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14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

15 **IN AND FOR MARICOPA COUNTY**

16 CV2019-007646

17 STATE OF ARIZONA, *ex rel.* Misael  
18 Cabrera, Director, Arizona Department of  
19 Environmental Quality,

20 Plaintiff,

21 vs.

22 JOHNSON UTILITIES, L.L.C, an  
23 Arizona limited liability company;  
24 HUNT MGT., L.L.C., an Arizona limited  
25 liability company; and ULTRA  
26 MANAGEMENT, L.L.C., a Delaware  
limited liability company,

Defendants.

Civil Action No. \_\_\_\_\_

**COMPLAINT**

21 The Plaintiff, State of Arizona *ex rel.* Misael Cabrera, Director, Arizona  
22 Department of Environmental Quality ("State"), alleges the following:

23 **NATURE OF THE ACTION**

24 1. The State brings this civil action under Title 49, Chapter 2 of the Arizona



1 Revised Statutes ("A.R.S.") and the rules adopted thereunder, against Johnson Utilities,  
2 L.L.C.. ("Johnson Utilities"), Hunt, MGT., L.L.C., and Ultra Management, L.L.C., for  
3 violations of the Arizona's water quality control laws.  
4

5 2. The State seeks injunctive relief and civil penalties pursuant to A.R.S. §§  
6 49-262 and 49-354.  
7

### 8 PARTIES

9 3. The State's relator, Misael Cabrera, is the Director of the Arizona  
10 Department of Environmental Quality ("ADEQ"). ADEQ maintains its main office in  
11 Phoenix, Maricopa County, Arizona.  
12

13 4. Defendant Johnson Utilities is an Arizona limited liability company with a  
14 place of business at 5230 E. Shea Boulevard #200, Scottsdale, Arizona, 85254.  
15

16 5. Johnson Utilities is a "person" as defined by A.R.S. § 49-201(27) and  
17 A.A.C. R18-9-101(29).  
18

19 6. Johnson Utilities owns and operates both sewage treatment plant facilities  
20 and public water systems that provide services to 22 residential subdivisions located in  
21 Pinal County, Arizona.

22 7. Sewage treatment plants are "facilities" as defined by A.R.S. § 49-201(17)  
23 because they are "land, building[s], installation[s], structure[s], equipment, device[s],  
24 conveyance[s], area[s], source[s], activit[ies], or practice[s] from which there is, or with  
25 reasonable probability may be, a discharge."  
26



1           8.     George H. Johnson was the only manager and only employee of Johnson  
2 Utilities L.L.C. from June 5, 1997, until May 26, 2017.

3           9.     Defendant Ultra Management, L.L.C. is a Delaware Limited Liability  
4 Company with a place of business at 5230 E. Shea Boulevard #200, Scottsdale, Arizona,  
5 85254.

6           10.    Since March 29, 2013, Ultra Management, L.L.C. has been owned and  
7 managed by Chris Johnson and Barbara Johnson.  
8

9           11.    Chris Johnson and Barbara Johnson are siblings and the children of George  
10 H. Johnson.  
11

12           12.    Ultra Management, L.L.C. was formed to service Johnson Utilities.

13           13.    Since March 29, 2013, Ultra Management, L.L.C. has contracted with  
14 Johnson Utilities to perform the administrative functions of Johnson Utilities.  
15

16           14.    Ultra Management, L.L.C.'s contractual duties include paying the expenses  
17 of Johnson Utilities as directed by Johnson Utilities.

18           15.    Ultra Management, L.L.C.'s contractual duties include providing that  
19 Johnson Utilities sewage treatment plant facilities and public water systems were staffed  
20 with workers.  
21

22           16.    Ultra Management, L.L.C., has not had any employees from March 29,  
23 2013 to the present.  
24

25           17.    As of January 1, 2014, Johnson Utilities agreed to pay Ultra Management,  
26 L.L.C. a monthly fee of \$22.10 per water utility customer and \$19.90 per wastewater



1 utility customer as compensation for services rendered.

2 18. Defendant Hunt MGT., L.L.C. is an Arizona Limited Liability Company  
3 with a place of business at 5310 E. Shea Boulevard Suite 2, Scottsdale, Arizona, 85254.  
4

5 19. Hunt MGT., L.L.C. has been owned since March 29, 2013, by December  
6 Companies, Inc., Barjo LLC, and The Chris Johnson Family Trust.

7 20. Hunt MGT., L.L.C. has been managed from March 29, 2013, to the present  
8 by December Companies, Inc.  
9

10 21. December Companies, Inc. is an Arizona for-profit corporation with a place  
11 of business at 5230 E. Shea Boulevard #200, Scottsdale, Arizona, 85254.

12 22. December Companies, Inc. has been owned and managed by Chris Johnson  
13 and Barbara Johnson from March 29, 2013, to the present.  
14

15 23. Barjo LLC is an Arizona Limited Liability Company with a place of  
16 business at 29905 N 150<sup>th</sup> St. Scottsdale AZ, 85262.

17 24. Barjo, LLC has been owned and managed by Barbara Johnson from March  
18 29, 2013 to the present.  
19

20 25. On March 29, 2013, Hunt MGT., L.L.C. entered into a contract with Ultra  
21 Management, L.L.C. whereby Hunt MGT., L.L.C. leased its employees to Ultra  
22 Management, L.L.C.  
23

24 26. Hunt MGT., L.L.C.'s employees are responsible for the day-to-day  
25 functioning, operation, maintenance, and environmental compliance of Johnson Utilities'  
26 sewage treatment plant facilities and public water systems.



1        27.    Hunt MGT., L.L.C. recoups its expenses plus a set profit percentage  
2 through its contract with Ultra Management, L.L.C.

3        28.    Hunt MGT., L.L.C. employees draft the payment check from Ultra  
4 Management, L.L.C. to Hunt MGT., L.L.C.

5        29.    Hunt MGT., L.L.C. is the alter ego of Ultra Management, L.L.C.

6        30.    From March, 29, 2013, to July of 2018, Ultra Management, L.L.C. was  
7 paid approximately \$15,000,000.00 annually in management fees from Johnson Utilities.  
8

9        31.    From March 29, 2013, to July of 2018, Ultra Management, L.L.C. paid out  
10 approximately \$6,000,000.00 to \$7,000,000.00 annually to Hunt MGT., L.L.C. for  
11 running Johnson Utilities' operations.  
12

13        32.    Therefore, from March 29, 2013, to July of 2018, Ultra Management,  
14 L.L.C. had been profiting approximately \$8,000,000.00 to \$9,000,000.00 annually in  
15 management fees from its contract with Johnson Utilities despite having no employees  
16 and simply acting as an intermediary between Johnson Utilities and Hunt MGT., L.L.C.  
17

18        33.    Ultra Management, L.L.C.'s profits do not add value for Johnson Utilities'  
19 customers and are not justifiable utility expenses.  
20

21        34.    Hunt MGT., L.L.C. employs approximately 100 people who are leased to  
22 Ultra Management, L.L.C.

23        35.    It would be unjust to observe the corporate form shielding Ultra  
24 Management, L.L.C. from liability for environmental violations committed by Hunt  
25 MGT., L.L.C.  
26



1       36. From 2013 to 2017, Johnson Utilities reported an annual net operating loss  
2 from its sewage treatment plant and public water system businesses to the Arizona  
3 Corporation Commission every year.

4  
5       37. Chris Johnson and Barbara Johnson each earn an annual salary of \$120,000  
6 as managers of Hunt MGT., L.L.C. in addition to the profit they receive as the ultimate  
7 owners of the company through the contract with Ultra Management, L.L.C.

8  
9       38. Chris Johnson and Barbara Johnson also are entitled to the profits of Ultra  
10 Management, L.L.C. as the owners of that company.

11       39. The Arizona Corporation Commission sets the rates charged by Johnson  
12 Utilities such that Johnson Utilities may receive a "fair and reasonable rate of return on  
13 the owners' capital investment in the utility."  
14 *Turner Ranches Water & Sanitation Co. v. Arizona Corp. Comm'n*, 195 Ariz. 574, 577,  
15 (Ct. App. 1999).

16  
17                                   **JURISDICTION AND VENUE**

18       40. A.R.S. §§ 49-262 and 49-354 authorize the State to bring this action.

19  
20       41. Arizona Constitution Article 6, § 14 and A.R.S. §§ 12-123, 49-262, and 49-  
21 354 grant the Court subject matter jurisdiction over this matter.

22       42. Johnson Utilities conducts business in Arizona and the violations occurred  
23 in Arizona, therefore the Court possesses personal jurisdiction over Johnson Utilities.

24  
25       43. Hunt MGT., L.L.C. conducts business in Arizona and the violations  
26 occurred in Arizona, therefore the Court possesses personal jurisdiction over Hunt MGT.,



1 L.L.C.

2 44. Ultra Management, L.L.C. conducts business in Arizona and the violations  
3 occurred in Arizona, therefore the Court possesses personal jurisdiction over Ultra  
4 Management, L.L.C.  
5

6 45. A.R.S. §§ 12-401(17) and 49-265 grant the Court venue in this matter.  
7

8 **COUNTS ONE through FIVE**  
9 **Discharge without an AzPDES Permit – Pecan Water Reclamation Plant**  
10 **(Dec. 24, 2007, May 17 & 18, 2008, Dec. 2, 2016, and March 26, 2018)**  
11 **A.R.S. § 49-255.01(A)**

12 46. The allegations in the forgoing Paragraphs are adopted herein and  
13 incorporated by reference.

14 47. A.R.S. § 49-255.01(A) prohibits any person from discharging to a water of  
15 the United States without an Arizona Pollutant Discharge Elimination System  
16 (“AzPDES”) permit issued by ADEQ.

17 48. If a person discharges to a water of the United States, the State, through the  
18 attorney general, may “commence an action in superior court to recover civil penalties.”  
19 A.R.S. § 49-262(C).

20 49. Johnson Utilities owns the Pecan Water Reclamation Plant (“WRP”) which  
21 is located at approximately 38341 N Gantzel Rd., San Tan, AZ.  
22

23 50. Civil penalties for water quality violations like unauthorized discharges to a  
24 water of the United States are capped at twenty-five thousand dollars (\$25,000) per day  
25 for each violation. A.R.S. § 49-262(C).  
26



1       51.    On December 24, 2007, Johnson Utilities discharged into Queen Creek  
2 from its Pecan WRP. *See* Ex. 1-3 & 15.

3       52.    Queen Creek is a water of the United States as that term is defined in  
4 A.R.S. § 49-201(22) and the supporting rules to Title 49, Chapter 2, Article 3.1 of the  
5 Arizona Revised Statutes.  
6

7       53.    The December 24, 2007 discharge occurred because of a sanitary sewer  
8 overflow (“SSO”) from a manhole at the corner of Kelly Lane and Harold Drive, San Tan  
9 Valley, Arizona, in Johnson Utilities’ Pecan North Subdivision. *See* Ex. 1-3.  
10

11       54.    The December 24, 2007 SSO discharged approximately 5,000 gallons of  
12 untreated sewage into Queen Creek. *Id.*

13       55.    On May 17 and 18, 2008, Johnson Utilities discharged into Queen Creek  
14 from its Pecan WRP. *See* Ex. 4.  
15

16       56.    On May 19, 2008, Johnson Utilities notified ADEQ that on May 17 and  
17 May 18, 2008, it discharged into Queen Creek. *Id.*

18       57.    The May 17 and 18, 2008 discharges occurred because of a SSO from a  
19 manhole at the corner of Kelly Lane and Harold Drive, San Tan Valley, Arizona, in  
20 Johnson Utilities’ Pecan North Subdivision. *See* Ex. 4, 16 & 21.  
21

22       58.    The May 17 and 18, 2008, SSO discharged between 5,000 to 10,000  
23 gallons of untreated sewage into Queen Creek. *Id.*  
24

25       59.    On December 2, 2016, Johnson Utilities discharged into Queen Creek from  
26 its Pecan WRP. *See* Ex. 6-7 & 22.



1       60.    On December 7, 2016, Johnson Utilities notified ADEQ that it discharged  
2 into Queen Creek. *Id.*

3       61.    The December 2, 2016, discharge occurred because of a SSO from a  
4 manhole at the corner of Kelly Lane and Harold Drive, San Tan Valley, Arizona, in  
5 Johnson Utilities' Pecan North Subdivision. *See* Ex. 8.

6       62.    The December 2, 2016, discharge released approximately 8,000 gallons of  
7 untreated sewage into Queen Creek. *Id.*

8       63.    On March 26, 2018, Johnson Utilities discharged into Queen Creek from its  
9 Pecan WRP.

10       64.   On March 27, 2018, Johnson Utilities notified ADEQ that on March 26,  
11 2018 it discharged into Queen Creek. *See* Ex. 9.

12       65.   The March 26, 2018, discharge occurred because of a SSO from a manhole  
13 at the corner of Kelly Lane and Harold Drive, San Tan Valley, Arizona, in Johnson  
14 Utilities' Pecan North Subdivision. *See* Ex. 8-9.

15       66.   The March 26, 2018, SSO discharged approximately 65,000 gallons of  
16 untreated sewage into Queen Creek. *See* Ex. 8.

17       67.   Johnson Utilities has never possessed, and could never obtain, an AzPDES  
18 permit issued by ADEQ to discharge untreated sewage to Queen Creek.

19       68.   Hunt MGT., L.L.C. operated Johnson Utilities Pecan WRP from March 29,  
20 2013, through August 15, 2018.

21       69.   Hunt MGT., L.L.C. does not possess an AzPDES permit issued by ADEQ



1 to discharge untreated sewage to Queen Creek.

2 70. Johnson Utilities violated A.R.S. § 49-255.01 on December 24, 2007, May  
3 17 and 18, 2008, December 2, 2016, and March 26, 2018, because it discharge untreated  
4 sewage to Queen Creek, a water of the United States, without an AzPDES permit.  
5

6 71. Hunt MGT., L.L.C. violated A.R.S. § 49-255.01 on December 2, 2016, and  
7 March 26, 2018 because it discharged untreated sewage to Queen Creek, a water of the  
8 United States, without an AzPDES permit.  
9

10 72. Ultra Management, L.L.C. violated A.R.S. § 49-255.01 on December 2,  
11 2016, and March 26, 2018 because Hunt MGT., L.L.C. discharged untreated sewage to  
12 Queen Creek, a water of the United States, without an AzPDES permit.  
13

14 73. Because Johnson Utilities and Hunt MGT., L.L.C. lacked an AzPDES  
15 permit, Johnson Utilities, Hunt MGT., L.L.C., and Ultra Management, L.L.C. are each  
16 subject to a civil penalty of up to \$25,000 per day for each day they improperly  
17 discharged untreated sewage to Queen Creek.  
18

19 **COUNT SIX**  
20 **Discharge without an AzPDES Permit – Pecan WRP (Ongoing)**  
21 **A.R.S. § 49-255.01(A)**

22 74. The allegations in the forgoing Paragraphs are adopted herein and  
23 incorporated by reference.  
24

25 75. The State, through the attorney general, may request “a permanent  
26 injunction or any other relief necessary to protect public health if the director has reason  
to believe” that a person is creating an actual or potential endangerment to the public



1 health or environment because of violations of Arizona Revised Statutes Title 49 Chapter  
2 2. A.R.S. § 49-262(A)(2).

3 76. An intermittent or sporadic discharge is an ongoing violation and the  
4 violation continues until the likelihood of the discharge's repetition has been eliminated.  
5 See *Cnty. Ass'n for Restoration of the Env't v. Henry Bosma Dairy*, 305 F.3d 943, 953  
6 (9th Cir. 2002) (internal citation omitted).

7  
8 77. Johnson Utilities has been having SSOs from the same manhole located at  
9 the corner of Kelly Lane and Harold Drive, San Tan Valley, Arizona, in Johnson  
10 Utilities' Pecan North Subdivision since December 24, 2007.

11  
12 78. Johnson Utilizes has discharged at the same location five (5) times since  
13 December 24, 2007, with the most recent occurring March 3, 2018.

14  
15 79. These violations of A.R.S. § 49-255.01 create an actual or potential  
16 endangerment to the public health or environment.

17 80. Johnson Utilities has been unable to prevent the SSO discharges from this  
18 location.

19  
20 81. Because Johnson Utilities has ongoing violations of A.R.S. § 49-255.01,  
21 Johnson Utilities is subject to injunctive and any other relief necessary to protect public  
22 health.

23  
24 **COUNTS SEVEN through TWENTY-FIVE**  
25 **Releasing Sewage or Partially Treated Sewage – Section 11 WWTP**  
26 **(Oct. 7, 14, 21, & 28, 2017, Nov. 10, 18, & 19, 2017, Dec. 2, 2017,**  
**Jan. 22, 24, & 25, 2018, Feb. 23 & 26, 2018, Mar. 1 & 13, 2018,**  
**April 14, 15, 16, & 17, 2018, and Ongoing)**



**A.A.C. R18-9-B201(F)**

82. The allegations in the forgoing Paragraphs are adopted herein and incorporated by reference.

83. A.A.C. R18-9-B201(F) prohibits a person from “bypass[ing] or releas[ing] sewage or partially treated sewage that has not completed the treatment process from a sewage treatment facility.”

84. A.A.C. R18-9-B201(A) states this prohibition applies “to all sewage treatment facilities.”

85. If a person releases sewage or partially treated sewage, the State, through the attorney general, may “commence an action in superior court to recover civil penalties.” A.R.S. § 49-262(C).

86. Civil penalties for water quality violations such as releasing sewage or partially treated sewage are capped at twenty-five thousand dollars (\$25,000) per day for each violation. A.R.S. § 49-262(C).

87. The State, through the attorney general, may request “a permanent injunction or any other relief necessary to protect public health if the director has reason to believe” that a person is creating an actual or potential endangerment to the public health or environment because of violations of Arizona Revised Statutes Title 49 Chapter 2. A.R.S. § 49-262(A)(2).

88. Johnson Utilities owns a sewage treatment facility known as the Section 11 wastewater treatment plant (“WWTP”) located at 5452 E. Hunt Highway, Florence,



1 Arizona, 85132.

2 89. On October 7, 2017, Johnson Utilities released partially treated sewage that  
3 had not completed the treatment process from a recharge basin at its Section 11 WWTP.  
4  
5 *See* Ex. 23.

6 90. On October 14, 2017, Johnson Utilities released partially treated sewage  
7 that had not completed the treatment process from a recharge basin at its Section 11  
8 WWTP. *Id.*

9  
10 91. On October 21, 2017, Johnson Utilities released partially treated sewage  
11 that had not completed the treatment process from a recharge basin at its Section 11  
12 WWTP. *Id.*

13 92. On October 28, 2017, Johnson Utilities released partially treated sewage  
14 that had not completed the treatment process from a recharge basin at its Section 11  
15 WWTP. *Id.*

16  
17 93. On November 10, 2017, Johnson Utilities released partially treated sewage  
18 that had not completed the treatment process from a recharge basin at its Section 11  
19 WWTP. *Id.*

20  
21 94. On November 18, 2017, Johnson Utilities released partially treated sewage  
22 that had not completed the treatment process from a recharge basin at its Section 11  
23 WWTP. *Id.*

24  
25 95. On January 22, 2018, Johnson Utilities released partially treated sewage  
26 that had not completed the treatment process from Recharge Basin No. 7 at its Section 11



1 WWTP. *See* Ex. 11 & 23.

2 96. On January 24, 2018, Johnson Utilities released partially treated sewage  
3 that had not completed the treatment process from Recharge Basin No. 7 at its Section 11  
4 WWTP. *See* Ex. 24.  
5

6 97. On January 25, 2018, Johnson Utilities released partially treated sewage  
7 that had not completed the treatment process from Recharge Basins No. 4 and No. 7 at its  
8 Section 11 WWTP. *See* Ex. 11 & 20.  
9

10 98. On February 23, 2018, Johnson Utilities released partially treated sewage  
11 that had not completed the treatment process from an aeration lagoon at its Section 11  
12 WWTP. *See* Ex. 10 & 23.  
13

14 99. On February 26, 2018, Johnson Utilities released partially treated sewage  
15 that had not completed the treatment process from a recharge basin at its Section 11  
16 WWTP. *See* Ex. 23.

17 100. On March 1, 2018, Johnson Utilities released partially treated sewage that  
18 had not completed the treatment process from a recharge basin at its Section 11 WWTP.  
19

20 *Id.*

21 101. On March 13, 2018, Johnson Utilities released partially treated sewage that  
22 had not completed the treatment process from a recharge basin at its Section 11 WWTP.  
23

24 *Id.*

25 102. On April 14, 2018, Johnson Utilities released partially treated sewage from  
26 a recharge basin that had not completed the treatment process at its Section 11 WWTP.



1 *See* Ex. 18.

2 103. In an Unauthorized Sewage Spill/Discharge Report, Johnson Utilities  
3 admitted it released partially treated sewage at its Section 11 WWTP on April 14, 2018.  
4

5 *Id.*

6 104. On April 15, 2018, Johnson Utilities released partially treated sewage that  
7 had not completed the treatment process from a recharge basin at its Section 11 WWTP.  
8

9 *See* Ex. 12 & 17-18.

10 105. On April 15, 2018, a Johnson Utilities operator observed and reported a  
11 release of partially treated sewage from aeration Lagoon No. 1 at the Section 11 WWTP.  
12

13 *Id.*

14 106. On April 16, 2018, Johnson Utilities released partially treated sewage that  
15 had not completed the treatment process at the Section 11 WWTP. *See* Ex. 18.

16 107. On April 17, 2018, Johnson Utilities released partially treated sewage that  
17 had not completed the treatment process from a recharge basin at its Section 11 WWTP.  
18

19 *See* Ex. 17.

20 108. On April 17, 2018, an Arizona Corporation Commission inspector observed  
21 the release of partially treated sewage that had not completed the treatment process from  
22 aeration Lagoon No. 1 at the Section 11 WWTP. *See* Ex. 12 & 17.

23 109. These violations create an actual or potential endangerment to the public  
24 health or environment.  
25

26 110. Johnson Utilities has been unable to prevent the Section 11 WWTP effluent



1 lagoons from releasing partially treated sewage that has not completed the treatment  
2 process.

3 111. Hunt MGT., L.L.C. operated the Section 11 WWTP from March 29, 2013,  
4 through August 15, 2018.

6 112. Johnson Utilities violated A.A.C. R18-9-B201(F) because it released  
7 partially treated sewage on October 7, 14, 21, and 28, 2017, November 10, 18, and 19,  
8 2017, December 2, 2017, January 22, 24, and 25, 2018, February 23 and 26, 2018, March  
9 1 and 13, 2018, and April 14, 15, 16, and 17, 2018.

11 113. Hunt MGT., L.L.C. violated A.A.C. R18-9-B201(F) because it released  
12 partially treated sewage on October 7, 14, 21, and 28, 2017, November 10, 18, and 19,  
13 2017, December 2, 2017, January 22, 24, and 25, 2018, February 23 and 26, 2018, March  
14 1 and 13, 2018, and April 14, 15, 16, and 17, 2018.

16 114. Ultra Management, L.L.C. violated A.A.C. R18-9-B201(F) because Hunt  
17 MGT., L.L.C. released partially treated sewage on October 7, 14, 21, and 28, 2017,  
18 November 10, 18, and 19, 2017, December 2, 2017, January 22, 24, and 25, 2018,  
19 February 23 and 26, 2018, March 1 and 13, 2018, and April 14, 15, 16, and 17, 2018.

21 115. Because Johnson Utilities, Hunt MGT., L.L.C., and Ultra Management,  
22 L.L.C. released partially treated sewage, each entity is subject to a civil penalty of up to  
23 \$25,000 for every day they released the sewage.

25 116. Because Johnson Utilities has ongoing violations of releasing partially  
26 treated sewage which create an actual or potential endangerment to the public health or



1 environment, Johnson Utilities is subject to injunctive and any other relief necessary to  
2 protect public health.

3  
4 **COUNTS TWENTY-SIX through TWENTY-NINE**  
5 **Failing to Notify of an Unauthorized Discharge – Section 11 WWTP**  
6 **(April 14, 15, 16, & 17, 2018)**  
7 **APP No. 103081, Section 2.6.5.3**

8 117. The allegations in the forgoing Paragraphs are adopted herein and  
9 incorporated by reference.

10 118. Under Section 2.6.5.3 of the Section 11 Permit, Johnson Utilities must  
11 notify ADEQ within twenty-four (24) hours of discovering a discharge of non-hazardous  
12 material from its Section 11 WWTP if the discharged material has the potential to cause  
13 an aquifer quality limit to be exceeded or if the discharge could pose an endangerment to  
14 public health or the environment. *See* Ex. 19.

15 119. On April 14, 2018, Lagoon No. 1 of the Section 11 WWTP overflowed and  
16 discharged partially treated sewage into the environment. *See* Ex. 18.

17 120. On April 15, 2018, Lagoon No. 1 of the Section 11 WWTP overflowed and  
18 discharged partially treated sewage into the environment. *See* Ex. 12 & 17-18.

19 121. On April 16, 2018, Lagoon No. 1 of the Section 11 WWTP overflowed and  
20 discharged partially treated sewage into the environment. *See* Ex. 18.

21 122. On April 17, 2018, Lagoon No. 1 of the Section 11 WWTP overflowed and  
22 discharged partially treated sewage into the environment. *See* Ex. 12 & 17-18.

23 123. The April 14, 15, 16, and 17, 2018 discharges from Lagoon No. 1 had the  
24  
25  
26



1 potential to cause the aquifer quality limit to be exceeded because the discharge  
2 contained insufficiently treated sewage.

3 124. The April 14, 15, 16, and 17, 2018 discharges from Lagoon No. 1 could  
4 pose a threat to public health or the environment. *Id.*

5 125. Johnson Utilities did not notify ADEQ of the April 14, 15, 16, and 17, 2018  
6 discharges from Lagoon No. 1 until ADEQ inspected the Section 11 WWTP on April 19,  
7 2018. *See* Ex. 12.

8 126. Johnson Utilities violated Section 2.6.5.3 of the Section 11 Permit by not  
9 notifying ADEQ of the April 14, 15, 16, and 17, 2018 discharges from Lagoon No. 1  
10 within twenty-four (24) hours of the discharge.

11 127. Hunt MGT., L.L.C. violated Section 2.6.5.3 of the Section 11 Permit by not  
12 notifying ADEQ of the April 14, 15, 16, and 17, 2018 discharges from Lagoon No. 1  
13 within twenty-four (24) hours of the discharge.

14 128. Ultra Management, L.L.C. violated Section 2.6.5.3 of the Section 11 Permit  
15 because Hunt MGT., L.L.C. did not notify ADEQ of the April 14, 15, 16, and 17, 2018  
16 discharges from Lagoon No. 1 within twenty-four (24) hours of the discharge.

17 129. Because Johnson Utilities, Hunt MGT., L.L.C., and Ultra Management,  
18 L.L.C. violated Section 2.6.5.3 of the Section 11 Permit, each entity is subject to a civil  
19 penalty of up to \$25,000 per day per violation.

20  
21  
22 **COUNT THIRTY**  
23 **Failing to Maintain a Copy of the APP Onsite – Section 11 WWTP**  
24 **(Sept. 30, 2017, through Jan. 25, 2018)**



**APP No. 103081, Section 2.7.2**

130. The allegations in the forgoing Paragraphs are adopted herein and incorporated by reference.

131. Under Section 2.7.2 of the Section 11 Permit, a signed copy of the Section 11 Permit must be maintained at all times at the location where day-to-day decisions regarding operation of the Section 11 WWTP are made.

132. Day-to-day decisions regarding the operation of the Section 11 WWTP are made at the plant itself.

133. On January 25, 2018, ADEQ discovered that operators did not have a signed copy of the Section 11 Permit at the Section 11 WWTP. *See* Ex. 11 & 20.

134. Hunt MGT., L.L.C.'s Chief Operating Officer testified at the Arizona Corporation Commission that the signed copy of the Section 11 Permit which had been maintained at the Section 11 WWTP was removed from the site after a monsoon storm in 2017.

135. Arizona's monsoon season ends no later than September 30th.

136. Johnson Utilities violated Section 2.7.2 of the Section 11 Permit because it did not have a signed copy of the Permit at the Section 11 WWTP.

137. Hunt MGT., L.L.C. violated Section 2.7.2 of the Section 11 Permit because it did not have a signed copy of the Section 11 Permit at the Section 11 WWTP.

138. Ultra Management, L.L.C. violated Section 2.7.2 of the Section 11 Permit because Hunt MGT., L.L.C. did not have a signed copy of the Section 11 Permit at the



1 Section 11 WWTP.

2 139. Because Johnson Utilities, Hunt MGT., L.L.C., and Ultra Management,  
3 L.L.C. violated Section 2.7.2 of the Permit, Johnson Utilities is subject to a civil penalty  
4 of up to \$25,000 per day per violation.  
5

6 **COUNTS THIRTY-ONE through THIRTY-SEVEN**  
7 **Failing to Maintain an Accurate Log Book – Section 11 WWTP**  
8 **(Jan. 22, 24, & 25, 2018 and April 14, 15, 16, & 17, 2018)**  
9 **APP No. 103081, Section 2.7.2**

10 140. The allegations in the forgoing Paragraphs are adopted herein and  
11 incorporated by reference.

12 141. Under Section 2.7.2 of the Section 11 Permit, a log book of the inspections  
13 and measurements required by the Section 11 Permit must be maintained at the location  
14 where the day-to-day decisions are made regarding operation of the Section 11 WWTP.  
15 *See Ex. 19.*

16 142. The log book must also record any damage or malfunction that occurred at  
17 the Section 11 WWTP. *Id.*

18 143. On January 22, 2018, Recharge Basin No. 7 of the Section 11 WWTP  
19 malfunctioned and overflowed. *See Ex. 11 & 23.*

20 144. Johnson Utilities' operators stated that they noticed recharge Basin No. 7 of  
21 the Section 11 WWTP overflowing on January 22, 2018. *Id.*

22 145. On January 24, 2018, Johnson Utilities released partially treated sewage  
23 that had not completed the treatment process from Recharge Basin No. 7 at its Section 11  
24  
25  
26



1 WWTP. *See* Ex. 24.

2 146. On January 25, 2018, ADEQ discovered that Recharge Basins No. 4 and  
3 No. 7 of the Section 11 WWTP were malfunctioning, which resulted in overflow and  
4 discharge. *See* Ex. 11 & 20.

6 147. The malfunctions and unlawful discharges at Section 11 WWTP recharge  
7 basins on January 22, 24, and 25, 2018, were not recorded in the log book. *Id.*

8 148. On January 25, 2018, ADEQ staff discovered that the malfunctions and  
9 unlawful discharges were not recorded in the log book. *See* Ex. 11.

11 149. On April 14, 2018, Lagoon No. 1 of the Section 11 WWTP malfunctioned  
12 and overflowed. *See* Ex. 18.

13 150. On April 15, 2018, Lagoon No. 1 of the Section 11 WWTP malfunctioned  
14 and overflowed. *See* Ex. 12 & 17-18.

16 151. On April 16, 2018, Lagoon No. 1 of the Section 11 WWTP malfunctioned  
17 and overflowed. *See* Ex. 18.

18 152. On April 17, 2018, Lagoon No. 1 of the Section 11 WWTP malfunctioned  
19 and overflowed. *See* Ex. 12 & 17-18.

21 153. The malfunctions and unlawful discharges at Section 11 WWTP Lagoon  
22 No. 1 on April 14, 15, 16, and 17, 2018, were not recorded in the log book. *See* Ex. 12 &  
23 17-18.

24 154. On April 19, 2018, ADEQ discovered that Lagoon No. 1's malfunctions  
25 and unlawful discharges were not recorded in the log book. *See* Ex. 17.



1        155. Johnson Utilities violated Section 2.7.2 of the Section 11 Permit because it  
2 did not record the January 22, 24, and 25, 2018 and April 14, 15, 16, and 17, 2018  
3 malfunctions in the log book.  
4

5        156. Hunt MGT., L.L.C. violated Section 2.7.2 of the Section 11 Permit because  
6 it did not record the January 22, 24, and 25, 2018 and April 14, 15, 16, and 17, 2018  
7 malfunctions in the log book.  
8

9        157. Ultra Management, L.L.C. violated Section 2.7.2 of the Section 11 Permit  
10 because it did not record the January 22, 24, and 25, 2018 and April 14, 15, 16, and 17,  
11 2018 malfunctions in the log book.  
12

13        158. Because Johnson Utilities, Hunt MGT., L.L.C., and Ultra Management,  
14 L.L.C. violated Section 2.7.2 of the Section 11 Permit, each entity is subject to a civil  
15 penalty of up to \$25,000 per day per violation.  
16

17                                    **COUNT THIRTY-EIGHT**  
18                                    **Failing to Maintain and Provide a Copy of the Operation and Maintenance Manual**  
19                                    **Onsite – Section 11 WWTP**  
20                                    **(Sept. 30, 2017, through Jan. 25, 2018)**  
21                                    **APP No. 103081, Section 2.2.4**

22        159. The allegations in the forgoing Paragraphs are adopted herein and  
23 incorporated by reference.  
24

25        160. Under Section 2.2.4 of the Section 11 Permit, Johnson Utilities is required  
26 to maintain an up-to-date copy of its operations and maintenance manual at its Section 11  
WWTP. *See* Ex. 19.

161. Under Section 2.2.4 of the Section 11 Permit, Johnson Utilities is required



1 to provide the operations and maintenance manual to ADEQ personnel upon request  
2 during an inspection. *Id.*

3 162. During an inspection on January 25, 2018, an ADEQ inspector asked  
4 Johnson Utilities' operators at the Section 11 WWTP to provide the copy of the  
5 operations and maintenance manual for inspection. *See* Ex. 11 & 20.  
6

7 163. The Johnson Utilities operators were unable to provide the copy of the  
8 operations and maintenance manual upon ADEQ's request. *Id.*  
9

10 164. In response to ADEQ's request, the Johnson Utilities' operator on site  
11 stated the manual was unavailable because it was kept electronically and a new computer  
12 was being installed. *Id.*

13 165. Hunt MGT., L.L.C.'s Chief Operating Officer testified at the Arizona  
14 Corporation Commission that the operations and maintenance manual which had been  
15 maintained at the Section 11 WWTP was removed from the site after a monsoon storm in  
16 2017.  
17

18 166. Johnson Utilities violated Section 2.2.4 of the Section 11 Permit by not  
19 maintaining the up-to-date copy of the operations and maintenance manual at the Section  
20 11 WWTP and failing to produce the manual upon the ADEQ inspector's request during  
21 an inspection.  
22

23 167. Hunt MGT., L.L.C. violated Section 2.2.4 of the Section 11 Permit by not  
24 maintaining the up-to-date copy of the operations and maintenance manual at the Section  
25 11 WWTP and failing to produce the manual upon the ADEQ inspector's request during  
26



1 an inspection.

2 168. Ultra Management, L.L.C. violated Section 2.2.4 of the Section 11 Permit  
3 because Hunt MGT., L.L.C. did not maintain the up-to-date copy of the operations and  
4 maintenance manual at the Section 11 WWTP and failed to produce the manual upon the  
5 ADEQ inspector's request during an inspection.  
6

7 169. Because Johnson Utilities, Hunt MGT., L.L.C., and Ultra Management,  
8 L.L.C. violated Section 2.2.4 of the Permit, each entity is subject to a civil penalty of up  
9 to \$25,000 per day per violation.  
10

11 **COUNT THIRTY-NINE**  
12 **Failing to Maintain Pressure in the Drinking Water Distribution System**  
13 **(June 23, 2018 to Ongoing)**  
14 **A.A.C. R18-5-502(B)**

15 170. The allegations in the forgoing Paragraphs are adopted herein and  
16 incorporated by reference.

17 171. A.A.C. R18-5-502(B) requires a drinking (potable) water distribution  
18 system to be designed to maintain, and must actually "maintain a pressure of at least 20  
19 pounds per square inch at ground level at all points in the distribution system under all  
20 conditions of flow."  
21

22 172. If a person fails to comply with requirements set forth in the drinking water  
23 system statutes, the State, through the attorney general, may "begin an action in superior  
24 court to recover civil penalties." A.R.S. § 49-354(G).

25 173. Civil penalties for drinking water violations like failing to comply with  
26



1 drinking water distribution system pressure requirements are capped at five hundred  
2 dollars (\$500) per day for each violation. A.R.S. § 49-354(G).

3  
4 174. The State, through the attorney general, may request “a permanent  
5 injunction or any other relief necessary to protect public health” if the director has reason  
6 to believe that a person is creating an actual or potential endangerment to the public  
7 health or environment because of violations of rules adopted pursuant to Arizona Revised  
8 Statutes Title 49 Chapter 2, Art. 9. A.R.S. § 49-354(H).

9  
10 175. Johnson Utilities owns and operates Public Drinking Water System  
11 AZ0411128 (“Johnson Ranch PWS”) which serves customers in Pinal County.

12 176. Between June 23, 2018 and September 9, 2018, ADEQ recorded seventy-  
13 three (73) instances over fourteen (14) days where the water pressure dropped below 20  
14 pounds per square inch at 455 East Pasture Canyon Drive, San Tan Valley, Arizona,  
15 85143.

16  
17 177. 455 East Pasture Canyon Drive, San Tan Valley, Arizona, 85143 is a  
18 residence whose potable water is provided by Johnson Ranch PWS.

19  
20 178. Hunt MGT., L.L.C. operated Johnson Utilities potable water systems from  
21 March 29, 2013, through August 15, 2018.

22 179. The new operator which took over management of the Johnson Ranch PWS  
23 on August 15, 2018, has stated that “customers are reporting low pressure in their homes”  
24 and that the company is “prioritizing calls where water pressure is dipping below 20 psi.”  
25 EPCOR, *Update on Johnson Utilities in Arizona*, <https://www.epcor.com/about/news->  
26



1 announcements/johnson-utilities/Pages/default.aspx (last visited May 9, 2019).

2 180. On December 12, 2018, the new operator reported that “progress is being  
3 made in stabilizing water pressure in various portions of the JU service territory” and that  
4 “pressure loggers are continually deployed to allow further adjustments. . .” *See* Ex. 25  
5

6 181. Johnson Utilities’ ongoing violations of R18-5-502(B) create an actual or  
7 potential endangerment to the public health.

8 182. Johnson Utilities violated A.A.C. R18-5-502(B) on at least fourteen (14)  
9 days between June 23, 2018, and May 21, 2019, by failing to maintain water pressure of  
10 at least 20 pounds per square inch at ground level in the Johnson Ranch PWS distribution  
11 system.  
12

13 183. Hunt MGT., L.L.C. violated A.A.C. R18-5-502(B) between June 23, 2018,  
14 and August 15, 2018, by failing to maintain water pressure of at least 20 pounds per  
15 square inch at ground level in the Johnson Ranch PWS distribution system.  
16

17 184. Ultra Management, L.L.C. violated A.A.C. R18-5-502(B) between June 23,  
18 2018, and August 15, 2018, because Hunt MGT., L.L.C. failed to maintain water pressure  
19 of at least 20 pounds per square inch at ground level in the Johnson Ranch PWS  
20 distribution system.  
21

22 185. Because Johnson Utilities, Hunt MGT., L.L.C., and Ultra Management,  
23 L.L.C. violated A.A.C. R18-5-502(B), each entity is subject to a civil penalty of up to  
24 \$500 per day per violation.  
25

26 186. Because Johnson Utilities has ongoing violations of A.A.C. R18-5-502(B)



1 that create an actual or potential endangerment to the public health, Johnson Utilities is  
2 subject to injunctive and any other relief necessary to protect public health.

3  
4 **COUNT FORTY**  
5 **Failing to Obtain ADEQ Approval of a Drinking Water Blending Plan to Achieve**  
6 **Compliance with Maximum Contaminant Levels**  
7 **(Jan. 26, 2016 to at least May 29, 2018)**  
8 **A.A.C. R18-4-217(A)**

9 187. The allegations in the forgoing Paragraphs are adopted herein and  
10 incorporated by reference.

11 188. A.A.C. R18-4-217(A)(1) requires public drinking water systems to obtain  
12 ADEQ's written approval before blending water sources to achieve compliance with  
13 maximum contaminant levels ("MCLs").

14 189. Blending is the mixing of high quality water with lower quality water to a  
15 calculated ratio to meet or exceed approved standards including the MCLs before  
16 delivering the drinking water to customers.

17 190. If a person fails to comply with requirements set forth in the drinking water  
18 system article, the State, through the attorney general, may "begin an action in superior  
19 court to recover civil penalties." A.R.S. § 49-354(G).

20 191. Civil penalties for drinking water violations like failing to comply with the  
21 requirement to obtain written approval for blending are capped at five hundred dollars  
22 (\$500) per day for each violation. A.R.S. § 49-354(G).

23 192. As of January 26, 2016, the Johnson Ranch PWS blended water from  
24 Johnson Utilities' San Tan #2 well (WL #55-598836) with water from Johnson Utilities'  
25  
26



1 Johnson Utilities' Skyline Well (WL #55-621462), into Entry Point to the Distribution  
2 System No. 010 ("EPDS010") to achieve compliance with the MCL standard for nitrates.  
3 See Ex. 13.  
4

5 193. Johnson Utilities did not have written approval to blend the San Tan #2  
6 well and Skyline Well with EPDS010 to achieve MCL compliance.

7 194. On November 20, 2017, Johnson Utilities informed ADEQ that its San Tan  
8 #2 well and its Skyline Well were still being blended into EPDS010. See Ex. 14.  
9

10 195. Johnson Utilities continued to blend the San Tan #2 and Skyline wells  
11 through at least May 29, 2018.

12 196. Johnson Utilities has never received written approval from ADEQ blend the  
13 San Tan #2 well and Skyline Well with EPDS010.  
14

15 197. Hunt MGT., L.L.C. operated Johnson Utilities public drinking water  
16 systems from March 29, 2013, through August 15, 2018.

17 198. Hunt MGT., L.L.C. has never received written approval from ADEQ to  
18 blend the San Tan #2 well and Skyline Well with EPDS010.  
19

20 199. Johnson Utilities violated A.A.C. R18-4-217(A) from January 26, 2016  
21 through at least May 29, 2018, by failing to receive ADEQ's written approval for  
22 blending prior to blending for MCL compliance.

23 200. Hunt MGT., L.L.C. violated A.A.C. R18-4-217(A) from January 26, 2016  
24 until at least May 29, 2018, by failing to receive ADEQ's written approval for blending  
25 prior to blending for MCL compliance.  
26



1       201. Ultra Management, L.L.C. violated A.A.C. R18-4-217(A) from January 26,  
2 2016 until at least May 29, 2018, because Hunt MGT., L.L.C. failed to receive ADEQ's  
3 written approval for blending prior to blending for MCL compliance.  
4

5       202. Because Johnson Utilities, Hunt MGT., L.L.C., and Ultra Management,  
6 L.L.C. violated R18-4-217(A)(1), each entity is subject to a civil penalty of up to \$500  
7 per day per violation.  
8

9                   **COUNTS FORTY-ONE through FORTY-FIVE**  
10                  **Failing to Accurately Report Monthly and Daily Average Effluent Flows –**  
11                    **Section 11 WWTP**  
12                    **(July 30, 2017, Oct. 2017, and Jan. 30, 2018)**  
13                    **APP No. 103081, Section 2.7.1**

14       203. The allegations in the forgoing Paragraphs are adopted herein and  
15 incorporated by reference.  
16

17       204. Under Section 2.7.1 of the Section 11 Permit, Johnson Utilities must  
18 complete Self-Monitoring Reporting Forms ("SMRFs") according to the scheduled  
19 described in the tables in Section 4.2. *See* Ex. 19.  
20

21       205. Section 4.2, Table IA-1 of the Permit requires Johnson Utilities to sample  
22 daily effluent flows at the Section 11 WWTP pump station and report the figures  
23 quarterly in a SMRF. *Id.*  
24

25       206. Section 4.2, Table IA-1 of the Permit also requires Johnson Utilities to  
26 calculate average monthly effluent flows and report the figures quarterly in a SMRF. *Id.*  
27

28       207. On April 19, 2018, ADEQ reviewed Johnson Utilities' quarterly SMRF  
29 reports and discovered that the monthly influent flow averages reported for April, May,  
30



1 and June 2017 ("Q2 2017") were repeated in July, August, and September 2017 ("Q3  
2 2017") and again in October, November, and December 2017 ("Q4 2017") respectively.  
3 See Ex. 12 & 17.

4  
5 208. The monthly average influent flows reported for Q2, Q3, and Q4 2017 are  
6 inconsistent with the daily influent flows reported for the same period.

7 209. Johnson Utilities' internal daily influent flow reports for Q2 and Q3 did not  
8 match the daily influent flows reported to ADEQ via the SMRF. *Id.*  
9

10 210. On May 9, 2018, Johnson Utilities sent corrected SMRFs for Q2, Q3, and  
11 Q4 2017. See Ex. 18.

12 211. The corrected SMRFs show that Johnson Utilities originally misreported  
13 the monthly average flows for Q2, Q3, and Q4 2017. *Id.*  
14

15 212. Hunt MGT., L.L.C. performed Johnson Utilities' sampling, recording, and  
16 reporting obligations with regard to the Section 11 WWTP effluent flows from March 29,  
17 2013, through August 15, 2018.

18 213. Hunt MGT., L.L.C. drafted the inaccurate SMRFs and submitted them to  
19 ADEQ.  
20

21 214. Hunt MGT., L.L.C.'s Chief Operating Officer testified at the Arizona  
22 Corporation Commission that these SMRFs submitted to ADEQ contained inaccurate  
23 data.  
24

25 215. Johnson Utilities violated Section 2.7.1 of the Section 11 Permit because it  
26 did not accurately report daily influent flows for Q2 and Q3 of 2017 or monthly average



1 influent flows for Q2, Q3, and Q4 of 2017.

2       216. Hunt MGT., L.L.C. violated Section 2.7.1 of the Section 11 Permit because  
3 it did not accurately report daily influent flows for Q2 and Q3 of 2017 or monthly  
4 average influent flows for Q2, Q3, and Q4 of 2017.  
5

6       217. Ultra Management, L.L.C. violated Section 2.7.1 of the Section 11 Permit  
7 because Hunt MGT., L.L.C. did not accurately report daily influent flows for Q2 and Q3  
8 of 2017 or monthly average influent flows for Q2, Q3, and Q4 of 2017.  
9

10       218. Because Johnson Utilities, Hunt MGT., L.L.C., and Ultra Management,  
11 L.L.C. violated Section 2.7.1 of the Section 11 Permit, each entity is subject to a civil  
12 penalty of up to \$25,000 per day per violation.  
13

14                   **COUNTS FORTY-SIX & FORTY-NINE**  
15       **Operating a Sewage Treatment Facility that Emits an Offensive Odor beyond the**  
16                   **Setback Distance – Section 11 WWTP**  
                    **(Jan. 21, 22, 23, & 24, 2018)**  
                    **A.A.C. R18-9-B201(J)**

17       219. The allegations in the forgoing Paragraphs are adopted herein and  
18 incorporated by reference.  
19

20       220. A.A.C. R18-9-B201(J) prohibits the owner or operator of a sewage  
21 treatment facility from operating the facility so that it emits an offensive odor on a  
22 persistent basis beyond the setback distances specified in R18-9-B201(I).  
23

24       221. Section 11 WWTP has a design flow of over one million gallons per day.  
25 *See Ex. 19.*

26       222. Because Section 11 WWTP has a design flow of over one million gallons



1 per day and has no noise, odor, or aesthetic controls, the odor setback distance is one-  
2 thousand (1,000) feet. A.A.C. R18-9-B201(I).

3 223. Civil penalties for water quality violations like emitting an offensive odor  
4 while operating a sewage treatment facility are capped at twenty-five thousand dollars  
5 (\$25,000) per day for each violation. A.R.S. § 49-262(C).

7 224. Between January 21, and 24, 2018, ADEQ received over 200 odor related  
8 complaints from individuals who live near Johnson Utilities' Section 11 WWTP. *See Ex.*  
9 5.

11 225. On January 24, 2018, an ADEQ inspector confirmed that a strong odor was  
12 present approximately 1700 feet away from the Section 11 WWTP. *See Ex. 11 & 24.*

13 226. Johnson Utilities violated A.A.C. R18-9-B201(J) because it failed to  
14 operate the Section 11 WWTP without emitting offensive odors on a persistent basis  
15 beyond the one-thousand (1,000) foot setback distance on January 21, 22, 23, and 24,  
16 2018.

18 227. Hunt MGT., L.L.C. violated A.A.C. R18-9-B201(J) because it failed to  
19 operate the Section 11 WWTP without emitting offensive odors on a persistent beyond  
20 the one-thousand (1,000) foot setback distance on January 21, 22, 23, and 24, 2018.

22 228. Ultra Management, L.L.C. violated A.A.C. R18-9-B201(J) because Hunt  
23 MGT., L.L.C. failed to operate the Section 11 WWTP without emitting offensive odors  
24 on a persistent beyond the one-thousand (1,000) foot setback distance on January 21, 22,  
25 23, and 24, 2018.



229. Because Johnson Utilities, Hunt MGT., L.L.C., and Ultra Management, L.L.C. violated A.A.C. R18-9-B201(J), each entity is subject to a civil penalty of up to \$25,000 per day for each violation.

**COUNT FIFTY**  
**Owning or Operating a Discharging Facility Without a Permit**  
**(Dec. 14, 2016, through Ongoing)**  
**A.R.S. § 49-241(A)**

230. The allegations in the forgoing Paragraphs are adopted herein and incorporated by reference.

231. Under A.R.S. § 49-241(A), any person who owns or operates a facility that discharges must obtain an APP.

232. If a person owns or operates a discharging facility without an APP, the State, through the attorney general, may “commence an action in superior court to recover civil penalties.” A.R.S. § 49-262(C).

233. Civil penalties for water quality violations like owning or operating a discharging facility without an APP are capped at twenty-five thousand dollars (\$25,000) per day for each violation. A.R.S. § 49-262(C).

234. The State, through the attorney general, may request “a permanent injunction or any other relief necessary to protect public health if the director has reason to believe” that a person is creating an actual or potential endangerment to the public health or environment because of violations of Arizona Revised Statutes Title 49 Chapter 2. A.R.S. § 49-262(A)(2).



1       235. Under A.R.S. § 49-241(B)(1), “surface impoundments, including holding,  
2 storage, settling, treatment or disposal pits, ponds and lagoons” are all considered to be  
3 discharging facilities.

4  
5       236. Johnson Utilities owns four (4) surface impoundments adjacent to the  
6 Pecan WRP.

7       237. Johnson Utilities has never had an APP for these surface impoundments.

8       238. Johnson Utilities utilizes the surface impoundments as recharge basins for  
9 Class A+ treated effluent.

10  
11       239. Hunt MGT., L.L.C. operated the four (4) surface impoundments from  
12 December 14, 2016, through August 15, 2018.

13       240. ADEQ staff first identified this violation on December 14, 2016. *See* Ex.  
14 29.

15  
16       241. On March 15, 2019, the lead operator of the Pecan WRP admitted that the  
17 recharge basins had been created years earlier to store treated effluent. *See* Ex. 26.

18       242. These violations of A.R.S. § 49-241(A) create an actual or potential  
19 endangerment to the public health or environment.

20  
21       243. Johnson Utilities violated A.R.S. § 49-241(A) because it has owned or  
22 operated a discharging facility without an APP since December 14, 2016.

23       244. Hunt MGT., L.L.C. violated A.R.S. § 49-241(A) because it operated a  
24 discharging facility without an APP from December 14, 2016, through August 15, 2018.

25  
26       245. Ultra Management, L.L.C. violated A.R.S. § 49-241(A) because Hunt



1 MGT., L.L.C. operated a discharging facility without an APP from December 14, 2016,  
2 through August 15, 2018.

3 246. Because Johnson Utilities, Hunt MGT., L.L.C., and Ultra Management,  
4 L.L.C, violated A.R.S. § 49-241(A), each entity is subject to a civil penalty of up to  
5 \$25,000 per day for each violation.  
6

7 247. Because Johnson Utilities has ongoing violations of A.R.S. § 241(A) that  
8 create an actual or potential endangerment to the public health or environment, Johnson  
9 Utilities is subject to injunctive and any other relief necessary to protect public health.  
10

11 **COUNTS FIFTY-ONE & FIFTY-TWO**  
12 **Turbidity Exceedances – Pecan WRP**  
13 **(Feb. 11 and 20, 2018)**  
14 **A.A.C. R18-11-303(B)(1)(a)**

15 248. The allegations in the forgoing Paragraphs are adopted herein and  
16 incorporated by reference.

17 249. A.A.C. R18-11-303(B)(1)(a) requires that the owner of a facility ensure the  
18 twenty-four (24) hour average turbidity of Class A+ reclaimed water at a point in the  
19 wastewater treatment process after filtration and immediately before disinfection is two  
20 (2) Nephelometric Turbidity Units (NTU's) or less.

21 250. Civil penalties for water quality violations like exceeding the twenty-four  
22 (24) hour average turbidity of Class A+ reclaimed water are capped at twenty-five  
23 thousand dollars (\$25,000) per day for each violation. A.R.S. § 49-262(C).  
24

25 251. On February 11, 2018 and February 20, 2018, the twenty-four (24) hour  
26



1 average turbidity for the Pecan WRP's Class A+ reclaimed water was 2.06 NTUs and  
2 2.95 NTUs respectively at a point in the wastewater treatment process after filtration and  
3 immediately before disinfection. *See* Ex. 30.  
4

5 252. Johnson Utilities violated A.A.C. R18-11-303(B)(1)(a) on February 11 and  
6 20, 2018, by failing to ensure that the twenty-four (24) hour average turbidity of the  
7 Pecan WRP's Class A+ reclaimed water was less than 2 NTU's at a point in the  
8 wastewater treatment system after filtration and immediately before disinfection.  
9

10 253. Because Johnson Utilities violated A.A.C. R18-11-303(B)(1)(a), Johnson  
11 Utilities is subject to a civil penalty of up to \$25,000 per day for each violation.  
12

13 **COUNT FIFTY-THREE**  
14 **Failure to Submit 30 Day Discharge Limitation Violation Report – Pecan WRP**  
15 **(Mar. 22, 2018, through at least Aug. 6, 2018)**  
16 **APP No. P-105324, Sections 2.6.3 & 2.7.3**

17 254. The allegations in the forgoing Paragraphs are adopted herein and  
18 incorporated by reference.  
19

20 255. Under Section 2.6.3 of Aquifer Protection Permit ("APP") No. P-105324  
21 ("Pecan Permit"), Johnson Utilities is required to immediately investigate to determine  
22 the cause of any discharge limitation violation set in Table IB at the Pecan WRP. *See* Ex.  
23 27.  
24

25 256. Sections 2.6.3 and 2.7.3 of the Pecan Permit also requires that Johnson  
26 Utilities submit a report to ADEQ detailing the discharge limitation violation and  
describing corrective actions taken within thirty (30) days of becoming aware of the



1 violation. *Id.*

2 257. On February 11, 2018 and February 20, 2018, the Pecan WRP violated the  
3 24-hour average limitations for water turbidity in Table IB of the Permit. *See* Ex. 30.  
4

5 258. Johnson Utilities failed to submit the report detailing the violation into the  
6 discharge limitation required by sections 2.6.3 and 2.7.3. *See* Ex. 28

7 259. Johnson Utilities violated sections 2.6.3 and 2.7.3(2) of the Pecan Permit  
8 from March 22, 2018, through at least August 6, 2018.  
9

10 260. Because Johnson Utilities violated Sections 2.6.3 and 2.7.3 of the Pecan  
11 Permit, Johnson Utilities is subject to a civil penalty of up to \$25,000 for each day of  
12 violation.  
13

14 **COUNT FIFTY-FOUR**  
15 **Unauthorized Design and Operational Practices Deviation – Pecan WRP**  
16 **(Feb. 18, 2012 through Ongoing)**  
17 **APP No. P-105324, Sections 2.1 & 6.9**

18 261. The allegations in the forgoing Paragraphs are adopted herein and  
19 incorporated by reference.

20 262. Under section 6.9 of the Pecan Permit, Johnson Utilities is required to  
21 “apply for and receive a written amendment before deviating from any of the designs or  
22 operational practices authorized by this permit.” *See* Ex. 27.

23 263. Section 2.1 of the Pecan Permit authorizes Johnson Utilities to operate the  
24 Pecan WRP to treat wastewater with “two filters and two ultraviolet (UV) disinfection  
25 units, backup chlorine disinfection, two (2) sludge dewatering belt filter press, and an  
26



1 effluent pump station.” *Id.*

2 264. Johnson Utilities stopped using the ultraviolet (UV) disinfection units after  
3 the units failed due to a sewage overflow. *See* Ex. 28.  
4

5 265. After discontinuing the use of ultraviolet disinfection, Johnson Utilities  
6 began using sodium hypochlorite as the primary method of disinfection at the Pecan  
7 WRP. *Id.*  
8

9 266. On July 18, 2018, Hunt MGT., L.L.C.’s Wastewater Manager reported to  
10 ADEQ that the change in the disinfection process occurred at least 6.5 years ago. *See* Ex.  
11 31.

12 267. The change from ultraviolet to sodium hypochlorite as the primary method  
13 of disinfection is a deviation from the design and operational practices authorized by the  
14 Pecan Permit.  
15

16 268. Johnson Utilities did not apply for or receive a written amendment to its  
17 Pecan Permit before deviating from ultraviolet to sodium hypochlorite.  
18

19 269. These violations of the Pecan Permit create an actual or potential  
20 endangerment to the public health or environment.

21 270. Johnson Utilities has been in violation of sections 2.1 and 6.9 of the Pecan  
22 Permit since February 18, 2012.  
23

24 271. Because Johnson Utilities violated Sections 2.1 and 6.9 of the Pecan  
25 Permit, Johnson Utilities is subject to a civil penalty of up to \$25,000 for each day of  
26 violation.



1 272. Because Johnson Utilities has ongoing violations of the Pecan Permit that  
2 create an actual or potential endangerment to the public health or environment, Johnson  
3 Utilities is subject to injunctive and any other relief necessary to protect public health.  
4

5 **COUNT FIFTY-FIVE**  
6 **Unauthorized Design and Operational Practices Deviation – San Tan WRP**  
7 **(Mar. 6, 2012 through Ongoing)**  
8 **APP No. P-105325, Sections 2.1 & 6.9**

9 273. The allegations in the forgoing Paragraphs are adopted herein and  
10 incorporated by reference.

11 274. Under Section 6.9 of Aquifer Protection Permit (“APP”) No. P-105325  
12 (“San Tan Permit”), Johnson Utilities is required to “apply for and receive a written  
13 amendment before deviating from any of the designs or operational practices authorized  
14 by this permit.” *See* Ex 32.

15 275. Section 2.1 of the San Tan Permit authorizes Johnson Utilities to operate  
16 the San Tan WRP to treat wastewater with “ultraviolet (UV) disinfection with backup  
17 chlorine disinfection and an effluent pump station.” *Id.*

18 276. Prior to March 14, 2018, the San Tan Permit only authorized Johnson  
19 Utilities to use ultraviolet (UV) disinfection and did not authorize the use of chlorine as a  
20 backup.  
21

22 277. Johnson Utilities stopped using the ultraviolet (UV) disinfection units  
23 approximately on March, 6, 2012. *See* Ex. 33.  
24

25 278. On September 6, 2018, Hunt MGT., L.L.C’s Wastewater Facilities  
26



1 Manager reported to ADEQ that the change in the disinfection process occurred at least  
2 6.5 years ago. *Id.*

3       279. After discontinuing the use of ultraviolet disinfection, Johnson Utilities  
4 began using sodium hypochlorite as the primary method of disinfection at the San Tan  
5 WRP. *Id.*

6       280. The change from ultraviolet to sodium hypochlorite as the primary method  
7 of disinfection is a deviation from the design and operational practices authorized by the  
8 San Tan Permit.  
9

10       281. Johnson Utilities did not apply for or receive a written amendment to its  
11 San Tan Permit before deviating from ultraviolet to sodium hypochlorite.  
12

13       282. Johnson Utilities violated sections 2.1 and 6.9 of the San Tan Permit from  
14 March 6, 2012 through at least September 17, 2018.  
15

16       283. These violations of the San Tan Permit create an actual or potential  
17 endangerment to the public health or environment.  
18

19       284. Because Johnson Utilities violated Sections 2.1 and 6.9 of the San Tan  
20 Permit, Johnson Utilities is subject to a civil penalty of up to \$25,000 for each day of  
21 violation.  
22

23       285. Because Johnson Utilities has ongoing violations of the San Tan Permit that  
24 create an actual or potential endangerment to the public health or environment, Johnson  
25 Utilities is subject to injunctive and any other relief necessary to protect public health.  
26



**COUNTS FIFTY-SIX & FIFTY-SEVEN**  
**Failure to Submit Compliance Schedule Documentation – Pecan WRP**  
**(Oct. 17, 2018 through at least May 6, 2019 & Sept. 17, 2018 through at least**  
**May 6, 2019)**  
**APP No. P-105324, Section 3 Nos. 6 & 9**

286. The allegations in the forgoing Paragraphs are adopted herein and incorporated by reference.

287. Under section 3, Compliance Schedule No. 6 of the Pecan Permit, Johnson Utilities is required “submit a Well Installation Report for each permitted recharge well installed at the WRP site” within sixty (60) days of completion of installation and testing of each well to ADEQ. *See* Ex. 27.

288. Under section 3, Compliance Schedule No. 9 of the Pecan Permit, Johnson Utilities is required to “submit a signed, dated, and sealed Engineer's Certificate of Completion” confirming that the CD225M Dri-Prime pump has been installed within thirty (30) days after the date of completion of the pump's installation to ADEQ. *Id.*

289. Johnson Utilities installed thirty-two (32) permitted recharge wells at the Pecan WRP prior to July 17, 2018. *Id.*

290. On July 17, 2018, ADEQ staff observed the thirty-two (32) installed permitted recharge wells. *See* Ex. 28.

291. Johnson Utilities failed to submit the Well Installation Reports for the thirty-two (32) wells required by section 3, Compliance Schedule No. 6 of the Pecan Permit.

292. Johnson Utilities completed the installation of the CD225M Dri-Pump prior



1 to July 17, 2018.

2 293. On July 17, 2018, ADEQ staff observed the CD225M Dri-Pump was  
3 installed and functioning. *See* Ex. 28.  
4

5 294. Johnson Utilities failed to submit the required Engineer's Certificate of  
6 Installation required by section 3, Compliance Schedule No. 9 of the Pecan Permit. *Id.*

7 295. Johnson Utilities violated No. 6 of section 3 of the Pecan Permit from  
8 September 17, 2018, to at least May 6, 2019.  
9

10 296. Johnson Utilities violated No. 9 of section 3 of the Pecan Permit from  
11 October 17, 2018, through at least May 6, 2019.

12 297. Because Johnson Utilities violated Nos. 6 & 9 of section 3 of the Pecan  
13 Permit, Johnson Utilities is subject to a civil penalty of up to \$25,000 for each day of  
14 violation.  
15

16 **PRAYER FOR RELIEF**

17 **WHEREFORE**, the State prays for the following relief pursuant to A.R.S.  
18 §§ 49-262 and 49-354:  
19

20 A. Civil Penalties: Defendant Johnson Utilities shall pay a civil penalty not to  
21 exceed twenty-five thousand dollars (\$25,000) per day per violation for each A.R.S. § 49-  
22 262(C) violation and a civil penalty not to exceed five hundred dollars (\$500) per day per  
23 violation for each A.R.S. § 49-354(G) violation.  
24

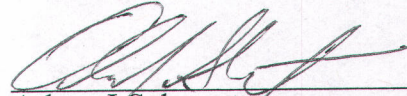
25 B. Injunctive and Other Relief: The State requests injunctive and any other relief  
26 the Court deems just and proper under A.R.S. § 49-262(A) and A.R.S. § 354(H).



1 C. Attorney's Fees: Defendant Johnson Utilities shall pay the State's taxable  
2 costs and costs of litigation.

3  
4 DATED this 22<sup>nd</sup> day of MAY, 2019.

5 MARK BRNOVICH  
6 Attorney General

7 

8 Adam J. Schwartz  
9 Jeffrey Cantrell  
10 Assistant Attorneys General  
11 Environmental Enforcement Section  
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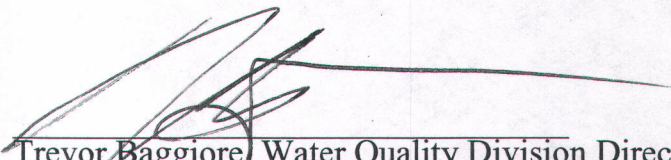
**VERIFICATION**

STATE OF ARIZONA        }  
County of Maricopa        } ss.

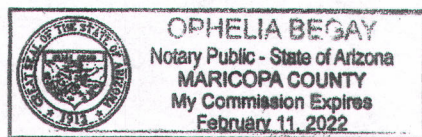
Trevor Baggione, being first duly sworn upon his oath, deposes and says:

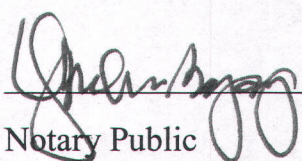
1. I am the Water Quality Division Director of the Arizona Department of Environmental Quality and have the authority to verify Complaints.

2. I have read the forgoing Complaint, and know the contents thereof, and on my own knowledge and belief, the matters alleged herein are true.

  
Trevor Baggione, Water Quality Division Director  
AZ Dept. of Environmental Quality

Sworn to me this 22<sup>nd</sup> day of May, 2019.



  
Notary Public