



5230 East Shea Boulevard, Suite 200 \* Scottsdale, Arizona

PH: (480) 998-3300; FAX: (480) 483-7908

RECEIVED

ORIGINAL

2009 MAR 30 P 1:37

AZ CORP COMMISSION  
DOCKET CONTROL

March 30, 2009

**VIA HAND DELIVERY**

Kristin K. Mayes, Chairman  
 Gary Pierce, Commissioner  
 Paul Newman, Commissioner  
 Sandra D. Kennedy, Commissioner  
 Bob Stump, Commissioner  
 ARIZONA CORPORATION COMMISSION  
 1200 West Washington  
 Phoenix, Arizona 85007

Arizona Corporation Commission  
DOCKETED

MAR 30 2009



Re: ***In the Matter of the Application of Johnson Utilities, L.L.C., for an Extension of its Sewer Certificate of Convenience and Necessity in Pinal County, Arizona (Docket No. WS-02987-07-0487; Decision No. 70849)***

Dear Commissioners:

At the Open Meeting on March 31 and April 1, 2009, the Arizona Corporation Commission ("Commission") has scheduled discussion and consideration of Decision 70849, which conditionally extends the sewer certificate of convenience and necessity ("CC&N") of Johnson Utilities, LLC, ("Johnson Utilities" or the "Company") in Pinal County. The Commission approved Decision 70849 at the Open Meeting on March 3, 2009. On March 13, 2009, Johnson Utilities notified each of you and Utilities Division Staff via e-mail of a sewer system overflow ("SSO") that occurred on Sunday morning, February 22, 2009, in the Cambria subdivision, which is located within the Company's existing CC&N. This portion of the CC&N is the area formerly served by Arizona Utility Supply and Services, LLC ("AUSS"), and Johnson Utilities began serving this area at the request of the Commission when AUSS walked away from its sewer system. The purpose of this letter is to provide the Commission with additional information regarding the Cambria SSO, and to provide context regarding the SSO.

At the outset, it is important to understand that the Cambria SSO was not caused by any malfunction of equipment, lift-stations or the wastewater treatment plants of Johnson Utilities. Rather, the SSO occurred within the gravity flow portion of the sewer collection system in the subdivision as a result of grease and debris (such as mop heads) that were disposed of within the system. Wastewater came up through two manholes located immediately adjacent to retention

basins on the perimeter of the Cambria community next to the Links Golf Course. The SSO was reported to Johnson Utilities by a customer at approximately 9:10 AM, and the Company had an emergency crew on-site immediately thereafter. Johnson Utilities reported the SSO to the Arizona Department of Environmental Quality ("ADEQ") via e-mail at 11:45 AM that morning. The Company submitted a subsequent report regarding the SSO to ADEQ via email on February 25, 2009. Copies of these e-mails were attached to the Company's e-mail to the Commission on March 13, 2009, but for convenience, I have attached additional copies to this letter.

The wastewater which flowed into the retention basins was recaptured by Johnson Utilities and transported from the area using ADEQ-approved pumper trucks and the basins were disinfected pursuant to ADEQ protocol, all of this occurring on February 22, 2009. Johnson Utilities estimated the total amount of the release to be approximately 9,000 gallons. The Company used a hydrovac truck to jet the sewer lines and clear the blockages. The clean-up was uneventful. There was no contact from the general public with the spill area. Sewer service to the Cambria subdivision was not discontinued or interrupted at any time. There was no adverse effect to the public health or safety, and ADEQ communicated to Johnson Utilities that the SSO will not result in a notice of violation ("NOV") or any further action by ADEQ.

Johnson Utilities reports NOV's to the Utilities Division Director within seven days of receipt as required by Decision 65840 (April 22, 2003). However, there is no requirement that the Company report periodic operational anomalies such as SSOs to the Commission unless those events result in an NOV. Neither legal counsel for Johnson Utilities nor the Company's representative who attended the March 3, 2009, Open Meeting were aware of the SSO in the Cambria subdivision at the time of the Open Meeting. While I was aware of the SSO, I was attending to business in the Company's service area in Pinal County on the day of the Open Meeting. Thus, when the Commissioners discussed two past SSOs in the Pecan Ranch subdivision adjacent to Queen Creek Wash, there was no discussion of the Cambria SSO. When I became aware of this oversight, the Company voluntarily provided information to the Commissioners on the Cambria SSO via e-mail on March 13, 2009.

SSOs within Johnson Utilities' service area have been few, but they do occur on occasion despite the Company's best efforts to prevent them. They are something that I, and the Company, take very seriously, but SSOs occur in every wastewater system in the country. While sound engineering and prudent operational practices can limit the number of SSOs, it is not possible to completely prevent SSOs. By way of illustration, I have attached as Attachment 1 a table depicting an Environmental Protection Agency ("EPA") Region 9 survey showing sewer system spill rates per 100 miles of sewer line per year for the calendar year 2000. The survey is based upon 33 collection systems in the Pacific Southwest United States, and shows an average spill rate of 6.1 spills per 100 miles and a median spill rate of 4.0 spills per 100 miles.

Information from ADEQ regarding SSOs within the Pima County regional wastewater reclamation system is also instructive. Based upon the spreadsheet attached as Attachment 2 which the Company obtained from ADEQ, the Pima County Regional Wastewater Reclamation Department ("PCRWRD") reported 284 SSOs during the four years 2005 through 2008, as follows:

<b>SEWER SYSTEM OVERFLOWS—PIMA COUNTY REGIONAL WASTEWATER RECLAMATION DEPARTMENT</b>		
<b>YEAR</b>	<b>SSOs REPORTED</b>	<b>TOTAL GALLONS</b>
2005	76	88,660
2006	98	81,251
2007	68	103,488
2008	42	76,387

The SSOs reported by PCRWRD in 2008 resulted from a variety of factors outlined in the ADEQ spreadsheet including vandalism, contractor error, grease, roots and broken pipes. The SSOs resulted in sewage discharges to natural washes, desert areas, streets, golf courses, a school building, parking lot and play area, residences and storm drains. Eleven of the SSOs exceeded 2,000 gallons, and a number of the SSOs resulted in exposure to humans.

Data regarding SSOs for the City of Phoenix for the years 1997-2004 is attached as Attachment 3.<sup>1</sup> The City of Phoenix reported SSOs in every year caused by grease, roots, vandalism, lint, broken mains, debris and/or contractor damage. In almost all of the years reported, SSOs exceeded 50 per year. Based on the 2005 data, the City of Phoenix reported 1.4 SSOs per 100 miles of sewer line.

Personnel at the City of Chandler have told Johnson Utilities that the City reported 12 SSOs since January 1, 2007, and has had an unspecified number of unreported SSOs. Johnson Utilities understands that other municipalities in the Phoenix metropolitan area also have periodic SSOs on their sewer systems and many of those go unreported.

Johnson Utilities currently maintains 256 miles of sewer lines, and the number of SSOs within the system has been well below the average number reported by EPA for the Pacific Southwest and compares favorably with other sewer systems in the Phoenix metropolitan area.

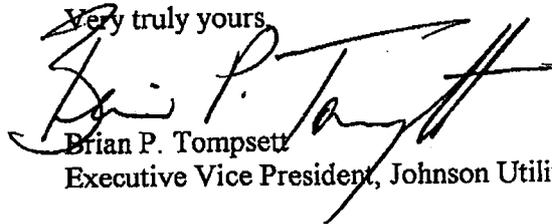
<sup>1</sup> The City of Phoenix data comes from a PowerPoint presentation by the City dated February 15, 2006.

Letter to Corporation Commissioners  
March 30, 2009  
Page 4

Although I believe that the Company's record regarding SSOs has historically been very good, I want to again assure the Commission that Johnson Utilities is serious about minimizing, to the extent reasonably possible, the number of SSOs within its sewer system.

In conclusion, Johnson Utilities desired to provide the Commissioners with additional information regarding the Cambria SSO prior to the March 31, 2009, Open Meeting. The Company will attend the Open Meeting and will be prepared to answer any questions the Commissioners may have regarding the Cambria SSO or the information contained in this letter. Johnson Utilities believes that the Company operates its sewer system in a responsible manner and that its record regarding SSOs places the Company among sewer systems with the lowest rate of SSOs in the southwestern United States. For these reasons, the Company urges the Commission not to reopen Decision 70849 and to allow the decision to stand as written.

Very truly yours,

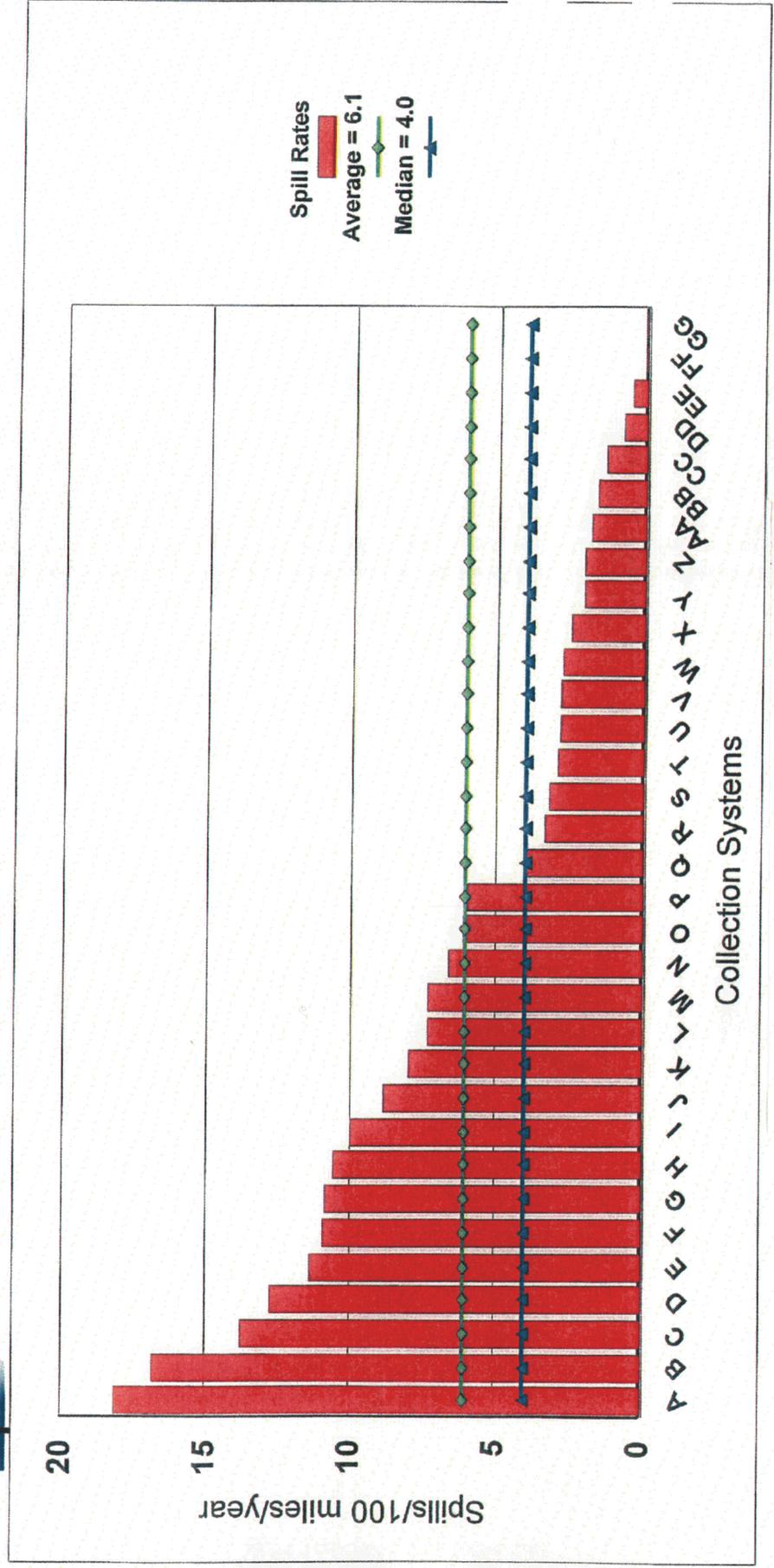
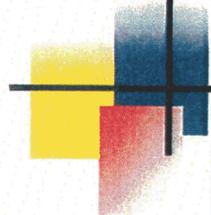


Brian P. Tompsett  
Executive Vice President, Johnson Utilities, LLC

cc (with attachments): Janice Alward, Chief Counsel, Legal Division  
Yvette B. Kinsey, Administrative Law Judge, Hearing Division  
Ernest Johnson, Director, Utilities Division  
Docket Control (14 copies)

# **ATTACHMENT 1**

# EPA Region 9 Survey CY 2000 Spill Rates – Pacific Southwest U.S.

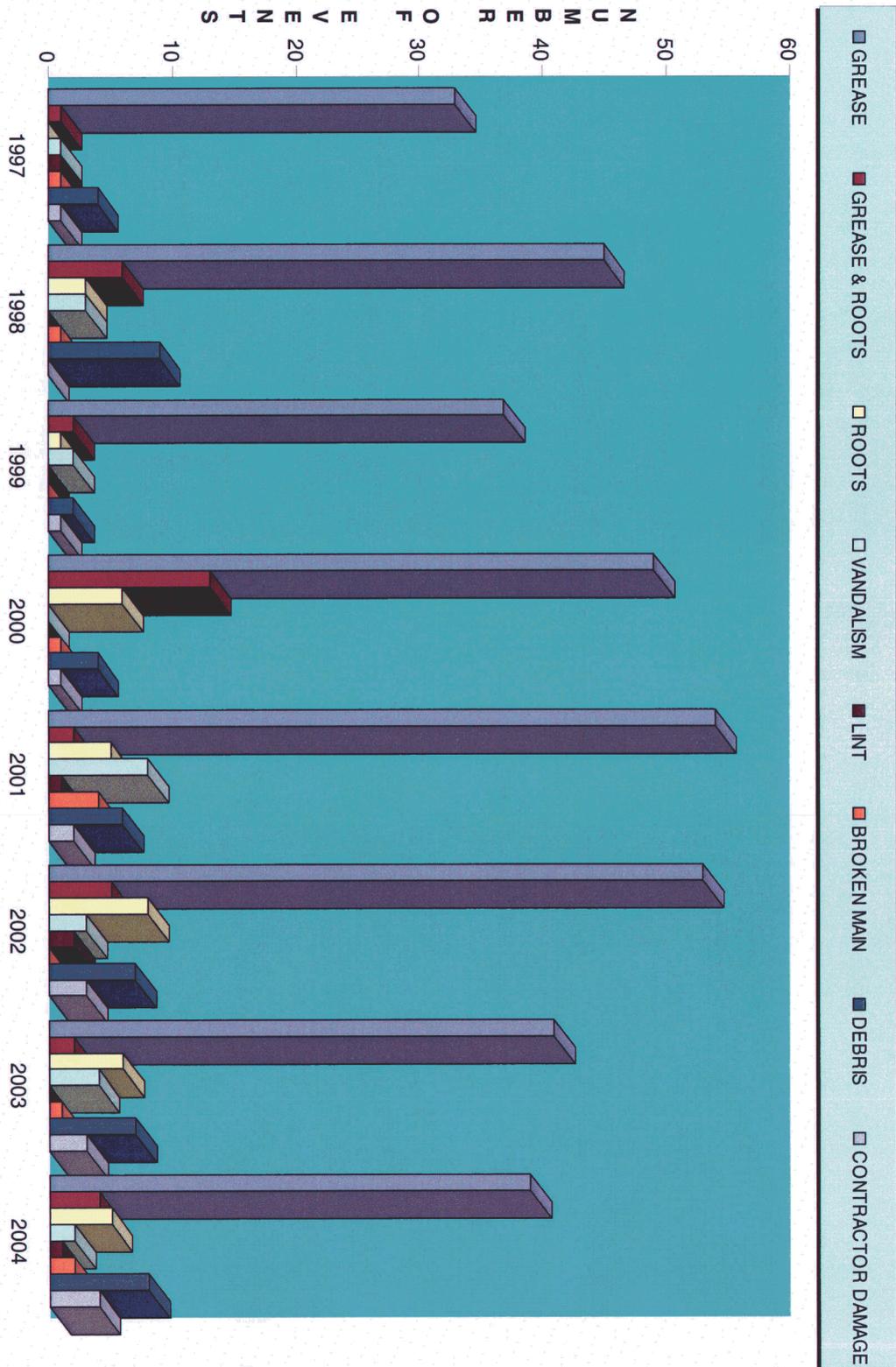


# **ATTACHMENT 2**



# **ATTACHMENT 3**

### SSO CAUSES



## Where Do We Go From Here?

- National average SSO rate 6.1/100 miles/year (URS CMOM Report, 2004)
- Phoenix (2005) - 1.4/100 miles/year
- Currently there are over 6000 facilities identified in our commercial facilities database
- Over ½ are restaurants (grease traps and interceptors)
- 1000 car washes, vehicle service facilities (sand-oil int.)
- 900 laundries, hair care facilities (lint and hair interceptors)
- 1100 other (hotels, grocery stores, churches, schools)

