

# ORIGINAL JOHNSON UTILITIES L.L.C.

5230 East Shea Boulevard \* Scottsdale, Arizona 85254  
PH: (480) 998-3300; FAX: (480) 483-7908



0000140111

October 19, 2012

Steven Olea, Director  
Utilities Division  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

RECEIVED  
AZ CORP COMMISSION  
DOCKET CONTROL

2012 OCT 19 PM 2 17

RE: Johnson Utilities Company, H20, Diversified Water Utilities,  
Queen Creek Water Company: Compliance with Decision No. 65840  
Notice of Violation from ADEQ dated October 19, 2010  
WS-02987A-99-0583; WS-02987A-00-0618; W-02234A-00-0371; W-02859A-00-0774;  
W-01395A-00-0784

Dear Mr. Olea:

On October 12, 2012, we received a Notice of Violation ("NOV") from the Arizona Department of Environmental Quality ("ADEQ") dated October 9, 2012. A copy of the NOV is attached hereto as Attachment 1. We are currently working on our response to ADEQ and will submit it to you within the 30 days as required in the notice.

We would like the opportunity to meet with you and discuss the circumstances of the NOV, when you have the time. We will contact you to try and set up a date and time that will work with your schedule. Should you have any questions or would like any additional information prior to our meeting, please do not hesitate to contact me. Thank you for your time and consideration on this matter.

Sincerely,

Greg Brown  
Johnson Utilities, LLC

Cc: Docket Control  
Brian Bozzo, Compliance Manager

Arizona Corporation Commission  
**DOCKETED**

OCT 19 2012

DOCKETED BY



Janice K. Brewer  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street Phoenix, Arizona 85007  
(602) 771-2300 www.azdeq.gov



Henry R. Darwin  
Director

CERTIFIED MAIL  
Return Receipt Requested

Case ID #: 133837

October 9, 2012

Johnson Utilities, LLC  
Attention: Ken Watkins  
5230 E Shea Blvd  
Scottsdale, AZ 85254-5750

Subject: Johnson Utilities, Place ID 18613  
968 E Hunt Hwy / Queen Creek, AZ 85143-7450

## NOTICE OF VIOLATION

The Arizona Department of Environmental Quality (ADEQ) has reason to believe that Johnson Utilities, LLC as the owner/operator of Johnson Utilities has violated a requirement of the Arizona Revised Statutes (A.R.S.), a rule within the Arizona Administrative Code (A.A.C.), or an applicable permit/license, administrative order or civil judgment. ADEQ discovered the violations alleged below during an inspection completed on August 24, 2012.

### I. LEGAL AUTHORITY and NATURE OF ALLEGED SIGNIFICANT VIOLATION(S)

#### 1. **A.A.C. R18-4-119 / 40 CFR § 141.202(b)(3)**

**Failure to comply with any additional public notification requirements (including any repeat notices or direction on the duration of the posted notices) that are established as a result of the consultation with ADEQ, for a violation or situation that requires Tier I public notice.**

At the time of a Tier 1 Public Notice event Johnson Utilities:

- 1) failed to make an effort properly notify the media as described in their emergency plan;
- 2) failed to follow up the Public Notice to keep the public aware of the water quality progress;

#### 2. **40 CFR § 141.63(a)(1) / A.A.C. R18-4-109**

**For a system which collects at least 40 samples per month, distribution of water in which more than 5% of the samples collected during the month tested total Coliform-positive.**

Twenty five samples collected on August 13, 2012 were analyzed as positive for the presence of total Coliform bacteria of the 60 samples required each per month.

#### 3. **40 CFR § 141.63(b) / A.A.C. R18-4-109**

**Failure to comply with the MCL for total coli forms; a total Coliform repeat sample tested positive following a fecal Coliform-positive or E.coli-positive routine sample.**

Southern Regional Office  
400 West Congress Street Suite 433 Tucson, AZ 85701  
(520) 628-6733

Printed on recycled paper

Three of the 25 total Coliform positive samples collected on August 13, 2012, tested positive for the presence of E. coli bacteria.

**4. 40 CFR § C 141.202(c) / A.A.C. R18-4-119**

**Failure of a public water system to deliver a Tier 1 Public Notice in a manner designed to reach all customers served by the water system using at a minimum at least one of the forms of delivery identified in this Section.**

Johnson Utilities did not distribute the public notice for the Total Coliform MCL Exceedences in a manner reasonably calculated to reach all customers served.

1) Johnson Utilities did not adhere to their ADEQ approved emergency operation plan to notify the media.

2) Johnson Utilities contacted a local school district but did not issue a Public Notice.

3) Johnson Utilities sent ADEQ evidence that the media was contacted through a subcontractor, not the responsible party. There was no reference to a Public Notice in the email that was sent and there was no follow-up contact information offered.

**5. A.A.C. R18-4-204(C)**

**Failure of a community water system to implement the Emergency Operations Plan in the event of an emergency situation**

The water system did not implement the Emergency Operations Plan in response to positive coliform and E.coli samples, an emergency situation that occurred on August 21, 2012

**6. 40 CFR § C 141.31(d) / A.A.C. R18-4-106**

**Failure of a public water system to submit to the Department a certification that it has fully complied with the public notification requirements and copies of each type of notice that was distributed within ten days of completing the public notification requirements.**

On August The Certification were dated September 7, 2012 and September 17, 2012, which was after 10-day requirement.

**7. 40 CFR § C 141.205 / A.A.C. R18-4-119**

**Failure of a public water system to provide a public notice including the minimum elements required under this Section.**

The notices transmitted to the school district and the media did not meet the Public Notice content requirements.

**II. LEGAL AUTHORITY and NATURE OF OTHER ALLEGED VIOLATION(S)**

**1. A.A.C. R18-4-203**

**Failure of a water supplier to maintain and keep in proper operating condition all**

**facilities used in production, treatment, and distribution of the water supply**

At the time of the inspection ADEQ staff observed:

- 1) Cracks in the well slab at Johnson Ranch well 4;
- 2) An unlocked chlorinator structure at Hardison well;
- 3) and unused unsecure storage tank connected to the well at Ricky;
- 4) Cracks in the slab and a loose vent pipe at Oasis 3;
- 5) Compromised fencing and graffiti at San tan tank;
- 6) Poor housekeeping and maintenance at Edward tank.

These items have been corrected per the photo documentation that was received September 21, 2012. No further action is required for this part of the violation.

**III. DOCUMENTING COMPLIANCE**

1. Within 30 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or documentation to demonstrate the corrective actions that have been taken to ensure that future public notices are issued in a form and manner that is reasonably calculated to reach all persons served within the required time period.
2. Within 30 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or documentation to demonstrate the corrective actions that have been taken to ensure that certification of Public Notice method of delivery and confirmation of delivery are submitted to ADEQ within 10 calendar days from the date of the initial Public Notice and any repeat notice.
3. Within 90 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or documentation to show that refresher sampling training has been provided for all current and potential sampling personnel.
4. Within 90 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or a description of the sampling protocols and policies for all sampling procedures administered by Johnson Utilities.
5. Within 45 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or revisions to the emergency plan with particular attention to describing the procedures and actions the water system provides for the users.

The emergency operations plan shall detail the steps that the community water system will take to assure continuation of service in the following emergency situations:

1. Loss of a source;

2. Loss of water supply due to major component failure;
3. Damage to power supply equipment or loss of power;
4. Contamination of water in the distribution system from backflow;
5. Collapse of a reservoir, reservoir roof, or pumphouse structure;
6. A break in a transmission or distribution line; and
7. Chemical or microbiological contamination of the water supply.

The emergency operations plan required by subsection (A) shall address all of the following:

1. Provision of alternate sources of water during the emergency;
2. Notice procedures for regulatory agencies, news media, and users;
3. Disinfection and testing of the distribution system once service is restored;
4. Identification of critical system components that shall remain in service or be returned to service quickly;
5. Critical spare parts inventory; and
6. Staff training in emergency response procedures.

For guidance please refer to:

[http://water.epa.gov/lawsregs/rulesregs/sdwa/publicnotification/upload/2007\\_04\\_26\\_publicnotification\\_guide\\_publicnotification\\_pnhandbook.pdf](http://water.epa.gov/lawsregs/rulesregs/sdwa/publicnotification/upload/2007_04_26_publicnotification_guide_publicnotification_pnhandbook.pdf)

6. Within 45 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or responsibility and training chart for emergency response team (may be included in emergency plan) to include:
  1. Duties required for each position
  2. Training and refresher training
  3. Practice drills, communications or broadcast tests
  4. Tail-gate safety meetings (scheduled and non-scheduled)
7. Within 60 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or certification that the corrective actions that have been taken to ensure that the emergency plan will be implemented, as written and approved by ADEQ, in the event of an emergency. Additional measures may be implemented to supplement, not replace the approved elements.

#### IV. SUBMITTING COMPLIANCE DOCUMENTATION

Please send all compliance documentation and any other written correspondence regarding this Notice to ADEQ at the following address:

Arizona Department of Environmental Quality, Attention: Deborah L. Schadewald-Kohler, Water Quality Utility Field Service Unit, 1110 W Washington St, Phoenix, AZ 85007 MC: 5415B-1

#### V. STATEMENT OF CONSEQUENCES

##### Significant Violations

1. The time frames within this Notice for achieving and documenting compliance for the violation(s) alleged in Section I of this Notice are firm limits. Failure to achieve or document compliance for the violation(s) alleged in Section I of this Notice within the time frames established in this Notice will result in an administrative compliance order or civil action requiring compliance within a reasonable time frame, substantial civil penalties, and/or the suspension or revocation of an applicable permit/license. ADEQ will agree to extend the time frames for achieving and documenting compliance for the violation(s) alleged in Section I of this Notice only in a compliance schedule negotiated in the context of an administrative consent order or civil consent judgment.
2. Achieving compliance does not preclude ADEQ from seeking civil penalties, and/or suspending or revoking an applicable permit/license for the violation(s) alleged in Section I of this Notice as allowed by law.

##### Other Violations

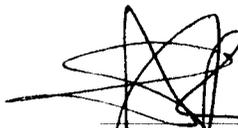
3. ADEQ may take any enforcement action authorized by law for the violation(s) alleged in Section II of this Notice, if the violation(s) are not corrected, or if ADEQ determines that the violation(s) have not been corrected in the time frames within this Notice.

#### VI. OFFER TO MEET

ADEQ is willing to meet regarding this Notice. To obtain additional information about this Notice or to schedule a meeting to discuss this Notice, please contact Deborah L. Schadewald-Kohler at (602) 771-2225.



Daniel L. Czecholinski, Manager  
Water Quality Utility Field Service Unit



Deborah L. Schadewald-Kohler  
Water Quality Utility Field Service Unit