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BEFORE THE ARIZONA CORPORATION COMMISSION

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KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

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AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
JOHNSON UTILITIES, LLC, DBA JOHNSON
UTILITIES COMPANY FOR AN INCREASE IN
ITS WATER AND WASTEWATER RATES FOR
CUSTOMERS WITHIN PINAL COUNTY,
ARIZONA.

DOCKET NO. WS-02987A-08-0180

**NOTICE OF FILING
SURREBUTTAL TESTIMONY**

1 Swing First Golf LLC ("Swing First") hereby files Surrebuttal Testimony by David
2 Ashton, and by Sonn S. Rowell.

3 RESPECTFULLY SUBMITTED on March 31, 2009.

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Arizona Corporation Commission

DOCKETED

MAR 31 2009

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BEFORE THE ARIZONA CORPORATION COMMISSION

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DOCKET NO. WS-02987A-08-0180

**SURREBUTTAL TESTIMONY
OF
DAVID ASHTON
ON BEHALF OF
SWING FIRST GOLF LLC
MARCH 31, 2009**

**SURREBUTTAL TESTIMONY
OF
DAVID ASHTON
ON BEHALF OF
SWING FIRST GOLF LLC
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1 **EXECUTIVE SUMMARY**

2 David Ashton testifies as follows:

3 Utility and Swing First have each treated the 1999 Utility Agreement as applying to both of us.
4 Swing First also maintains all its rights as a tariffed effluent customer.

5 Since March 2006, Utility has produced far more effluent than it has actually sold. In fact,
6 Utility has sold only about 42% of the effluent that it has produced since March 2006. Swing
7 First could have satisfied essentially all of its irrigation requirements with treated effluent.
8 Instead, Utility has withheld effluent, and delivered and billed more expensive CAP water.

9 Utility refused to sell effluent to Swing First in 2007. Total sales were 10.044 million gallons for
10 the whole year, even though Utility produced almost 185 million gallons of effluent. Instead,
11 Utility delivered more expensive CAP water and then often charged five times the tariffed rate.
12 At the same time, Utility was charging the San Tan Heights HOA an inflated, illegal rate for
13 effluent, and recently acknowledged doing so. The explanation for this activity was a billing
14 error.

15 In 2008, after Swing First filed its complaint, Utility substantially cleaned up its actions. Except
16 for the two suspicious "line breaks," Swing First was able to provide for all its irrigation needs
17 with treated effluent. For the entire year, Utility still only sold approximately 73% of the
18 effluent that it produced from the Santan WWTP.

19 The Commission should investigate, at Utility's expense, what it did with the effluent it
20 produced but withheld from Swing First and perhaps other customers.

21 Utility has not corrected for illegally withholding effluent and instead selling Swing First CAP
22 water at a higher price. Second, Utility only made these corrections after it got caught. A fair
23 question to ask is: How many other customers have been overcharged or are still being
24 overcharged?

25 The only way to ensure that Utility has indeed corrected any and all overcharges to past and
26 present customers would be for the Commission to order Utility to fund an audit of its past sales
27 and billing practices.

1 **I INTRODUCTION AND QUALIFICATIONS**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is David Ashton. I am a managing member of Swing First.

4 **Q. ARE YOU THE SAME DAVID ASHTON WHO PREVIOUSLY SUBMITTED**
5 **TESTIMONY IN THIS CASE?**

6 A. Yes.

7 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

8 A. In my Surrebuttal Testimony I respond to rebuttal testimony from Brian Tompsett.

9 **II RESPONSE TO MR. TOMPSETT**

10 **Q. HAVE YOU REVIEWED MR. TOMPSETT'S REBUTTAL TESTIMONY**
11 **CONCERNING YOUR REVISED DIRECT TESTIMONY?**

12 A. Yes.

13 **Q. DO YOU WANT TO CHANGE ANY OF YOUR TESTIMONY AS A RESULT OT**
14 **REVIEWING MR. TOMPSETT'S TESTIMONY?**

15 A. No.

16 **Q. WHAT IS THE STATUS OF THE 1999 UTILITY AGREEMENT?**

17 Utility and Swing First have each treated the 1999 Utility Agreement as applying to both
18 of us. Swing First also maintains all its rights as a tariffed effluent customer.

19 **Q. DID UTILITY DELIBERATELY WITHHOLD EFFLUENT FROM SWING**
20 **FIRST?**

21 A. It certainly appears that way. Utility has been able to directly deliver effluent to Swing
22 First since at least March 2006. Mr. Tompsett states that there are two customers
23 connected to the Santan WWTP: Swing First and the Santan HOA. Based on data

1 requests, the following table compares the amount of effluent available from the Santan
 2 WWTP to what Utility actually delivered to Swing First and the Santan HOA.

	Swing First	Santan HOA	Total Sales	Effluent Produced	Unsold Effluent
	<u>2006</u>	(MG)	(MG)	(MG)	(MG)
Mar	11.0886		11.0866	11.0866	0.0000
Apr	5.841		5.8410	10.917	5.0760
May	10.646		10.6460	11.318	0.6720
Jun	11.352		11.3520	11.543	0.1910
Jul	9.744		9.7440	12.497	2.7530
Aug	11.647		11.6470	13.335	1.6880
Sep	3.889		3.8890	13.297	9.4080
Oct	6.052		6.0520	14.127	8.0750
Nov	0		0.0000	14.794	14.7940
Dec	15.407		15.4070	13.3295	-2.0775
Total 2006	85.6666		85.6646	126.2441	40.5795
	<u>2007</u>				
Jan	2.181	10.9120	13.0930	16.337	3.2440
Feb	1.4040	3.8320	5.2360	14.532	9.2960
Mar	0.0000	0.0000	0.0000	16.027	16.0270
Apr	0.3220	6.4950	6.8170	15.39	8.5730
May	0.0000	4.1850	4.1850	15.159	10.9740
Jun	0.0000	1.7660	1.7660	13.71	11.9440
Jul	0.0000	0.2060	0.2060	13.361	13.1550
Aug	0.0000	3.3400	3.3400	15.624	12.2840
Sep	0.0000	5.1000	5.1000	15.27	10.1700
Oct	0.0000	5.8240	5.8240	15.903	10.0790
Nov	0.0000	7.2810	7.2810	16.41	9.1290
Dec	7.0370	8.3450	15.3820	17.081	1.6990
Total 2007	10.944	57.2860	68.2301	184.804	116.5739
	<u>2008</u>				
Jan	2.535	6.1350	8.6700	16.814	8.1440
Feb	5.469	3.0730	8.5420	16.652	8.1100
Mar	7.392	3.6500	11.0420	17.341	6.2990
Apr	14.417	5.0880	19.5050	16.658	-2.8470
May	14.309	0.0000	14.3090	16.898	2.5890
Jun	13.613	0.0000	13.6130	16.371	2.7580
Jul	11.877	2.6680	14.5450	17.196	2.6510
Aug	15.955	0.4890	16.4440	17.302	0.8580
Sep	13.276	0.2450	13.5210	16.968	3.4470
Oct	10.834	0.0930	10.9270	17.404	6.4770
Nov	12.065	0.0000	12.0650	17.89	5.8250
Dec	5.447	0.0000	5.4470	18.958	13.5110
Total 2008	127.189	21.4410	148.6300	206.452	57.8220
Total 2006-08	223.7996	78.7270	302.5247	517.5001	214.9754

1 **Q. HAS UTILITY SOLD ALL THE EFFLUENT THAT IT HAS PRODUCED?**

2 A. No. The table shows that since March 2006, Utility has produced far more effluent than
3 it has actually sold. In fact, Utility has sold only about 42% of the effluent that it has
4 produced since March 2006. Swing First could have satisfied essentially all of its
5 irrigation requirements with treated effluent. Instead, Utility has withheld effluent, and
6 delivered and billed more expensive CAP water.

7 **Q. PLEASE CONTRAST 2007 AND 2008 EFFLUENT SALES TO SWING FIRST.**

8 A. As I previously testified, Utility refused to sell effluent to Swing First in 2007. Total
9 sales were 10.044 million gallons for the whole year, even though Utility produced
10 almost 185 million gallons of effluent. Instead, Utility delivered more expensive CAP
11 water and then often charged us five times the tariffed rate. At the same time, Utility was
12 charging the San Tan Heights HOA an inflated, illegal rate for effluent, and recently
13 acknowledged doing so. The explanation for this activity was a billing error.

14 In 2008, after Swing First filed its complaint, Utility substantially cleaned up its actions.
15 Except for the two suspicious "line breaks," Swing First was able to provide for all its
16 irrigation needs with treated effluent. It is interesting to note that, even after its sales to
17 Swing First and to the San Tan HOA, Utility still had effluent to spare. For the entire
18 year, Utility only sold approximately 73% of the effluent that it produced from the Santan
19 WWTP.

20 **Q. WHAT DID UTILITY DO WITH THE EFFLUENT IT PRODUCED AND**
21 **WITHHELD FROM SWING FIRST?**

22 A. I do not know. It may have pumped the effluent into the ground for some benefit to
23 Utility. It, or another Johnson-controlled entity, may have sold the effluent to a third
24 party and not reported the sales. This is another subject that the Commission should
25 investigate, at Utility's expense.

1 **Q. MR. TOMPSETT CLAIMS THAT UTILITY CORRECTED ITS BILLING**
2 **ERRORS. HOW DO YOU RESPOND?**

3 A First, Utility did not correct for illegally withholding effluent and instead selling Swing
4 First CAP water at a higher price. Second, Utility only made these corrections after it got
5 caught. Swing First filed its Commission complaint in November 2007. Only after that
6 date, when Utility realized that it was in the Commission's cross hairs, did Utility provide
7 any "credits." Similarly, Utility only provided credits to the Santan HOA after it became
8 aware that I was looking at Utility's irrigation bills to the HOA. A fair question to ask is:
9 How many other customers have been overcharged or are still being overcharged?

10 The only way to ensure that Utility has indeed corrected any and all overcharges to past
11 and present customers would be for the Commission to order Utility to fund an audit of
12 its past sales and billing practices.

13 **Q. DOES THE FACT THAT YOU DO NOT RESPOND TO A PARTICULAR**
14 **PORTION OF TESTIMONY MEAN THAT YOU AGREE WITH IT?**

15 A. No.

16 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

17 A. Yes.

BEFORE THE ARIZONA CORPORATION COMMISSION

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**SURREBUTTAL TESTIMONY
OF
SONN S. ROWELL
ON BEHALF OF
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MARCH 31, 2009**

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1 **EXECUTIVE SUMMARY**

2 Sonn S. Rowell testifies as follows:

3 The prior activities of Mr. Johnson and Utility are unprecedented, and clearly relevant to this rate
4 case. Therefore, I testify the Commission should deal harshly with Utility by approving the nine
5 recommendations I made in my revised direct testimony.

6 It is a legal issue whether Utility was authorized to delay its rate filing. Swing First can find no
7 evidence that the Commission ever granted Utility's requested delay.

8 The water division and wastewater division are separate for ratemaking purposes. The
9 Commission will set appropriate rates for each division on a stand-alone basis.

10 Mr. Bourassa's discussion concerning the Central Arizona Ground Water Replenishment District
11 is misleading. Even so, the water district is still overearning.

12 Swing First is not advocating retroactive ratemaking. Swing First's recommendations for an
13 immediate rate decrease and refunds are based upon Utility's failure to file its rate case as
14 required by the Commission in Decision No. 68235. Further, based on its annual reports, the
15 Utility should have been aware it was over-earning in 2006.

16 Swing First asked for information concerning Utility's 2006 earnings. It is Utility's
17 responsibility to establish it was not over-earning and that it should not be required to make
18 refunds for 2006, which was the test year ordered by Decision No. 68235. It seems likely that if
19 Utility could have demonstrated it was not over-earning in 2006, it would have willingly
20 provided that information.

21 There is no difference between the CAGRDR replenishment assessment, and the municipal water
22 delivery system tax, regarding how they should be treated for ratemaking purposes.

23 Environmental infractions concerning Mr. Johnson and his other companies are relevant because
24 Mr. Johnson was directly involved with these infractions, and he is the same individual who
25 makes Utility's decisions.

26 On October 20, 2008, ADEQ issued two Notice of Violations, No. 102722 and Notice of
27 Violation No. 103357 concerning Utility's illegal storage of sewer sludge on the site of its
28 Section 11 Treatment Plant.

29 Ms. Rowell's testimony in this case is based on the unprecedented activities by Mr. Johnson and
30 his Utility. She is not aware of behavior remotely like this by a regulated water or wastewater
31 utility prior to this, so she has never before needed to recommend remedies like the ones she
32 recommends in this case.

33 Ms. Rowell does not base her recommended disallowance of the Pecan Plant on a site visit or
34 accounting audit. Rather, disallowance is appropriate because this plant has repeatedly
35 malfunctioned, and, according to the Commission, these malfunctions "raise serious concerns
36 regarding public safety." The Pecan Plant may be used, but it is not useful due to repeated
37 malfunctions that endangered public safety.

38 At the Commission's March 3, 2009, Open Meeting, Utility assured the Commissioners that it
39 had taken a number of steps to ensure that the Pecan Plant sewage discharges had been isolated

1 incidents that would not recur. However, during the Open Meeting, Utility chose not to tell the
2 Commissioners about February 22, 2009, sewage spills, which were very similar to the
3 contamination incidents in 2008. Utility appears to have intentionally withheld relevant
4 information from the Commissioners about the recent sewage spills in order to gain an extension
5 of territory.

1 **I INTRODUCTION AND QUALIFICATIONS**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Sonn S. Rowell. I am a managing member of Desert Mountain Analytical
4 Services, PLLC, P.O. Box 51628, Ahwatukee, Arizona 85076.

5 **Q. ARE YOU THE SAME SONN S. ROWELL WHO PREVIOUSLY SUBMITTED**
6 **TESTIMONY IN THIS CASE?**

7 A. Yes.

8 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

9 A. In my Surrebuttal Testimony, I respond to rebuttal testimony from Thomas Bourassa and
10 Brian Tompsett.

11 **II RESPONSE TO MR. BOURASSA**

12 **Q. DID YOU REVIEW MR. BOURASSA'S SUPPLEMENTAL REBUTTAL**
13 **TESTIMONY CONCERNING YOUR REVISED DIRECT TESTIMONY?**

14 A. Yes.

15 **Q. DO YOU WANT TO CHANGE ANY OF YOUR TESTIMONY AS A RESULT OF**
16 **REVIEWING MR. BOURASSA'S TESTIMONY?**

17 A. No. Generally, we have an obvious difference of opinion as to the significance of
18 previous activities by George Johnson, the man who controls Utility, and by the Utility
19 itself. We also don't agree as to what the Commission's response should be to these
20 activities. Mr. Bourassa appears to argue that these previous activities are not relevant,
21 and even if they were relevant, the Commission would be powerless to address them as I
22 have recommended. I believe the prior activities of Mr. Johnson and Utility are
23 unprecedented, and clearly relevant to this rate case. Therefore, I testify the Commission
24 should deal harshly with Utility by approving the nine recommendations I made in my
25 revised direct testimony.

1 **Q. MR. BOURASSA DISAGREES WITH YOUR RECOMMENDATION THAT THE**
2 **COMMISSION ORDER UTILITY TO IMMEDIATELY REDUCE RATES AND**
3 **PROVIDE REFUNDS TO CUSTOMERS. HAS HE CONVINCED YOU THAT**
4 **YOU ARE INCORRECT?**

5 A. No. First, I understand it is a legal issue whether Utility was authorized to delay its rate
6 filing. Accordingly, the parties will be allowed to brief this issue. I will only add what I
7 have learned after reviewing the file in Docket No. WS-02987A-04-0889. On March 30,
8 2007, Utility asked the Commission to delay the May 1, 2007, filing deadline set forth in
9 Decision No. 68235. Again, on October 1, 2007, five months after the rate filing was
10 due, Utility asked the Commission to delay the May 1, 2007, filing deadline. I can find
11 no evidence that the Commission ever granted either request.

12 **Q. MR. BOURASSA CLAIMS THAT UTILITY IS NOT OVEREARNING, TAKEN**
13 **AS A WHOLE. IS THIS RELEVANT?**

14 A. No. The water division and wastewater division are separate for ratemaking purposes.
15 The Commission will set appropriate rates for each division on a stand-alone basis.

16 **Q. DOES MR. BOURASSA'S DISCUSSION CONCERNING THE CENTRAL**
17 **ARIZONA GROUND WATER REPLENISHMENT DISTRICT ("CAGRDR") TAX**
18 **PERSUADE YOU?**

19 A. Not at all. The decrease in water revenue is misleading as Mr. Bourassa himself states
20 the CAGRDR replenishment assessment (tax) would "pass-through" to customer bills, and
21 also admits "the customer bill would have remained the same for this particular cost".
22 The Commission will ultimately decide if sales tax should remain the sole pass-through
23 tax on customer bills, or if they want to go the direction of line item ratemaking, and
24 allow several kinds of tax to be passed through on monthly customer bills outside of the
25 tariff rates for service. Even if I were to grant his argument, Utility's water operations
26 were still over-earning.

1 **Q. ARE YOU RECOMMENDING RETROACTIVE RATE MAKING?**

2 A. Of course not. My testimony was very clear that I based my argument on Utility's failure
3 to file its rate case as required by the Commission in Decision No. 68235. Further, based
4 on its annual reports, the Utility should have been aware it was over-earning in 2006.

5 **Q. DID SWING FIRST ASK FOR ADDITIONAL INFORMATION CONCERNING**
6 **UTILITY'S 2006 EARNINGS?**

7 A. Yes. Swing First's data request 3.15 asked: "For the year 2006, please provide a pro-
8 forma income statement for Utility's water and wastewater divisions, in the form of Rate
9 Case Schedule C-1." Utility objected to providing the information:

10 Objection: Johnson Utilities objects to this data request on the grounds that it
11 requests information which is not relevant to the rate case. The rate
12 case uses a 2007 test year. For additional information, see the response
13 to data request 3.11 above.

14 Utility chose to defy a Commission imposed filing deadline. It appears that Utility was
15 over-earning in the year the Commission ordered for Utility's test year – 2006. It is the
16 responsibility of Utility to establish it was not over-earning, and it should not be required
17 to make refunds to customers for that period. It seems likely that if Utility could have
18 demonstrated it was not over-earning in 2006, it would have willingly provided that
19 information.

20 **Q. DO YOU HAVE ANYTHING ELSE TO SAY CONCERNING UTILITY'S**
21 **APPARENT OVERCHARGING FOR THE SUPERFUND TAX?**

22 A. No. I do not see a difference between the CAGR D replenishment assessment, and the
23 municipal water delivery system tax, regarding how they should be treated for
24 ratemaking purposes.

25 **Q. DO YOU STILL BELIEVE THAT THE PECAN WASTEWATER TREATMENT**
26 **PLANT SHOULD BE EXCLUDED FROM RATE BASE?**

1 A. Yes. I discuss this further in my response to Mr. Tompsett, below.

2 **Q. MR. BOURASSA STATES THERE IS NO BASIS OR PRECEDENT TO REDUCE**
3 **UTILITY'S AUTHORIZED RETURN ON EQUITY. DO YOU AGREE?**

4 A. No. This is largely a legal issue, so I will leave any further discussion for Swing First's
5 brief.

6 **III RESPONSE TO MR. TOMPSETT**

7 **Q. HAVE YOU REVIEWED MR. TOMPSETT'S SUPPLEMENTAL REBUTTAL**
8 **TESTIMONY CONCERNING YOUR REVISED DIRECT TESTIMONY?**

9 A. Yes.

10 **Q. DO YOU WANT TO CHANGE ANY OF YOUR TESTIMONY AS A RESULT OF**
11 **REVIEWING MR. TOMPSETT'S TESTIMONY?**

12 A. No. Mr. Tompsett argues that certain of the environmental infractions I discussed were
13 not relevant because Utility was not a party to them, and they did not directly affect
14 ratepayers. However, I did not claim that Utility was a party to these incidents. Rather,
15 they are relevant because Mr. Johnson was directly involved with these infractions, and
16 he is the same individual who makes Utility's decisions.

17 **Q. DOES IT MATTER IF UTILITY'S ENVIRONMENTAL INFRACTIONS DID**
18 **NOT AFFECT SWING FIRST?**

19 No. Mr. Tompsett argues that other incidents did not directly affect Swing First, even
20 though they did affect other customers of Utility. The impact on Swing First is not
21 relevant.

22 **Q. MR. TOMPSETT CLAIMS THAT IT DID NOT ILLEGALLY STORE SEWAGE**
23 **SLUDGE AT ITS SECTION 11 WASTEWATER TREATMENT PLANT. IS HE**
24 **CORRECT?**

1 A. ADEQ does not agree. Exhibit SSR-R1 is a copy of ADEQ's October 15, 2008,
2 Inspection Report concerning Utility's Section 11 Wastewater Treatment Plant. After a
3 fair reading of the Inspection Report, one could only conclude that press reports
4 concerning Utility's burial of sewage sludge were understated. As a result of its surprise
5 inspection, on October 20, 2008, ADEQ issued Notice of Violation ("NOV") No. 102722
6 and NOV No. 103357. I have attached copies of ADEQ's NOV's as Exhibits SSR-2 and
7 SSR-3.

8 **Q. MR. TOMPSETT ALLEGES THAT YOU HAVE NEVER MADE ANY OF YOUR**
9 **NINE RECOMMENDATIONS IN A PREVIOUS COMMISSION CASE. DOES**
10 **THIS MATTER?**

11 A. I don't see how. I have never participated in a case involving Johnson Utilities. My
12 testimony in this case is based on the unprecedented activities by Mr. Johnson and his
13 Utility. I am not aware of behavior remotely like this by a regulated water or wastewater
14 utility prior to this, so I have never before needed to recommend remedies like the ones
15 recommended in this case.

16 **Q. DOES IT MATTER WHETHER YOU VISITED THE PECAN PLANT OR**
17 **AUDITED ITS ACCOUNTS?**

18 No. Mr. Tompsett argues that I did not audit the plant accounts of visit the Pecan Plant.
19 This is not relevant either. My argument is that this plant has repeatedly malfunctioned,
20 and, according to the Commission, these malfunctions "raise serious concerns regarding
21 public safety." (See Decision No. 70849, dated March 17, 2009, at page 10, line 11.)
22 According to Decision No. 70849, the plant malfunctions began during the 2007 test year
23 and continued well into 2008. The Pecan Plant may be used, but it is not useful due to
24 repeated malfunctions that endanger public safety. Therefore, its disallowance is justified
25 until such time that Utility demonstrates in a future test year that the Pecan Plant has been
26 safely operating during and after that case's test year.

1 **IV RECENT EVENTS**

2 **Q. HAVE YOU BECOME AWARE OF ANY INCIDENTS THAT HAVE HAPPENED**
3 **SINCE THE DATE OF YOUR REVISED DIRECT TESTIMONY THAT**
4 **SUPPORT YOUR RECOMMENDATIONS IN THIS CASE?**

5 A. Yes. Exhibit SSR-R4 is a copy of a March 14, 2009, on-line article from the East Valley
6 Tribune. The Tribune reports that, on the morning of February 22, 2009, about 9,000
7 gallons of wastewater backed up in Utility's system, leaked out of two manholes, and
8 spilled over into two retention basins at the Cambria subdivision near Ironwood and
9 Ocotillo roads in Pinal County. Just as with the Pecan Creek incident, Utility blamed the
10 spill on the lines becoming clogged with mop heads and grease. According to the article,
11 ADEQ is still investigating the spill. The fact of yet another sewage spill provides further
12 support for why the Commission should approve my recommendations. However, the
13 date of the spill is even more significant.

14 **Q. WHY IS THE DATE OF UTILITY'S SEWAGE SPILL SIGNIFICANT?**

15 A. At the Commission's March 3, 2009, Open Meeting the Commission approved Utility's
16 application in this docket on a 3-2 vote. Commissioners were greatly concerned about a
17 number of issues involving Utility, particularly about 2008 incidents where raw sewage
18 from Utility's Pecan Water Reclamation Plant overflowed manholes, contaminated the
19 Queen Creek Wash with E. coli and coliform, and endangered the safety of nearby
20 residents of the Pecan Creek North subdivision. Commissioners sought assurance that
21 these types of incidents would not happen again. Utility assured the Commissioners that
22 it had taken a number of steps to ensure that these had been isolated incidents that would
23 not recur. However, during the Open Meeting, Utility chose not to tell the
24 Commissioners about the February 22, 2009, spills, which were very similar to the
25 contamination incidents in 2008.

1 **Q. WHY DO THE FEBRUARY 22, 2009, SPILLS PARTICULARLY CONCERN**
2 **YOU?**

3 A. First, these spills demonstrate that Utility has serious public safety problems. I don't
4 know if these spills are the result of shoddy construction or poor operational and
5 management practices, but there have been a large number of serious recent incidents
6 involving Utility's sewer plants. However, what causes me even greater concern is that
7 Utility appears to have intentionally withheld relevant information from the
8 Commissioners about the February 22, 2009, sewage spills in order to gain an extension
9 of territory. It was a falsehood for Utility to assure Commissioners that it had taken steps
10 to ensure spills similar to those in 2008 would not occur, when one had occurred just nine
11 days prior.

12 **Q. DOES THE FACT THAT YOU DO NOT RESPOND TO A PARTICULAR**
13 **PORTION OF TESTIMONY MEAN THAT YOU AGREE WITH IT?**

14 A. No.

15 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

16 A. Yes.

Annual Inspection of the Johnson Utilities Facility - WWT
 October 1, 2008

Page 2 of 2

**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
 WATER QUALITY COMPLIANCE SECTION
 Compliance Assessment Field Service Unit**

INSPECTION REPORT - WASTEWATER

Facility: Section 11 WWT

Site ID: WWT-11

Applicant: Johnson Utilities

Address: Johnson Utilities

License: Permit No. Type 3 General Permit, R100012

Permit No. R100012

Inspected by: John Gibbons, Manager
 David Crandall, EPA
 William L. Hays, EPA

Inspection Date: Sept 24, 2008
 Oct 7, 2008

Inspection by: Greg Larson

Report Date: October 15, 2008

1. WWT quality meets the following permit requirements:

- A. Aquifer Protection Permit
- B. Beach Permit
- C. ADEQS Permit

2. A certified operator is employed by the owner per ADEQ regulations.

3. This system meets AEP requirements for operation and maintenance.

	X		
			X
		X	
X			
	X		

*The inspection found that the facility had several deficiencies on the facility property.

Inspection Findings and Scores:

This was an unannounced compliance inspection regarding allegations that Johnson Utilities had illegally disposed of sewage sludge, or biosolids, (material) at the Section 11 WWT.

Facility Description:

The Johnson Utilities Section 11 wastewater treatment plant (WWT) is located adjacent to Hunt Highway, approximately nine miles southeast of Queen Creek. The WWT has the capacity to collect and treat up to a maximum monthly average flow of 1.6 million gallons per day (MGD) of wastewater received from residences and small businesses located in the central and southern portions of the Johnson Utilities service area. The treatment process consists of a headworks with

a bar screen, a flow splitter box, four aerated lagoons, 16 wetland cells, liquid chlorine disinfection and an effluent pump station. All of the aerated lagoons and 16 wetland cells of the WWTP have a permeability of less than 100 gallons per day per acre. The WWTP process employs nitrification-denitrification to achieve an effluent total nitrogen level of 10 mg/L and chlorine disinfection.

Current Permit Status: LTP No. 15034

On April 10, 2008, Johnson Utilities Company (JUC) was issued an amended LTP, LTP No. 15034 that authorized the replacement of the existing wetland treatment facility of 1.6 MGD capacity with a new extended aeration WWTP of 2.0 MGD capacity. The new WWTP will be located within the existing WWTP site. This permit does not authorize the disposal or burial of biosolids at the WWTP site.

Once the new WWTP is constructed, the permittee will be authorized to receive a 2.0 MGD WWTP. The WWTP process will consist of head-works with screens, an equalization basin, aeration and another basin for nitrification-denitrification, secondary clarifier, filter, dewatering (TF) dewatering system, wet-dry stack, digester, sludge belt press thickener, and an effluent pump station. The equalization basin will also be used to store wastewater during outages. The WWTP will also have provision of chemical addition in conjunction with filtration. The effluent will be disposed by discharge or transmittance valid reuse permit. All of the sludge including screenings, grit, and scum, will be hauled off-site.

Permit Permit LTP No. 15034

The facility has applied for an amended LTP to replace the current LTP permit LTP No. 15034. The amended LTP would increase the flow rate from 1.6 MGD to 2.0 MGD. This will entail the construction of two mechanical treatment, wet-dry stack trains, each with a capacity of 2.0 MGD. The permit amendment is in the submission review phase with ADNR's Environmental Section. This permit amendment will also establish specific quality based CGLP limits for groundwater monitoring. There are no provisions in this permit amendment for the onsite disposal (burial) of sludge.

Inspection Details

Pre-inspection discussions at the site:

The inspection began with the execution of an inspection rights form by Johnson Utilities General Manager Gary Larsen. Mr. Larsen was questioned about allegations regarding the burial of biosolids at the Section II plant in the spring of 2008. Before ADNR's discovery of buried biosolids the following information was furnished by Mr. Larsen:

- During the timeframe of April - May 2008 Johnson Utilities (JUC) was transitioning from the services of Chemical Transport Company (CTC) to JUC for sludge handling
- JUC officials were in the process of purchasing trucks to haul the sludge generated by the various WWTP operated by the company.

- During this inspection, sewage sludge (biosolids) from the Board WWP and the San Jose WWP was temporarily stored at the Section II WWP.
- Mr. Larsen was not aware of the burial of our sewage sludge waste at the Section II WWP.
- Mr. Larsen advised that according to his recollection, the sewage sludge in question had been removed from the Section I, WWP and transported to the Ironwood landfill. This occurred after WWP officials purchased new sludge handling equipment in the summer of 2008.
- The amount of sewage sludge stored at the Section II site was estimated at near 200 cubic yards including 20 cubic yards per week from the Board WWP and about 10 yards every other week from the San Jose WWP over an eight week period of time.
- There was no mention that any biosolids were presently being stored on-site.

Site Review

Mr. Larsen showed the ADEQ inspectors an area where he said the sewage sludge had been temporarily stored at the site. The referenced area was located near one of the lagoons and did not appear to have any disturbed soils or other indications that sewage sludge had been stored in this area.

This area was subsequently was checked by ADEQ inspectors on the east side of the WWP where a significant amount of biosolids was observed to be piled on an area near 200 x 20 feet (disposal area). The disposal area is near the I-75 fence that on the east side of the WWP area property.

The disposal area contained a large open depression (pit) where concrete and plastic debris along with biosolids had been deposited. The pit was 20' x 20' feet in dimension and included the ramp on the south end and a second ramp on the west end. The pit is identified by ADEQ as pit #1. See site diagram and photographs DC-3 through DC-4, 7, 8, 9 and 10. This pit is at least 4 feet deep. When ADEQ staff walked into this pit they were helped inside and were standing on top of biosolids that was covered with 2-3 inches of soil.

ADEQ staff also identified two additional pits in the disposal area where biosolids had been buried. ADEQ has identified these pits as pit #2 and #3 (see site diagram and photographs DC-1, DC-2, 3 and 11). Pit #2 is 27' x 37' feet and pit #3 is 25' x 37' feet.

There were numerous areas where biosolids were still on the surface area (see photographs DC-4 - DC-9, 1, 3-11 and 12). The biosolids were dry on the surface area. However, the biosolids beneath the ground surface were moist and very odorous.

ADEQ staff observed a buried blue plastic pipe on the west side of pit #1, see site diagram. The contents of the pipe are unknown as to its origin and initial location.

ADEQ staff inquired of Mr. Larsen as to whether a backhoe might be available for digging in the disposal area. After making a telephone call, Mr. Larsen reported that the facility's backhoe was inoperative. Mr. Larsen then was informed that ADEQ wanted to excavate some selected

was with a boring device provided by ADEQ to determine the subsurface areas for possible burial of biosolids. ADEQ employed a manager device that drilled about 3 feet deep and eight inches in diameter.

Excavation of Trench 11a:

The inspectors dug six soil borings with the auger device. Three of these borings contained biosolids 2-3 feet below the ground surface (see site diagram and photographs 12, 13, 15-18). The biosolids had a strong sewage odor and were black in color. Mr. Larsen stated that he could smell the biosolids after the auger was used.

Subsequent to ADEQ's use of its auger, JO employees appeared and drilled a hole in the concrete sewer trench where biosolids were identified based on color and odor (see site diagram and photographs 19, 20 and 21). As noted above, the biosolids were still moist and very odorous. The number seven (number 4) appeared very unusual and on several occasions the ground surface collapsed and the inspectors "soil" below the ground surface 1-2 feet (see photographs 14).

Sampling Events:

Four soil samples of biosolids and one of background soil were obtained. A background sample of surface soil was also approximately 20 feet west of pit #2. The background soil was the first sample taken. The biosolids samples were taken at the various sewer borings immediately during the inspection and by digging with a shovel. The sampling event included one sample from the interior surface of pit #1, one from the west side of pit #1, one from the sewer boring in pit #2, one from the trench dug in pit #2 (see site diagram). A shovel was utilized for sampling. The biosolids were placed in a bucket with the shovel when the soil sample was pulled using a smaller sampling scoop. A chain-of-custody was completed and the samples were placed in a cooler with ice. The samples were submitted to Aquatic Consulting and Testing, Inc. for analysis. The analysis requested was for coliform, dry weight, nitrate/nitrogen, ammonia nitrogen and HCN. ADEQ is waiting for complete sample results although sample results are not necessary for ADEQ to identify the buried material as sewage sludge, or biosolids.

October 7, 1988 Follow-up Inspections

ADEQ conducted a follow-up inspection on Tuesday October 7, 1988. Mr. Lee Anne Mariner, Solid Waste Specialist from ADEQ's Solid Waste Division was present to conduct a solid waste inspection at the same time. ADEQ staff arrived at the Johnson Utilities Station 11 Electrical approximately 9:15 am and parked outside the facility. WQCAU staff called Mr. Gary Laska of Johnson Utilities to inform him that ADEQ was conducting an unannounced follow-up inspection and left a voice message. Mr. Larsen returned the call at approximately 9:20 am and informed WQCAU staff that they could not enter the facility without him. WQCAU staff informed Mr. Larsen that they were outside the facility and would not enter without him. ADEQ staff observed dust from the far east side of the property, but could not see the source of the dust. WQCAU staff also observed a white pickup inside the facility. The truck headed east toward the area where the dust was coming from. A black pickup truck left the Johnson Utilities

Section 11 Plant at approximately 9:30 am. There was one or three occupants in the vehicle. At approximately 9:40 am, Mr. Larsen arrived on site. A telephone call to the form for the 2008 white inspection was signed by Mr. Larsen. Mr. Larsen informed ADEQ that Johnson Utilities had retained counsel and that he was not allowed to answer any questions.

During the September 23, 2008 inspection, Mr. Larsen identified a portion of the Section 11 facility where he claimed biosolids had been stored prior to being shipped to the treatment facility. On October 7, 2008, WYCAU staff responded to the site location and followed Mr. Larsen's vehicle to the area he identified on September 23, 2008. WYCAU staff did not observe any visible signs of biosolids at this location (see photographs DC-14, DC-15, and DC-17). The ground has not been disturbed and there has been no visible damage to the vegetation in this area.

WYCAU staff then asked to view the disposal area where ADEQ observed buried biosolids on September 23, 2008. The entire disposal area where ADEQ observed biosolids on the morning and where biosolids had been buried had been excavated (see photographs DC-18, DC-19, DC-20, and DC-21). The excavation was 2 to 4 feet deep and approximately 8 to 10 feet deep per photographs DC-18, DC-19, and DC-21. The excavation included the area where biosolids were buried as measured by ADEQ on September 23, 2008 as 20 x 30 feet. WYCAU staff asked Mr. Larsen where the material (biosolids and soil) went. Mr. Larsen responded by saying "what material?" WYCAU staff then asked if Johnson Utilities had any shipping documents relating to the material excavated. Mr. Larsen responded "You will have to talk to the manager." WYCAU staff observed water and mud with fresh equipment tracks inside the excavation (see photographs DC-17, DC-18, and DC-19). WYCAU staff observed a black box on the property and a sign on the north side of the property (photograph DC-22). The box was connected to a sprinkler line. Mr. Larsen referred to the sprinkler as "the big gun." Photograph DC-23 is of the blue box in the approximate area where ADEQ observed a blue plastic pipe on September 23, 2008. ADEQ inquired about the box and Mr. Larsen confirmed that it is the location where the blue pipe was observed. Mr. Larsen also stated that the pipe was abandoned. Mr. Larsen stated that he informed WYCAU staff that the pipe was abandoned on September 23, 2008. Material on the excavator there was a large dirt and concrete pile (photographs DC-16 and DC-20) that was not present on September 23, 2008. A John Deere tractor (see photographs DC-24 and DC-25) was located at the north end of the property, just west of the beam. WYCAU staff observed freshly laid soil and debris adjacent to the beam (photographs DC-24 and DC-25). The plastic debris in the soil is consistent with the debris that ADEQ identified during the September 23, 2008 inspection (see photographs DC-4 then DC-5, 7 and 9).

Findings

The inspection found evidence that DU officials had buried an unknown quantity of biosolids on the east side of the property. This is believed to have occurred during the spring and summer of 2008.

Compliance Summary

Annual report of the Department of the Interior
under the Act

1900

(1) Monitoring and Reporting Requirements:

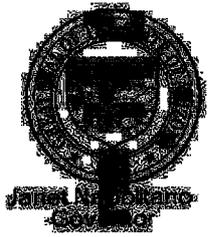
(a) The APP No. P10301 - Monitoring and reporting under the APP was not inspected, but the kind of violation the WWTP is a violation of the APP. **Category Non-Compliance**

(b) Type 2 Discharge Water Control Control. Not Inspected.

2. Operating Condition Requirements: The WWTP is a **Class 1** WWTP and the collection system is classified as **Class 2** Collection System. The operating and reporting under the APP is **Category Non-Compliance** issued by **ADQ**. **Category Non-Compliance**

3. Operating Condition Requirements: The facility has violated the APP with the **Category Non-Compliance** of the **Category Non-Compliance** issued by **ADQ**. **Category Non-Compliance**

Category Non-Compliance



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1100 West Washington Street, Phoenix, Arizona 85007
(602) 729-2300



**CERTIFIED MAIL
RETURNED TO SENDER**

Case ID #: 10772

October 20, 2008

Jonathan L. Jones, CEO
Johnson Lithium Corporation
10001 N. 19th Avenue
Scottsdale, AZ 85260-5700

Subject: JOHNSON LITHIUM CORP. - SECTION 11 - NSR/TP, Phase 10-140
LITHIUM, 20, 15TH LANE 1140, SCOTTSDALE, AZ

NOTICE OF VIOLATION

The Arizona Department of Environmental Quality (ADEQ) has issued a NOTICE OF VIOLATION (NOV) to JOHNSON LITHIUM CORPORATION, LLC as the owner/operator of Johnson Lithium Section 11: NSR/TP. The NOV is issued as a result of an inspection of the Johnson Lithium Section 11: NSR/TP facility within the Arizona Administrative Code (A.A.C.) area pertaining to administrative and compliance. ADEQ discovered the violation(s) alleged below during an inspection completed on September 25, 2008.

I. LEGAL AUTHORITY and NATURE OF ALLEGED VIOLATIONS

1. A.A.C. § 18-2-211(A)

Discharge without an Aquifer Protection Permit.

On September 25, 2008, ADEQ field staff discovered one container (two buried) disposal pits containing bleach and other debris at the Section 11 facility. The pits are discharging leachate and are covered under existing Aquifer Protection Permit 01-017.

2. Permit 01-017 (NSR/TP) - Aquifer Protection Permit, Issued 01/01/01

Discharge of leachate in a manner not prescribed in the Aquifer Protection Permit.

On the issuance of this NOV, the violator is not permitted to discharge leachate to the AQP issued for the facility.

II. DOCUMENTING COMPLIANCE

1. Within 10 calendar days of receipt of this notice, please submit documentation that the violation(s) never occurred, or a closure plan for the violation that complies with the requirements of A.A.C. § 18-2-211(A) and A.A.C. § 18-2-211(B).
2. Within 30 calendar days of receipt of this notice, please submit documentation that the violation(s) never occurred, or documentation that the closure plan as approved by ADEQ has been implemented and all compliance and public notice requirements have been completed within the timeframes provided in the approved closure plan.

Northern Region Office
1801 West Route 66, Suite 117, Flagstaff, AZ 86001
(928) 779-0213

Southern Region Office
1100 West Congress Street, Suite 112, Tucson, AZ 85704
(520) 622-8732

Printed on recycled paper

[REDACTED]

II. COMPLIANCE INFORMATION

[REDACTED]

[REDACTED]

III. STATEMENTS

[REDACTED]

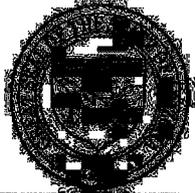
[REDACTED]

IV. SIGNATURES

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]



Arizona Department of Environmental Quality

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1100 West McDowell Avenue Phoenix, Arizona 85007
(602) 717-2300 www.aazdeq.gov



Arizona Department of Environmental Quality

CERTIFIED MAIL
Return Receipt Requested

Case ID: 00000000000000000000

October 20, 2008

Johnson Utilities, LLC
Attention: EPA, Tanager
2200 E. Super St
Scottsdale, AZ 85244-3700

Subject: Johnson Utilities, Section 71-0007P, Phase 03 L&B
L&B 000, at 37N L10071 14.50, 15.71

NOTICE OF VIOLATION

The Arizona Department of Environmental Quality (ADEQ) has reason to believe that Johnson Utilities, LLC as the owner/operator of Johnson Utilities, Section 71-0007P has violated a requirement of the Arizona Revised Statutes (A.R.S.), a rule within the Arizona Administrative Code (A.A.C.), or an approved permit/consent administrative order or other agreement. ADEQ discovered the violations alleged below during an inspection completed on September 25, 2008.

I. LEGAL AUTHORITY and NATURE OF ALLEGED VIOLATIONS

1. A.A.C. 18-08-1002

Use of bio-piles, application of biosolids, or placement of biosolids on land near a disposal site has never been approved by the Department of Environmental Quality.

On September 25, 2008, ADEQ field staff discovered open open, and two buried, disposal pits containing biosolids and other wastes at the Section 71 facility. These pits constitute open disposal sites under the biosolids rule and are not constructed or operated in accordance with the biosolids rule.

2. A.A.C. 18-08-1071(B)(1)

Biosolids from the Section 71 facility are not to be applied to agricultural, horticultural, or forestry land.

On September 25, 2008, ADEQ field staff observed loose biosolids scattered on the ground surface near the disposal site.

3. A.A.C. 18-08-1072

When a spill of biosolids occurs, the spill must be cleaned up immediately.

ADEQ has no record of notification from Johnson Utilities of a spill of bulk biosolids.

4. A.A.C. 18-08-1073

Failure to submit written notification to ADEQ within 15 days after a spill of bulk biosolids is a violation.

ADEQ has no record of written notification of a spill of bulk biosolids by Johnson Utilities.

The Employment of Johnson Utilities, L.L.C. at any wastewater or drinking water facility with knowledge of the shipment of biosolids to the Section 71 facility.

1. Within 10 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or the identification of every individual and company (other than Johnson Utilities, L.L.C.) that engaged in the transportation of biosolids to the Section 71 facility.
2. Within 10 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or the name of every Johnson Utilities, L.L.C. employee that engaged in the transportation or placement of biosolids at the Section 71 facility.
3. Within 5 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or a detailed description of biosolids or biosolids contaminated materials removed from the Section 71 facility on or after September 24, 2008. The report shall include a complete description of the excavation procedures, and for all material excavated and removed from the Section 71 facility:
 1. Dates and type of excavation and removal;
 2. Appropriate samples taken of the materials or the surrounding soil or groundwater, including laboratory documentation of those sample results;
 3. The quantity or volume removed and the method for estimating quantity or volume;
 4. The method of transportation from the Section 71 facility to any other location, including any shipping manifests, manifests or bills of lading;
 5. The location(s) of materials removed were described, including receipts from the disposal sites;
 6. Any correspondence between any individual or entities, including electronic messages, in the possession of Johnson Utilities, L.L.C. relating to or referencing the removal.
4. The identification of every individual and company (other than Johnson Utilities, L.L.C.) that engaged in the excavation or transportation of materials removed; and
5. The name of every Johnson Utilities, L.L.C. employee that engaged in the excavation or transportation of materials removed, including the supervision of those activities.
6. Within 10 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or any correspondence between any individuals or entities, including electronic messages, in the possession of Johnson Utilities, L.L.C. relating to or referencing the storage or dumping of biosolids at the Section 71 facility, or the disposal, including the deposition of biosolids from the Section 71 facility.
7. Within 10 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or documentation that all biosolids and biosolid-contaminated materials have been removed from the excavation on the Section 71 facility, along with an explanation for the basis of the conclusion that all biosolids and biosolid-contaminated materials have been removed. The documentation shall include, but is not limited to, laboratory analysis, chain-of-custody forms, or detailed site plan and shipping documentation for biosolids transferred to the Section 71 facility and shipping documents for biosolids and biosolid contaminated materials transported from the Section 71 facility.

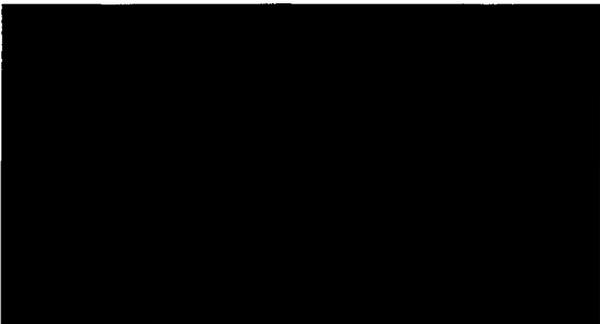
Tribune

EAST VALLEY • SCOTTSDALE

March 20, 2009

State agency questions utility over spill

By Amanda Keim
Tribune



Water sits in the bottom of the Queen Creek wash outside the Johnson Utilities water reclamation plant.

Tribune

Some Arizona Corporation Commissioners are questioning why Johnson Utilities didn't notify the agency about a spill in Pinal County's Cambria Ocotillo neighborhood before they approved letting the utility expand its service area to two other neighborhoods.

New sewage spill blamed on Johnson Utilities [<http://www.eastvalleytribune.com/story/136697>]

The utility went before the Corporation Commission March 3 to request to add 1.2 square miles to its service area in Pinal County.

That area is comprised of three planned developments: Skyline Estates, Quail Run Estates and the J.O. Combs Educational Village, according to Corporation Commission documents related to the case.

The commission approved extending the company's Certificate of Convenience and Necessity, which defines the company's service area, to expand as long as the company met certain conditions. Some of those conditions included coming into compliance with the Arizona Department of Environmental Quality by Dec. 31 on issues involving problems at the Pecan Water Reclamation Plant last year.

ADEQ records show the company is now in compliance with an order to disinfect a wash near that plant.

However, Commissioner Sandra Kennedy asked that the decision on the Skyline Estates area be reconsidered by the Corporation Commission after news about an unrelated spill came out: a 9,000-gallon backup that occurred Feb. 22 in Pinal County's Cambria Ocotillo subdivision.

"I'm really hoping to find out why, at the time they were before us on March 3, the issue did not come up," Kennedy said.

The new spill involved two lines clogged with grease and other materials that backed up into two retention basins.

The wastewater was cleaned up, the area was disinfected and the pipes were flushed out, according to a report the company submitted to ADEQ.

The utility notified ADEQ about the spill the same day it happened and followed up with a report three days later, according to ADEQ records.

But notification didn't go to the Corporation Commission until March 13 - two days before a story on the spill was published in the Tribune.

The utility isn't required to notify the Corporation Commission about spills, said Rebecca Wilder, Corporation Commission spokeswoman.

However, since spills had been occurring, the company had been notifying the commission, Wilder said.

Kennedy and commission chair Kris Mayes both wanted the full commission to revisit the matter as a result, Wilder said.

"Because they had an application before the commission for a (service area expansion), the commissioners believed that the company should have notified the commission of the spill, and it is relevant to the case," Wilder said.

An item was placed on the commission's March 19 agenda to discuss possibly amending, rehearing or delaying the case, but it was pulled from the agenda because the lawyer handling the case for Johnson Utilities wasn't in town.

The item is expected to be placed on a future agenda, likely on March 31 or April 1, Wilder said.

Brian Tompsett, executive vice president for Johnson Utilities, said he was notified the commission wanted to discuss the situation the day before the meeting. The company's law firm sent the commission a letter explaining the lawyer handling the case was out of town.

"I understand the item will be placed back on a future agenda and the company will answer all the questions of the commissioners have at that time," Tompsett said in an e-mail.

ADEQ spokesman Mark Shaffer said Johnson Utilities notified ADEQ about the spill within the allotted time frame, but he said he couldn't confirm whether that incident was still being investigated.

"We can't comment about ongoing investigations," Shaffer wrote in an e-mail. "But we have encouraged Johnson Utilities to pursue a formal management and maintenance program for sewer operation and maintenance to minimize the risk of sewer overflows in their system."

