez  
State Industrial Hygiene Consultant  
ADOSH-CET

## **Attachments**

## A - Report of Hazards Found

Item Number	0001	Instance	A	Correction Due Date	03/24/09
Hazards Type	Serious				

Standard: 1910.178(l)(1)(i)

### Condition:

An operator was not trained in the safe operation of powered industrial trucks, as shown by [...]

### Potential Effect:

Contusions, abrasions, fractures and crushing injuries, from the forklift striking an employee.

### Recommended Action:

Establish a forklift training program and train all employees who are designated as forklift operators prior to being allowed to operate such equipment.

While OSHA requires that training methods be devised, it does not specify the amount, or type of training necessary. These decisions should be based upon such factors as the equipment, operations and workers involved. Training should include, at a minimum, the following:

- a. Inspecting the truck prior to use.
- b. Procedure when truck defects are found.
- c. Function and proper use of truck controls.
- d. General truck loading practices, including loading and unloading highway trucks, trailers and railroad cars.
- e. Truck operations such as traveling speeds, cornering speeds, driving near pedestrians, the importance of adequate clearances and of looking in the direction of travel.
- f. Determining whether the load is safe to handle.
- g. Correct piling/stacking of materials in stock.
- h. Precautions when leaving a truck unattended.
- i. Working in hazardous environments or with hazardous materials.
- j. Refueling or recharging operations.
- k. Specific hazards of the truck operators' prospective tasks.

All who operate a forklift, even if only occasionally, need training first. New hires with previous or extensive training need at least a test of operating proficiency and instruction in the hazards of the particular job and in your truck maintenance program. An operator with extensive experience on one brand or model of truck still needs time to get used to controls placed in different positions or to different attachments or truck types.

Many commercial training programs are available through the National Safety Council or forklift dealers. They offer training for individual drivers, as well as maintenance training and supervisor training which should enable you to set up an in-house training program.

Also, the ADOSH Training Section offers Train-The-Trainer classes conducted at various dates throughout the year. To find out about the next scheduled class and to register ((at least 30 days prior to the class), call the ADOSH Training office at (602) 542-1769. A Forklift Train-The-Trainer information package, including a copy of the OSHA's Forklift standard, was mailed to the employer.

**Description:**

During this survey, a powered industrial truck (PIT), equipped with forks, was available for hauling a container of waste produced by the raw sewage screening process. This PIT was operated by Mr. Moreno, who had been trained in the operation of other types of forklifts, and more than 3 years ago. Initial training and scheduled refresher training is required by the OSHA standards.

Item Number	0002	Instance	A	Correction Due Date	
Hazards Type	Other				

**Standard:** 1910.1200(h)(1)

**Condition:**

An employee was not provided required information on hazardous chemicals at the time of initial assignment or when a new hazard was introduced into the work area.

**Potential Effect:**

Employees may be exposed unknowingly to a toxic material or may use a physically hazardous material in an unsafe manner due to lack of information about the chemical or its hazards. First aid in case of accidental exposure may be incorrect or delayed due to lack of information about first aid and emergency procedures. Emergencies may be prolonged or aggravated, or may become disasters, from lack of information about emergency procedures.

**Recommended Action:**

Your written hazard communication program must describe, among other items, a training program for employees, presented at the time of initial assignment and updated whenever a new hazard is introduced to the work area, on the requirements of the hazard communications standard, the hazards in the work area, the ways of detecting or monitoring those hazards, the ways of protecting themselves from those hazards, and the details of your hazard communication program, including where to view and how to obtain copies of the documentation. Training must include not only the hazards encountered during normal operations, but those encountered during nonroutine tasks, such as maintenance, and foreseeable emergencies, such as leaks in unmarked pipes.

The purpose of this regulation is to provide information to employees before they are exposed to a chemical hazard. This purpose is defeated if training is delayed until a later date.

Note that additional training is required when a new hazard is introduced, not when a new chemical is introduced. If one solvent is replaced by a less hazardous one, and the replacement has hazards that differ only in degree from the original, no new training is required.

Training must be conducted in a manner understandable to the employee. Those who cannot read and understand English must be instructed in a manner that they can fully understand.

**Description:**

The most significant occupational health exposure for employees in this facility are the chemicals being used for water treatment. Primarily, a sodium hypochlorite (12.5%) aqueous solution is used in the water treatment process. The employer has a written hazard communication program on site, with most program elements properly implemented, including (but not limited to) availability of all the required material safety data sheets (MSDSs), and container labeling. However, Mr. Moreno, who has been employed with Coronado Utilities, Inc. for about 4 months, had not received training as required by the OSHA hazard communication standard.

## B - Employer Report of Action Taken

From: Coronado Utilities, Inc.  
 88606 E. Magma Plant Rd.  
 San Manuel, AZ

Visit Number: 504966391 Date of Survey: 02/13/09

Item Number	0001	Hazard Type	Serious	Standard	1910.0178(l)(01)(i)
Instance	A	Correction Due Date	03/24/09	Date Corrected	
Describe Corrective Action Taken					
Tony was instructed not to operate the tractor with forks until training is received. Owner made arrangements for training session @ OSHA (ADOSH) offices in April.					
Action Taken to Prevent Recurrence					
Tony is scheduled for training @ Industrial Commission offices on April 14, 2009.					
Item Number	0002	Hazard Type	Other	Standard	1910.1200(h)(01)
Instance	A	Correction Due Date		Date Corrected	
Describe Corrective Action Taken					
Owners discussed current Hazard Communication program w/ Tony on 3/12/09, including the dangers of sodium hypochlorite & the safety procedures in the event of contact. Tony was instructed not to have contact with the chemical, & that if contact is required, our certified operator who is trained in hazardous materials would provide this work.					
Action Taken to Prevent Recurrence					
Operator is told to not have contact w/ material. Only the vendor who supplies the material & the certified operator need to have risk of contact w/ the sodium hypochlorite solution.					