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MEMORANDUM

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TO: Docket Control
Arizona Corporation Commission

FROM: Deborah R. Scott
for Director
Utilities Division

Arizona Corporation Commission
DOCKETED

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DATE: January 9, 2001

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RE: IN THE MATTER OF THE APPLICATIONS OF H2O, INC., JOHNSON UTILITIES COMPANY, DIVERSIFIED WATER UTILITIES AND QUEEN CREEK WATER COMPANY FOR EXTENSION OF THEIR CERTIFICATES OF CONVENIENCE AND NECESSITY (DOCKET NOS. W-02234A-00-0371, et al.)

Attached is the Staff Report for the above referenced applications. Staff is recommending conditional approval of the contested applications following a hearing.

Originator: Mark A. DiNunzio

Attachment: Eleven copies

STAFF REPORT
UTILITIES DIVISION

IN THE MATTER OF THE APPLICATIONS OF
H2O, INC., JOHNSON UTILITIES COMPANY,
DIVERSIFIED WATER UTILITIES AND QUEEN CREEK WATER COMPANY
FOR EXTENSION OF THEIR
CERTIFICATES OF CONVENIENCE AND NECESSITY

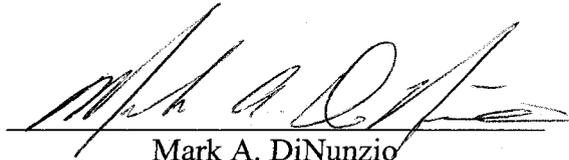
DOCKET NOS. W-02234A-00-0371, et al.

JANUARY 2001

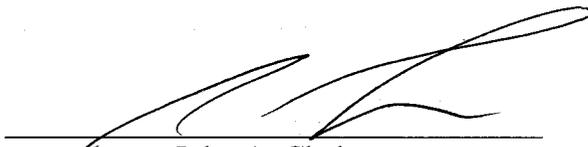
STAFF ACKNOWLEDGEMENT

The Staff members designated below contributed elements of this Staff Report.

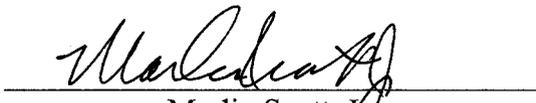
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INTRODUCTION

On May 30, 2000, H2O, Inc. ("H2O") filed an application for an extension to its Certificate of Convenience and Necessity ("Certificate" or "CC&N") to provide water service in Pinal County. On December 15, 2000, H2O filed a supplement to its application requesting additional areas be included in its request to provide water service.

On June 15, 2000, Johnson Utilities Company ("Johnson") filed a second amended application to its requested CC&N application (see Docket No. WS-02987A-00-0618) that included Section 31 in Township 2 South, Range 8 East to provide water and wastewater services. Johnson subsequently filed additional amendments to its CC&N application. In its application as amended, Johnson is requesting all of the same areas that H2O has requested. In addition, Johnson is requesting that some areas currently certificated to H2O be deleted from H2O's CC&N and granted to Johnson.

On October 2, 2000, Diversified Water Utilities, Inc. ("Diversified") filed an application for some of the areas being requested by H2O and subsequently by Johnson (see Docket No. W-02859A-00-0774). On November 2, 2000, Diversified filed a second amendment to its requested CC&N application to include an additional section to its original request.

On October 4, 2000, Queen Creek Water Company ("Queen Creek") filed an application for some of the same areas being requested by H2O, Johnson, and subsequently Diversified (see Docket No. W-01395A-00-0784).

On December 15, 2000, Sweetwater Creek Utilities, Inc. ("Sweetwater") filed to intervene in this proceeding. In its application to intervene, Sweetwater stated that it is interested in providing wastewater service to many of the areas Johnson is requesting. At the time of this Staff Report, Sweetwater had not yet submitted an application for a wastewater certificate. Therefore, this report only addresses Johnson's request as the only provider for wastewater services.

On January 5, 2001, the developers in Parcels 3 (Jorde Farms), 5 (Skyline), 6 (Morning Sun Farms) and 12 (Jorde/Morning Sun Farms) docketed a filing requesting that they no longer be considered by any utility for water and wastewater service. There is no need for service in those parcels at this time. Therefore, Staff will not recommend approval of any extension requests into those areas.

This Staff Report will address H2O's, Johnson's, Diversified's and Queen Creek's ability to serve all of their respective requested areas. For reference throughout this Staff Report, the brief description below and the attached Exhibit 1 lists all of the areas (herein referred to by Parcel number) that are currently being requested for approval to serve water and wastewater.

PARCEL DESCRIPTION

Parcel - 1	Arizona Farms		Parcel - 13	BLM Property
Parcel - 2	Bella Vista Farms		Parcel - 14	Johnson Farms (Combs School)
Parcel - 3*	Jorde Farms		Parcel - 15	Pecan Estates
Parcel - 4	Whitehead		Parcel - 16	The Home Place
Parcel - 5*	Skyline		Parcel - 17	Ware Farms
Parcel - 6*	Morning Sun Farms		Parcel - 18	Various
Parcel - 7	Shelton		Parcel - 19	Various
Parcel - 8	Various Owners within Section 28		Parcel - 20	Pecan Ranch
Parcel - 9	Farley Farms		Parcel - 21	Dobson Farms
Parcel - 10	State of Arizona		Parcel - 22	Circle Cross Ranch (east of the railroad)
Parcel - 11	Circle Cross Ranch (west of the railroad)		Parcel - 23	Magma Ranch
Parcel - 12*	Jorde/Morning Sun Farms		Parcel - 24	Development Section 18 T3S, R9E

* No longer requesting water or wastewater service

BACKGROUND

All of H2O's application, including its supplement, (approximately 5,382 acres) is contested by Johnson (see Figure 2). Approximately 2,080 acres of H2O's total request is being contested by Diversified. Approximately 2,320 acres of H2O's total request is being contested by Queen Creek. All four companies are requesting to serve this area with water service, and Johnson is requesting to also serve wastewater to all of its requested areas. H2O is requesting this extension of service area in order to provide water service to property owned by and/or being developed by a number of developers who have requested water service from H2O.

Johnson subsequently filed additional amended applications regarding its CC&N application. In Johnson's last amended application, dated September 15, 2000, all of the requested extension areas in H2O's CC&N application are also being requested by Johnson to provide water and wastewater services. In addition, there are two parcels (Parcel 14, Johnson Farms - Section 32 T2S, R8E and Parcel 20, Pecan Ranch - Section 20 T2S, R8E) in which Johnson has requested the deletion of H2O's existing CC&N in order for Johnson to be the sole provider of both water and wastewater utilities. In these two parcel areas, H2O is currently authorized to provide water service only. There is currently no authorized provider of wastewater service to these two parcels.

Diversified's original and second amended application requested a total of 7,040 acres. One of the parcels (Parcel 14) requested by Diversified is the same area that Johnson seeks to de-certificate from H2O. Diversified's intent is not to de-certify H2O's area but to compete with Johnson for it should Staff determine that it should be removed from H2O's area. Should Staff recommend that Parcel 14 should stay certificated to H2O, Diversified will withdraw its request for Parcel 14. Additionally, Parcel 24 is being requested by only Diversified. The remaining Parcels are also being requested by some or all of the other companies in this proceeding.

Queen Creek's application requests a total of 2,560 acres. All of Queen Creek's requested extension area is also being requested by all of the other parties in this proceeding.

H2O, INC. ANALYSIS

Background

H2O provides water service to approximately 681 customers (1999 Annual Report) within portions of Pinal and Maricopa County.

H2O's existing certificated area encompasses approximately eleven and one-half (11-1/2) sections of land. In its May 30, 2000 application, H2O is seeking a Certificate extension for approximately four (4) sections of land. The area requested is currently contiguous to its current certificated area. The application requests permission to serve Sections 28, 29, 33 and portions of Section 31 in Township 2 South, Range 8 East and also portions of Section 5 and 6 in Township 3 South, Range 8 East. The corresponding Parcels to H2O's request are Parcels 14, 15, 16, 17, 18 and 22. On December 15, 2000, H2O filed a supplement to its application to include Parcels 5, 6 and 11. These areas constitute approximately 2,055 additional acres.

H2O's Existing Water Systems

H2O has one water system consisting of two wells with a combined capacity of 1,730 gallons per minute ("gpm"), one storage tank with a capacity of 200,000 gallons, two booster pumps, one 5,000 gallon pressure tank and distribution system. Two other wells are owned by H2O but not on-line at this time. H2O has adequate storage and well production to serve its current customers and can serve up to 1,300 customers with the existing system.

H2O has a number of projects anticipated for the next 12 months. They include more storage, booster pumps, pressure tanks, main lines, and a new well. Some of these projects include:

1. Line extension for Ocotillo Meadows - New mains, pumping and storage - \$499,595
2. Links Estate Project - New Storage, pressure tanks, pumping and mains - \$978,076

3. New Storage Pumping and Source Supply Project – New storage, pressure tanks, booster pumps and well - \$254,117
4. Combs School Line extension – New Mains

Arizona Department Of Environmental Quality Compliance

H2O is in full compliance with the Arizona Department of Environmental Quality (“ADEQ”). ADEQ has determined that this system is currently delivering water that does not exceed any maximum contaminant levels (“MCLs”) and meets the Safe Drinking Water Act quality requirements.

ADEQ compliance history for the past five years shows the following:

1. Compliance Inspection report dated April 5, 1996 - no deficiencies.
2. Compliance Status report dated June 21, 1997 - full compliance with no MCL violations.
3. Notice of Violation (NOV) Failure to obtain Approval to Construct for Vinwood Subdivision due to developer actions on September 30, 1997. NOV withdrawn after ADEQ Approval to Construct issued to Vinwood on December 4, 1997.
4. Compliance inquiry by the Commission dated January 24, 2000 – Major deficiency for lead and copper sampling. Sampling and results were delivered to ADEQ on or about April 18, 2000.
5. Compliance inquiry by the Commission on June 5, 2000 - No major Deficiencies.
6. No bacteriological violations for the past five years.
7. No violations for any MCLs including inorganic compounds (IOC’s), volatile organic compounds (VOC’s), synthetic organic compounds (SOC’s), Gross Alpha, Lead & Copper, or Pesticides.
8. H2O has never had any compliance orders issued against it or entered into any consent agreements with ADEQ.

Other Compliance Issues

H2O has not provided a copy of the developers’ Certificates of Assured Water Supply (“CAWS”) from the Arizona Department of Water Resources (“ADWR”) for the requested areas.

H2O is located in the Phoenix Active Management Area ("AMA") and is in compliance with their regulations.

H2O has submitted a number of Approvals to Construct ("ATC") from ADEQ on items 1 through 3 as described in the discussion of H2O's Existing Water Systems.

H2O has submitted a franchise from Pinal County that includes its original requested areas but does not include the additional areas described in its supplement to its application.

H2O is in compliance with the Commission's filing requirements and is current on its property taxes.

JOHNSON UTILITIES COMPANY ANALYSIS

Background

Johnson provides water and wastewater service to approximately 169 and 127 customers, respectively (1999 annual report), within various communities in Pinal County. Johnson is located southeast of the town of Queen Creek and as of the date of its last amended filing, covered approximately 45 square-miles of certificated areas for both water and wastewater utilities.

In Johnson's original and subsequent amended applications, Johnson is requesting approximately 26-1/2 square-miles of additional area to provide water and wastewater service. Within the total requested area, Johnson seeks to provide water and wastewater service to all Parcels (1-23) listed in this Staff Report with the exception of Parcel 19 for which Johnson seeks to provide wastewater service only and Parcel 24, which is being requested only by Diversified. In addition, Johnson seeks to de-certificate Parcels 14 and 20 from H2O's certificated area in order to provide both water and wastewater to both parcels.

Johnson's Existing Water and Wastewater Systems

Johnson's Existing Water Systems

Johnson operates two independent water systems, Johnson Ranch and Sun Valley Farms V, which are approximately five miles apart. Description of each system is as follows:

1. **Johnson Ranch Water System**: This system consists of a well, one storage tank and a distribution system serving approximately 419 customers. Well Site #4 has a well that pumps 525 gallons per minute (GPM) into a 500,000 gallon storage tank, through three booster pumps (two 75-horsepower (Hp) and one 40-Hp) and into a 5,000 gallon pressure tank before distribution into the system. This distribution system

covers approximately two square-miles and is approximately two miles south of the contested areas.

The Johnson Ranch Water System's current well capacity of 525 GPM and storage capacity of 500,000 gallons with fire flow protection could adequately serve up to 735 connections. Johnson currently serves approximately 419 connections.

2. Sun Valley Farms V Water System: This system consists of a well, one storage tank and a distribution system currently serving approximately 37 customers. Well Site #V4 has a well that pumps 250 GPM into two storage tanks (10,000 gallons & 6,000 gallons), through a booster pump and into a 2,000 gallon pressure tank before distribution into the system. This distribution system covers approximately one square-mile and is approximately six miles southeast of the contested areas.

The Sun Valley Farms V Water System's current well capacity of 250 GPM and storage capacity of 16,000 gallons could adequately serve up to 36 connections (limited by storage). Johnson currently serves approximately 37 connections.

3. Johnson is also constructing another water system within the Wildhorse project. This system is located approximately two miles south of the Sun Valley Farms V System and currently has a well and a 50,000 gallon storage tank. This system is still under construction and is not in service.

Johnson's Existing Wastewater System

Johnson, as of the date of its last amended filing, had a certificated wastewater service area of approximately 45 square-miles with existing collection systems covering a total of four square-miles. Due to Johnson's failure to file necessary items required by Decision No. 62087, Johnson's currently certificated service area covers approximately 33-1/2 fewer sections than it did at that date. See discussion of Decision No. 62087 below. A description of Johnson's wastewater systems is as follows:

1. Johnson Ranch Wastewater System: This system is located within the Johnson Ranch and Magic Ranch projects and has a wastewater treatment plant (WWTP) consisting of aerated lagoons with constructed wetlands and a collection system. The Johnson Ranch WWTP has a current capacity of 500,000 gallons per day currently serving approximately 391 customers and could adequately serve up to 1,430 connections.
2. Johnson also has the Marwood mechanical package wastewater treatment plant within the Johnson Ranch project having a capacity of 20,000 gallons per day. This WWTP is currently not in service and therefore, has no compliance status at this time.

Johnson's Proposed Services To Extension Areas

Water Systems

Johnson is proposing to integrate the two existing water systems and all projects located within the Phoenix AMA as one system. All projects in the extension areas located in the Pinal AMA will also be integrated as one system. Initial phases of development will be provided water service from the existing Johnson Ranch and Sun Valley Farms V Water Systems. The development of all projects will be completed in phases and the required infrastructure will be planned to accommodate the expected growth. Construction schedules for 41 projects for years 2000 to 2020 totaling \$13,972,500 are being proposed.

Wastewater System

All wastewater will be conveyed to either the Johnson Ranch WWTP or the Marwood WWTP, once this Marwood plant is placed back into service. The development of all projects will also be completed in phases with construction schedules of 41 projects for years 1998 to 2011 totaling \$50,662,500 being proposed.

Arizona Department Of Environmental Quality Compliance

Water Systems

The Johnson Ranch Water System, PWS #11-128, is currently in compliance with ADEQ. In the past, ADEQ issued a Consent Order, Docket No. DW-62-00, on June 2, 2000, for numerous violations. However, on August 4, 2000, ADEQ signed a "Satisfaction and Termination of Consent Order" stating that Johnson Ranch had demonstrated to the satisfaction of ADEQ, that all terms of the Consent Order had been completed by the payment of a civil administrative penalty of \$4,900.00.

The Sun Valley Farms V Water System, PWS #11-116, is also currently in compliance with ADEQ. In the past, this system was also issued a Consent Order, Docket No. DW-87-00, by ADEQ on August 1, 2000 for numerous violations. Also on August 4, 2000, ADEQ signed a "Satisfaction and Termination of Consent Order" stating that Johnson's Sun Valley Farms V system had demonstrated to the satisfaction of ADEQ, that all terms of the Consent Order had been completed by the payment of a civil administrative penalty of \$6,000.00.

As a result, ADEQ has determined that the Johnson Ranch Water System and the Sun Valley Farms V Water System are currently delivering water that does not exceed any maximum contaminant levels and meets the Safe Drinking Water Act quality standards.

Wastewater System

The Johnson Ranch Wastewater System, Inventory #103081, is currently in total compliance with ADEQ. In the past, ADEQ issued a Consent Order, Docket No. P-105-99, and an Amendment to Consent Order on May 12, 1999 and October 8, 1999, respectively, for one major violation. However, on April 26, 2000, ADEQ signed a "Satisfaction and Termination of Consent Order" stating that the Johnson Ranch wastewater system had demonstrated to the satisfaction of ADEQ, that all terms of the Consent Order and Amendment to Consent Order had been completed.

Arizona Department of Environmental Quality Conclusions

In order to unconditionally recommend approval of any CC&N extension requests, Staff reviews evidence of applicants' ability to operate in full compliance with ADEQ rules and to deliver water that does not exceed any maximum contaminant levels and meets the water quality standards of the Safe Drinking Water Act.

As discussed above, Johnson has had a history of problems meeting the compliance requirements of ADEQ. Figure 3C attached is a Staff Engineering compilation of Johnson's ADEQ violations. This compilation was made from three ADEQ Consent Orders pertaining to Johnson Ranch Water System, Sun Valley V Water System and the Johnson Ranch Wastewater System. Johnson has been fined by ADEQ.

Staff is concerned with Johnson's past ADEQ problems considering that their CC&N extension request is for over 15,000 additional acres. Staff is concerned over the ability of Johnson to meet and maintain ADEQ compliance with the granting of such large certificated areas.

Other Compliance Issues

ACC Past Decisions

1. Decision No. 60223 – This Decision granted the Company the initial CC&N (approximately five Sections) and listed nine (9) compliance items. Only one (1) of the nine compliance items is still pending, which relates to a rate review filing that will be due on May 27, 2001.
2. Decision No. 61069 – This Decision granted a CC&N extension (approximately 7-1/2 Sections).
3. Decision No. 62087 – This Decision conditionally granted a CC&N extension (approximately 33-1/2 Sections). See Discussion of Decision No. 62087 below.

4. Decision No. 62284 – This Decision granted provisions to the Tariff Schedules with compliance items to, 1) meet ADEQ drinking water standards for its water systems and 2) at least substantial compliance status for its wastewater system. These compliances were met on August 25, 2000.
5. Administrative Closure No. 62586 – This Closure Number was assigned to officially close a request to withdraw the filing of a Cross-Connection Backflow Tariff on May 23, 2000.

Discussion of Decision 62087

In Commission Decision No. 62087, dated November 19, 1999, the Commission issued to Johnson a conditional CC&N to provide water and wastewater services within a geographical area as an extension to its existing CC&N. In its Decision on that CC&N application, Johnson was conditionally authorized to provide water and wastewater service totaling approximately 45 square-miles of territory. The Commission conditioned approval of the application based on Johnson: 1) within 365 days from the effective date of the Commission's Decision, filing a copy of its Pinal County Franchise for the extension area, 2) within 365 days from the effective date of the Commission's Decision, filing evidence of compliance with ADEQ's Rules for the operation of its water systems, and 3) within 365 days from the effective date of the Commission's Decision, filing evidence that a Designation of an Assured Water Supply has been issued by ADWR. The Commission's Decision further ordered that the application would be deemed denied without further order of the Commission if Johnson did not timely file these documents referenced above. These documents were to have been filed with the Commission by November 20, 2000.

In a letter dated December 20, 2000 from Patrick C. Williams, Manager of Compliance and Enforcement, it was noted that these documents have not been filed timely per Decision No. 62087. The order is clear; "... In the event Johnson Utilities, L.L.C. dba Johnson Utilities Company does not timely file a copy of the Pinal County franchise, evidence of compliance from ADEQ for the water and wastewater systems, and evidence that a "Designation" of an Assured Water Supply has been issued by ADWR, then the extension of its Certificate of Convenience and Necessity for the area described in Exhibit A shall be deemed to be denied without further order of the Arizona Corporation Commission."

Current Compliance Issues

Johnson has indicated that it has been working with ADWR and on July 26, 2000, submitted a copy of its Designation of Assured Water Supply for the requested areas.

Johnson's water systems and extension areas will be located in both the Phoenix and Pinal Active Management Areas as designated by ADWR. Since both of the existing systems are new, the water use and monitoring requirements will not be due until March 31, 2001.

Johnson currently has a Pinal County franchise and has applied to expand the franchise to include all areas that it has requested.

Johnson has submitted a number of Approvals to Construct and Approvals of Construction from ADEQ.

Johnson is current on its property taxes.

Complaint

On June 2, 2000, Centex Homes filed a formal complaint (Docket No. WS-02987A-00-0387) against Johnson for illegal termination of water utility service and also to facilitate resolution of disputed wastewater charges. This complaint was heard on November 1, 2000. A final order has not been issued in that docket.

The dispute stems from Decision No. 60223 and its Tariff Schedule Filings. The Decision granted water and wastewater rates based on water meter sizes. It is Johnson's position that the wastewater rates and charges become effective when a water meter is installed, even when no water is used. Staff's opinion is that the intent of the wastewater rates and charges, based on water meter sizes, were designed for the quantity of wastewater flow to be treated at the wastewater treatment plants.

In order to clarify the wastewater rates and charges, Staff recommends that Johnson submit an amended Tariff Schedule to include language for the wastewater rates and charges to state that these charges would become effective when wastewater first flows into the collection system, or simply, when wastewater is first produced. Staff further recommends that any granting of wastewater CC&N extensions be conditioned upon submittal of this amended tariff schedule within 30 days from the effective date of the Commission's decision to the Director of the Utilities Division for approval.

DIVERSIFIED WATER UTILITIES, INC. ANALYSIS

Background

Diversified provides water service to approximately 133 customers (1999 Annual Report) within Pinal County.

Diversified's existing certificated area encompasses approximately nine (9) sections of land. In its October 2, 2000 application, Diversified is seeking a Certificate extension for

approximately nine (9) sections of additional land. The application requests permission to serve Parcels 14, 15, 16, 17, 18 and Parcel 2. Parcels 14, 15, 16, 17 and 18 are also being requested by H2O and Johnson. Parcels 15, 16, 17 and 18 are being requested by Queen Creek. However, Parcel 2 is being requested only by Johnson and not H2O.

On October 3, 2000, Diversified filed an amendment to its application to include a part of Parcel 14 in Section 5, T3S, R8E and a part of Parcel 2 in Section 23, T3S, R8E that was inadvertently left out of its original application. On November 2, 2000, Diversified filed a second amendment to its application to include Parcel 24 at the request of a landowner who is requesting Diversified to provide water service to approximately 20 acres.

Diversified's Existing Water Systems

Diversified has a water system within one mile of the requested area. The water system consists of one 120 gpm well, one 5,000 gallon pressure tank, two 10 hp booster pumps and one 20,000 gallon storage tank. According to Diversified, the system has adequate well capacity at the present time, but lacks necessary storage capacity. Diversified has submitted an application for financing to install a 250,000 gallon storage tank, a new well, pressure tank, booster pumps and a new 12-inch diameter distribution line. Diversified has applied for authorization for \$437,328 of financing to make improvements to its system which include:

1. Installing 12-inch and 8-inch interconnection and line extension along Skyline Road
2. Installing a 250,000 gallon storage tank
3. Refurbish or drill a new well

Arizona Department Of Environmental Quality Compliance

Diversified is in full compliance with ADEQ and it has determined that this system is currently delivering water that does not exceed any MCLs and meets the Safe Drinking Water Act quality requirements.

Other Compliance Issues

Diversified has not provided copies of the developers' CAWS for its requested areas. Diversified has indicated that the developers will join the Central Arizona Groundwater Replenishment District ("CAGR") and obtain a Certificate of Assured Water Supply.

Diversified is located in the Phoenix AMA and is in compliance with its regulations.

Diversified has not submitted any Approvals to Construct from ADEQ but has indicated that ATCs will be submitted with main line extension agreements as they are submitted to the Commission for approval.

Diversified has not submitted a franchise from Pinal County that includes its requested areas but has indicated it will submit a copy of its franchise agreement with Pinal County within one year from the Commission's decision in this matter.

Diversified is in compliance with the Commission's filing requirements and is current on its property taxes.

QUEEN CREEK WATER COMPANY ANALYSIS

Background

Queen Creek provides water service to approximately 1,977 customers (1999 Annual Report) within Maricopa County.

Queen Creek's existing certificated area encompasses approximately twenty-nine (29) square-miles of land. In its October 4, 2000 application, Queen Creek is seeking a Certificate extension for approximately four (4) sections of additional land. The application requests permission to serve Parcels 15, 16, 17, 18, 22 and part of Parcel 11. H2O and Johnson are also requesting parcels 15, 16, 17, 18 and 22. The area in Parcel 11 that Queen Creek requests to serve is also being requested by H2O and Johnson. Diversified is not requesting any part of Parcel 11.

Queen Creek's Existing Water Systems

Queen Creek operates a 24 square-mile distribution system consisting of four wells, seven storage tanks and a distribution system serving approximately 2,246 customers. The four wells and seven storage tanks have total capacities of 4,400 gpm and 1,430,000 gallons, respectively.

Maricopa County Department Environmental Services (MCESD) Compliance

Queen Creek's water system, PWS #07-033, is currently in compliance with MCESD and as a result, the MCESD has determined that Queen Creek is delivering water that does not exceed any maximum contaminant levels and meets the Safe Drinking Water Act quality standards.

Other Compliance Issues

Queen Creek is located within the Phoenix AMA as designated by ADWR. A contact with this state agency indicated Queen Creek is meeting the requirements of this AMA.

Queen Creek has not provided copies of the developers' CAWS for the requested areas. Queen Creek has indicated that the developers will file requests for CAWS once their master plans are annexed into Queen Creek's CC&N.

Queen Creek has not submitted any Approvals to Construct from ADEQ or MCESD.

Queen Creek has submitted a copy of its franchise from Pinal County that includes its requested areas.

Queen Creek is in compliance with the Commission's filing requirements and is current on its property taxes.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions on Contested Areas

Reference has been made throughout this Staff Report regarding the Parcels that are currently contested among all or some of the parties involved in this proceeding. This section will discuss those Parcels that Staff is referring to as "contested" due to the fact that multiple providers are requesting to serve.

While Staff realizes the positive significance to the respective utilities involved in this docket and to Pinal County should all of this proposed development occur, Staff is not convinced that all of the development will take place in a timely manner as planned. Staff is not inclined to recommend granting CC&Ns to areas for the sole purpose of allowing landowners to capitalize on the increased value of property that has been certified as having access to water and wastewater service. Staff therefore recommends the CC&N extensions should be granted conditionally, and that a CC&N review be filed with the Commission two years from the effective date of an order in this proceeding. To facilitate such a CC&N review, each company granted an extension of its CC&N territory in this proceeding would submit the following information:

- a. number of customers being served in the extension areas
- b. amount of plant facilities installed to serve extension areas
- c. number of gallons sold in the extension areas

- d. amount of revenue generated by the extension areas
- e. master plan of extension areas showing all plant installed and customer locations
- f. any other information Staff deems relevant

At the time of the CC&N review, Staff should have the discretion to perform a physical plant inspection. Should the Staff inspection indicate that no development has commenced at the two year review period or if the information as listed above has not been timely supplied, the conditional CC&N extension granted in this proceeding should become null and void without further order of the Commission, and future CC&N extensions into the areas deemed null and void would require a new CC&N extension filing. Staff should have 120 days from the two-year anniversary date of the Decision to file a report containing one of the following three recommendations:

1. Final approval of the CC&N for all areas requested in this proceeding;
2. Final approval of the CC&N for portions of areas requested in this proceeding with the cancellation of the remainder areas; or
3. Disapproval of the CC&N extension for all areas requested in this proceeding.

In addition, from the date of the Decision in this matter, for the next two years, those utilities listed in this Staff Report that are granted conditional extensions of their respective CC&Ns, should be required to submit in this docket documentation from ADEQ indicating that the utility has been in full compliance with ADEQ for each year. This documentation must be submitted in this docket within 30 days of the anniversary date of the Decision in this matter each year. Failure to timely submit in this documentation in this docket or failure to correct any major or minor violation within 30 days from the date of notice of violation should result in the CC&N extension conditionally granted in this proceeding becoming null and void without further order of the Commission.

Specific recommendations regarding each individual utility will be listed under the recommendations section of this Staff Report.

Conclusions and Recommendations on Contested Areas – H2O, Inc.

After reviewing the relevant information on all four companies, Staff recommends that the water CC&N of H2O, Inc. be conditionally approved to allow H2O to extend its service to Parcels 11, 14, 15, 16, 17, 18 and 22. Staff has based its recommendation on the following conclusions:

1. Water Systems and facilities in this area - H2O has a water system in the area with distribution mains located next to the requested area and has the facilities to serve the area. It already has Section 32 in T2S, R8E that is surrounded by the area being requested. The Company's distribution system is within 1,000 ft. of the requested area.
2. Johnson Utilities and Diversified Utilities do not have any facilities in the area. Queen Creek Water Company has a well that is located in H2O's certificated area in Section 30 that is used to provide water to the Queen Creek CC&N.
3. H2O is contiguous to its requested area. Queen Creek and Diversified are contiguous to portions of the area. Johnson is not contiguous to this area.
4. Known Projects planned for the area - H2O has a number of projects anticipated for the next 12 months. They include more storage, booster pumps, pressure tanks, main lines, and a new well. Some of these projects include:
 - a. Line extension for Ocotillo Meadows - New mains, pumping and storage - \$499,595
 - b. Links Estate Project - New Storage, pressure tanks, pumping and mains - \$978,076
 - c. New Storage Pumping and Source Supply Project - New storage, pressure tanks, booster pumps and well - \$254,117
 - d. Combs School Line extension - New Mains
5. ADEQ Compliance - All four companies are in compliance with ADEQ, however, Johnson Utilities has had recent violations (serious enough to result in a Consent Order and fines) which should be a concern for any expansion of their CC&N. In addition, Approvals to Construct have been issued on items a through c listed above.
6. ACC Compliance - H2O is in compliance with all ACC filing requirements.

Conclusions and Recommendations - Johnson Utilities Company

Contested Areas

Staff recommends that the wastewater CC&N of Johnson Utilities, Inc. conditionally be approved to allow Johnson to extend its service to Parcels 2, 11, 14, 15, 16, 17, 18, 20 and 22.

Non-Contested Areas

Staff recommends that the application of Johnson Utilities, Inc. be conditionally approved to extend its service to allow Johnson to extend its water and wastewater CC&N to include Parcels 4, 9, 21 and 23. Staff further recommends conditional approval of Johnson's request to provide wastewater service only to Parcels 19 and 20.

Staff recommends denial of Johnson's request to serve Parcels 1, 7, 8, 10 and 13 because there is no immediate need for water and wastewater service for these Parcels at this time. Additionally, Staff is recommending the denial of Johnson's request to de-certificate Parcels 14 and 20 from H2O. No relevant information was provided by Johnson to warrant a deletion of territory from H2O at this time.

Conclusions and Recommendations – Diversified Water Utilities, Inc.

Staff recommends that the water CC&N of Diversified Water Utilities, Inc. and the wastewater CC&N of Johnson Utilities, Inc. be conditionally extended to include Parcel 2. Staff has based its recommendation on the following conclusions:

1. Water Systems and facilities in this area - Diversified has a water system within one mile of the requested area.
2. Developer is already located in the existing CC&N of Diversified. The Bella Vista Farms development is located in a portion of the existing CC&N of Diversified in Sections 9 & 10 of T3S, R8E. The requested area contains the remainder of the Bella Vista Farms development.
3. ADEQ Compliance - Both companies are in compliance with ADEQ, however, Johnson Utilities has had recent violations as previously discussed.
4. ACC Compliance – Diversified is in compliance with all ACC filing requirements.

Staff recommends conditional approval be granted to Diversified Water Utilities, Inc. for Parcel 24 based on the following conclusions:

1. Diversified has a water system within one mile of the requested area and is contiguous to the requested area.
2. Same conclusions as stated above except item 2.

Conclusions and Recommendations – Queen Creek Water Company

Staff recommends that Queen Creek's request to provide water service to Parcels 15, 16, 17, 18, 22 and part of Parcel 11 be denied. Staff has based its recommendation on the following conclusions:

1. Many of the contested areas are not contiguous to Queen Creek's already certificated area.
2. More plant facilities of H2O are closer to the contested areas, while Queen Creek only has a well and transmission main.

RECOMMENDATIONS

H2O, Inc.

Staff recommends that the water CC&N of H2O, Inc. be conditionally extended to include Parcels 11, 14, 15, 16, 17, 18 and 22.

Staff further recommends that H2O, Inc. file in this docket, within two (2) years from the effective date of this Decision, a copy of the developers' Certificate of Assured Water Supply from ADWR.

Staff further recommends that H2O, Inc. file in this docket, within two (2) years from the effective date of this Decision, a copy of its Approval to Construct for the Combs School Line extension.

Staff further recommends that H2O, Inc. file in this docket, within two (2) years from the effective date of this Decision, a copy of its franchise from Pinal County for the extension areas.

Staff further recommends that within two years from the effective date of this Decision, H2O, Inc. file a CC&N review with the Commission containing the following information: a) number of customers being served in the extension areas, b) amount of plant facilities installed to serve extension areas, c) number of gallons sold in the extension areas, d) amount of revenue generated by the extension areas, e) master plan of extension areas showing all plant installed and f) customer locations and any other information Staff deems relevant. At the time of the CC&N review, Staff should have the discretion to perform a physical plant inspection. Should the Staff inspection indicate that no development has commenced at the two year review period or if the information as listed above has not been timely supplied, the conditional CC&N extension granted in this proceeding should become null and void without further order of the Commission, and future CC&N extensions into the areas deemed null and void would require a

new CC&N extension filing. Staff should have 120 days from the two-year anniversary date of the Decision to file a report containing one of the following three recommendations:

1. Final approval of the CC&N for all areas requested in this proceeding;
2. Final approval of the CC&N for portions of areas requested in this proceeding with the cancellation of the remainder areas; or
3. Disapproval of the CC&N extension for all areas requested in this proceeding.

Staff further recommends that H2O, Inc. file in this docket to the Commission for the next two years, documentation from ADEQ indicating that it has been in full compliance with ADEQ for each year. This documentation must be submitted within 30 days of the anniversary date of this Decision each year.

Staff further recommends that the Commission's Decision regarding the extension be considered null and void without further order from the Commission should H2O, Inc., fail to meet the above conditions within the time specified.

Staff further recommends that H2O, Inc. be ordered to charge its existing rates and charges in the approved extension areas.

Johnson Utilities Company

Staff recommends that the wastewater CC&N of Johnson Utilities, Inc. be conditionally extended to include Parcels 2, 11, 14, 15, 16, 17, 18, 20 and 22.

Staff further recommends that the water and wastewater CC&N of Johnson Utilities, Inc. be conditionally extended to include Parcels 4, 9, 21 and 23.

Staff further recommends conditional approval of Johnson's request to provide wastewater service only to Parcels 19 and 20.

Staff further recommends denial of Johnson's request to serve Parcels 1, 7, 8, 10 and 13.

Staff further recommends denial of Johnson's request to de-certificate Parcels 14 and 20 from H2O.

Staff further recommends that Johnson Utilities, Inc. file in this docket, within two (2) years from the effective date of this Decision, a copy of its franchise from Pinal County for the extension areas.

Staff further recommends that Johnson Utilities, Inc. file in this docket copies of all Approvals to Construct and Approvals of Construction for development in each of its respective approved Parcels as listed in this Staff Report within two (2) years from the effective date of the Commission's decision in this matter.

Staff further recommends that within two years from the effective date of this Decision, Johnson Utilities, Inc. file a CC&N review with the Commission containing the following information: a) number of customers being served in the extension areas, b) amount of plant facilities installed to serve extension areas, c) number of gallons sold in the extension areas, d) amount of revenue generated by the extension areas, e) master plan of extension areas showing all plant installed and customer locations and f) any other information Staff deems relevant. At the time of the CC&N review, Staff should have the discretion to perform a physical plant inspection. Should the Staff inspection indicate that no development has commenced at the two year review period or if the information as listed above has not been timely supplied, the conditional CC&N extension granted in this proceeding should become null and void without further order of the Commission, and future CC&N extensions into the areas deemed null and void would require a new CC&N extension filing. Staff should have 120 days from the two-year anniversary date of the Decision to file a report containing one of the following three recommendations:

1. Final approval of the CC&N for all areas requested in this proceeding;
2. Final approval of the CC&N for portions of areas requested in this proceeding with the cancellation of the remainder areas; or
3. Disapproval of the CC&N extension for all areas requested in this proceeding.

Staff further recommends that Johnson Utilities, Inc. file in this docket to the Commission for the next two years, documentation from ADEQ indicating that it has been in full compliance with ADEQ for each year. This documentation must be submitted within 30 days of the anniversary date of this Decision each year.

Staff further recommends that Johnson file in this docket an amended Tariff Schedule, within 30 days from the effective date of the Commission's decision to the Compliance Section of the Utilities Division for approval, to include language for the wastewater rates and charges to state that these charges would become effective when wastewater first flows into the collection system, or simply, when wastewater is first produced.

Staff further recommends that the Commission's Decision regarding the extension be considered null and void without further order from the Commission should Johnson Utilities, Inc. fail to meet the above conditions within the time specified.

Staff further recommends that Johnson Utilities, Inc. be ordered to charge its existing rates and charges in the approved extension areas.

Diversified Water Utilities

Staff recommends that the water CC&N of Diversified Water Utilities, Inc. be conditionally extended to include Parcels 2 and 24.

Staff further recommends that Diversified Water Utilities file in this docket, within two (2) years from the effective date of this Decision, documentation that indicates that developers have joined the Central Arizona Groundwater Replenishment District.

Staff further recommends that Diversified Water Utilities file in this docket, within two (2) years from the effective date of this Decision, copies of its Approval to Construct.

Staff further recommends Diversified Water Utilities file in this docket, within two (2) years from the effective date of this Decision, a copy of its franchise from Pinal County for the extension areas.

Staff further recommends that within two years from the effective date of this Decision, Diversified Water Utilities file a CC&N review with the Commission containing the following information: a) number of customers being served in the extension areas, b) amount of plant facilities installed to serve extension areas, c) number of gallons sold in the extension areas, d) amount of revenue generated by the extension areas, e) master plan of extension areas showing all plant installed and customer locations and f) any other information Staff deems relevant. At the time of the CC&N review, Staff should have the discretion to perform a physical plant inspection. Should the Staff inspection indicate that no development has commenced at the two year review period or if the information as listed above has not been timely supplied, the conditional CC&N extension granted in this proceeding should become null and void without further order of the Commission, and future CC&N extensions into the areas deemed null and void would require a new CC&N extension filing. Staff should have 120 days from the two-year anniversary date of the Decision to file a report containing one of the following three recommendations:

1. Final approval of the CC&N for all areas requested in this proceeding;
2. Final approval of the CC&N for portions of areas requested in this proceeding with the cancellation of the remainder areas; or
3. Disapproval of the CC&N extension for all areas requested in this proceeding.

Staff further recommends that Diversified Water Utilities file in this docket to the Commission for the next two years, documentation from ADEQ indicating that it has been in full compliance with ADEQ for each year. This documentation must be submitted within 30 days of the anniversary date of this Decision each year.

Staff further recommends that the Commission's Decision covering the extension be considered null and void without further order from the Commission should Diversified Water Utilities fail to meet the above conditions within the time specified.

Staff further recommends that Diversified Water Utilities be ordered to charge its existing rates and charges in the approved extension areas.

Queen Creek Water Company

Staff recommends that Queen Creek Water Company's request to provide water service to Parcels 15, 16, 17, 18, 22 and part of Parcel 11 be denied.

Arizona Corporation Commission
H2O/Johnson/Diversified/Queen Creek
Request for CC&N Extension Areas
Docket Nos. W-02234A-00-0371 et. al.

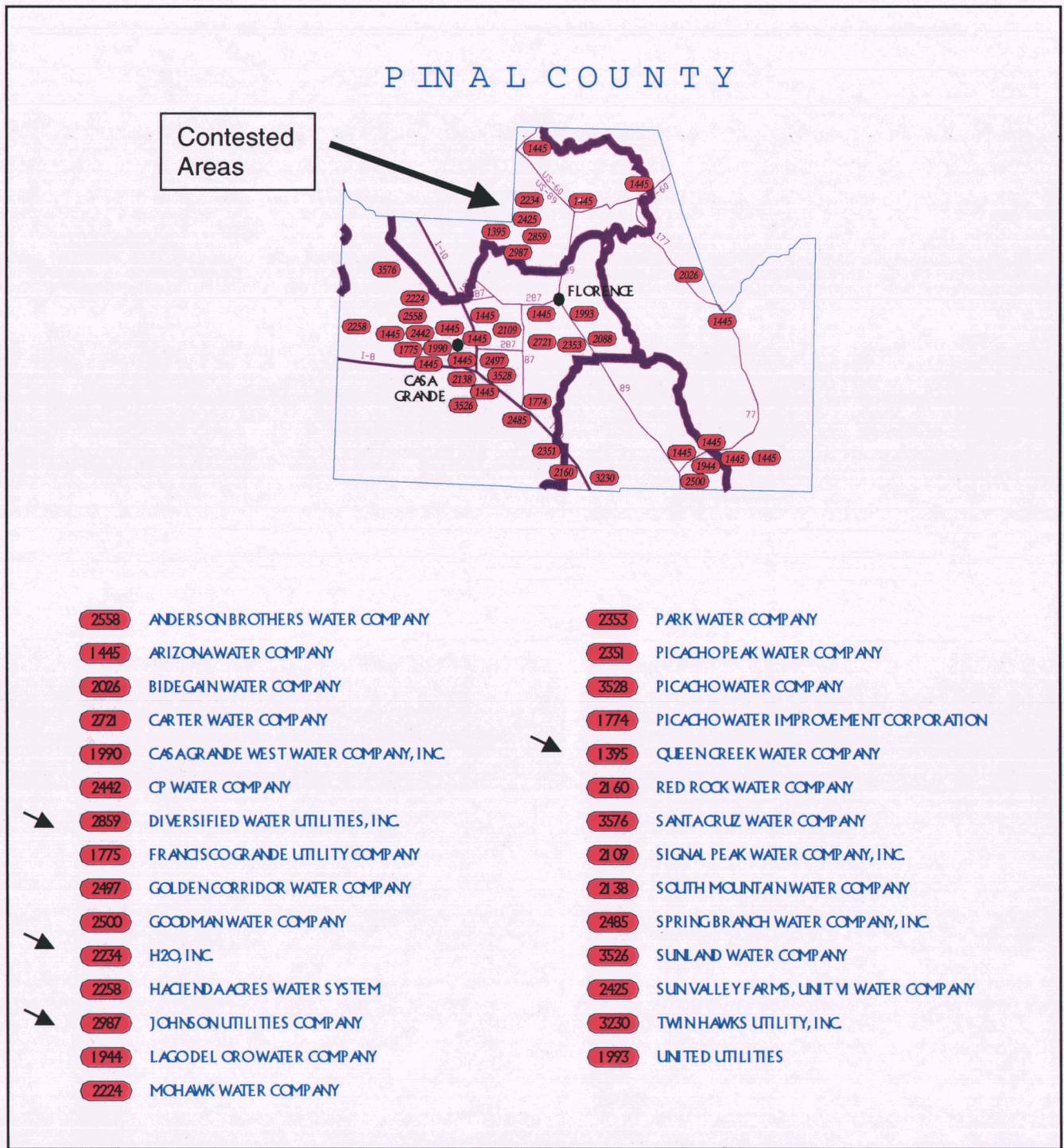
Parcel	Development	Requested By	Johnson Utilities Company	H2O, Inc.	Diversified Water Utilities, Inc.	Queen Creek Water Company	Denied
1	Arizona Farms	J					X
2	Bella Vista Farms	J/D	S		W		
3**	Jorde Farms	J					
4	Whitehead	J	w & s				
5**	Skyline	H/J					
6**	Morning Sun Farms	H/J					
7	Shelton	J					X
8	Various Owners within Section 28, T3S, R9E	J					X
9	Farley Farms	J	w & s				
10	State of Arizona/Future Development Sections 23 & 26, T4S, R8E	J					X
11	Circle Cross Ranch (West of the R.R.)	H/J/Q	S	W			
12**	Jorde/Morning Sun Farms	J					
13	BLM Property	J					X
14	Johnson Farms	H/J/D	S	W			*
15	Combs School		S	W			
16	Pecan Estates	H/J/D/Q	S	W			
17	Home Place	H/J/D/Q	S	W			
18	Ware Farms	H/J/D/Q	S	W			
19	Various	H/J/D/Q	S	W			
20	Various	J	S				
21	Pecan Ranch	J	S				*
22	Dobson Farms (Circle Cross Ranch (East of the R.R.))	H/J/Q	w & s	W			
23	Magnum Ranch	J	S				
24	Development Section 18 T3S, R9E	D	w & s		W		

** No longer requesting service

H - H2O
J - Johnson
D - Diversified
Q - Queen Creek
NR - No Request

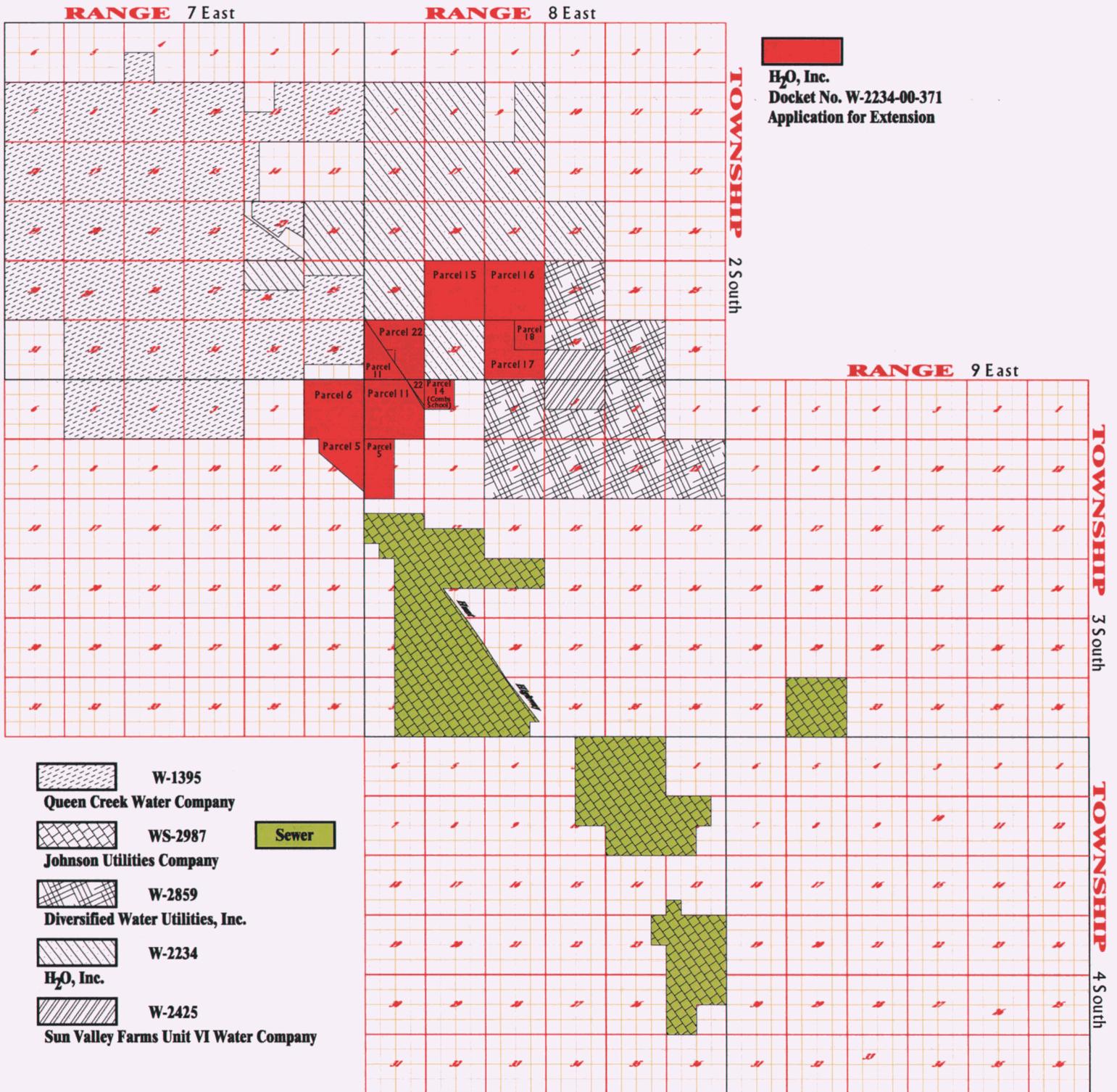
w - water only
s - sewer only
w & s - water and sewer

x - denied
* Deny Johnson request to delete area from H2O

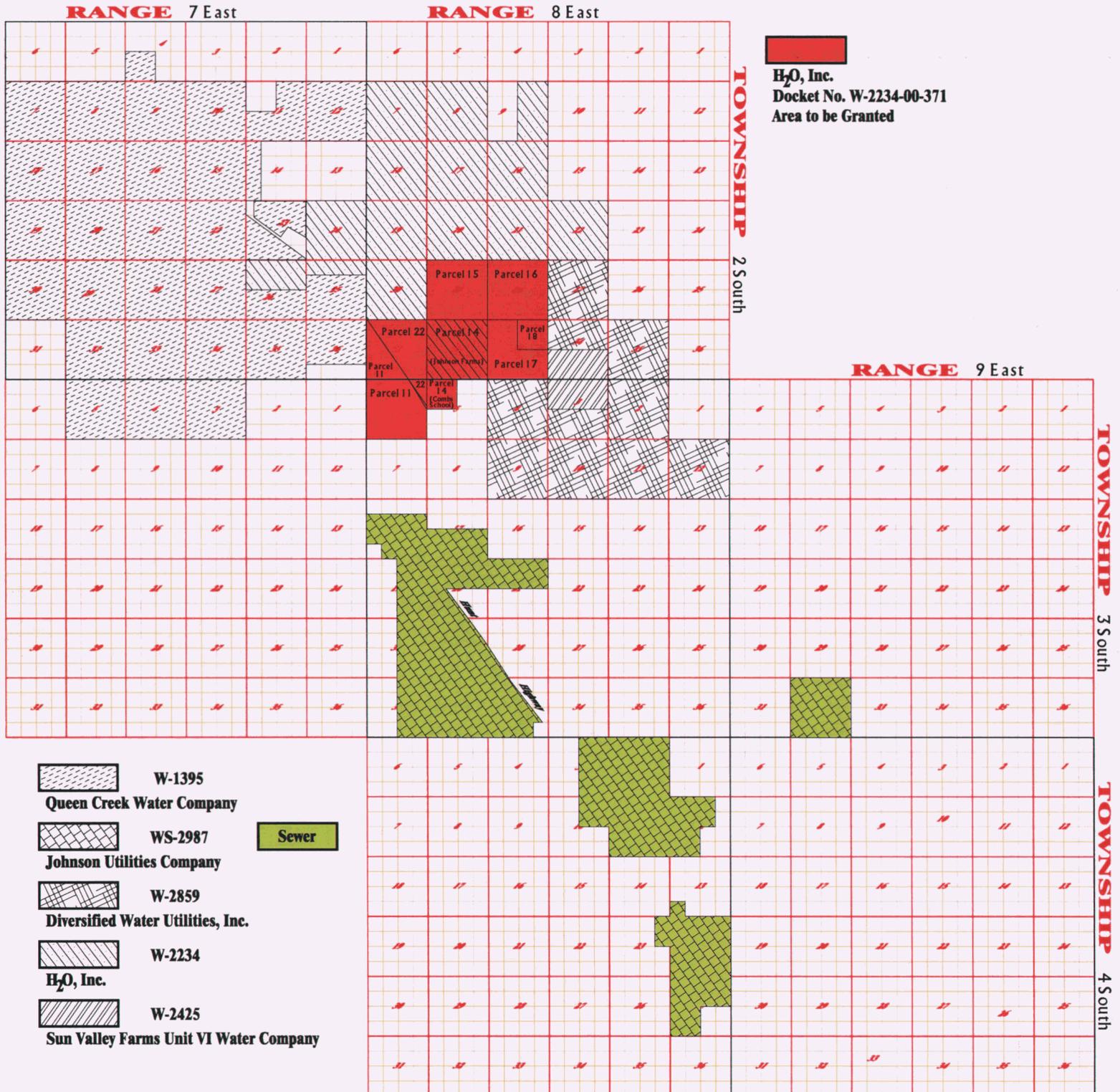


County Map

H₂O, INC. REQUESTED EXTENSION AREA



H₂O, INC. EXTENSION AREA TO BE GRANTED

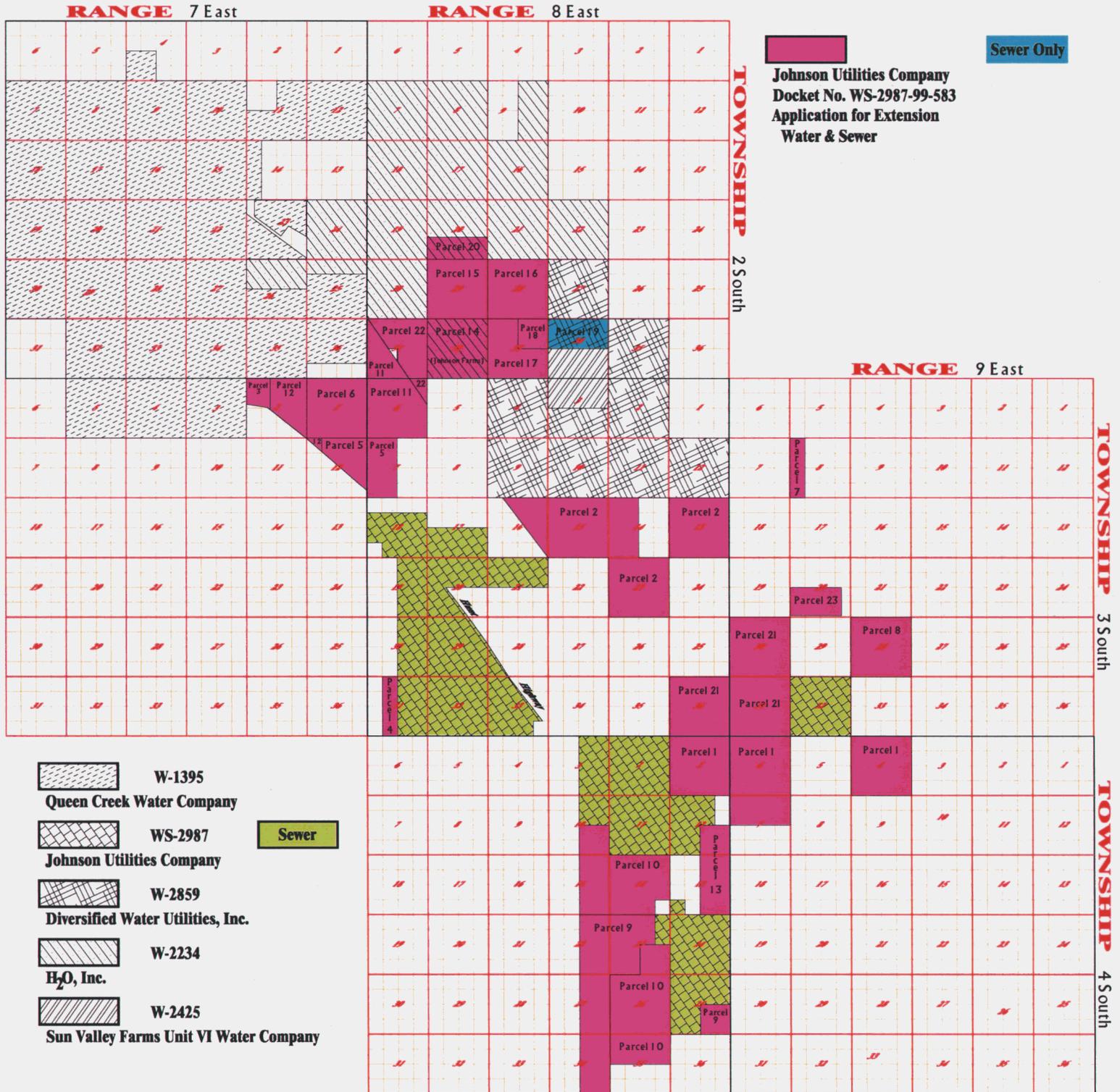


H₂O, Inc.
Docket No. W-2234-00-371
Area to be Granted

-  **W-1395**
Queen Creek Water Company
-  **WS-2987**
Johnson Utilities Company
-  **W-2859**
Diversified Water Utilities, Inc.
-  **W-2234**
H₂O, Inc.
-  **W-2425**
Sun Valley Farms Unit VI Water Company

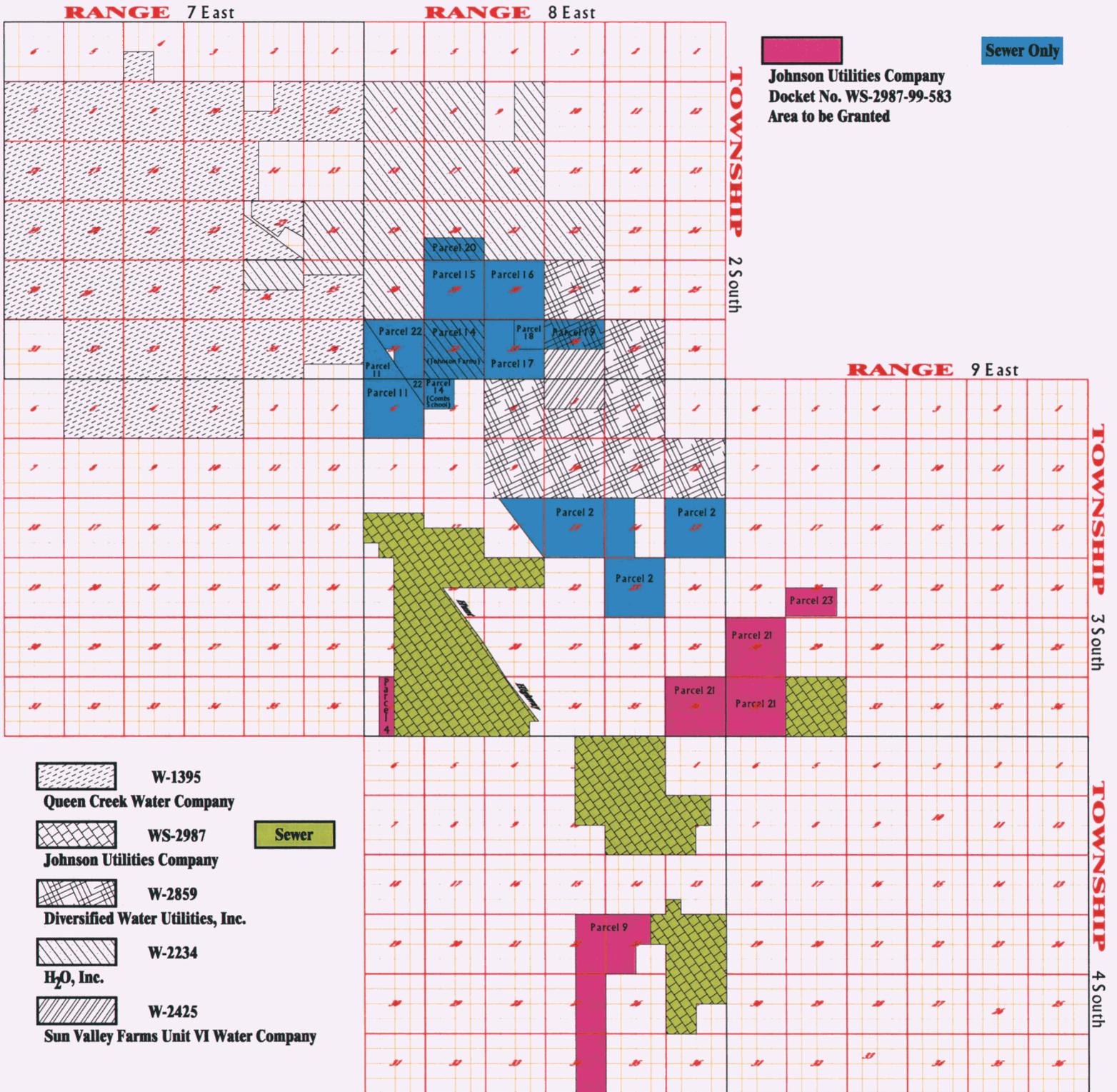
 **Sewer**

JOHNSON UTILITIES REQUESTED EXTENSION AREA A

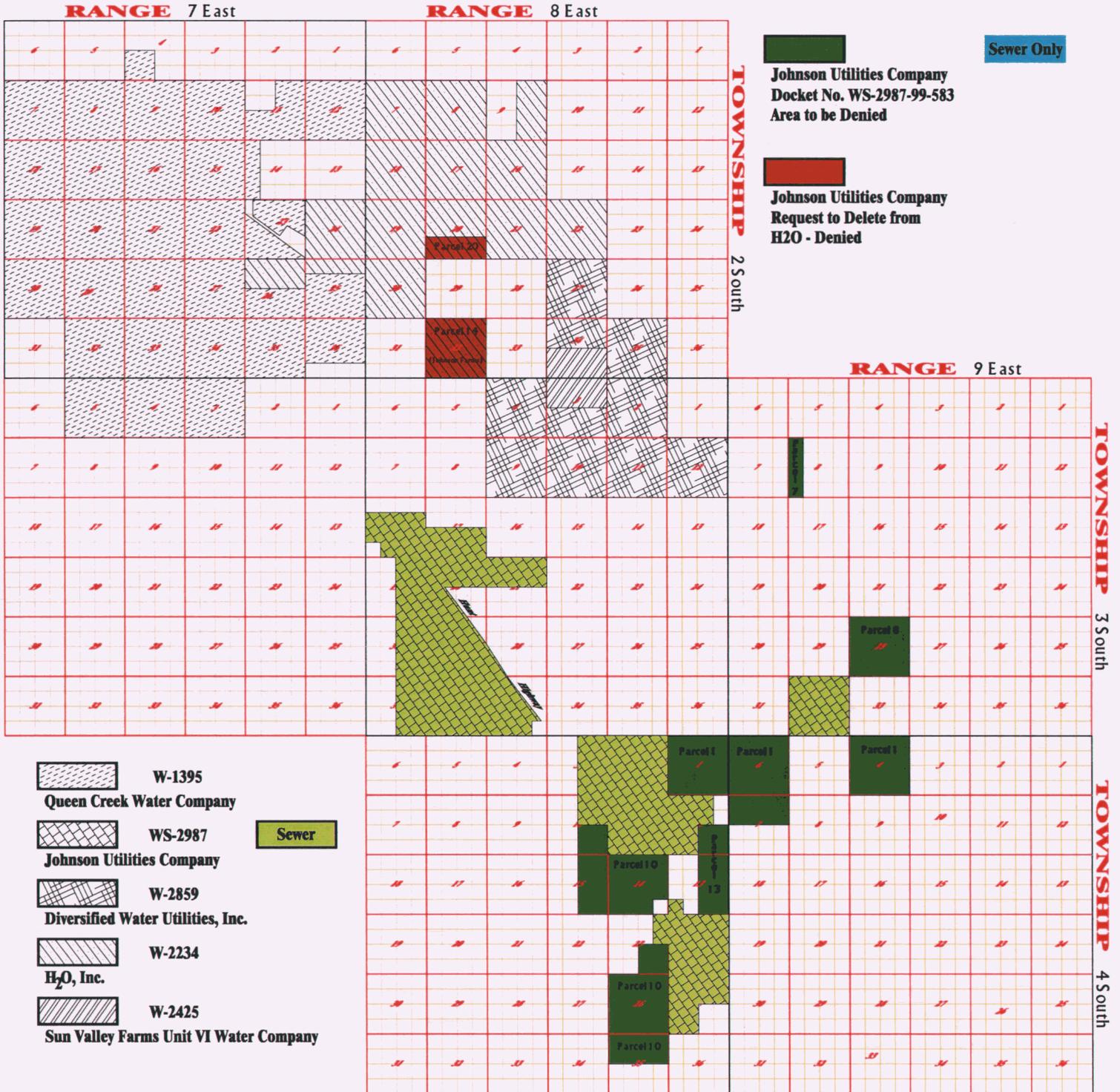


Sewer Only
Johnson Utilities Company
Docket No. WS-2987-99-583
Application for Extension
Water & Sewer

JOHNSON UTILITIES EXTENSION AREA TO BE GRANTED



JOHNSON UTILITIES, ET AL EXTENSION AREA TO BE DENIED



Johnson Utilities Company
Johnson Ranch Water System, PWS #11-128
ADEQ Consent Order, Docket No. DW-62-00

- 1 Failed to provide water which does not exceed the maximum contaminant limit (MCL) for Nitrate (10 mg/l) in accordance with A.A.C. R18-4-208.
- 2 Failed to take a nitrate confirmation sample at the same sampling point within 24 hours of receiving the analytical results of the initial sample, in accordance with A.A.C. R18-4-208.I.
- 3 Failed to notify ADEQ within 48 hours of discovery of failure to comply with nitrate monitoring requirements in accordance with A.A.C. R18-4-104.L.
- 4 Failed to provide Public Notice, in accordance with A.A.C. R-18-4-105.C, when a confirmation sample is not taken within 24 hours after receiving the analytical results of the initial nitrate sample, in accordance with A.A.C. R-18-4-208.I.
- 5 Failed to take a nitrate confirmation sample at the same sampling point within two (2) weeks of receiving the analytical results of the initial sample, in accordance with A.A.C. R18-4-208.I.
- 6 Failed to notify ADEQ within 48 hours of discovery of failure to comply with nitrate monitoring requirements in accordance with A.A.C. R18-4-104.L.
- 7 Failed to provide Public Notice, in accordance with A.A.C. R-18-4-105.C, when a confirmation sample is not taken within two (2) weeks after receiving the analytical results of the initial nitrate sample, in accordance with A.A.C. R-18-4-208.I.
- 8 Failed to notify the ADEQ of a Nitrate MCL exceedance within 24 hours of receipt of the analytical results, in accordance with A.A.C. R18-4-104.A.2.
- 9 Failed to provide Public Notice as soon as possible but not later than 72 hours after an acute violation occurs, in accordance with A.A.C. R18-4-105.B.
- 10 Failed to perform total coliform analyses in accordance with A.A.C. R18-4-202.F.
- 11 Failed to notify ADEQ within ten (10) days of discovery of failure to comply with total coliform monitoring requirements in accordance with A.A.C. R18-4-104.L.
- 12 Failed to provide Public Notice for missed total coliform monitoring in accordance with A.A.C. R-18-4-105.C.
- 13 Failed to perform total coliform repeat analyses following the discovery of a total coliform positive within 24 hours in accordance with A.A.C. R18-4-202.H.
- 14 Failed to notify ADEQ within ten (10) of discovery of failure to comply with total coliform monitoring requirements in accordance with A.A.C. R18-4-104.L.
- 15 Failed to provide Public Notice for missed total coliform monitoring in accordance with A.A.C. R-18-4-105.C.
- 16 Failed to collect at least five (5) routine coliform samples during the next month following a total coliform positive in accordance with R18-4-202.I.
- 17 Failed to notify ADEQ within (10) days of discovery of failure to comply with total coliform monitoring requirements in accordance with A.A.C. R18-4-104.L.
- 18 Failed to perform total coliform repeat analyses following the discovery of a total coliform positive within 24 hours in accordance with A.A.C. R18-4-202.H.
- 19 Failed to provide water which does not exceed the maximum contaminant limit (MCL) for Total coliform (no more than one sample may be total coliform-positive in accordance with A.A.C. R18-4-202.A.2.

- 20 Failed to notify the ADEQ of a total coliform MCL exceedance within 24 hours of receipt of the analytical results, in accordance with A.A.C. R18-4-104.B.1.
- 21 Failed to provide Public Notice not later than 14 days after a total coliform MCL violation occurs, in accordance with A.A.C. R18-4-105.A.1.
- 22 Failed to maintain records of backflow prevention assembly installations and tests performed on backflow prevention assemblies in its service area in accordance with A.A.C. R18-4-115.G.
- 23 Failed to develop an emergency operations plan in accordance with A.A.C. R18-4-116.
- 24 Failed to obtain an Approval of Construction (AOC) prior to operation of a newly constructed facility in accordance with A.A.C. R18-4-507.A.
- 25 Failed to obtain an Approval of Construction prior to operation of a newly constructed facility in accordance with A.A.C. R18-4-507.A.

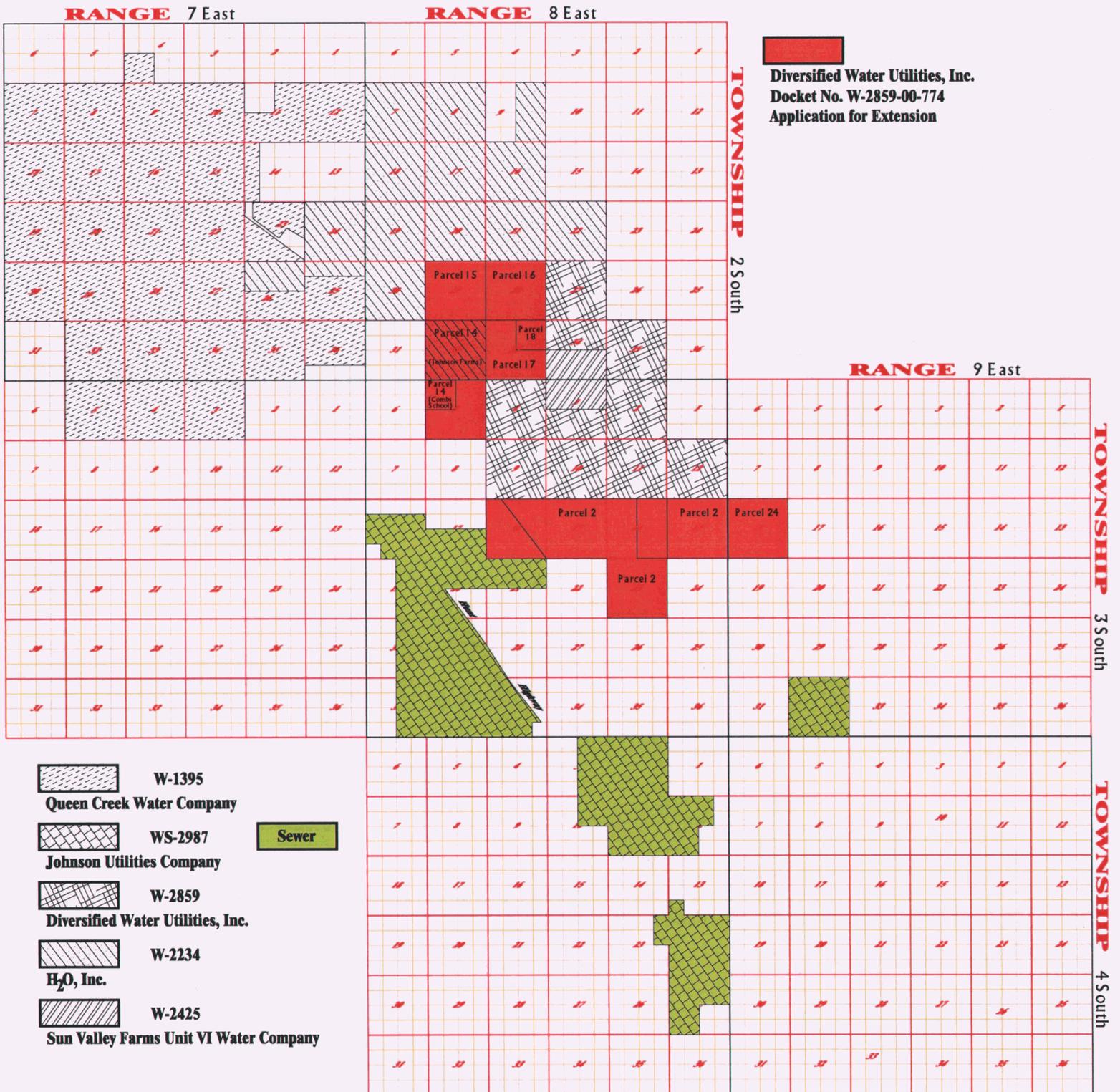
Johnson Utilities Company
Sun Valley Farms V Water System, PWS #11-116
ADEQ Consent Order, Docket No. DW-87-00

- 1 Failed to receive an Approval to Construct (ATC) from the Department prior to modifying an existing facility in accordance with A.A.C. R18-4-505.
- 2 Failed to receive an Approval of Construct (AOC) issued by the Department prior to operating a newly constructed facility in accordance with A.A.C. R18-4-507.
- 3 Failed to comply with the Nitrate MCL in accordance with A.A.C. R18-4-208.
- 4 Failed to notify the public as soon as possible but not later than 72 hours after an acute violation occurs that water served exceeded the acute MCL for Nitrate in accordance with A.A.C. R-18-4-105.B.
- 5 Failed to install and use best available technology (BAT) for achieving compliance with the maximum contaminant level(s) in accordance with A.A.C. R18-4-220.
- 6 Failed to comply with the MCL for total coliform analyses in accordance with A.A.C. R18-4-202.
- 7 Failed to notify ADEQ within 24 hours of receipt of analytical results that water served to the public exceeded the MCL for total coliform in accordance with A.A.C. R18-4-104.B.1.
- 8 Failed to notify the public that water served exceeded the MCL for total coliform bacteria in accordance with A.A.C. R-18-4-105.A.
- 9 Failed to collect a set of repeat samples within 24 hours of receiving notice of the total coliform-positive test result in accordance with A.A.C. R18-4-202.H.
- 10 Failed to notify ADEQ of a missed total coliform repeat monitoring event with 10 days of discovery in accordance with A.A.C. R18-4-104.L.
- 11 Failed to notify the public of a missed total coliform monitoring event in accordance with A.A.C. R-18-4-105.C.
- 12 Failed to comply with the MCL for fecal coliform bacteria in water served to the public, in accordance with R18-4-202.A.
- 13 Failed to notify ADEQ as soon as possible within 24 hours after receiving notice of the fecal coliform-positive test result, in accordance with A.A.C. R18-4-104.A.
- 14 Failed to notify the public that water served exceeded the fecal coliform bacteria MCL in accordance with A.A.C. R18-4-105.B.

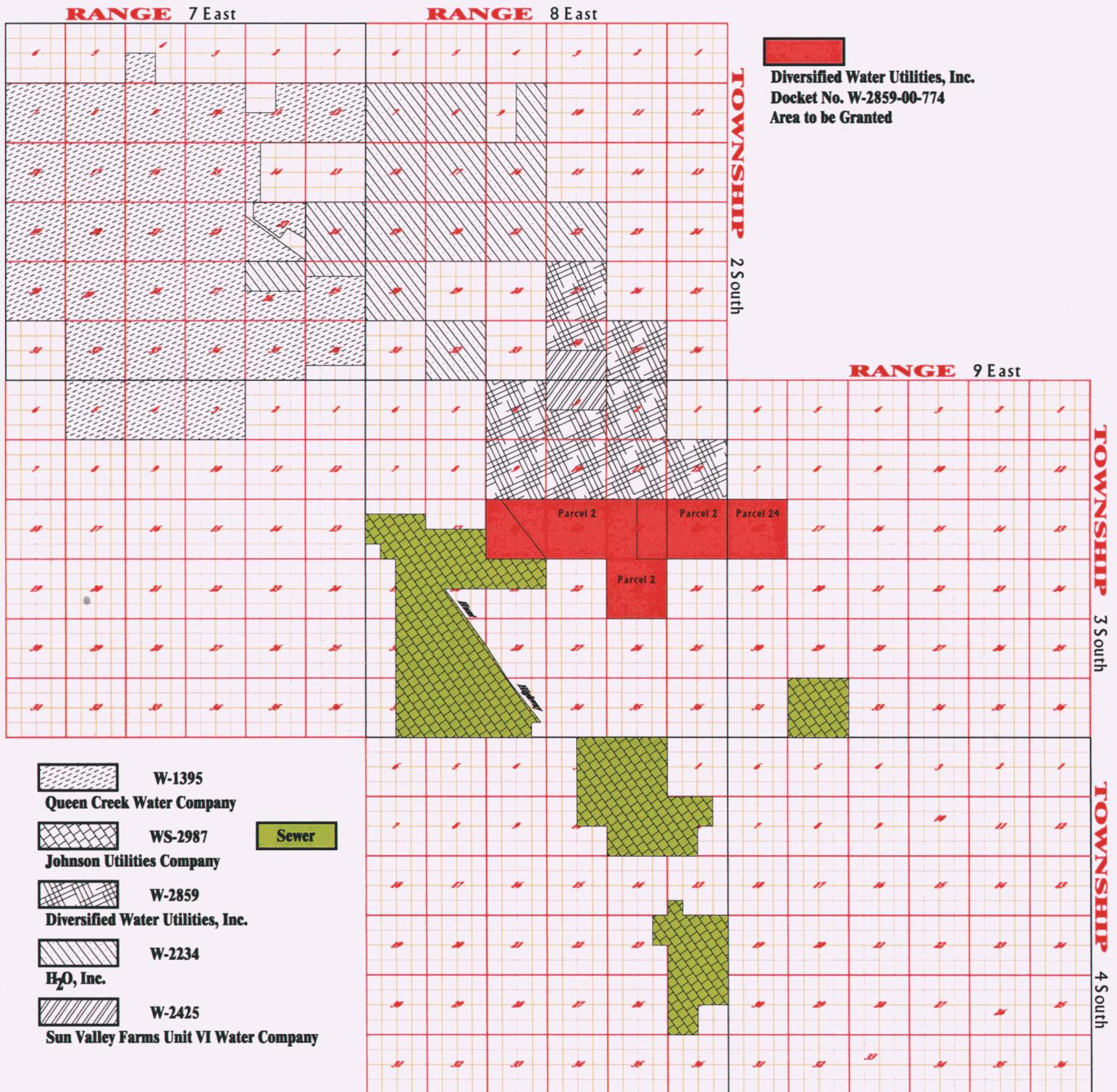
Johnson Utilities Company
Johnson Ranch Wastewater System, Inventory #103081
ADEQ Consent Order, Docket No. P-105-99

- 1 Failed to construct the main Wastewater Collection, Treatment and Disposal systems in accordance with plans approved by ADEQ in violation of A.A.C. R18-9-804.G.

DIVERSIFIED WATER UTILITIES, INC. REQUESTED EXTENSION AREA



DIVERSIFIED WATER UTILITIES, INC. EXTENSION AREA TO BE GRANTED



QUEEN CREEK WATER COMPANY REQUESTED EXTENSION AREA

