

ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

2009 MAY 29 A 10:00

SECRET

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

REPLY BRIEF CONCERNING ADMISSIBILITY OF DOCUMENT

1 Swing First Golf LLC ("Swing First") hereby replies to the opening brief of Johnson
2 Utilities, LLC ("Utility"). Utility has raised no valid objections to the admissibility of the
3 document.

4 **I UTILITY'S BRIEF WAS LATE-FILED AND SHOULD BE DISREGARDED**

5 On April 27, 2009, Judge Wolfe set the following procedural schedule: "Discovery
6 period will end May 11th, and the briefs will be due May 22nd at noon. Response briefs will be
7 due May 29th at noon."¹ RUCO, Staff, and Swing First each filed their briefs ahead of the noon,
8 May 22, deadline, and each e-mailed courtesy copies to the other parties. In contrast, Utility
9 once again chose to ignore a clear deadline. Utility only e-mailed a copy of its late-filed brief to
10 Swing First's counsel after he objected to not having timely received it and then not until 5:19
11 p.m. on a Friday before the Memorial Day holiday weekend.² Because this was not served until
12 after 5:00 on a Friday, the legal time of service was 8:00 a.m. on Tuesday May 26, 2009,
13 following the Monday legal holiday. This was 92 hours after it was due to the parties.

14 Utility cannot be allowed to continue to thumb its nose at Judge Wolfe and the
15 Commission. The Commission needs to show that its deadlines apply to everyone, even George
16 Johnson, Utility, and Utility's attorneys.

¹ Tr. at 352:22-24.
² See Appendix A.

Arizona Corporation Commission
DOCKETED

MAY 29 2009

DOCKETED BY [Signature]

1 This is hardly the first time that Utility has chosen to ignore Judge Wolfe’s procedural
2 deadlines.³ On August 15, 2008, the Commission issued a Procedural Order in this docket
3 (“Procedural Order”). It provided (in part) that: discovery shall be as permitted by law and the
4 rules and regulations of the Commission, except that until March 6, 2009, any objection to
5 discovery requests shall be made within 7 calendar days of receipt and responses to discovery
6 requests shall be made within 10 calendar days of receipt. (Emphasis added.) Utility decided
7 that it was free to disregard the Commission’s Order. First, it unilaterally delayed responding to
8 data requests until well past the 10-calendar-day deadline. Then along with its grossly overdue
9 responses, Utility made untimely objections to many of the data requests. Utility continued to
10 delay discovery responses and provide incomplete or irrelevant responses.

11 Utility also flouted Judge Wolfe’s deadline for filing rejoinder testimony. Utility’s
12 rejoinder testimony was due on April 16, 2009.⁴ Utility did not file its rejoinder testimony until
13 April 17.

14 Utility also disregarded Judge Wolfe’s recent discovery order. Judge Wolfe reopened
15 discovery in this case, but provided that the discovery period ended on May 11, 2009. Utility
16 waited until 4:56 p.m. on May 11 to submit follow-up data requests to Swing First, which were
17 not received by Swing First until after 5:00 p.m. on May 11. Although Swing First could have
18 objected to providing its responses to the late-submitted data requests, it chose not to raise the
19 issue and did timely provide its responses. However, this is just another example of Utility
20 blatantly flouting Judge Wolfe’s procedural orders.

21 It is time for the Commission to draw a line and set an example. Even a millionaire and
22 his huge law firm have to be held to the rule of law. Utility’s brief should be rejected and
23 disregarded.

³ This paragraph, please see Swing First Golf LLC’s Motion to Compel, dated November 21, 2008.

⁴ Procedural Order dated August 15, 2008, at 3:4-6.

1 **II MR. JOHNSON IS AGAIN PLAYING THE VICTIM AND ATTACKING THE**
2 **TRUE VICTIM**

3 **A MR. JOHNSON LOVES TO PLAY THE VICTIM AND ATTACK THE**
4 **TRUE VICTIMS**

5 In 2005 the Arizona Attorney General brought a lawsuit on behalf of the Arizona
6 Department of Environmental Quality (“ADEQ”), the Arizona State Land Department, the
7 Department of Agriculture, the Arizona State Museum and the Arizona Game and Fish
8 Commission. The suit charged George Johnson, Johnson International, General Hunt, and
9 several Johnson contractors with numerous violations of state law and destruction of natural and
10 archeological resources, including:

- 11 • Bulldozing and clearing of nearly 270 acres of State Trust Lands located in and near
12 the Ironwood National Monument and the Los Robles Archeological District.
- 13 • Bulldozing and clearing an estimated 2,000 acres of private lands in the Santa Cruz
14 River Valley without obtaining permits required by state law.
- 15 • Destroying portions of seven major Hohokam archeological sites, circa A.D. 750-
16 1250.
- 17 • Destroying more than 40,000 protected native plants on State Trust Lands, including
18 Saguaro, Ironwood, Mesquite, Palo Verde and other protected species.
- 19 • Violating the state’s clean water laws by failing to secure required permits and
20 discharging pollutants into the Little Colorado River, the South Fork of the Little
21 Colorado River and tributaries of the Santa Cruz River.
- 22 • Negligently causing a disease epidemic that resulted in the death of at least 21 rare
23 Arizona desert bighorn sheep and serious injury to numerous others.

24 Ultimately, George Johnson and the other defendants agreed to pay a fine of 12.1 million
25 dollars—the largest civil environmental settlement in Arizona history—to settle these charges.⁵

26 In a related case, the United States Environmental Protection Agency (“EPA”) sued
27 George Johnson, his companies, and his contractor for bulldozing, filling, and diverting

⁵ See Appendix B, a copy of the ADEQ press release.

1 approximately five miles of the Santa Cruz River. In October 2008, George Johnson and the
2 other defendants agreed to pay a fine of \$1.25 million, the largest penalty in the history of EPA's
3 Pacific Southwest Region, and one of the largest in EPA's history under Section 404 of the
4 Clean Water Act.⁶

5 So what was Mr. Johnson's strategy during the pendency of these lawsuits? He played
6 the victim and attacked the true victims. In a February 2008 article in Phoenix Magazine,⁷ Jana
7 Bommersbach chronicled Mr. Johnson's strategy:

8 George Johnson turned down an interview request from PHOENIX magazine, but
9 his side of the story is available on The Johnson Report, the blog he's been
10 keeping since 2006 (thejohnsonreport.com).

11 In thousands of words, he rails against Arizona's "fabricated case" against him
12 and claims he is being singled out.

13 He also believes his Johnson Report is a potent force and that it is scaring state
14 officials into realizing "they made a grave mistake in starting this fight."

15 Johnson maintains he did nothing wrong. For instance, when accused of
16 destroying native plants, he writes, "The state is under the impression that every
17 rancher and entity in Arizona asks permission to trim trees and clear brush on
18 private land."

19 When accused of blading over thousands of acres, he writes, "The state is still
20 having trouble accepting the fact that clearing pastures is standard ranching
21 practice."

22 And when told that Arizona has 250 witnesses ready to testify against him, he
23 chides that the state is looking for more "dirt" on him and wonders why they'd
24 need more if they already had so much.

25 "Sounds like desperation to me," he writes.

26 Johnson originally responded to the state lawsuits by countersuing Arizona. He
27 demanded it drop the suits and sought \$33 million in damages, claiming the
28 charges were nothing but a "get George Johnson campaign." His complaint stated:
29 "The individual defendants have intentionally denied Mr. Johnson equal
30 protection under the law by treating him as a class of one and subjecting him and
31 his business entities to a punitive enforcement scheme not endured by other
32 persons or entities in Arizona."

33 The countersuit was ultimately dismissed in December as part of the settlement.
34 So was a suit Johnson filed against Attorney General Terry Goddard and his wife

⁶ See Appendix C, a copy of the Department of Justice press release.

⁷ See Appendix D, a copy of "Dissecting Arizona" Phoenix Magazine, February 2008.

1 Monica, claiming Goddard “defamed” him when he announced the lawsuit as
2 “wanton destruction of Arizona’s heritage resources.”

3 Goddard claimed he had “absolute immunity” from such suits in carrying out the
4 duties of his office. The Arizona Republic’s editorial page weighed in on
5 Johnson’s counterattack, arguing the state’s top lawyer has “an absolute need to
6 speak freely” about suits he files.

7 Johnson said in his blog that he has been mostly misunderstood. “I have lived in
8 Arizona all my life,” he said in his first blog entry on July 1, 2006. “I love this
9 state as my father before me loved this great state. I have been in business here all
10 my life and have made many contributions to this state, some of which I am proud
11 to say bear our family name.”

12 But he bemoans that the Arizona lawsuit has left nothing but a negative
13 impression of him. “My business activities have come under scrutiny for a
14 number of reasons, and the papers write about these events as if Atilla (sic) the
15 Hun were let loose upon Arizona.”⁸

16 There is one thing that can be said about Mr. Johnson: he is consistent. Just as he did
17 when sued by State and Federal regulators, Mr. Johnson is again playing the victim and attacking
18 the true victims – Mr. Ashton and Swing First. In the next section, Swing First will discuss the
19 history of the abuse endured by Mr. Ashton at the hands of Mr. Johnson, pulling the strings of
20 his puppet utility.

21 **MR. JOHNSON AND UTILITY IGNORE THEIR UNLAWFUL, TRULY**
22 **COERCIVE CONDUCT THAT LED TO THE RECORDING**

23 Utility portrays Mr. Ashton’s recording of Mr. Larsen as an unprovoked attack on Utility
24 and Mr. Johnson. Utility completely ignores its campaign of abuse against Mr. Ashton that led
25 to Mr. Ashton’s desperate action. At the direction of Mr. Johnson, Utility was using its
26 monopoly powers to try to drive Swing First out of business.

27 Utility had already committed the following abusive acts before Mr. Ashton was driven
28 to record Mr. Larsen.

29 **1 Mr. Johnson and Utility Cheated Swing First**

30 As discussed by Mr. Ashton, Swing First contracted to manage Mr. Johnson’s Oasis Golf
31 Course in exchange for an irrigation-water credit provided by Utility.⁹ As demonstrated at the

⁸ *Id.* at 2 (emphasis added).

⁹ Ashton Direct at 8.

1 hearing, Utility's own bills demonstrate that it did provide the credit.¹⁰ Then, when Swing First
2 terminated its management services Utility reversed the credit.¹¹

3 **2 Utility Manufactured New Bills which Reversed the Water Credit**

4 At the hearing, Swing First demonstrated that Utility created new irrigation-water bills
5 for previously billed consumption, which reversed the previously provided water credit and re-
6 billed the consumption at higher rates.¹²

7 **3 Utility Charged Swing First Far More than the Lawful Rates of**
8 **Irrigation Water**

9 In its subsequently manufactured bills for 2006, Utility charged Swing First \$0.83/100
10 gallons for treated effluent, instead of the lawful tariffed rate of \$0.62/1000 gallons.¹³ In 2007,
11 Utility continued to bill Swing First \$0.83/100 gallons for treated effluent, instead of the lawful
12 tariffed rate of \$0.62/1000 gallons.¹⁴ In 2007, Utility also began billing Swing First \$3.75/1000
13 gallons for CAP water, instead of the lawful tariffed rate of approximately \$0.83/1000 gallons.¹⁵
14 This lasted through the first six months of 2007.¹⁶

15 **4 Utility Deliberately Withheld Effluent from Swing First**

16 Not only was Utility grossly overcharging Swing First for CAP water, but it was
17 withholding lower-priced, readily-available effluent. Utility produced far more effluent than it
18 sold in 2007.¹⁷ In 2007 Utility sold Swing First only 10.044 million gallons of effluent for the
19 whole year, even though Utility produced almost 185 million gallons of effluent.¹⁸ For eight
20 months in 2007, Utility sold Swing First no effluent at all.¹⁹ Instead, Utility delivered more

¹⁰ Exhibit SF-22; Tr. at 298:9-14.

¹¹ Ashton Direct at 9.

¹² Tr. at 289:21 – 296:16.

¹³ Tr. at 272:1 – 275:25.

¹⁴ Tr. at 276:1 – 278:17.

¹⁵ Tr. at 281:5 – 284:21.

¹⁶ *Id.*

¹⁷ Tr. at 227:12 – 234:21; Exhibit SF-18.

¹⁸ Exhibit SF-18.

¹⁹ *Id.*

1 expensive CAP water and then multiplied the injury by charging five times the tariffed rate for
2 CAP water.²⁰

3 **5 Utility Lied to Swing First about the Availability of Effluent**

4 Mr. Tompsett flat-out lied to Mr. Ashton about the availability of effluent. In his
5 December 3, 2007, e-mail to Mr. Ashton, Mr. Tompsett stated: “We will continue to try to
6 deliver as much effluent to the golf course as we can but the other part of the equation is that the
7 golf course does not generate any wastewater. All effluent delivery is based on flows generated
8 from the subdivisions.”²¹ In these two short sentences, Mr. Tompsett lied twice.

9 Mr. Tompsett lied first when he said that “We will continue to try to deliver as much
10 effluent to the golf course as we can.” This was a lie because, for the previous 11 months of
11 2007, Utility only delivered 3.907 million gallons of effluent, despite having produced 167.723
12 million gallons of effluent in the same time period.²² Instead, Utility was recharging the
13 undelivered effluent by pumping it into the ground.²³ Utility’s lie benefitted Utility by allowing
14 it to pump more groundwater in its service territory.²⁴

15 Mr. Tompsett also lied when he said that: “the other part of the equation is that the golf
16 course does not generate any wastewater. All effluent delivery is based on flows generated from
17 the subdivisions.” Mr. Tompsett later agreed that there was nothing in its tariff that restricted
18 effluent deliveries to flows generated by the customer.²⁵ Mr. Tompsett also agreed that he knew
19 that it was the Commission’s policy to encourage a utility to use effluent as much as possible for
20 golf-course irrigation.²⁶ So not only did Mr. Tompsett lie to Mr. Ashton, but Mr. Tompsett knew
21 that his lie undermined Commission policy.

²⁰ See previous section.

²¹ Exhibit SF-20.

²² Exhibit SF-18.

²³ Exhibit SF-19; Tr. at 238:17-21.

²⁴ Tr. at 241:8 – 242:22.

²⁵ Tr. at 259:15 – 260:22.

²⁶ Tr. at 260:23 – 261:8.

1 **6 Utility Manufactured a Phony Past-Due Balance by Withholding**
2 **Effluent and Grossly Overcharging for the Water it Did Deliver**

3 As the next step in its campaign to drive Swing First out of business, at the end of 2006
4 Utility began manufacturing a huge past-due balance for Swing First. On December 31, 2006,
5 Utility rendered bills for CAP water and effluent for consumption in November and December
6 2006.²⁷ The past-due balances for each of these bills was zero. The effluent bill charged Swing
7 First \$0.828/1000 gallons for effluent, although the tariffed rate was only \$0.62/1000 gallons.
8 The CAP-water bill charged Swing First \$3.75/1000 gallons for CAP water, although the tariffed
9 rate was only \$0.827/1000 gallons. In one fell swoop, Utility had overcharged Swing First more
10 than \$30,000.²⁸

11 As just discussed, beginning in late 2006, Utility also began withholding less-expensive
12 effluent. By continuing to withhold effluent and charging almost five times the lawful rate for
13 CAP-water, Utility had manufactured a phony past-due balance of well over \$100,000 by mid
14 2007.²⁹ With late charges and continued withholding of effluent, this balance had grown to
15 \$130,277 by November 2007, offset by a payment of \$52,850, or \$77,427.

16 If Utility had not withheld effluent and had billed Swing First at lawful rates, the reality
17 is that Swing First had actually overpaid Utility. Based on the bills provided by Utility and
18 admitted as Exhibit SF-21, Appendix F recalculates what Swing First should have been charged
19 from December 2006 through November 2007.³⁰ Because Utility had ample effluent available to
20 satisfy all of Swing First's irrigation needs, the calculation includes only one monthly minimum
21 charge. If Utility had delivered available effluent, the total charges to Swing First from
22 December 2006 through November should have been \$67,260.33. During that same period,
23 Swing First paid Utility \$97,821.97. Therefore, instead of the phony \$77,427 past-due balance,

²⁷ See Appendix E, pages 1-2 (Exhibit SF-21, pages SF000009 and SF000039.

²⁸ See Appendix E, page 3.

²⁹ Tr. at 283:25 – 284:2.

³⁰ Because Utility did not read meters in November 2006, Appendix F actually includes 13 months of consumption and payments. Appendix F also does not reflect the value of the bill credit that Utility reversed and still includes the illegal Superfund tax.

1 from December 2006 through November 2007 Swing First had actually overpaid Utility
2 \$30,561.64.

3 **7 Utility Used Its Phony Past-Due Balance to Terminate Swing First's**
4 **Irrigation Service**

5 On November 6, 2007, Utility used its phony past-due balance as a pretext to cut-off
6 Swing First's irrigation water service.³¹ Utility restored service for a few days and then cut-off
7 irrigation service again on November 20, 2007.³² Obviously, without irrigation water, a golf
8 course will soon be out of business.

9 **8 Utility Ignored the Commission's Required Notice Requirements**
10 **when it Terminated Swing First's Irrigation Service.**

11 Utility's shut-offs violated the Commission's rules. A utility cannot terminate water
12 service except upon five-days written notice.³³ Utility twice shut off Swing First's service
13 without any notice. This was clearly illegal.

14 **9 Utility Regularly Failed to Read Swing First's Meters**

15 Utility admits that it regularly failed to read Swing First's meters.³⁴

16 **10 Utility Sued Swing First to Try to Collect the Phony Past-Due Balance**

17 On January 9, 2008, Utility sued Swing First in Superior Court to bring further pressure
18 on Swing First to pay the phony past-due balance.

19 **11 To Restore Service, Swing First Was Forced to File an Informal**
20 **Complaint with the Commission**

21 To restore Service, Swing First Was forced to file an informal complaint with the
22 Commission on November 21, 2007.

23 **12 To Continue Service, Swing First Was Forced to Hire an Attorney**
24 **and File a Formal Complaint with the Commission**

25 To continue service, Swing First was forced to hire an attorney, who prepared and then
26 filed a Formal Complaint with the Commission on January 25, 2008.

³¹ Tr. 301:18 – 302:8.

³² Tr. 302:14 – 304:3.

³³ R14-2-509(D - E).

³⁴ Tr. at 248:5-8.

1 **C UTILITY'S CAMPAIGN TO DRIVE MR. ASHTON OUT OF BUSINESS**
2 **EXPLAINS HIS STATE OF MIND ON FEBRUARY 1, 2008**

3 For more than one year, Mr. Ashton had been the target of Utility's campaign to drive
4 Swing First out of business and to bankrupt Mr. Ashton. Utility had breached its contract with
5 Swing First and reversed its bill credit. Utility lied to Mr. Ashton about the availability of
6 effluent, provided more expensive CAP water instead, and then charged almost five times the
7 lawful rate. Utility created a huge phony past-due balance and used it twice as a pretext to cut
8 off Swing First's service. Utility ignored the Commission's notice requirements before cutting
9 off Swing First's service. Utility forced Swing First to file complaints with the Commission,
10 hire an attorney, and defend a court lawsuit.

11 Mr. Ashton had trusted Mr. Johnson enough to go in business with him. Now Mr.
12 Johnson was trying to drive Mr. Ashton out of business. As any person in his situation would be,
13 Mr. Ashton was confused and desperate. Why was he the target of a millionaire, who was
14 causing his regulated utility to behave in such a patently illegal, coercive, and fundamentally
15 petty manner? In desperation, Mr. Ashton was driven to record Mr. Larsen to try to get some
16 explanations for Mr. Johnson's and Utility's behavior.

17 **D UTILITY'S CAMPAIGN TO DRIVE MR. ASHTON OUT OF BUSINESS**
18 **CONTINUED AFTER FEBRUARY 1, 2008**

19 **1 Utility Deliberately Flooded Swing First's Golf Course**

20 The week beginning on Sunday January 27 was extremely rainy.³⁵ As a result, Swing
21 First needed no irrigation water. However, beginning on February 1, 2008, Utility began
22 delivering large amounts of effluent to Swing First's golf course. This caused the lake bordering
23 the 18th hole to overflow, which damaged the golf course. Mr. Ashton's employees asked
24 Utility several times to stop delivery, but Utility ignored the requests. Mr. Ashton then asked
25 Mr. Tompsett several times in writing to stop the deliveries.³⁶ Unfortunately, Mr. Tompsett was
26 no more cooperative. Then, after flooding the course, Utility actually billed Swing First for the
27 water.

³⁵ This paragraph, see generally Revised Direct Testimony of David Ashton at 11:5-13.

³⁶ Exhibit SF-28.

1 The flooding was obviously in retaliation for Swing First's filing its complaint at the
2 Commission on January 25, 2008. Mr. Tompsett could hardly have been clearer. His e-mail to
3 Mr. Ashton stated:

4 "You have now filed a formal complaint with the Arizona Corporation
5 Commission alleging, among other things, service interruptions. You even
6 requested relief requesting that "The Commission to order Utility to continue
7 providing service during the pendency of this matter." We were served with that
8 complaint Friday, February 1, 2008. Now a mere three days later you now
9 demand that "WE STOP THE DELIVERY OF WATER." **Which way do you**
10 **want it?**³⁷ (Emphasis in original).

11 On February 5, 2008, Swing First amended its Formal Complaint to include this new
12 instance of blatant customer abuse.³⁸

13 **2 Utility Sued Mr. Ashton and His Wife for Defamation to Try to**
14 **Silence Mr. Ashton and to further Intimidate Him**³⁹

15 Utility amended the Court complaint to add counts of defamation and tortious
16 interference with a business relationship.⁴⁰ Utility also added Mr. Ashton's wife as a defendant,
17 which caused her extensive anguish.

18 Utility added the tort allegations because Mr. Ashton spoke with another irrigation
19 customer (the San Tan Heights Home Owners' Association) to discuss whether it had also been
20 overcharged by Utility. Of course, the evidence is now clear that Utility had been grossly
21 overcharging the San Tan Heights HOA – \$3.75/1000 gallons for effluent with a tariffed rate of
22 only \$0.62/1000 gallons.⁴¹

23 These new counts were obviously designed to silence Mr. Ashton and set an example of
24 what happens to those who stand up to Mr. Johnson.

³⁷ *Id.*

³⁸ Utility insinuates that Swing First "coincidentally" amended the Formal Complaint as a result of the Larsen recording. (Utility Brief at 2:19-21.) Utility simply ignores its deliberate flooding of the golf course, which occurred in the 11 days between the dates of the initial Formal Complaint and the Amended Formal Complaint. Utility also does not point to anything in the Larsen transcript that somehow became part of the Amended Formal Complaint.

³⁹ This section, see generally Revised Direct Testimony of David Ashton at 10:7-13.

⁴⁰ Exhibit SF-26.

⁴¹ Exhibit SF-17; Tr. at 228:11:16, 308:23 – 3:15.

1 **3 Utility Withheld Irrigation Water When It Was Most Needed**⁴²

2 Golf courses in the Valley consume the greatest amount of water during over-seeding,
3 which usually occurs each year in October. At that time, Swing First shaves the summer
4 Bermuda-grass turf and stops watering so the turf can dry out in preparation for over-seeding.
5 Then, when the summer turf is dry, Swing First over-seeds with a winter grass like Rye. To
6 ensure the new grass takes root as quickly as possible, Swing First must water heavily. During
7 over-seeding Swing First uses about 800,000 gallons per day, which may exceed the capacity of
8 Utility's closest wastewater treatment plant. Although Swing First can manage at the plant
9 capacity level, it is much easier with Utility's cooperation.

10 Mr. Ashton met with Brian Tompsett and asked if he would please store effluent for
11 Swing First for later delivery. Mr. Tompsett said he could do that and the parties later
12 exchanged emails about it. However, when Swing First asked to draw on the stored effluent, Mr.
13 Tompsett said that they had no stored effluent for Swing First. Mr. Tompsett then tried to force
14 Swing First into signing a CAP-delivery contract.

15 Utility ultimately backed down on its demand that Mr. Ashton sign a CAP-delivery
16 contract and began delivering effluent directly from the plant. But then Utility claimed that it
17 had a broken line and could not deliver any effluent for about a day. Fortunately, despite
18 Utility's efforts to sabotage successful over-seeding, Swing First was able to manage the crisis,
19 thanks to its lake storage and a very competent groundskeeper.

20 There have been other times when Utility has claimed its line has broken, such as during
21 the summer of 2008, which is of course the other time of year when Swing First most needs
22 water. Utility certainly knows when Swing First most needs water and has never documented
23 the reason for these suspicious line-breaks.

⁴² *Id.* at 11:15 – 12:14.

1 **4 Mr. Johnson Slandered Mr. Ashton and Used Threats to Try to**
2 **Coerce Swing First from Participating in this Case⁴³**

3 On February 9, 2009, Mr. Johnson sent a letter (on Utility letterhead) to multiple
4 members of Swing First Golf.⁴⁴ The letter was clearly intended to intimidate Swing First
5 members from supporting Swing First's participation in this case and in Swing First's complaint
6 case against Utility. It also attacked Mr. Ashton personally, and attempted to destroy his
7 business relationship with the other Swing First Members.

8 Acting on behalf of Utility, George Johnson threatened to sue the members for
9 defamation if they do not proactively oppose Swing First's cases at the Commission. Based on
10 Mr. Johnson's behavioral history, a reasonable person would take this threat seriously. Mr.
11 Johnson and his companies had already filed defamation lawsuits against Attorney General Terry
12 Goddard and his wife, against Mr. Ashton and his wife, and against several of Utility's
13 customers.⁴⁵

14 Acting on behalf of Utility, George Johnson attached copies of several legal pleadings
15 concerning an unfortunate incident that Mr. Ashton was involved with in 2005. This incident
16 was irrelevant to his business ability, to this case, and in any way to his integrity.

17 Acting on behalf of Utility, George Johnson suggests without any reason that there is
18 some basis for the Swing First members to require outside management and financial audits. But
19 Mr. Ashton already provides audited financials to his investors.

20 Acting on behalf of Utility, George Johnson finally suggests that Mr. Ashton's personal
21 tax returns should be audited. Again, there is no basis for Utility's "suggestion," except to hurt
22 Mr. Ashton.

23 In its brief, Utility repeatedly charges Swing First with extortion, coercion, and
24 blackmail. To support these wild charges, Utility only offers innuendo and conspiracy theories.

⁴³ Id. at 12:19 – 14:23.

⁴⁴ The letter is attached to the Revised Direct Testimony of David Ashton.

⁴⁵ Appendix C; Exhibit SF-26; Exhibit SF-27.

1 The irony is amazing. The guilty party seems to be trying to justify his own despicable conduct
2 by baseless charges that the victim did it too.

3 Again, Mr. Johnson plays the victim and attacks the true victim.

4 **III THERE WAS NO BLACKMAIL OR COERCION**

5 Utility cites federal and state wire-tapping statutes, which restrict the use by prosecutors
6 of wiretaps obtained without a warrant, unless one party consents to the recording.⁴⁶ These have
7 no place here. This is not a criminal case. No federal or state action caused the recording to be
8 made. In addition, as clearly outlined in briefs by both Staff and RUCO, the taping of the
9 conversation was legal under Arizona law. Further, Mr. Ashton was clearly trying to protect
10 himself against Utility's relentless campaign to put him out of business.

11 Utility claims that by recording Mr. Larsen, Mr. Ashton was trying to blackmail it to
12 obtain a favorable settlement.⁴⁷ Again, the irony is amazing. Utility had been pounding Mr.
13 Ashton for months, by withholding effluent, grossly overcharging for water delivered, cutting off
14 service, and suing in Superior Court. All of this was part of Utility's campaign to try to get Mr.
15 Ashton to pay more money, or see his water shut off and his business destroyed. This was
16 clearly extortion.⁴⁸ Now, Utility incredibly has the chutzpah to claim that Mr. Ashton was the
17 actual extortionist.

18 There is nothing in the transcript to support Utility's amazing claim. Mr. Ashton never
19 once threatened to expose Mr. Larsen and never once mentioned settlement to Mr. Larsen. The
20 document in question was provided to Utility as part of discovery only after Swing First realized
21 that Utility had failed to turn over all e-mails as previously requested by Swing First.⁴⁹

22 Contrary to Utility's assertion, Swing First did not make public the document discussed
23 in the transcript. However, Swing First does expect to offer it as an exhibit, not to embarrass Mr.

⁴⁶ Utility Brief at 3:22 – 4:16.

⁴⁷ *Id.* at 6:13 – 8:14.

⁴⁸ Swing First has not researched the law to see if Utility's extortion may have violated any criminal statutes.

⁴⁹ See Appendix G, April 15, 2009, supplemental response to Utility DR 2.15 in Docket No. WS-02987A-08-0049.

1 Larsen, but to show that Utility had the ability to and did create invoices out of thin air. The
2 document also shows how Utility would harass and intimidate its own employees.

3 Utility also has no evidence whatsoever of any subsequent threats by Swing First that it
4 would release any other document if Utility did not settle.

5 Finally, Utility claims that the timing of the use of the transcript was part of Swing First's
6 blackmail scheme.⁵⁰ Utility attached one of Swing First's second data responses to its brief, but
7 ignored Swing First's first data responses. Swing First's response to DR 5.5 follows:

8 5.4 Regarding the recorded conversation referenced in data request JU 5.3, provide a
9 chain of custody for the recording (if the conversation was captured on tape, disk,
10 memory stick, etc.) or the recording device itself (if the conversation was captured
11 on an internal hard drive) from the date of the recording through and including the
12 date of Swing First Golf's response to this data request.

13 Response Provided by Mr. Ashton: After I made the recording on February 1,
14 2008, I put the recorder in a drawer at Swing First's office at the Johnson Ranch
15 Golf Course, where it stayed until March 2009. In late March 2009, I asked Jeff
16 Lundgren to take the recorder from my desk and mail it to Mr. Marks, which I am
17 told he did. On April 27, 2009, I had the recorder in my possession to again listen
18 to the recording, and had it again with me on the stand. I then gave the recorder
19 back to Mr. Marks.

20 Response Provided by Counsel: I received the recorder in the mail on April 2,
21 2009, and I have had it either in my office or in my possession since that time,
22 other than the two times discussed by Mr. Ashton, where I handed him the
23 recorder and received it back.

24 In Mr. Tompsett's March 24, 2009, Supplemental Rebuttal Testimony he claimed:

25 Neither Mr. Larsen nor Ms. Davis told Mr. Ashton that Johnson Utilities does not
26 follow the law in its billing practices or that Mr. Johnson told them to conduct
27 illegal billing practices. Specifically, Mr. Larsen and Ms. Davis each told Mr.
28 Ashton that customers are billed according to the rates that are set forth in the
29 tariffs approved by the Arizona Corporation Commission and that SFG is no
30 exception.⁵¹

31 This statement prompted Mr. Ashton to remember the recording, which he had not previously
32 listened to, and that he believed could contradict Mr. Tompsett's hearsay testimony on behalf of
33 Mr. Larsen. As the response to DR 5.5 shows, Swing First moved quickly to obtain and review

⁵⁰ Utility Brief at 7:21 – 8:7.

⁵¹ Exhibit A-6 at 13:15-20.

1 the recording. The recording was almost immediately provided to Arizona Reporting Services,
2 who then promptly completed the transcript late on April 16, 2009. Mr. Crocket was then
3 provided a copy of the transcript on the morning of April 25, 2009.

4 Once Mr. Tompsett's self-serving hearsay statements prompted Mr. Ashton to suggest
5 that his recording might contradict the statements, Swing First moved quickly and at
6 considerable expense to locate and obtain the recording and then to have a professional transcript
7 prepared. There was no motive except to get the truth on the record.

8 Utility feigns disconcertion that Swing First may elect have the recording professionally
9 enhanced.⁵² As just established, there was no time to locate a professional and have the
10 recording enhanced in the three weeks from when counsel received the recording until the
11 hearing began. Also, obtaining such services would be expensive, and there was more than
12 enough in the transcript already for the Commission to consider in this case. However, because
13 the request called for each and every fact Swing First intended to establish, Swing First needed
14 to provide for the possibility of professional enhancement, so that the data response could not be
15 used against it. Swing First does not intend to have the recording professionally enhanced for
16 this case, but may retain a professional for this purpose in the Complaint docket.

17 Utility insinuates some sinister motive to Swing First not transcribing the beginning and
18 end of the recording.⁵³ Utility attached Swing First's response to Data Response 6.6 to its brief.

19 The response explained:

20 The section cut from the beginning concerned Mr. Ashton and Mr. Larsen
21 greeting each other, ordering food, and waiting for their orders. The section cut
22 from the end was after the conversation between Mr. Ashton and Mr. Larsen
23 concluded. The section cut from the beginning concerned Mr. Ashton and Mr.
24 Larsen greeting each other, ordering food, and waiting for their orders. The
25 section cut from the end was after the conversation between Mr. Ashton and Mr.
26 Larsen concluded.

⁵² Utility Brief at 11:10-12.

⁵³ Id. at 11:

1 Utility has also been provided a copy of the full recording and the opportunity to directly listen
2 to the recorder. Utility well knows that there is nothing of any consequence on the short sections
3 not transcribed. This kind of base innuendo should be beneath Utility's counsel.

4 **IV THE INFORMATION IS CLEARLY RELEVANT**

5 Judge Wolfe, RUCO, Staff, and Swing First all believe the transcript is relevant. Again,
6 at the time of the recording, Mr. Larsen was a senior Utility employee, with ten years of service
7 who reported directly to Mr. Tompsett. His opinions concerning Utility's practices and those of
8 Utility's president, George Johnson, are clearly relevant. Utility is certainly free to put on
9 contrary evidence through Mr. Tompsett or Mr. Johnson, or even to put Mr. Larsen on the stand
10 himself.

11 In its brief, RUCO lists some of the statements by Mr. Larsen that it finds most
12 troubling.⁵⁴ Staff cites several relevant statements in its brief.⁵⁵ There are many more. In its
13 Brief, Utility attached Swing First's response to Utility DR 6.1. Utility asked: "Please identify
14 each and every fact that Swing First Golf intends to establish with the transcript of the secretly
15 recorded conversation between David Ashton and Gary Larsen that occurred on or about
16 February 1, 2008." As the response shows Swing First offered 67 facts that it intended to
17 establish at the hearing. Every one of these facts is relevant to this case.

18 **V THE DOCUMENT IS NOT HEARSAY**

19 Although it devotes very little to the argument, Utility claims that the document is
20 hearsay, because all Mr. Larsen's opinions concern matters outside of his job classification.⁵⁶
21 Utility attempts to testify in its brief as to Mr. Larsen's job duties, but this is not evidence.

22 Again, at the time of the recording, Mr. Larsen was a senior Utility employee, with ten
23 years of service, who reported directly to Mr. Tompsett. In the transcript, he certainly appears to
24 have first-hand knowledge about the matters he is discussing, which is more than is required by
25 the evidence rules.

⁵⁴ RUCO Brief at 5:12 – 7:17.

⁵⁵ Staff Brief at 2:13-15.

⁵⁶ Utility Brief at 14:7-11.

1 In *Shuck v. Texaco Refining & Marketing, Inc.*, 178 Ariz. 295, 299; 872 P.2d 1247,1251
2 (Ct. App. 1994), the Arizona Court of Appeals held that even first-hand knowledge of the subject
3 matter is not required for a party admission to be admitted:

4 The Advisory Committee Notes to Rule 801(d)(2)(D), Federal Rules of Evidence,
5 which is substantively identical to the Arizona rule, provides that:

6 Admissions by a party-opponent are excluded from the category of
7 hearsay on the theory that their admissibility in evidence is the result of
8 the adversary system rather than satisfaction of the conditions of the
9 hearsay rule. No guarantee of trustworthiness is required in the case of an
10 admission. The freedom which admissions have enjoyed from technical
11 demands of searching for an assurance of trustworthiness in some against-
12 interest circumstance, and from the restrictive influences of the opinion
13 rule and the rule requiring firsthand knowledge, when taken with the
14 apparently prevalent satisfaction with the results, calls for generous
15 treatment of this avenue to admissibility.

16 Further, at best Mr. Larsen's job classification could be evaluated as to the weight his
17 statements should be given.

18 Finally, the Commission's standards for admitting evidence are far more relaxed than in
19 criminal or civil cases.

20 **VI UTILITY DOES NOT CHALLENGE THE AUTHENTICITY OF THE**
21 **TRANSCRIPT**

22 Mr. Ashton authenticated the transcript on the stand.⁵⁷ Utility has been provided both the
23 transcript and copy of the actual recording. Utility has also been provided the opportunity to
24 listen to the recorder directly. It is important to note that Utility does not challenge the
25 authenticity of the transcript.

26 **VII THE BEST EVIDENCE RULE IS NOT RELEVANT**

27 In its opening paragraph, Utility claims that the transcript would not be best evidence.
28 However, Utility never follows up on this statement, so Swing First will not respond further.

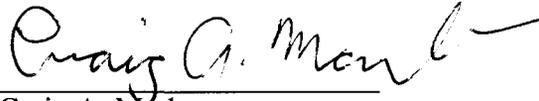
⁵⁷ Tr. at 350:3 – 352:3.

1 **VIII IT IS GOOD PUBLIC POLICY TO ADMIT THE DOCUMENT**

2 It is clearly good public policy to hear all evidence relevant to Utility's rate case. Judge
3 Wolfe, Staff, RUCO, and Swing First all agree that the transcript contains relevant evidence.
4 Conversely, it would be bad public policy to exclude relevant evidence as Utility wants to do.

5 Utility claims that it was ambushed by the transcript, but this claim has no merit. As
6 discussed above, the transcript only became available a few days before the hearing began.
7 Utility would have liked to have immediately received a copy of the transcript, but the fact
8 remains that Swing First did provide Utility a copy two days before Mr. Ashton was scheduled to
9 appear. Finally, Judge Wolfe has cured any arguable prejudice by continuing the hearing.
10 Utility will have had at least one month to evaluate the transcript before the hearings resume.

11 RESPECTFULLY SUBMITTED on May 29, 2009.

12
13
14 

15
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24
25

1 **Original** and 13 copies **filed**
2 on May 29, 2009, with

3
4 Docket Control
5 Arizona Corporation Commission
6 1200 West Washington
7 Phoenix, Arizona 85007

8
9 **Copy** of the foregoing **mailed and e-mailed**
10 on May 29, 2009, to:

11
12 Ayesha Vohra/Nancy Scott
13 Legal Division
14 Arizona Corporation Commission
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16 Phoenix, AZ 85007

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35
36
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38 By:


39 Craig A. Marks

APPENDIX A

Craig Marks

From: Craig Marks [craig.marks@azbar.org]
Sent: Friday, May 22, 2009 5:09 PM
To: 'Crockett, Jeff'
Cc: 'Metli, Robert'; Nancy Scott (nscott@azcc.gov); avohra@azcc.gov; Daniel Pozefsky (dpozefsky@azruco.gov); James E. Mannato (james.mannato@town.florence.az.us)
Subject: RE: Swing First's Brief Concerning Admissibility of Document
Attachments: Craig A Marks.vcf

Jeff,

It looks like you have missed another deadline in this case. The briefs were due at 12:00, ahead of a holiday weekend. There is nothing on eDocket.

Your final DRs to Swing First were received after the discovery deadline and your rejoinder testimony was also late-filed. The other parties were courteous enough to e-mail copies of their briefs and I was courteous enough to e-mail you and every party a copy of my brief. In contrast, all I got from you was a terse e-mail that Rob is going to drop off a copy of your brief after 5:00, without any excuse or apology. I have already been to my "mail drop" today and I don't intend to go back there tonight.

Craig



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From: Crockett, Jeff [mailto:jcrockett@swlaw.com]
Sent: Friday, May 22, 2009 4:52 PM
To: Craig Marks
Cc: Metli, Robert
Subject: RE: Swing First's Brief Concerning Admissibility of Document

Craig:

Rob Metli is in route to your mail drop with a copy of the Johnson Utilities opening brief on the admissibility of Swing First Golf's transcript. He should be there shortly.

Jeff

<p>Snell Wilmer</p> <p>DENVER LAS VEGAS ORANGE COUNTY PHOENIX SALT LAKE CITY TUCSON</p> <p>Jeffrey W. Crockett</p> <p>Snell & Wilmer L.L.P. One Arizona Center Phoenix, AZ 85004 602.382.6234</p> <p>jcrockett@swlaw.com www.swlaw.com</p>
--

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-----Original Message-----

From: Craig Marks [<mailto:craig.marks@azbar.org>]

Sent: Friday, May 22, 2009 11:30 AM

To: 'Karyn Christine'; Crockett, Jeff; Carroll, Bradley; Kiefer, Kris; 'Dan Pozefsky'; James.Mannato@historicflorence.com; 'Ayesha Vohra'; 'Nancy Scott'; Metli, Robert

Subject: Swing First's Brief Concerning Admissibility of Document

Here is Swing First's Brief.

Craig

Craig A. Marks
10645 N. Tatum Blvd.
Suite 200-676
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-----Original Message-----

From: Karyn Christine [<mailto:KChristine@azcc.gov>]

Sent: Friday, May 22, 2009 8:28 AM

To: Crockett, Jeff; Carroll, Bradley; Kiefer, Kris; Craig Marks; Dan Pozefsky; James.Mannato@historicflorence.com; Teena Wolfe

Cc: Jeffery Michlik; Nancy Scott; Ayesha Vohra; Betty S. Camargo

Subject: Staff's Brief Regarding Admissibility of Ashton Transcript (08-0180)

Attached is Staff's Brief Regarding Admissibility of Ashton Transcript filed today in the above docket.

-----Original Message-----

From: Legal Scanner 1200 2nd floor [<mailto:scanner@azcc.gov>]

Sent: Friday, May 22, 2009 8:20 AM

To: Karyn Christine

Subject: Scanned Document

This document was digitally sent to you using an HP Digital Sending device. Contact the Help Desk if you have problems opening it.

=====
This footnote confirms that this email message has been scanned to detect malicious content.

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APPENDIX B

ADEQ  **News Release**
Arizona Department
of Environmental Quality

1110 West Washington Street • Phoenix, Arizona 85007 • <http://azdeq.gov>

DATE: Dec. 20, 2007

CONTACT: Mark Shaffer, Director of Communications, (602) 771-2215

**ADEQ Director Owens, Attorney General Goddard Announce
Record \$12.1 Million Civil Environmental Settlement**

PHOENIX (Dec. 20, 2007) – Arizona Department of Environmental Quality Director Steve Owens and Attorney General Terry Goddard today announced a \$12.1 million civil environmental settlement, the largest in state history.

The settlement resolves a 2005 lawsuit brought against land developer George H. Johnson, several of his companies, excavation contractor Jack McCall, 3F Contracting, Inc. and Preston Well Drilling. The defendants agreed that the State would be paid \$12,111,500 to resolve all claims in the case.

“This record-setting settlement reflects the importance of this case,” Director Owens said. “We felt strongly that serious violations of the law had occurred.”

Johnson and his companies have agreed that the state will be paid \$7 million; 3F Contracting, Inc. has agreed the state will be paid \$5.05 million; and Preston Well Drilling has agreed the State will be paid \$61,500.

The 2005 lawsuit -- which the Attorney General brought on behalf of ADEQ, the Arizona State Land Department, the Department of Agriculture, the Arizona State Museum and the Arizona Game and Fish Commission -- charged the defendants with numerous violations of state law and destruction of natural and archeological resources, including:

- Bulldozing and clearing of nearly 270 acres of State Trust Lands located in and near the Ironwood National Monument and the Los Robles Archeological District.
- Bulldozing and clearing an estimated 2,000 acres of private lands in the Santa Cruz River Valley without obtaining permits required by state law.
- Destroying portions of seven major Hohokam archeological sites, circa A.D. 750-1250.
- Destroying more than 40,000 protected native plants on State Trust Lands, including Saguaro, Ironwood, Mesquite, Palo Verde and other protected species.
- Violating the state’s clean water laws by failing to secure required permits and discharging pollutants into the Little Colorado River, the South Fork of the Little Colorado River and tributaries of the Santa Cruz River.
- Negligently causing a disease epidemic that resulted in the death of at least 21 rare Arizona desert bighorn sheep and serious injury to numerous others.

“We are committed to enforcing our environmental and heritage protection laws to preserve the priceless resources that make this state unique,” Attorney General Goddard said. “This resolution sends a strong message to anyone who would despoil our heritage.”

APPENDIX C



Department of Justice

FOR IMMEDIATE RELEASE

Tuesday, October 7, 2008

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ENRD

(202) 514-2007

TDD (202) 514-1888

Arizona Developer Agrees to Settle Clean Water Act Violations Along the Santa Cruz River

WASHINGTON — An Arizona land developer and a contractor have agreed to settle alleged violations of the Clean Water Act for bulldozing, filling, and diverting approximately five miles of the Santa Cruz River, a major waterway in Arizona, the Justice Department and U.S. Environmental Protection Agency announced today.

According to the settlement, Scottsdale, Ariz.-based developer George H. Johnson, his companies Johnson International, Inc.; and General Hunt Properties, Inc.; and land-clearing contractor, 3-F Contracting, Inc. will pay a combined \$1.25 million civil penalty. The penalty is the largest obtained in the history of EPA's Pacific Southwest Region, and one of the largest in EPA's history, under Section 404 of the Clean Water Act, which protects against the unauthorized filling of federally protected waterways through a permit program administered jointly by EPA and the U.S. Army Corps of Engineers.

The settlement resolves a Clean Water Act complaint filed in 2005 by the Justice Department and EPA against Johnson and his companies for clearing and filling an extensive stretch of the lower Santa Cruz River and a major tributary, the Los Robles Wash, without a permit from the Corps of Engineers.

"A seven-figure penalty in this type of enforcement case is virtually unprecedented," said Ronald J. Tenpas, Assistant Attorney General for the Justice Department's Environment and Natural Resources Division. "It underscores the Justice Department's commitment to enforce the nation's laws that protect valuable water resources in Arizona and other arid western states, and to hold violators of those laws accountable."

"The Santa Cruz River is a gem in Arizona's crown, as it flows from Arizona to Mexico back into Arizona, sustaining life, habitat for animals and plants, and providing so many benefits for residents of southern Arizona," said Alexis Strauss, director of EPA's Water Division for the Pacific Southwest Region. "This settlement reflects both the strong emphasis EPA places on protecting this important watershed and the seriousness of the alleged violations."

"Today's action contributes to EPA's record-shattering enforcement results," said Granta Nakayama, assistant administrator for EPA's Office of Enforcement and Compliance Assurance. "To date, EPA has concluded enforcement actions requiring polluters to spend an estimated \$11 billion on pollution controls, clean-up and environmental projects, an all time record for EPA. After these activities are completed, EPA expects annual pollution reductions of more than three billion pounds."

The alleged violations occurred in 2003 and early 2004, when defendants bulldozed 2000 acres of the historic King Ranch and La Osa Ranch in Pinal County, Ariz. The bulldozed areas lie within the largest active floodplain of the lower Santa Cruz River, which meanders through the two ranches in natural braids, a rarity for this heavily channelized waterway. Prior to defendants' land-clearing activities, this stretch of the Santa Cruz River supported a rich variety of vegetation, including one of the few extensive mesquite forests remaining in Arizona's Sonoran Desert region. These areas form a critical corridor for wildlife to move along the Santa Cruz River and from Picacho Peak State Park to the Ironwood Forest National Monument.

The case was referred to EPA by the Corps of Engineers after concerned citizens, tribes, and local, state and federal agencies complained about the serious flooding dangers and ecological impacts in connection with defendants' land-clearing activities. The Johnson defendants sold the ranches in 2004.

The proposed consent decree, lodged in the U.S. District Court in Phoenix, is subject to a 30-day comment period and final court approval. A copy of the proposed consent decree is available on the Justice Department Web site at www.usdoj.gov/enrd/Consent_Decrees.html.

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08-902

APPENDIX D

PHOENIX

M A G A Z I N E

PRINT

DISSECTING ARIZONA

Author: Jana Bommersbach

Issue: February, 2008, Page 130

**THOUSANDS OF SAGUAROS UPROOTED.
DOZENS OF BIGHORN SHEEP KILLED.
RIVERS RAVAGED.
GEORGE H. JOHNSON HOLDS THREE
STATE RECORDS
THAT BEG THE SAME QUESTION:
IS HE THE WORST DEVELOPER IN
ARIZONA?**

If it's three strikes, you're out, then Scottsdale developer George H. Johnson has struck out, leading the league with the dubious distinction of one of Arizona's most rogue developers.

It's a pretty outrageous title in a state known for bad developers, but both state and federal officials say he stands above them all. In December, the State of Arizona – where an unprecedented five state agencies were suing him – settled with Johnson for a record repayment for despoiling state land, damaging a southern Arizona river and creating havoc in one of America's newest national monuments.

Although the settlement includes the caveat that Johnson makes no admission of liability, it also provides that he repay the state agencies \$7 million. Earlier, the bulldozer company he hired, 3F Contracting Inc., agreed to settle for \$5.05 million, making this \$12.05 million settlement the largest civil environmental recovery by state agencies in the history of Arizona, officials say. But this wasn't the first time, or even the second, but the third time Johnson has made state history by paying the largest fines ever assessed against a developer. And his troubles aren't over yet. The Environmental Protection Agency has a massive lawsuit against him that stands out for the enormity of what it charges he did to the Santa Cruz River.

Just what in the world did this developer do to bring such heavy weights down on his head?

In a blog he's been writing for two years called The Johnson Report, Johnson asserts his innocence and contends officials have targeted him unfairly. He says Arizona media have portrayed him in a bad light, making him out to be a monster that he's not. It's "as if Atilla (sic) the Hun were let loose upon Arizona," he writes.

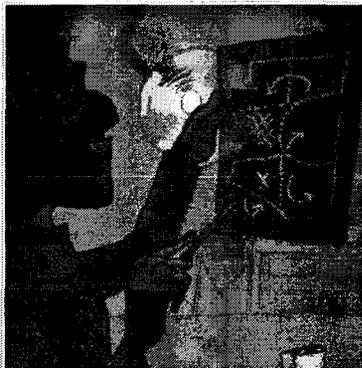
Officials say developer George Johnson has done the most dastardly things to Arizona. They say he trespassed on state and federal land – including land in one of America's newest national monuments – and bulldozed some 270 acres without permission. They call it "moonscaping," saying his work "resembles the aftermath of a nuclear blast" or "looks like an unpaved parking lot."

They say that without any of the required permits, he did the same thing to another 2,000 acres, which he first claimed to be "ranching" then said he was using it to build the state's eighth largest city with some 67,000 homes for 175,000 people.

They say he caused "irreparable damage" to seven archeological sites on state trust lands owned by the people of Arizona, including more than one-third of a 110-acre Hohokam Village that was active from 750 to 1250 A.D.

They say he polluted and diverted the Santa Cruz River, wiping out a wetland area for the endangered pigmy owl and causing flooding on Indian land downstream.

They say he caused the injuries and deaths of at least 21 protected Arizona desert bighorn sheep in a bizarre attempt at farming that proved he didn't know the difference between cattle pens and pens for much smaller goats (the sick animals escaped and invaded a national preserve, causing havoc in Arizona's largest bighorn herd).



Illustrations by Gilbert ford

All of this happened in southern Arizona near the small town of Marana. But no matter how small the town, it happened in a state where few people – especially a developer who's been in business more than 30 years – can claim ignorance of Arizona's efforts to protect the desert. The state says Johnson may have bulldozed thousands of saguaro cactuses without acquiring a single permit to move the plants (each saguaro carries a \$10,000 fine per plant for being uprooted).

Even a popular children's book, *Deserts*, by Nancy Castaldo, notes spells out that this is a no-no: "Efforts to protect saguaro cacti and other native plants from collecting and damage have led to laws in Arizona that require individuals to obtain a permit from the state to remove or relocate any native plant on their property. This even holds true for property owners who want to move a cactus from one end of their property to the other."

The land, called La Osa Ranch, is part of a national plan to preserve habitat while accommodating development called the Sonoran Desert Conservation Plan.

Officials for several Arizona oversight agencies were so disgusted with what they say Johnson did, that in February 2005, Attorney General Terry Goddard filed an unprecedented suit against him on behalf of five state agencies: the Department of Environmental Quality, the Land Department, the Game and Fish Commission, the Agriculture Department and the Board of Regents on behalf of the Arizona State Museum.

"I don't think we've ever had a case [against a developer] involving multiple agencies," Goddard says.

But Arizona isn't alone in accusing Johnson of breathtakingly bad acts. The Environmental Protection Agency is also suing him in a case that could mean tens of millions of dollars in fines and the demand that he restore the Santa Cruz River to its original state.

"This is a big clean water case for us," says Jessica Kao, an attorney for the EPA's regional office in San Francisco, which monitors activity in Arizona. "This type of lawsuit is not unusual, but the scope and seriousness of the case makes this stand out."

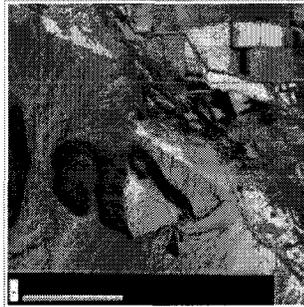
What else stands out is that this isn't the first time Arizona officials have been enraged about Johnson's approach to development. Before he ever touched La Osa Ranch, Johnson had already made Arizona history for unsavory development with his "Johnson Ranch" project in the southeast Valley.

For that project, Johnson received the largest fines ever imposed by two different state agencies. In 2003, the Department of Environmental Quality fined him \$80,000 after finding that he had drilled three illegal wells and pumped water without any groundwater rights – an activity that is strictly governed and requires permits from the State of Arizona.

At the same time, the Department of Water Resources fined him \$90,000 for what they've called a "massive discrepancy" on the groundwater used for Johnson Ranch. Johnson is supposed to replace all the groundwater he uses at the ranch, but the reports don't add up, and it appears he's using far more than he's replacing, according to the department. Company officials say the problems were simply oversights or paperwork errors and promised to fix everything.



Left: May 2002
Right: June 2004



May
2002

George Johnson turned down an interview request from PHOENIX magazine, but his side of the story is available on The Johnson Report, the blog he's been keeping since 2006 (thejohnsonreport.com).

In thousands of words, he rails against Arizona's "fabricated case" against him and claims he is being singled out.

He also believes his Johnson Report is a potent force and that it is scaring state officials into realizing "they made a grave mistake in starting this fight."

Johnson maintains he did nothing wrong. For instance, when accused of destroying native plants, he writes, "The state is under the impression that every rancher and entity in Arizona asks permission to trim trees and clear brush on private land."

When accused of blading over thousands of acres, he writes, "The state is still having trouble accepting the fact that clearing pastures is standard ranching practice."

And when told that Arizona has 250 witnesses ready to testify against him, he chides that the state is looking for more "dirt" on him and wonders why they'd need more if they already had so much.

"Sounds like desperation to me," he writes.

Johnson originally responded to the state lawsuits by countersuing Arizona. He demanded it drop the suits and sought \$33 million in damages, claiming the charges were nothing but a "get George Johnson campaign." His complaint stated: "The individual defendants have intentionally denied Mr. Johnson equal protection under the law by treating him as a class of one and subjecting him and his business entities to a punitive enforcement scheme not endured by other persons or entities in Arizona."

The countersuit was ultimately dismissed in December as part of the settlement. So was a suit Johnson filed against Attorney General Terry Goddard and his wife Monica, claiming Goddard "defamed" him when he announced the lawsuit as "wanton destruction of Arizona's heritage resources."

Goddard claimed he had "absolute immunity" from such suits in carrying out the duties of his office. The Arizona Republic's editorial page weighed in on Johnson's counterattack, arguing the state's top lawyer has "an absolute need to speak freely" about suits he files.

Johnson said in his blog that he has been mostly misunderstood. "I have lived in Arizona all my life," he said in his first blog entry on July 1, 2006. "I love this state as my father before me loved this great state. I have been in business here all my life and have made many contributions to this state, some of which I am proud to say bear our family name."

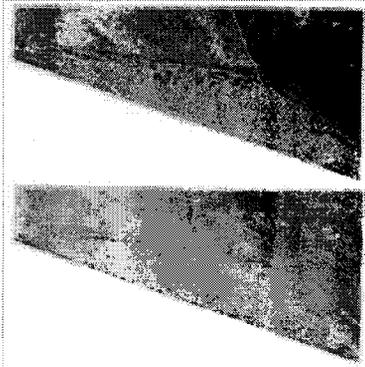
But he bemoans that the Arizona lawsuit has left nothing but a negative impression of him. "My business activities have come under scrutiny for a number of reasons, and the papers write about these events as if Atilla (sic) the Hun were let loose upon Arizona."

Mention the La Osa Ranch story to anyone and you'll find they're speechless about the enormity of the destruction there. Some say they still can't believe this could have happened – not in this day and age, not in broad daylight, not even in a state that has a sordid history of development. For a long time, it seems Arizona developers didn't much care how the state grew, just that it grew – that they could overcome an unforgiving desert and turn millions of acres of real estate into something of value.

The development boom came after air-conditioning was developed around World War II. Soldiers who had trained at air bases that once book-ended the Valley made good on their vows to return if war didn't claim them. Construction became Arizona's sixth "C" – joining the legendary five staples of Arizona's economy (copper, cattle, cotton, climate and citrus) – and entire towns were built.

Phoenix went from a small town of 48,000 in the 1930s to the nation's fifth-largest city today. Communities throughout the state grew and grew.

By the 1970s, Arizona scandalized the nation with sweeping incidents of land fraud. Thousands of "investors" found they hadn't bought a piece of paradise but a chunk of raw desert without water, roads, power or the possibility of habitation. It was painfully obvious that this kind of rip-off reputation wasn't good for business, and there was a growing outcry – both from outside the state and from within – that careless development was going to soil the sandbox for everyone.



Above: May 2002
Below: June 2004

So Arizona began the serious task of passing laws and regulations – grading, drainage, land-use planning, hillside ordinances, water assurances, master plans – to overcome the negative image.

Development – a major economic engine in the state – can be found in all forms today. Some developers build look-alike houses mile upon mile while some attempt to create more unique "neighborhoods" that attempt to stand out among the crowd. One or two are even building sterling reputations as sensitive, environmentally friendly developers.

By any measure, Johnson's La Osa Ranch ranked at the bottom of Arizona development. His land sat near the small town of Marana, just north of Tucson in southern Arizona, close to the Pinal and Pima county lines. It also was near the Ironwood Forest National Monument and the Los Robles Archaeological District – both protected, restricted areas meant to be kept in pristine condition.

In addition, it was within striking distance of military flight patterns and helicopter training facilities of the Western Army National Guard Aviation Training Site.

This open desert north of Tucson is one of the ripest spots in the state for development. A dozen massive subdivisions have been approved, promising to bring nearly 200,000 housing units with a half-million new residents to an area that's currently considered rural.

The Town of Marana pays incredible attention to all this development, watching through satellite imagery just how its land is changing. The town even employs a satellite analyst, Chris Mack, and it was he who first noticed what was going on at La Osa Ranch.

As he told Government Technology magazine in 2005: "We started hearing in December 2003 through various environmental groups of this proposed La Osa Ranch development and some of the allegations of illegal land clearing. I looked to see if our imagery covered the area and, at that time, we had two dates of imagery – May 2002 and May 2003. I spotted the site in question fairly readily because there was a start of land clearing activities, and you could see bulldozer tracks in the area of interest."

By 2004, the extent of the damage could clearly be seen from space, Mack adds, and as the magazine described, the images resembled "a lunar landscape or the aftermath of a nuclear blast."

In the pictures he gets from space, Mack knows that vegetation shows up as red while dirt shows up as gray. In the first pictures he had, La Osa Ranch was awash in red. By 2004, there wasn't a bit of red to be seen on the entire 2,270 acres. The land had been "scraped clean" of some 40,000 native plants, including thousands of state-protected saguaros, the state's lawsuit says.

The state trust lands – held in trust for the benefit of the state's public school system – along the western border of Johnson's property are within the boundaries of the Ironwood Forest National Monument, established in 2000. The suit notes President Bill Clinton's observations about this land when he gave it federal status:

"The landscape of the Ironwood Forest National Monument is swathed with the rich, drought-adapted vegetation of the Sonoran Desert. The monument contains objects of scientific interest throughout its desert environment. Stands of ironwood, palo verde and saguaro blanket the mountain floor beneath the rugged mountain ranges, including the Silver Bell Mountains.... The desert bighorn sheep in the monument may be the last viable population indigenous to the Tucson basin."

In addition, the state notes that portions of the land "are so rich archaeologically that they have been designated on the National Register of Historic Places as within the 'Los Robles Archaeological District.'"

In all, this district includes 119 sites that once represented "a large and successful hub of trade, manufacture, agriculture and ritual/political life" of the Hohokams. While most Hohokam sites around Arizona have disappeared, this area "has survived almost intact, and thus offers a unique opportunity to study all the levels and components of Hohokam community life," the state notes.

When Johnson bought the land for his company, it was designated in Pinal County's comprehensive plan as "development sensitive" and "rural." He soon asked that its zoning be changed to "transitional," and on October 15, 2003, he submitted a detailed plan for a Planned Area Development (PAD), which included 67,000 homes, a resort, golf courses and businesses. Basically, it was supposed to be a city twice the size of Flagstaff.

Some saw it not as a planned community but as a "sprawl city" that would damage the area and eventually force the closure of the military installations nearby. When Johnson was confronted with this opposition, he argued that Pinal County would be "illegally" taking his property without compensation if it denied him the zoned he wanted.

Not so fast, the state's largest newspaper said, with an editorial titled, "Sorry, George, That One Won't Fly." The Arizona Republic reminded him that he didn't have a right to new zoning. "That's

why the whole procedure is called a zoning 'request,' not a zoning 'guarantee,'" the editorial chided.

None of the opposition seemed to stop Johnson, according to the state.

"Johnson International's requests to Pinal County generated considerable public concern and/or opposition," the suit contends, "including concerns about the impact that the proposed development may have on the adjacent Ironwood Forest National Monument, the archeological sites within the Los Robles Archeological District, the Santa Cruz River, the area's riparian habitat, the bighorn sheep in the Silver Bell Mountains, areas of religious and cultural significance to native Americans, and endangered species such as the Pygmy Owl.

"Nevertheless... even as Johnson International's requests were being considered, Defendants already had bulldozers and other earth moving equipment clearing and leveling substantial portions... of the proposed development, trespassing on State Trust Lands, destroying protected native plants, filling in water courses, discharging pollutants, irreparably damaging ancient and historic archeological sites, and otherwise ignoring numerous laws applicable to developers in their position."

"I haven't seen a lot of George Johnson types," says attorney Mike Smith of the National Trust for Historic Preservation. "He is one of the more prolific bad actors."

Smith, speaking from his office in Washington, D.C., says his national group got involved in the controversy because Johnson's land was so close to a national monument. "There's something more universal about George Johnson and what he represents, especially in an area like Arizona where there are a tremendous number of unidentified cultural resources," Smith says. "It seems his approach as a developer is, he just does it and deals with the repercussions later. That usually means fines. That approach is unacceptable."

It's not uncommon for development and protected sites to clash, he notes, but there's a way to deal with that, and that's by acquiring permits needed to make major changes on land.

"Usually a developer is going through the permit process, and that's how we discover problems," Smith says. The permits spell out the intended changes on the land, and that's when officials can debate with developers about what's acceptable.

This case was so different because, although Smith says the law is clear that Johnson needed permits, he not only didn't have them, he didn't even apply for them.

Johnson first contends in his reply to the state lawsuits that he didn't need permits to do his "ranching and farming" activities - noting this property has been ranchland for hundreds of years - but he also maintains the grading was a "mistake" by a subcontractor and not his fault.

Carolyn Campbell is one of the environmental leaders of southern Arizona that sounded an alarm about George Johnson. She heads the Coalition for Sonoran Desert Protection and has worked for years to hammer out a compromise with developers in southern Arizona to respect the land. The landmark Sonoran Desert Conservation Plan, adopted in 1998, has been recognized nationally as a smart and effective way to preserve both habitat and threatened species while accommodating new development.

Campbell also was instrumental in getting the federal government to create the Ironwood National Monument. "It was a big deal to us getting 129,000 acres as a national monument," she notes.

So she took particular interest in what Johnson was doing.

"It wasn't much fun working with him," she says in a telephone interview. "After seeing some of the things George Johnson did on the land, it is hard for me to see any of them as accidental. Who bulldozes a river by accident? Without a permit? Who puts in a concrete culvert by accident? How can you not know? I watched him in public meetings and how he treated everyone - my mouth was wide open that anybody could be that insensitive. He wouldn't meet with us. We tried, but he dismissed any environmental concern."

Campbell adds, "I've worked with a lot of developers in Pima County. From small to big, the whole gambit. And I haven't worked with someone like him. Maybe that's how they grow them in Phoenix. Hopefully, I'll not have to deal with someone like him again."



Photo courtesy of Arizona Desert Bighorn Sheep Society, Dave Pence

Then there's what George Johnson did to Arizona's largest herd of bighorn sheep - owned by the citizens of Arizona - and the horrible suspicion that it wasn't an "oops" mistake.

The state's lawsuit lays it out in dry, legal terms: "Upon information and belief, during August-December 2003, Defendants caused between four and five thousand domestic goats to be located on the La Osa Project... At all times relevant hereto, Defendants knew or should have known that there was a herd of desert bighorn sheep that ranged in or around the Silver Bell Mountains, southwest of the La Osa range. Defendants further knew or should have known that domestic goats can directly transfer certain diseases to desert bighorn sheep."

Johnson knew all of this, the suit contends, because the grazing lease he had with the state of Arizona specifically states: "To protect desert bighorn sheep: No domestic sheep or goat grazing will be authorized on public lands within nine miles surrounding desert bighorn sheep habitat." The La Osa range is within nine miles of the Silver Bell Herd, the suit notes.

Brian Dolan, the president of the Arizona Desert Bighorn Sheep Society, remembers a more horrifying version of what happened when George Johnson decided to "raise goats" on the "ranch"

he was trying to develop into thousands of houses.

"He brought in several hundred diseased domestic goats from Texas and put them in a private pasture near Ironwood," Dolan recalls. He says Johnson had barbed-wire fence that was inadequate – it was meant for cattle, not goats. Several hundred diseased goats escaped and trespassed into lands managed by the state and federal Bureau of Land Management.

"They infected the bighorn with two diseases," he says. "One caused temporary or permanent blindness. The other was a viral disease that creates open sores. A number of bighorns died, probably one-fourth or one-third of the herd [an estimate of 75 to 100 animals overall]. I saw some pretty disturbing video of blinded sheep running head-on into saguaro cactus. It was like watching sheep commit hari-kari."

Dolan says it took two months of complaining about the goats getting out of the flimsy pens before anything was done. Johnson told him he was sending out "cowboys" to round up the goats, but they weren't getting rounded up. Dolan says he regularly called the BLM, Game and Fish, and Johnson with his concerns.

"It was so frustrating to me," Dolan says. "The whole time everybody thought it would go away. Finally, even Johnson himself realized the problem and said, 'go out and shoot them.' It took six to eight weeks to kill all the goats."

By then, the infections had set in and sheep were dying. "It was just unbelievable," Dolan says. Game and Fish officials arrived in helicopters, trying to land on the rugged mountains to get vaccines to the sick bighorns. "It was at great expense and a great difficulty," Dolan adds. "One guy broke his hand. They had to jump out of the helicopters to get to the sheep. It was pretty difficult."

In all, the state charges, despite their efforts to provide medical care, at least 49 sheep suffered "serious symptoms" including blindness, scabbing and bleeding of the mouth. At least 21 died "from malnutrition, falling from the steep terrain or the inability to evade predators."

Environmentalist Carolyn Campbell says she got very suspicious about those goats when Johnson was warned that the bighorn sheep herd near his land was "an issue" in considering his proposed development. She remembers this: "Mr. Johnson said, 'Don't worry about the bighorn sheep, they will not be an issue.' What does that mean? I have to think this wasn't a whole series of accidental 'oops.'"

Dolan verbally recoils at the thought: "God, I hope it wasn't on purpose – that would be too diabolical. But it wouldn't surprise me that the reason the goats were out there was not for legitimate reasons. Maybe for a tax scheme. Johnson isn't a livestock owner, he's a developer." Dolan says he has never seen anything like this and hopes he never will again.

"This is the first time we've had problems with such carelessness," he says. "The goats were put there in such a careless fashion, and when they escaped there was a reckless response. If it occurred again, I'd be more tenacious in demanding a more expedient response."

Dolan had already been deposed and was ready to testify had the state's lawsuits gone to trial. He says he'll always remember this as "a real mess."

Also ready to take the stand – in fact, the first witnesses the attorney general's office intended to call – was Bruce Babbitt, the former governor of Arizona and a former secretary of the interior. He counts getting the National Monument status for Ironwood as one of his proudest achievements.

Meanwhile, Johnson was denied his rezoning request on La Osa Ranch and has since sold the land.

The civil suit didn't seek a specific amount of damages but asked the court to impose fines as required by law – sometimes seeking triple damages and punitive damages. For the water-quality issues alone, the state was asking for \$25,000 per day for violations that spanned a couple of years.

The suit had gotten strong editorial support from The Republic. "We hope the state prevails and that the final tab is hefty," it said in a February 20, 2005 editorial. "Not just to penalize Johnson and his associates, although the actions described in the lawsuit richly deserve punishment. But in a state where growth is king, this legal action sends an important message that developers can't flout the rules without consequence."

"They can't write off environmental damage as a cost of doing business. And they can't violate our heritage."

Now, in an entirely separate situation, the Environmental Protection Agency (EPA) wants tens of millions of dollars from Johnson.

In November 2005, it filed a massive suit charging that Johnson and two of his companies violated the federal Clean Water Act by filling more than 100 acres of the Santa Cruz River and its tributaries with dirt and debris during 2003 and 2004.

The EPA says he stripped stretches of the riverfront, including one of the river's last mesquite bosquets in one of the Sonoran Desert's wettest riparian forests.

It was devastating destruction, the agency says, so it sued to force Johnson not only to "restore" the area – a job that would cost millions – but also fined him up to \$32,500 for every day the law was broken and the damage lasted.

If the courts find a single violation that lasted a year, the fine would top \$10 million. But the EPA is not charging there was just one violation. Its officials tallied violations for each time a bulldozer dumped dirt in the river. They say the damage could have spanned nearly two years.

Johnson has called the suit "baseless" and denies the claims, saying whatever grading was done was in an isolated wash, not in the river or a tributary. He also contends the wash fails to meet federal standards as a navigable stream that would bring it under the reaches of the Clean Water Act.

A prepared statement in response to the suit reads: "It is preposterous to say that a small wash in the middle of the Sonoran Desert is a navigable water."

Kao, the EPA attorney in San Francisco, says the suit is in the discovery stage and no court date has been set as of press time. It could be years before the case ever gets to court.

These days, the land called La Osa Ranch lies silent, looking like a swath of dirt from outer space. Native grasses and plants are attempting to grow back along the Santa Cruz River, as desert plants have done for centuries in a climate where weaker varieties wouldn't even try.

Will the record \$12.05 million settlement against Johnson alert other developers that the State of Arizona is serious about reining in outrageous behavior and protecting its land?

Terry Goddard would tell you he certainly hopes so.

APPENDIX E

Johnson Utilities

968 E Hunt Hwy
 Queen Creek, AZ 85242
 (480) 987-9870

12/31/06) 00120362-02
 01/20/07 \$14,655.22

SWING FIRST GOLF
 433 GOLF CLUB DR
 QUEEN CREEK, AZ 85243
 llulululululululululul



Description	Meter Readings		Usage	Read Code	Readings Dates	
	Previous	Present			Previous	Present
	71057000	71057000	0	Initial Read	11/1/2006	11/1/2006
	71057000	78845000	7788000	Normal Rd.	11/1/2006	11/22/2006
	78845000	86464000	7619000	Normal Rd.	11/22/2006	12/21/2006

WATER SERVICE

Water Minimum	\$900.00	Water Usage	\$12,753.91
Water - Trans Privilege Tax	\$901.16	Superfund Tax	\$100.15
		Total Water Charges	\$14,655.22

Previous Balance	\$0.00		
Payment	\$0.00	Total Due	\$14,655.22

Johnson Utilities has discontinued the Courtesy Hang Notices and transferred to a new Virtual Phone Notification System which has been a very successful upgrade. It's essential that we have the phone number that you would like for us to contact you in order to avoid service interruption.

SWING FIRST GOLF

433 GOLF CLUB DR

Water	Consumption
15,407,000	
13,206,000	
11,005,000	
8,804,000	
6,603,000	
4,402,000	
2,201,000	
0	

Dec

00120362-02 12/31/06

2005132-9-06 01/20/07

From 11/30/06 to 12/31/06 = 31 Days

Johnson Utilities

968 E Hunt Hwy
 Queen Creek, AZ 85242
 (480) 987-9870

Johnson Utilities

968 E Hunt Hwy
 Queen Creek, AZ 85242
 (480) 987-9870

12/31/06 00119200-02

01/20/07 \$33,660.07

SWING FIRST GOLF
 433 W GOLF CLUB DR
 QUEEN CREEK, AZ 85243



Description	Meter Readings		Usage	Read Code	Readings Dates	
	Previous	Present			Previous	Present
	408189000	408189000	0	Initial Read	11/1/2006	11/1/2006
	408189000	413455000	5266000	Normal Rd.	11/1/2006	11/22/2006
	413455000	416356000	2901000	Normal Rd.	11/22/2006	12/21/2006

WATER SERVICE

Water Minimum	\$900.00	Water Usage	\$30,626.25
Water - Trans Privilege Tax	\$2,080.73	Superfund Tax	\$53.09
		Total Water Charges	\$33,660.07

Previous Balance	\$0.00		
Payment	\$0.00	Total Due	\$33,660.07

Johnson Utilities has discontinued the Courtesy Hang Notices and transferred to a new Virtual Phone Notification System which has been a very successful upgrade. It's essential that we have the phone number that you would like for us to contact you in order to avoid service interruption.

SWING FIRST GOLF

433 GOLF CLUB DR

Water	Consumption	
8,166,998		
7,000,284		
5,833,570		
4,666,856		
3,500,142		
2,333,428		
1,166,714		
0		

Dec

00119200-02 12/31/06

20040123-08 01/20/07

From 11/30/06 to 12/31/06 = 31 Days

Johnson Utilities

968 E Hunt Hwy
 Queen Creek, AZ 85242
 (480) 987-9870

Appendix E, page 3
 Analysis of Utility Bill Overcharges

December 31, 2006

	Volumetric Charge		Transaction		Minimum Bill	Correct	Actual	Overcharge
Effluent Meter	at Tariffed Rate	Superfund Tax	Privilege Tax	(3-in. meter)	Bill	Bill	Bill	
15,397,000 \$	9,546.14 \$	100.08 \$	636.65 \$	270.00 \$	\$ 10,552.87	\$14,655.22	\$ 4,102.35	
CAP Meter								
8,167,000 \$	6,754.11 \$	53.09 \$	449.27 \$	270.00 \$	\$ 7,526.47	\$33,660.07	\$ 26,133.60	
Total Overcharge							\$ 30,235.95	

APPENDIX F

