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COMMISSIONERS  
BOB STUMP - Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH



RECEIVED JODI JERICH  
Executive Director

ARIZONA CORPORATION COMMISSION

2013 NOV 26 P 2:38

November 26, 2013

AZ CORP COMMISSION  
DOCKET CONTROL

John E. Meerchaum  
Meerchaum and Orduno PLLC  
1465 W 16th St. Ste. A-2  
Yuma, AZ 85364

Arizona Corporation Commission

DOCKETED

NOV 26 2013

RE: Green Acres Water Company, Docket No. W-02271A-13-0158

DOCKETED BY

Dear Mr. Meerchaum,

This letter is to confirm the conversation we had over the telephone on November 25, 2013. The Arizona Corporation Commission ("ACC") is a constitutionally created state agency that, among other things, regulates utilities that are public service corporations pursuant to the Arizona Constitution Art. XV, Sect. 2. Our records reflect that Green Acres Water Company ("Green Acres") has been a public service corporation providing water service in the Yuma area since 1975. It came to ACC Staff's attention that the alleged current owner of Green Acres, Mr. Todd Brandenburger, has at times asserted an intention to discontinue water service by Green Acres due to ongoing compliance issues between Green Acres and the Arizona Department of Environmental Quality ("ADEQ"). Because of a letter stating this intention, ACC Staff notified Green Acres and Mr. Brandenburger that Staff would seek ACC authorization to implement an interim manager should circumstances arise warranting such a measure. At an ACC Open Meeting held on June 11, 2013, the ACC granted Staff the requested authorization. See Decision No. 73931 (June 27, 2013) attached as Attachment 1.

Following the issuance of Decision No. 73931, Staff understood that Mr. Brandenburger and representatives of ADEQ were working together to reach a mutually acceptable compliance schedule to resolve the outstanding compliance issues. However, based on communications from ADEQ, ACC Staff is informed that the discussions between ADEQ and Mr. Brandenburger have reached an impasse, and that ADEQ has issued a compliance order against Green Acres. See ADEQ Compliance Order dated November 4, 2013 attached as Attachment 2. Out of a concern that the issues between ADEQ and Green Acres may result in a disruption of water service to the customers of Green Acres, ACC Staff has determined that it would be appropriate to implement an interim manager for Green Acres.

Pursuant to Decision No. 73931, ACC Staff requests that Mr. Brandenburger fully cooperate with the interim manager selected by ACC Staff and supply documents and information needed to operate the system. Once the interim is installed, Mr. Brandenburger may no longer operate Green Acres until further notification by the ACC. His ownership rights will not otherwise change with the appointment of an interim manager.

John E. Meerchaum  
November 26, 2013  
Page 2

If you have any questions regarding this letter, feel free to contact me at (602) 542-3402.

Respectfully,



Charles H. Hains  
Staff Attorney  
Arizona Corporation Commission

CHH:rbo  
Enclosures

cc: w/attachments:

Green Acres Water Company  
ATTN: Todd Brandenburger  
4820 W. Sharon Lane  
Somerton, AZ 85350

cc: w/o attachments:

Michael Fulton, Water Quality Division Director, Arizona Department of Environmental Quality  
Jodi Jerich, Executive Director, Arizona Corporation Commission  
Steve Olea, Utilities Division Director, Arizona Corporation Commission  
Janice Alward, Chief Counsel, Arizona Corporation Commission  
Janet Wagner, Assistant Chief Counsel, Arizona Corporation Commission

**ATTACHMENT 1**



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BEFORE THE ARIZONA CORPORATION

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**COMMISSIONERS**

BOB STUMP, Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

Arizona Corporation Commission  
**DOCKETED**

JUN 27 2013

DOCKETED BY  
NR

IN THE MATTER OF COMMISSION  
UTILITIES DIVISION STAFF'S REQUEST  
FOR AUTHORIZATION TO IMPLEMENT  
INTERIM MANAGER FOR GREEN ACRES  
WATER COMPANY.

DOCKET NO. W-02271A-13-0158

**DECISION NO. 73931**

**ORDER**

Open Meeting  
June 11 and 12, 2013  
Phoenix, Arizona

**BY THE COMMISSION:**

**FINDINGS OF FACT**

1. On May 30, 2013, Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") became aware that the Green Acres Water Company ("Green Acres" or "Company") had issued a letter to its customers asserting its intention to abandon water service on June 16, 2013. In order to prevent the health and safety risks caused by discontinuing water service in the summer season for the customers that Green Acres serves, Staff is requesting that the Commission authorize Staff on a preliminary basis to place an interim manager in control of the Company.

2. Green Acres is an Arizona public service corporation that provides water utility service in the Yuma area. The Company was certificated to provide water utility service by Decision No. 46192 (June 23, 1975). The Company's Certificate of Convenience and Necessity was revoked by Decision No. 72239 (December 13, 2010) for failure to file numerous utility annual reports.

...  
...

1           3.       On May 30, 2013, Staff was contacted by representatives from Senator Don Shooter's  
2 office informing Staff that a letter had been distributed by the Company to its customers on May 26.  
3 The letter asserts that a recent issuance of an Arizona Department of Environmental Quality  
4 ("ADEQ") Notice of Violation ("NOV") has placed the Company in a position where its owners are  
5 unwilling to continue providing potable water service and that in the event that a buyer for Green  
6 Acres cannot be located, the Company will discontinue providing water utility service on June 16,  
7 2013. See Attachment A, Letter from Todd Brandenberger on behalf of Green Acres Water  
8 Company dated May 26, 2013.

9           4.       ADEQ performed an inspection on December 19, 2012. Following the inspection,  
10 ADEQ issued a NOV against Green Acres on May 10, 2013, listing several deficiencies for the Green  
11 Acres system. See Attachment B, ADEQ NOV dated May 10, 2013. Among the deficiencies cited  
12 by the NOV are that the Company lacks the minimum adequate storage to serve its customers, it  
13 lacks a designated certified operator, it failed to obtain an Approval of Construction for portions of its  
14 water system, it is not maintaining its facilities by failing to seal its well access ports, absence of  
15 meters, poor condition of the well site, leakage preventing a sanitary seal in the distribution system,  
16 security fencing in disrepair and that the Company lacks an emergency operation plan.

17           5.       Staff has contacted Mr. Todd Brandenberger. Mr. Brandenberger is the current  
18 owner/operator of the Company. He informed Staff that he would prefer to work with ADEQ and the  
19 Commission to remedy the current situation as opposed to discontinuing water service. However,  
20 Mr. Brandenberger indicated that he would be forced to shut the water system down if a proper time  
21 table could not be worked out with ADEQ.

22           6.       Staff would note that water service is a form of utility service that has been  
23 acknowledged to be one that is "clothed in the public interest." Indeed, the Commission has rules  
24 requiring the continuous provision of water service and requiring Commission authorization prior to a  
25 utility discontinuing the provision of water service. See e.g. Arizona Administrative Code Rules  
26 R14-2-402(C) and -407(C). Staff believes that the public interest requires appropriate action be taken  
27 to ensure the continuous delivery of drinking water service.

28 ...

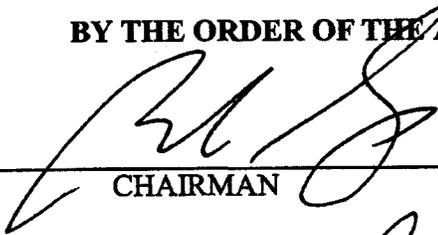




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IT IS FURTHER ORDERED that this decision shall become effective immediately.

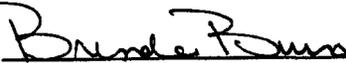
**BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**



CHAIRMAN



COMMISSIONER



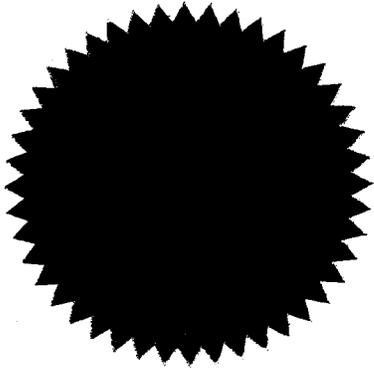
COMMISSIONER



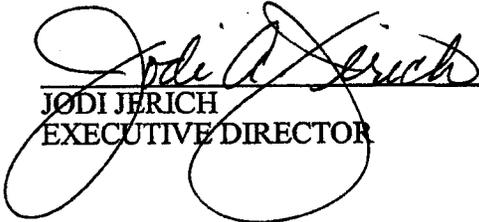
COMMISSIONER



COMMISSIONER



IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 27<sup>th</sup> day of June, 2013.



JODI JERICH  
EXECUTIVE DIRECTOR

DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

SMO\CHH:red

1 SERVICE LIST FOR: Green Acres Water Company  
2 DOCKET NO. W-02271A-13-0158

3 Green Acres Water Company  
4 ATTN: Todd Brandenberger  
5 4820 W. Sharon Ln.  
6 Somerton, AZ 85350

7 Mr. Melvin Swenson  
8 Green Acres Water Company  
9 2891 Patricia Lane  
10 Yuma, Arizona 85364

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DOCKET NO. W-02271A-13-0158

5/26/2013

Green Acres Water Co.  
4820 W. Sharon LN.  
Somerton, AZ. 85350  
928-502-1282

To the attention of our valued customers and friends, I am afraid that this notice is bringing  
Bad news to all of you and it has devastated us.

On 5/21/2013 we received a notice of violation from A.D.E.Q. stating many items that they consider to  
be very bad for you the people, and in as much as all of the items cited require considerable investment  
From an apparent supply of money that does not exist we are trying to sell the water Co...

Unfortunately if this does not happen by 6/16/2013 we will be shutting the doors of the company  
Forever. I realize that this creates a hardship for all involved so I would like to offer a little explanation.

When we purchased this company we believed it to be a simple water delivery system of Potable  
water, but then as we discovered A.D.E.Q. which is Arizona E.P.A. considers potable water to mean  
drinking water not just water for bathing, toilets and yards. Anyway this puts the company under a  
whole new set of rules and regulations, such as cannot change a pipe or modify the system in any way  
without first having it engineered and obtaining the approval of A.D.E.Q. Next we will need to produce a  
consumer confidence report for you the consumers so that you will know what everyone upstream from  
our wells are putting in the ground. I could go on forever but I have the letter from A.D.E.Q. and some  
copies so if anyone would like a copy, please give me a call and I will be very happy to provide it to you.

As I believe that you all would agree that anytime you needed to call me for anything I tried my best to  
respond immediately.

Thank you very much for your indulgence. And I will be looking forward in hearing from all of you.

Sincerely Todd Brandenberger

cc: Yuma County Health Department

Amanda E. Stone A.D.E.Q. Southern Regional Office

Steven Vevang Manger A.D.E.Q. Water Division

U.S. E.P.A. in Washington

DOCKET NO. W-02271A-13-0158



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**  
7012 2210 0000 3767 1658  
Return Receipt Requested

May 2, 2013

Mr. Todd Brandenberger  
4820 W. Sharon Lane  
Somerton, AZ 85350

Inspection#: 192331  
Case ID#: 136206  
Place ID #: 15981

Re: Follow-up action resulting from the Compliance Inspection of Green Acres Water Company (AZ0414065) performed on December 19, 2012

Dear Mr. Brandenberger:

This letter constitutes the monthly update on the status of Arizona Department of Environmental Quality ("ADEQ") action resulting from ADEQ's inspection of the above-referenced facility completed on December 19, 2012, as required by A.R.S. § 41-1009(D).

The attached Notice of Violation ("NOV") is an informal compliance assurance tool used by ADEQ to put a responsible party (such as a facility owner or operator) on notice that the Department believes a violation of an environmental requirement has occurred. It describes the facts known to ADEQ at the time of issuance and cites the requirement that ADEQ believes the party has violated.

Although ADEQ has the authority to issue appealable administrative orders compelling compliance, an NOV has no such force or effect. Rather, an NOV provides the responsible party an opportunity to do any of the following before ADEQ takes formal enforcement action: (1) meet with ADEQ and discuss the facts surrounding the violation, (2) demonstrate to ADEQ that no violation has occurred, or (3) document that the violation has been corrected.

ADEQ reserves the right to take a formal enforcement action, such as issuing an administrative order or filing a civil lawsuit, regardless of whether the Department has issued an NOV. Neither ADEQ's issuance of an NOV nor its failure to do so precludes the Department from pursuing these remedies. However, the timeliness of a complete response to this notice will be considered by ADEQ in determining if and how to pursue such remedies.

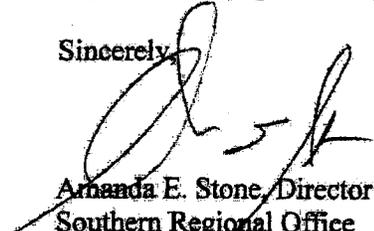
Southern Regional Office  
400 West Congress Street • Suite 433 • Tucson, AZ 85701  
(520) 628-6733

Printed on recycled paper

Decision No. 73931

If you have any questions, please contact Jerry Helton at 520-628-6718 or 1-888-271-9302.

Sincerely,



Amanda E. Stone, Director  
Southern Regional Office

cc: Yuma County Health Department  
Mindi Cross, Manager, WQCS, WQD, ADEQ  
Vivian Adams, DWMPU, DWS, WQD, ADEQ



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 #: 136206

May 10, 2013

Todd Brandenberger  
4820 W Sharon Ln  
Somerton, AZ 85350-7128

Subject: Green Acres Water Company, Place ID 15981  
2300 W 32nd St / Yuma, AZ 85365

**NOTICE OF VIOLATION**

The Arizona Department of Environmental Quality (ADEQ) has reason to believe that Todd Brandenberger as the owner/operator of Green Acres Water Company 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 December 19, 2012.

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

**1. 40 CFR § 141.152(b) / 40 CFR § 141.155(a) / A.A.C. R18-4-117**

**Failure of a community water system to mail or otherwise directly deliver a copy of its Consumer Confidence Report (CCR) to each customer by July 1, annually.**

Green Acres Water Company did not mail or otherwise directly deliver a copy of its Consumer Confidence Report to each consumer by July 1 for the years 2010 and 2011.

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

**Failure of a water supplier for a community water system to develop and keep an emergency operations plan in an easily accessible location.**

At the time of inspection there was no Emergency Operations Plan (EOP) available for review. Mr. Brandenberger stated that all documentation prior to July 2011 was destroyed in a fire. He further commented that since he has acquired the system he has not developed an EOP.

**3. A.A.C. R18-5-104(A)(1)**

**A facility has an operator in direct responsible charge is certified for the class of the facility and at or above the grade of the facility.**

Mr. Sam Day, the designated Operator on file, stated in a phone interview conducted on 1-9-2013 at 10:45 am that he is not the designated operator for Green Acres Water Company.

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

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Decision No. 73931

Notice of Violation  
 Green Acres Water Company  
 May 10, 2013  
 Page 2

**4. A.A.C. R18-5-503(A)**

**Failure to provide the required minimum storage capacity for a community water system or a noncommunity water system that serves a residential population or a school.**

Green Acres Water Company serves a residential population of 95. The minimum required storage for this system is 9,500 gallons. No additional storage capabilities were observed within the distribution system during the inspection.

**5. A.A.C. R18-5-507(A)**

**Failure to obtain an Approval of Construction from ADEQ prior to operation of an alteration of an existing public water system which affects its treatment, capacity, water quality, flow, distribution, or operational performance resulting in a reasonable probability of material harm to public health.**

The inspector noted that modifications and additions to Green Acres Water Company's facilities had been connected to the system and were in use. Additionally, Green Acres Water Company has disconnected their water storage tank. ADEQ has no records of Approvals of Construction (AOC) issued for Green Acres Water Company that would document these modifications and additions.

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

**1. 40 CFR § 141.155(c) / A.A.C. R18-4-117**

**Failure of a community water system to mail a certification to ADEQ, by October 1 annually, that confirms its Consumer Confidence Report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to ADEQ.**

Green Acres Water Company did not mail a certification to the department by October 1, for the years 2010 and 2011, confirming that its Consumer Confidence Report was distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to ADEQ.

**2. 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**

Deficiencies in operation and maintenance were observed by the inspector during the inspection of Green Acres Water Company's facilities. The deficiencies observed include the following:

- Well vents not screened
- No sealed access port to wells
- No metering devices
- Well casing not 12 inches above well slab
- Well slabs not the required 3 feet in any direction from casing and/or cracked through slab
- The security fencing at both facilities need repaired

Notice of Violation  
Green Acres Water Company  
May 10, 2013  
Page 3

Leaks in the distribution system prevent a sanitary seal  
Well not atmospherically vented  
Pipe and components in use not stamped or with any supporting documentation to confirm ANSI/NSF-61 certification.  
Vegetation removal and general cleanup required at both facilities

### III. DOCUMENTING COMPLIANCE

- 
1. Within 30 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or submit documentation that the Consumer Confidence Reports (CCR) for 2010 and 2011 have been generated and distributed to all consumers. Please send the documentation to both the contact listed below (for tracking your response to this Notice) and to the Arizona Department of Environmental Quality, Water Quality Compliance Data Unit, 1110 W. Washington St. Phoenix, Arizona 85007 MC: 5415B-1 (for ADEQ records and entry into our database).
  2. Within 60 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or develop an Emergency Operation Plan (EOP) specific to Green Acres Water Company's Community Water System. Submit a copy of the EOP and documentation that the EOP is easily accessible at each facility. Please send the documentation to the contact listed below (for tracking your response to this Notice).
  3. Within 10 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or provide documentation that an ADEQ Certified Water Distribution Operator has been employed by Green Acres Water Company that is in direct responsible charge of the Community Water System and is certified for the class of the facility. Please send the documentation to the contact listed below (for tracking your response to this Notice).
  4. Within 60 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or submit an application for an Approval to Construct (ATC) to ADEQ for modifications to the water system; specifically the addition of an approved storage medium of sufficient capacity.
  5. Within 90 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or submit an application to ADEQ for an Approval to Construct (ATC) for all modifications to the distribution system. Once ADEQ provides an ATC for the modifications Green Acres Water Company needs to provide ADEQ all required documentation and test results along with an application for an Approval of Construction (AOC).
  6. Within 30 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or submit certifications to ADEQ that the Consumer Confidence Reports (CCR) for 2010 and 2011 have been generated and distributed to all consumers. Please send the documentation to both the contact listed below (for tracking your response to this Notice) and to the Arizona Department of Environmental Quality, Water Quality

Notice of Violation  
Green Acres Water Company  
May 10, 2013  
Page 4

Compliance Data Unit, 1110 W. Washington St. Phoenix, Arizona 85007 MC: 5415B-1 (for ADEQ records and entry into our database).

7. Within 90 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or submit documentation that the deficiencies observed by the Inspector have been corrected. Please send the documentation to the contact listed below (for tracking your response to this Notice).

The deficiencies observed include the following:

- Well vents not screened
- No sealed access port to wells
- No metering devices
- Well casing not 12 inches above well slab
- Well slabs not the required 3 feet in any direction from casing and/or cracks through slab
- The security fencing at both facilities need repaired
- Leaks in the distribution system prevent a sanitary seal of finished water.
- Well not atmospherically vented
- Pipe and components in use not stamped or documented as ANSI/NSF-61 certified
- Vegetation removal and general cleanup required at both facilities

#### 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: Jerry R. Helton, SRO Compliance Programs Unit, 400 W Congress, Ste 433, Tucson, AZ 85701 MC: N/A

#### 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.

Notice of Violation  
Green Acres Water Company  
May 10, 2013  
Page 5

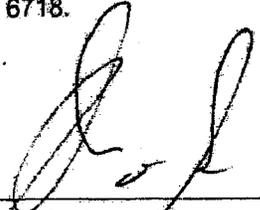
2. Achieving compliance does not preclude ADEQ from seeking civil penalties, and/or suspending or revoking an applicable permit/license for the violation(s) alleged in Section I of this Notice as allowed by law.

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 Jerry R. Helton at (520) 628-6718.

  
\_\_\_\_\_  
Amanda E. Stone, Manager  
Southern Regional Office  
\_\_\_\_\_  
Jerry R. Helton  
SRO Compliance Programs Unit

## **ATTACHMENT 2**



On December 19, 2012, ADEQ conducted an announced inspection of the Green Acres Water Company. The facility did not have an Emergency Operations Plan available for review at the time of inspection.

**B. 40 CFR § 141.155(c) /A.A.C. R18-4-117**

**Failure to mail a copy of the Consumer Confidence Report (CCR) to ADEQ with a certification that the report has been distributed to customers for year 2012.**

Green Acres Water Company failed to provide ADEQ a copy of the Consumer Confidence Report for year 2012, and did not provide to ADEQ a certification that the report was distributed to its customers.

**C. A.A.C. R18-5-104(A)**

**Failure to ensure that at all times the water system has an operator in direct responsible charge that is certified for the class of the facility and at or above the grade of the facility.**

On December 19, 2012, ADEQ conducted an announced inspection of the Green Acres Water Company and found Green Acres Water Company does not have an Arizona Certified Water Distribution Operator in direct charge that is certified for the class of the facility as required.

**D. A.A.C. R18-5-503(A)**

**The minimum storage capacity for a community water system (CWS) or a noncommunity water system that serves a residential population or a school shall be equal to the average daily demand during the peak month of the year. Storage capacity may be based on existing consumption and phased as the water system expands.**

During the ADEQ inspection conducted at the Green Acres Water Company on December 19, 2012, the water storage tank listed in ADEQ records had been disconnected from the system. Green Acres Water Company serves a residential population of 95 and the minimum required storage for this system is 9,500 gallons.

**E. A.A.C. R18-5-507(A)**

**A person shall not operate a newly constructed facility until an Approval of Construction (AOC) is issued by the Department.**

On December 19, 2012, ADEQ conducted an announced inspection of the Green Acres Water Company and found that an unapproved source, identified as the eastern facility consisting of unknown wells No. 1 and No. 2, was connected to the distribution system and was in use. A public water system cannot make final connections and utilize modifications made to the distribution system without prior receiving an Approval to Construct (ATC) and AOC. ADEQ does not have any documentation that shows Green Acres Water Company has applied for or has received any approvals from ADEQ to modify their system.

**F. 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.**

During the December 19, 2012 inspection, ADEQ observed operation and maintenance deficiencies at the Green Acres Water Company's facility. The deficiencies observed included: well vents were not screened; access port to wells were not sealed; no metering devices; well casing was not 12 inches above well slab; well slabs were not the required three feet in any direction from the casing and/or were cracked through the slab; the security fencing at both facilities need repaired; there were leaks in the distribution system; the well was not atmospherically vented; pipe and components in use were not stamped to confirm they were ANSI/NSF certified; and vegetation and general cleanup was required.

**III. TIME FOR COMPLIANCE**

**IT IS ORDERED** that Green Acres Water Company comply by taking the specific actions described below:

A. Within 60 (sixty) calendar days of the effective date of this Order, Green Acres Water Company shall develop and submit to ADEQ for review and approval an Emergency Operations Plan (EOP) specific to Green Acres Water Company operational status as a CWS. Green Acres Water Company shall respond to any deficiencies noted by ADEQ in the timeframes prescribed by ADEQ. Upon ADEQ's written approval of the EOP, Green Acres Water Company shall place the EOP in an easily accessible location at the facility.

B. Within 60 (sixty) calendar days of the effective date of this Order, Green Acres Water Company shall complete the CCR for 2012 and mail or directly deliver a copy to each customer. Within 30 (thirty) days of distributing the CCCR for 2012 to its customers, Green Acres Water Company shall submit to ADEQ in accordance with Section VII of this Order a certification to confirm the 2012 CCR has been distributed.

C. Within 90 (ninety) calendar days of the effective date of this Order, Green Acres Water Company shall retain a Grade 1 (or above) Water Distribution Certified Operator who is in direct responsible charge of the community water system. Within 10 (ten) calendar days of retaining a Grade 1 (or above) Water Distribution Certified Operator, Green Acres Water Company shall notify ADEQ in writing in accordance with Section VII of this Order of the name and grade of the operator retained.

D. Within 90 (ninety) calendar days of the effective date of this Order, Green Acres Water Company shall make the necessary repairs and provide documentation to ADEQ demonstrating the facility is being operated and maintained in proper operating condition. Repairs shall include, but are not limited to, screening of well vents; sealing access port to wells; installation of metering devices; well casing 12 inches above well slab; repair of security fencing at the facility; repair of leaks in the distribution system; venting of the well; documenting pipe and components meet ANSI/NSF certification; and vegetation and general cleanup is conducted.

E. Within 365 (three hundred and sixty five) calendar days of the effective date of this Order, Green Acres Water Company shall submit to ADEQ an administratively complete application for an ATC for a new water storage tank or submit documentation demonstrating storage is not required pursuant to R18-5-503(B). If storage is required, Green Acres Water Company shall ensure that the water storage tank is designed to meet the minimum water storage requirements as outlined in R18-5-503.

F. Within 365 (three hundred and sixty five) calendar days of the effective date of this Order, Green Acres Water Company shall submit to ADEQ an administratively complete application for an Approval to Construct (ATC) for the eastern facility consisting of unknown wells No. 1 and No. 2 (excluding Well ID No. 55-508614) or provide documentation showing the 2 (two) unknown wells have been permanently and physically disconnected from the water system.

G. Within 730 (seven hundred and thirty) calendar days of receipt of an ATC from ADEQ, Green Acres Water Company shall complete construction and/or installation of the water storage tank, and submit to ADEQ an administratively complete application for an AOC for the water storage tank. Green Acres Water Company shall respond to any deficiency in its AOC application identified by ADEQ, within the deadline provided by ADEQ. Green Acres Water Company shall begin operation of the water storage tank only after receipt of an AOC from ADEQ.

H. Within 730 (seven hundred and thirty) calendar days of receipt of an ATC from ADEQ, Green Acres Water Company shall complete construction and/or installation of the of unknown wells No. 1 and No. 2, and submit to ADEQ an administratively complete application for an AOC for the wells. Green Acres Water Company shall respond to any deficiency in its AOC application identified by ADEQ, within the deadline provided by ADEQ. Green Acres Water Company shall begin operation of the wells only after receipt of an AOC from ADEQ.

#### **IV. RIGHT TO HEARING AND INFORMAL SETTLEMENT CONFERENCE**

A. Green Acres Water Company has a right to a hearing before an administrative law judge to dispute this Order. A notice of appeal or request for hearing must be made:

1. In writing;
2. Specifically identify those parts of this Order that Green Acres Water Company disputes; and
3. Be made within 30 calendar days of receiving this Order.

B. If Green Acres Water Company properly requests a hearing, Green Acres Water Company has a right to request an informal settlement conference under A.R.S. § 41-1092.06. A request for an informal settlement conference must be requested with ADEQ no later than 20 calendar days before the hearing.

C. Green Acres Water Company must submit all notices of appeal, requests for hearing, and requests for an informal settlement conference in writing to ADEQ at the following address:

Arizona Department of Environmental Quality  
Office of Administrative Counsel  
Attention: Hearing Administrator  
1110 West Washington Street  
Phoenix, Arizona 85007-2935

#### **V. ENFORCEMENT OF ORDER**

This Order becomes final and enforceable in superior court within thirty (30) calendar days of Green Acres Water Company receiving it, unless Green Acres Water Company properly requests a hearing as explained in Section IV. Right to Hearing and Informal Settlement Conference. If Green Acres Water Company appeals this Order, the Order becomes final and enforceable on the date that Green Acres Water Company receives the Director's final decision on the appeal.

#### **VI. VIOLATION OF ORDER**

If Green Acres Water Company fails to comply with this Compliance Order, Green Acres Water Company can be liable for other administrative or judicial sanctions, including civil penalties under A.R.S. §49-783 the same as if for a violation of any State or Federal environmental law.

#### **VII. CORRESPONDENCE**

Green Acres Water Company must mail or hand deliver all correspondence, such as invoices, photographs, logs, laboratory analyses, sealed engineering plans, technical drawings, permits or any other document(s) necessary to establish compliance or required by this Order to:

Arizona Department of Environmental Quality  
Water Quality Division  
Attention: Sonia Valdez, Case Manager

1110 West Washington Street  
Phoenix, Arizona 85007-2935  
Telephone: (602) 771-4690  
Email: [svjv@azdeq.gov](mailto:svjv@azdeq.gov)

Any submission to ADEQ is treated as submitted when ADEQ receives it.

#### **VIII. RESERVATION OF RIGHTS**

By issuing this Order, ADEQ still has the right to seek appropriate penalties or injunctive relief

in superior court for violations of the Arizona Revised Statutes, any rule, permit, or order promulgated or issued, or any other applicable environmental statute or legal authority.

Signed this 4<sup>th</sup> day of November, 2013.



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Michael A. Fulton, Director  
Water Quality Division  
Arizona Department of Environmental Quality

**ORIGINAL** of the foregoing Consent Order was sent certified mail, return receipt requested, this 4<sup>th</sup> day of November, 2013, to:

Todd Brandenberger, Owner  
Green Acres Water Company  
4820 E. Sharon Lane  
Somerton, Arizona 85350

**COPY** of the foregoing Consent Order was filed this 4<sup>th</sup> day of November, 2013, with:

Arizona Department of Environmental Quality  
Office of Administrative Counsel  
Attention: Hearing Administrator  
1110 West Washington Street  
Phoenix, Arizona 85007-2935

**COPIES** of the foregoing Consent Order were sent by regular/interdepartmental mail, this 4<sup>th</sup> day of November, 2013, to the following:

Mindi Cross, Manager Water Quality Compliance Unit  
Marcia Colquitt, Manager Water Quality Enforcement Unit  
Sonia Valdez, Case Manager Water Quality Enforcement Unit  
Donna Calderon, ADEQ Drinking Water Section  
Daniel Czecholinski, Manager Field Services Unit

Yuma County Development Services Department  
Rick Stacks, R.S., Environmental Programs Manager  
2351 W. 26<sup>th</sup> Street  
Yuma, AZ 85364-6026

Steve Olea, Utilities Division  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007-2996

Arlene Kabei  
US EPA Regional Office IX  
75 Hawthorne St.  
EES-WTR-6  
San Francisco, CA 94105