



**BEFORE THE DIRECTOR OF THE
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY**

In the Matter of:

CONSENT ORDER

[Facility Name] located at [Street Address of Facility] [City where Facility Located], [County where Facility Located], Arizona

[ADEQ Identification Number for Facility]

Docket No. _____

I. RECITALS

- A. [Responsible Party] is the [owner and/or operator] of [Facility Name] located at [Street Address of Facility], [City where Facility Located], [County where Facility Located], Arizona.
- B. [Representative Name] is a representative of [Responsible Party] and certifies that [he / she] is fully authorized to execute this Consent Order on behalf of [Responsible Party] and to legally bind [Responsible Party] to this Consent Order.
- C. The Director of Arizona Department of Environmental Quality (ADEQ) has jurisdiction of this action's subject matter and is authorized to issue this Consent Order pursuant to the Arizona Revised Statutes (A.R.S.) [§ 49-261, 49-334, 49-354, 49-461, 49-781, 49-812, 49-862, 49-923, 49-964, or 49-1013], § 41-1004, and § 41-1092.07(F)(5).
- D. [Responsible Party] agrees that the Director of ADEQ has jurisdiction of this action's subject matter.
- E. This Consent Order contains the full terms of the agreement between [Responsible Party] and ADEQ.
- F. [Responsible Party] voluntarily agrees to this Consent Order based only on the terms contained in the Consent Order.
- G. [Responsible Party] understands that agreeing to this Consent Order does not resolve any liability that it may have for civil penalties for a violation of any State or Federal environmental law.

Initials _____

- H. [Responsible Party] understands that agreeing to this Consent Order does not mean it admits to any civil or criminal liability, or waive any right or assertion of any defense available to [Responsible Party] under applicable law.
- I. [Responsible Party] does not admit the validity of any Agency Determinations and Findings contained in this Consent Order.
- J. [Responsible Party] agrees not to dispute the validity or terms of this Consent Order in any future proceeding to enforce the terms of this Consent Order.
- K. [Responsible Party] retains the right to dispute the validity of any Agency Determinations and Findings contained in this Consent Order in any proceeding other than a proceeding to enforce the terms of this Consent Order.

II. AGENCY DETERMINATIONS AND FINDINGS

The Director makes the following Agency Determinations and Findings that [Responsible Party] has violated a requirement of A.R.S., the Arizona Administrative Code (A.A.C.), or an ADEQ issued permit, as described below:

- | A. [A.R.S. Section/Order | Citation/A.A.C. #/Order | Citation/C.F.R. Section/Judgment | Citation/Permit #/Judgment | #/Permit Section] |
|--|-------------------------|----------------------------------|----------------------------|-------------------|
| [Brief Legal Description of Violation], | | | | |
| [List Factual Description of each violation] | | | | |
| B. [Add additional violations as needed] | | | | |

III. COMPLIANCE SCHEDULE

ADEQ has established the compliance requirements. ADEQ and [Responsible Party] have agreed on the completion deadlines. [Responsible Party] agrees to comply with the provisions of this Consent Order as follows:

[List of compliance requirements and agreed upon deadlines for completion]

IV. STATUS REPORTS *{optional}*

- A. [Responsible Party] agrees to submit a written status report to ADEQ every [30, 60, 90] calendar days beginning [30] days from the effective date of this Consent Order, until this Consent Order terminates. Each written status report must:

1. Describe what measures have been taken under Section III of this Consent Order;
 2. Certify when compliance with the requirements of Section III of this Order are achieved;
 3. Be accompanied by evidence showing compliance, as appropriate. Evidence showing compliance can include documents, photographs, or copies of any other supporting information that [Responsible Party] deems necessary.
- B. ADEQ will review the status reports and inform [Responsible Party] in writing of any disputes. [Responsible Party] must incorporate all required modifications, changes or other alterations that ADEQ requests within a reasonable time specified by ADEQ.

V. COMPLIANCE WITH OTHER LAWS

- A. This Consent Order does not include issues regarding releases, contamination, sources, operations, facilities or processes not expressly stated by the terms of this Consent Order, and does not interfere with the rights that the State of Arizona or [Responsible Party] have under any federal or Arizona environmental statutes and rules regarding such issues.
- B. This Consent Order is not a permit of any kind, does not modify any permit of any kind, nor is it an agreement to issue a permit of any kind under federal, state or local law.
- C. This Consent Order does not alter, modify or revoke federal, state, or local law.
- D. This Consent Order is not a defense to any action to enforce any such permits or laws.
- E. [Responsible Party] has an obligation to:
 1. Apply for, obtain, and comply with all applicable permits.
 2. Comply with federal, state or local law.
 3. Comply with the terms of this Consent Order.

VI. SITE ACCESS

Upon presenting credentials to authorized personnel on duty, ADEQ may at any time enter the premises at the Facility in order to observe and monitor compliance with the provisions of this Consent Order. This right of entry is in addition to ADEQ's rights under applicable law.

VII. CORRESPONDENCE

- A. [Responsible Party] shall send all correspondence by email, mail, or hand delivery, such as documents, materials, plans, notices, or other items under this Consent Order, to:

Arizona Department of Environmental Quality
[ADEQ Division]
Attention: [ADEQ Contact and Title]
1110 West Washington Street
Phoenix, Arizona 85007-2935
Telephone: [Telephone Number of ADEQ Contact]
Email: [Email]

- B. Any submission to ADEQ is treated as submitted when ADEQ receives it.
C. ADEQ shall send all correspondence by email, mail, or hand delivery under this Consent Order to:

[Name of Responsible Party or Designee]
[Address of Responsible Party or Designee]
[Telephone Number of Responsible Party or Designee]
[Email of Responsible Party or Designee]

VIII. RESERVATION OF RIGHTS

- A. ADEQ agrees to this Consent Order based solely upon currently available information. If additional information is discovered, which indicates that the actions under this Consent Order are or will be inadequate to protect human health, safety, or the environment, or to conform with applicable federal or state laws, ADEQ has the right to require further action.
- B. ADEQ has the right to:
1. Seek civil penalties for any and all violations of A.R.S. Title 49 or the applicable rules, occurring before the effective date of this Consent Order;
 2. Disapprove [Responsible Party]'s work that fails to comply with this Consent Order;
 3. Take enforcement action for any and all violations of this Consent Order; and,
 4. Take enforcement action for any and all violations of A.R.S. Title 49 or the applicable rules, occurring after the effective date of this Consent Order.
- C. As to this Consent Order, [Responsible Party] waives all rights to appeal this Order under A.R.S. Title 41, pursuant to the ability to waive this right based on A.R.S. § 41-1004.

IX. VIOLATIONS OF ORDER

If [Responsible Party] fails to comply with this Consent Order, [Responsible Party] can be liable for other administrative or judicial sanctions, including civil penalties under A.R.S. § [49-262, 49-354, 49-463, 49-783, 49-861, 49-924, or 49-1013], the same as if for a violation of any State or Federal environmental law.

"-- IF NO AUTHORITY LISTED, OMIT PHRASE ON CIVIL PENALTIES]"

X. SEVERABILITY

If a court of law declares that any provision of this Consent Order is invalid or unenforceable, all other provisions of this Consent Order remain in full force and effect.

XI. MODIFICATIONS

Any modifications of this Consent Order must be in writing and [Responsible Party] and ADEQ both must approve the modifications.

XII. EFFECTIVE DATE

The effective date of this Consent Order is the date this Consent Order is signed by ADEQ and [Responsible Party]. If ADEQ and [Responsible Party] sign on different dates, the later date is the effective date of this Consent Order.

XIII. PARTIES BOUND

[Responsible Party] is responsible, and will remain responsible, for carrying out all activities required under this Consent Order, regardless of change in ownership, corporate status, or partnership status, or transfer of assets or real or personal property relating to the subject of this Consent Order, unless:

- A. The Party to whom the right, title, or interest has been sold, transferred, or assigned agrees in writing to fulfill the obligations of this Consent Order; and,
- B. ADEQ approves the provisions transferring the obligation.

XIV. TERMINATION

- A. ADEQ will notify [Responsible Party] in writing that this Consent Order is ended when ADEQ determines that [Responsible Party] has demonstrated that all of the terms of this Consent Order have been completed or satisfied.
- B. If ADEQ denies [Responsible Party]'s request for termination, ADEQ will notify [Responsible Party] in writing and describe which terms of the Consent Order have not been completed to ADEQ's satisfaction.
- C. ADEQ reserves the right to terminate this Consent Order unilaterally at any time for any reason, but will notify [Responsible Party] in writing as to the reason(s) for termination.

Signed this ____ day of _____, 201_.

[Name of Section Manager], Section Manager
[Air Quality/Tank Programs/Water Quality/Waste Programs] Section Name
Arizona Department of Environmental Quality

CONSENT TO ORDER

- [Representative Name], on behalf of [Responsible Party] acknowledges that [he / she] has read all of the Consent Order. [Responsible Party] agrees:
- A. With the statements made,
 - B. To this Consent Order with the Arizona Department of Environmental Quality, and,
 - C. That [Responsible Party] will comply with Consent Order and waive any right to appeal.

Signed this ____ day of _____, 201_.

[Signatory for Responsible Party]
[Title of Signatory]

I HEREBY CERTIFY that on _____ day of _____, 20____, the **ORIGINAL** was filed in the facility file located at:

Arizona Department of Environmental Quality
1110 W Washington St
Phoenix, AZ 85007-2935

I HEREBY CERTIFY that on _____ day of _____, 20____, a true and correct copy was emailed, if provided, and mailed via USPS by Certified Mail to:

[Responsible Party/Representative Name]
[Mailing Address REQUIRED]
[Email Address PREFERRED]

I HEREBY CERTIFY that on _____ day of _____, 20____, a true and correct copy was mailed/emailed to:

Arizona Department of Environmental Quality
Office of Administrative Counsel

Curtis Cox, Chief Counsel, Environmental Enforcement Section, Office of the Attorney General
[First and Last Name], Unit Manager, [Unit]
[First and Last Name], Case Manager, [Unit]

[County] County Public Health Services
[Mailing Address/Email Address REQUIRED]

ATTN: [Name]
US EPA Region 9
[Mailing Address/Email Address REQUIRED]

Administrative Hearing Officer