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15 **THE SUPERIOR COURT OF THE STATE OF ARIZONA**
16 **FOR MARICOPA COUNTY**

17 **STATE OF ARIZONA, EX REL,**
18 **STEPHEN A. OWENS, DIRECTOR,**
19 **ARIZONA DEPARTMENT OF**
20 **ENVIRONMENTAL QUALITY,**

21 **Plaintiff,**

22 **v.**

23 **FAR WEST WATER AND SEWER**
24 **COMPANY, INC., an Arizona**
25 **Corporation, and H & S DEVELOPERS,**
26 **INC., an Arizona Corporation.**

27 **Defendant.**

CV2008-021676

Civil Action No.

COMPLAINT

(Non-classified Civil)

28 The Plaintiff, State of Arizona ("State" or "Plaintiff"), on behalf of the Director of the
29 Arizona Department of Environmental Quality, for its claims against the Defendants, alleges the
30 following:
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1 **Nature of the Action**

2 1. This is a civil action brought pursuant to Arizona Revised Statutes (A.R.S.) §§ 49-
3 262, 49-354, 49-462, and 49-463. The State seeks civil penalties from the Defendants, Far West
4 Water and Sewer Company, Inc. ("Far West") and H & S Developers, Inc. ("H & S"), for
5 violations of the AQUIFER PROTECTION PERMIT PROGRAM, A.R.S. Title 49, Chapter 2,
6 Article 3, and Arizona Administrative Code ("A.A.C.") Title 18, Chapter 9; violations of the
7 SAFE DRINKING WATER PROGRAM, A.R.S. Title 49, Chapter 2, Article 9, and A.A.C.
8 Title 18, Chapters 4 and 5; violations of the DIRECT REUSE OF RECLAIMED WATER
9 PROGRAM, A.R.S. § 49-203(A)(6) and A.A.C. Title 18, Chapter 9, Article 7; and violations of
10 the AIR POLLUTION CONTROL PROGRAM, A.R.S. §§ 49-462 and 49-463, and A.A.C.
11 Title 18, Chapter 2.

12 2. The violations include (i) construction and operation of wastewater treatment
13 plants ("WWTPs") without proper aquifer protection permits ("APPs"); (ii) violations of the
14 Aquifer Protection Permit Program rules; (iii) unauthorized release and reuse of reclaimed water
15 from a sewage treatment facility; (iv) unauthorized emission of gaseous or odorous pollutants
16 from insufficiently treated wastewater; (v) deficiencies in sampling, monitoring and notification
17 procedures for a public drinking water system; and (vi) failure to provide a certified operator of
18 the proper grade and type required for the public drinking water system.

19 **Jurisdiction, Authority and Venue**

20 3. All acts and violations occurred in Yuma County within the State of Arizona.

21 4. This Court has jurisdiction over this matter pursuant to A.R.S. §§ 12-123, 49-262,
22 49-263, 49-354, 49-462, 49-463 and Ariz. Const. Art. 6 § 14.

23 5. The State on behalf of the Arizona Department of Environmental Quality
24 ("ADEQ") and through the Office of the Attorney General is authorized to bring this civil action
25 under A.R.S. §§ 49-262, 49-354, and 49-462.
26

1 water and wastewater facilities and related assets to Far West in exchange for approximately
2 100,000 shares of common stock.

3 14. Pursuant to A.R.S. § 49-241(A), any person who owns or operates a facility that
4 discharges must obtain an APP from ADEQ.

5 15. Pursuant to A.R.S. § 49-241(B)(10), sewage treatment facilities and WWTPs
6 require an APP from ADEQ to control the discharge of wastewater and other pollutants.

7 16. "Pollutant" is defined under A.R.S. § 49-201(29), to include fluids, contaminants,
8 substances and chemicals, sewage, municipal, and agricultural wastes, as well as other liquids
9 and substances, and includes wastewater discharged from a WWTP.

10 17. Pursuant to A.R.S. § 49-242, ADEQ has by rule adopted specific requirements for
11 issuing *individual* APPs and *general* APPs in Arizona. These rules are located at Title 18,
12 Chapter 9, Articles 2 and 3.

13 18. Far West provides treated wastewater to sites, such as golf courses, that directly
14 reuse reclaimed water from sewage treatment facilities.

15 19. Pursuant to A.R.S. § 49-203(A)(6), ADEQ has by rule adopted specific
16 requirements and a permit program for the direct reuse of reclaimed water in Arizona. Pursuant
17 to A.A.C. § R18-9-701, "reclaimed water" means water that has been treated or processed by a
18 WWTP. An end user of reclaimed water at a direct reuse site is required to obtain a permit to
19 operate pursuant to A.A.C. § R18-9-704(E).

20 20. Pursuant to A.A.C. § R18-9-704(A), the owner or operator of a sewage treatment
21 facility and WWTP is required to provide reclaimed wastewater for direct reuse *only* pursuant to
22 an individual APP authorizing such reuse activities.

23 21. Pursuant to A.R.S. Title 49, Chapter 2, Article 9, ADEQ has adopted a program
24 and rules for regulating public drinking water systems, as defined in A.R.S. § 49-352(B), in the
25 State of Arizona.

1 22. At all relevant times alleged herein, Defendants have operated a “public water
2 system” as defined in A.R.S. § 49-352(B)(1) and A.A.C. § 18-4-101 by providing drinking
3 water through pipes to homes and businesses within their service area. The public water system
4 has provided drinking water for human consumption, has had at least fifteen service
5 connections, and regularly has served an average of at least twenty-five persons daily for sixty
6 days or more per year.

7 23. H & S and Far West were, at all relevant times alleged herein, “water suppliers”
8 within the meaning of A.A.C. § R18-4-101.

9 24. H & S and Far West’s public water system, at all relevant times alleged herein,
10 was a “community water system” within the meaning of A.A.C. § R18-4-101, because it served
11 15 or more service connections used by year-round residents, or served 25 or more year-round
12 residents.

The Del Oro Wastewater Treatment Plants

COUNT ONE

OPERATING THE DEL ORO WASTEWATER TREATMENT PLANT IN VIOLATION OF THE DISCHARGE LIMITS IN AN AQUIFER PROTECTION PERMIT

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17 25. The State incorporates by reference and realleges the foregoing Paragraphs as
18 though fully set forth herein.

19 26. Far West has owned and operated the Del Oro Santec WWTP since acquiring
20 ownership of the Del Oro site, 11717 Omega Lane, Yuma, Arizona, on or about September 30,
21 2001.

22 27. The Del Oro Santec WWTP is a sewage treatment facility subject to regulation
23 pursuant to A.R.S. § 49-241(B).

24 28. Far West operated the Del Oro Santec WWTP and discharged wastewater under
25 A.A.C. § R18-9-B301(I) Type 1 General APP #1.09, and predecessor rules, issued by ADEQ on
26

1 or about October 29, 1997. The General APP #1.09 limited Far West's discharge to less than
2 20,000 gallons per day ("gpd").

3 29. Beginning on or about January 2002 through approximately April 1, 2004, or
4 longer, Far West discharged wastewater in excess of 20,000 gpd from the Del Oro Santec
5 WWTP in violation of A.R.S. § 49-241, A.A.C. § R18-9-B301(I), and the discharge limits in the
6 Del Oro General APP #1.09.

7 30. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
8 a person or business entity engages in practices that constitute violations of the statutory
9 provisions in A.R.S. Title 49, Chapter 2, Article 3, or violations of rules, permit conditions or
10 discharge limits adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

11 COUNT TWO

12 ILLEGAL DISCHARGE OF WASTEWATER FROM THE DEL ORO CLEAR 13 SOLUTIONS WWTP WITHOUT AN AQUIFER PROTECTION PERMIT

14 31. The State incorporates by reference and realleges the foregoing Paragraphs as
15 though fully set forth herein.

16 32. On or about April 1, 2004, Far West began operating a newly constructed 150,000
17 gpd Clear Solutions WWTP at the Del Oro site to process and treat sewage.

18 33. Pursuant to A.R.S. § 49-241, and rules adopted by ADEQ under A.A.C. Title 18,
19 Chapter 9, Far West was required to apply for and secure an individual APP from ADEQ for the
20 150,000 gpd Del Oro Clear Solutions WWTP prior to its operation and the discharge of
21 wastewater.

22 34. Beginning on or about April 1, 2004, when the Del Oro Clear Solutions WWTP
23 became operational, through approximately October 31, 2006, Far West discharged wastewater
24 from the Del Oro Clear Solutions WWTP without applying for or obtaining an individual APP
25 pursuant to A.R.S. § 49-241 for the Clear Solutions WWTP.
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1 35. Far West's continuous discharge of wastewater from the Del Oro Clear Solutions
2 WWTP without an individual APP violated A.R.S. § 49-241 and APP Program rules adopted in
3 A.A.C. Title 18, Chapter 9.

4 36. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
5 a person or business entity engages in practices that constitute violations of the statutory
6 provisions in A.R.S. Title 49, Chapter 2, Article 3, or violations of rules, permit conditions or
7 discharge limits adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

8 **COUNT THREE**

9 **PROVIDING RECLAIMED WATER FOR DIRECT REUSE FROM THE DEL ORO**
10 **WWTP WITHOUT AN INDIVIDUAL AQUIFER PROTECTION PERMIT**

11 37. The State incorporates by reference and realleges the foregoing Paragraphs as
12 though fully set forth herein.

13 38. A.R.S. § 49-203(A)(6) requires ADEQ to adopt a permit program for the direct
14 reuse of reclaimed water. ADEQ's Direct Reuse of Reclaimed Water Program rules are set forth
15 at A.A.C. Title 18, Chapter 9, Article 7. Providing reclaimed water to a direct reuse site from a
16 sewage treatment facility is regulated under A.A.C. Title 18, Chapter 9, Article 7 and
17 Chapter 11, Article 3.

18 39. Effective January 11, 2001, sewage treatment facilities were required to apply for
19 and obtain an individual APP authorizing the facility to provide reclaimed water for direct reuse,
20 pursuant to A.A.C. § R18-9-704(A), prior to providing reclaimed wastewater to direct reuse
21 sites. Prior to January 11, 2001, WWTPs were required to have Permits for Reuse of Reclaimed
22 Water prior to the release of reclaimed wastewater, pursuant to A.A.C. § R18-9-702(C)
23 (*amended* January 2001) ("Reuse Permit").

24 40. Beginning on or about September 30, 2001, through approximately February 25,
25 2008, or longer, Far West provided reclaimed water for direct reuse from both the Del Oro
26 WWTPs without an individual APP as required pursuant to A.A.C. § R18-9-704(A).

1 41. Far West failed to apply for an individual APP, pursuant to A.A.C. R18-9-704, to
2 authorize the company to provide reclaimed water for direct reuse from the Del Oro WWTP.

3 42. Far West failed to amend an existing Reuse Permit, pursuant to A.A.C. § R18-9-
4 703, to authorize the company to provide reclaimed water for direct reuse from the Del Oro
5 WWTP.

6 43. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
7 a person or business entity engages in a practice that constitutes a violation of a rule adopted
8 pursuant to A.R.S. § 49-203(A)(6).

9 **COUNT FOUR**

10 **DEL ORO WWTPs AIR POLLUTION VIOLATION**

11 44. The State incorporates by reference and realleges the foregoing Paragraphs as
12 though fully set forth herein.

13 45. A.A.C. § R18-2-730(D) prohibits any person from emitting gaseous or odorous
14 materials from equipment, operations or premises under his control in such quantities or
15 concentrations to cause air pollution.

16 46. Beginning sometime in 2006, or earlier, and continuing through approximately
17 August 2006, when Far West installed MBR technology, Far West discharged wastewater that
18 generated septic odors that were detectable both at the perimeter and beyond the Del Oro
19 WWTP site and resulted in public complaints from local residents.

20 47. Far West's emission of gaseous or odorous materials from the Del Oro WWTPs
21 located at the Del Oro site violated A.A.C. § R18-2-730(D).

22 48. A.R.S. §§ 49-462 and 49-463 authorize the imposition of civil penalties and
23 injunctive relief if a person engages in a practice that constitutes a violation of statutory
24 provision in Title 49, Chapter 3, Article 2 or a rule adopted pursuant to Title 49, Chapter 3,
25 Article 2.

1 COUNT SIX

2 PROVIDING RECLAIMED WATER FROM THE VILLA DEL REY
3 WWTP FOR DIRECT REUSE WITHOUT AN INDIVIDUAL APP

4 55. The State incorporates by reference and realleges the foregoing Paragraphs as
5 though fully set forth herein.

6 56. Upon acquiring ownership of the Del Rey WWTP on or about September 30,
7 2001, Far West continuously provided treated wastewater from the Del Rey WWTP as
8 reclaimed water for direct reuse.

9 57. Far West failed to apply for an individual APP, pursuant to A.A.C. § R18-9-704,
10 and failed to apply to amend an individual APP or a Reuse Permit, pursuant to A.A.C § R18-9-
11 703, to authorize the company to provide or release reclaimed water for direct reuse from the
12 Del Rey WWTP.

13 58. Beginning on or about September 30, 2001, and continuously through to the
14 present, Far West violated A.A.C. §§ R18-9-704(A) and R18-9-703 by providing treated
15 wastewater as reclaimed water for direct reuse from the Del Rey WWTP witho ut a valid
16 individual APP or Reuse Permit.

17 59. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
18 a person or business entity engages in practices that constitute violations of rules adopted
19 pursuant to A.R.S. § 49-203(A)(6).

20 *The Villa Royale Wastewater Treatment Plant*

21 COUNT SEVEN

22 PROVIDING RECLAIMED WATER FOR DIRECT REUSE FROM
23 THE VILLA ROYALE WWTP WITHOUT AN INDIVIDUAL APP

24 60. The State incorporates by reference and realleges the foregoing Paragraphs as
25 though fully set forth herein.

1 61. Far West has owned and operated a Santec WWTP at the Villa Royale site,
2 14000 E. 14th Street, Yuma, AZ ("Villa Royale Santec WWTP"), since approximately
3 September 30, 2001.

4 62. The Villa Royale Santec WWTP is a sewage treatment facility subject to
5 regulation pursuant to A.R.S. § 49-241.

6 63. Far West operated the Villa Royale Santec WWTP and discharged wastewater
7 under A.A.C. § R19-9-B301(I) Type 1 General APP #1.09, and predecessor rules. ADEQ issued
8 the Type 1 General APP #1.09 on October 29, 1997, to the previous owner of the Villa Royale
9 Santec WWTP. The Type 1 General APP #1.09 did not authorize Far West to provide reclaimed
10 wastewater for direct reuse.

11 64. Far West failed to apply for an individual APP, pursuant to A.A.C § 18-9-704, and
12 failed to apply to amend an individual APP or Reuse Permit, pursuant to A.A.C. § R18-9-703,
13 authorizing the company to provide or release reclaimed water for direct reuse from the Villa
14 Royale WWTP.

15 65. Beginning on or about September 30, 2001, and continuously through to the
16 present, Far West violated A.A.C. §§ R18-9-704(A) and R18-9-703 by providing treated
17 wastewater as reclaimed water for direct reuse from Villa Royale WWTP without a valid
18 individual APP or Reuse Permit.

19 66. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
20 a person or business entity engages in practices that constitute violations of rules adopted
21 pursuant to A.R.S. § 49-203(A)(6).

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1 Section 14 WWTP after receiving the NOV's, and continued to fail to comply with the DL for
2 Total Nitrogen.

3 75. Far West reported on its self-monitoring report forms ("SMRFs") that it violated
4 the DL for Total Nitrogen in the Section 14 WWTP APP on more than 1250 days from
5 December 2002 to the present.

6 76. Upon information and belief, Far West's violations of the DL for Total Nitrogen
7 continue through to the present.

8 77. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
9 a person or business entity engages in practices that constitute violations of permit conditions or
10 discharge limits adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

11 **COUNT NINE**

12 **OPERATING THE SECTION 14 WWTP IN VIOLATION OF**
13 **24-HOUR VERIFICATION SAMPLING REQUIREMENTS**

14 78. The State incorporates by reference and realleges the foregoing Paragraphs as
15 though fully set forth herein.

16 79. The Section 14 WWTP APP, Section 2.6.3.1, requires Far West to conduct
17 verification sampling within twenty-four (24) hours of becoming aware of a DL violation.

18 80. Far West became aware that it violated the Total Nitrogen DL, as stated in Count
19 Eight, no later than when it received the information in its lab reports, which Far West reported
20 to ADEQ in its SMRFs.

21 81. Far West, in violation of the Section 14 WWTP APP, failed to conduct
22 verification sampling within 24 hours of becoming aware that it exceeded the Total Nitrogen
23 DLs between December 2002 and the present, approximately, as described above in Count
24 Eight.

1 ADEQ. Far West was, therefore, aware of the sampling, monitoring and reporting violations,
2 described in Count Ten, on the dates those violations occurred.

3 97. Each incident where Far West failed to notify ADEQ of its monitoring and
4 reporting violations as required in the Section 14 WWTP APP, Section 2.7.3.1, was a separate
5 violation of the Section 14 WWTP APP.

6 98. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
7 a person or business entity engages in practices that constitute violations of permit conditions
8 adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

9 **COUNT TWELVE**

10 **FAILING TO SUBMIT WRITTEN REPORTS OF VIOLATIONS OF THE**
11 **SECTION 14 WWTP AQUIFER PROTECTION PERMIT**

12 99. The State incorporates by reference and realleges the foregoing Paragraphs as
13 though fully set forth herein.

14 100. The Section 14 WWTP APP, Part 2.7.3.2, requires Far West to submit a written
15 report to ADEQ Water Quality Compliance Section, Enforcement Unit, within 30 days of
16 becoming aware of a violation of any permit condition or DL ("30-day reports").

17 101. Far West, in violation of the Section 14 WWTP APP, failed to submit the 30-day
18 reports after becoming aware of the Section 14 WWTP APP violations that occurred from
19 approximately November 30, 2001 (date of permit issuance) through to the present, as described
20 in Counts Eight, Nine, and Ten.

21 102. Far West failed to submit the 30-day reports after becoming aware that the
22 Section 14 WWTP exceeded the Total Nitrogen DL as described above in Count Eight.

23 103. Far West failed to submit the 30-day reports after becoming aware the Section 14
24 WWTP failed to conduct verification sampling for Total Nitrogen as described above in Count
25 Nine.

1 **COUNT FOURTEEN**

2 **SECTION 14 WWTP AIR POLLUTION VIOLATION**

3 111. The State incorporates by reference and realleges the foregoing Paragraphs as
4 though fully set forth herein.

5 112. A.A.C. § R18-2-730(D) prohibits any person from emitting gaseous or odorous
6 materials from equipment, operations or premises under his control in such quantities or
7 concentrations to cause air pollution.

8 113. Far West discharged wastewater that generated septic odors from its Section 14
9 WWTP. The septic odors were detectable at and beyond the perimeter of the Section 14 WWTP
10 site.

11 114. ADEQ detected the odor emissions beyond the Section 14 WWTP perimeter in
12 2006.

13 115. Upon information and belief, the odor emissions began in 2006, or earlier, and
14 have continued to the present.

15 116. Far West's emission of gaseous or odorous materials from its WWTP at the
16 Section 14 WWTP site violated A.A.C. § R18-2-730(D).

17 117. A.R.S. §§ 49-462 and 49-463 authorize the imposition of civil penalties and
18 injunctive relief if a person engages in a practice that constitutes a violation of statutory
19 provision in Title 49, Chapter 3, Article 2 or a rule adopted pursuant to Title 49, Chapter 3,
20 Article 2.

21 ***The Palm Shadows Wastewater Treatment Plant***

22 **COUNT FIFTEEN**

23 **ILLEGAL DISCHARGE OF WASTEWATER FROM THE PALM**
24 **SHADOWS WWTP WITHOUT AN AQUIFER PROTECTION PERMIT**

25 118. The State incorporates by reference and realleges the foregoing Paragraphs as
26 though fully set forth herein.

1 119. In December 1998, Far West completed construction and began operating the
2 Palm Shadows WWTP, 9700 E. 40th Street, Yuma, Arizona.

3 120. The Palm Shadows WWTP is a 50,000 gpd sewage treatment facility subject to
4 regulation pursuant to A.R.S. § 49-241(B).

5 121. Although Far West began discharging from the Palm Shadows WWTP in
6 December 1998, Far West did not obtain an APP authorizing it to discharge from the Palm
7 Shadows WWTP until April 14, 1999.

8 122. From December 1998 through April 14, 1999, Far West discharged wastewater
9 without an APP from the Palm Shadows WWTP in violation of A.R.S. §§ 49-241(A) and (B).

10 123. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
11 a person or business entity engages in practices that constitute violations of the statutory
12 provisions in A.R.S. Title 49, Chapter 2, Article 3, or violations of rules, permit conditions or
13 discharge limits adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

14 **COUNT SIXTEEN**

15 **ILLEGAL DISCHARGE OF WASTEWATER FROM THE 150,000 GPD PALM**
16 **SHADOWS WWTP WITHOUT AN AQUIFER PROTECTION PERMIT**

17 124. The State incorporates by reference and realleges the foregoing Paragraphs as
18 though fully set forth herein.

19 125. Beginning in approximately 2001 and continuing to the present, Far West operated
20 and discharged wastewater from a newly-constructed second WWTP capable of processing
21 150,000 gpd of sewage ("Palm Shadows 150,000 gpd WWTP") at the Palm Shadows site.

22 126. Far West discharged wastewater from the Palm Shadows 150,000 gpd WWTP
23 without applying for, amending, or obtaining an individual permit authorizing the WWTP's
24 operation and discharge, pursuant to A.R.S. § 49-241.

1 127. Far West's operation of and discharge from the Palm Shadows 150,000 gpd
2 WWTP from 2001 through to the present without an APP violates A.R.S. § 49-241 and APP
3 Program rules adopted in A.A.C. Title 18, Chapter 9.

4 128. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
5 a person or business entity engages in practices that constitute violations of the statutory
6 provisions in A.R.S. Title 49, Chapter 2, Article 3, or violations of rules, permit conditions or
7 discharge limits adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

8 **COUNT SEVENTEEN**

9 **OPERATING THE PALM SHADOWS WWTP IN VIOLATION OF THE NITROGEN**
10 **DISCHARGE LIMITS IN THE AQUIFER PROTECTION PERMIT**

11 129. The State incorporates by reference and realleges the foregoing Paragraphs as
12 though fully set forth herein.

13 130. The Palm Shadows WWTP APP, Part II.A.3 set a DL for Total Nitrogen for the
14 Palm Shadows WWTP.

15 131. After the Palm Shadows WWTP APP was issued on April 14, 1999, Far West, in
16 violation of the Palm Shadows WWTP APP, discharged wastewater from the Palm Shadows
17 WWTP exceeding the Total Nitrogen DL set forth in the APP, on at least 1400 days.

18 132. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
19 a person or business entity engages in practices that constitute violations of permit conditions or
20 discharge limits adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

21 **COUNT EIGHTEEN**

22 **FAILURE TO NOTIFY ADEQ WITHIN FIVE DAYS OF AN EXCEEDENCE OF AN**
23 **ALERT LEVEL IN THE PALM SHADOWS WWTP APP FOR WASTEWATER FLOW**

24 133. The State incorporates by reference and realleges the foregoing Paragraphs as
25 though fully set forth herein.

1 141. The Palm Shadows WWTP APP, Part II.C.2.a.2, requires Far West to conduct
2 verification sampling within five (5) days after becoming aware of a violation of a DL or an
3 exceedence of an AL established in the APP.

4 142. The Palm Shadows WWTP APP, Part II.A.3 and Part IV, Table 1, contains an AL
5 for Total Nitrogen.

6 143. Far West, in violation of the Palm Shadows WWTP APP, failed to conduct
7 verification sampling within 5 days of becoming aware of exceedences of the Total Nitrogen AL
8 at the Palm Shadows WWTP on at least four days: June 16, 2001, December 9, 2002, August 5,
9 2003, and April 5, 2006.

10 144. Far West became aware that it exceeded the Total Nitrogen AL at the Palm
11 Shadows WWTP no later than June 16, 2001, December 9, 2002, August 5, 2003, and April 5,
12 2006, when Far West received the information in its lab reports, which Far West reported to
13 ADEQ in its SMRFs.

14 145. Far West, in violation of the Palm Shadows WWTP APP, failed to conduct
15 verification sampling within five (5) days of becoming aware of the violations of the Total
16 Nitrogen DL from the Palm Shadows WWTP, as described above in Count Seventeen.

17 146. Far West became aware that it violated the DL, as stated in Count Seventeen, no
18 later than when it received the information in its lab reports, which Far West reported to ADEQ
19 in its SMRFs.

20 147. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
21 a person or business entity engages in practices that constitute violations of permit conditions or
22 rules adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

1 **COUNT TWENTY**

2 **FAILURE TO NOTIFY ADEQ WITHIN FIVE DAYS OF A VIOLATION**
3 **OF A CONDITION OR EXCEEDENCE OF AN ALERT LEVEL FOR**
4 **TOTAL NITROGEN IN THE PALM SHADOWS WWTP APP**

5 148. The State incorporates by reference and realleges the foregoing Paragraphs as
6 though fully set forth herein.

7 149. The Palm Shadows APP, Part II.C.2.a.1, requires Far West to notify the ADEQ's
8 Water Quality Compliance Section, Data Unit, within five days of becoming aware of a
9 violation of a DL established in the APP.

10 150. Far West, in violation of the Palm Shadows WWTP APP, Part II.C.2.a.1, failed to
11 notify ADEQ within five (5) days of becoming aware of exceedences of the Total Nitrogen DL
12 at the Palm Shadows WWTP, as described above in Count Seventeen.

13 151. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
14 a person or business entity engages in practices that constitute violations of permit conditions or
15 rules adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

16 **COUNT TWENTY-ONE**

17 **FAILING TO SUBMIT A WRITTEN REPORT OF A VIOLATION OF**
18 **THE PALM SHADOWS WWTP AQUIFER PROTECTION PERMIT**

19 152. The State incorporates by reference and realleges the foregoing Paragraphs as
20 though fully set forth herein.

21 153. The Palm Shadows WWTP APP, Part II.C.2.a.3.b, requires Far West to submit a
22 written report or a demonstration of error to ADEQ within 30 days of verifying a violation of
23 any DL or an exceedence of an AL established in the APP ("30-day reports").

24 154. Far West, in violation of the Palm Shadows WWTP APP, failed to submit 30-day
25 reports after becoming aware of the DL violations and exceedences of the ALs described above
26 in Counts Seventeen and Eighteen.

1 163. Far West, in violation of the Palm Shadows WWTP APP, failed to comply with
2 the daily sampling requirement in Part II.C.1.b on at least four separate occasions during
3 January 2007, on at least four separate occasions during February 2007, and at least once in
4 March 2007.

5 164. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
6 a person or business entity engages in practices that constitute violations of permit conditions
7 adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

8 **COUNT TWENTY-FOUR**

9 **FAILURE TO SUBMIT SELF MONITORING REPORT**
10 **FORMS FOR THE PALM SHADOWS WWTP**

11 165. The State incorporates by reference and realleges the foregoing Paragraphs as
12 though fully set forth herein.

13 166. The Palm Shadows WWTP APP, Part II.H.2.b, requires Far West to submit to
14 ADEQ periodic SMRFs containing Far West's recorded discharge monitoring results and
15 deviations from prescribed monitoring methods and frequencies.

16 167. For Total Nitrogen, Nitrate-Nitrite, and TKN, the Palm Shadows WWTP APP
17 requires Far West to submit monthly SMRFs to ADEQ. The APP requires Far West to submit
18 quarterly SMRFs for flouride.

19 168. For Total Nitrogen, Nitrate-Nitrite, and TKN, Far West failed to submit monthly
20 SMRFs from April 14, 1999 through to the present. Far West submitted only one report per
21 quarter from April 14, 1999 through to the present.

22 169. Far West, in violation of the Palm Shadows WWTP APP, failed to submit any
23 SMRFs from July through December 1999.

24 170. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
25 a person or business entity engages in practices that constitute violations of permit conditions or
26 rules adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

1 **COUNT TWENTY-FIVE**

2 **ILLEGAL DISCHARGE FROM THE PALM**
3 **SHADOWS WWTP SURFACE IMPOUNDMENTS**

4 171. The State incorporates by reference and realleges the foregoing Paragraphs as
5 though fully set forth herein.

6 172. Far West was authorized to dispose of the Palm Shadows WWTP wastewater
7 using two surface impoundments for percolation.

8 173. Pursuant to A.R.S. § 49-241(B)(1), surface impoundments are discharging
9 facilities and are required to operate under an APP.

10 174. Far West constructed and operated five additional surface impoundments for
11 percolation, immediately after constructing or operating the unauthorized 150,000 gpd WWTP
12 in 2001, described in Count Sixteen, at the Palm Shadows WWTP site.

13 175. Far West did not apply for, amend or secure an APP for any of the five surface
14 impoundments prior to discharging wastewater into the impoundments.

15 176. Far West violated A.R.S. § 49-241(B)(1) by constructing and discharging
16 wastewater into the five surface impoundments at the Palm Shadows WWTP site without APPs
17 authorizing the impoundments.

18 177. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
19 a person or business entity engages in practices that constitute violations of the statutory
20 provisions in A.R.S. Title 49, Chapter 2, Article 3, or violations of rules, permit conditions or
21 discharge limits adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

22 **COUNT TWENTY-SIX**

23 **FAILURE TO AMEND AN APP PRIOR TO A**
24 **MAJOR MODIFICATION TO A WWTP**

25 178. The State incorporates by reference and realleges the foregoing Paragraphs as
26 though fully set forth herein.

1 179. The Palm Shadows WWTP APP, Parts II.H.4.b and VI.H.3, requires that all
2 proposed modifications and major modifications to the Palm Shadows WWTP be submitted in
3 an application to ADEQ at least 180 days prior to implementing the major modification.

4 180. A.A.C. § R18-9-A211, and predecessor rules, require facilities to apply for
5 amendments to an existing permit for major modifications such as changes to disposal method
6 or material alterations to a facility.

7 181. The construction of a surface impoundment for disposal of wastewater from a
8 WWTP with an APP is a major modification under the Palm Shadows WWTP APP,
9 Part II.H.4.b; a modification under Part VI.H.3; and a modification under the APP rules,
10 including A.A.C. § R18-9-A211 and predecessor rules, requiring a permit amendment to the
11 APP.

12 182. Far West committed five separate violations of the Palm Shadows WWTP APP,
13 Part II.H.4.b, and A.A.C. § R18-9-A211, for the construction and operation of each of the five
14 additional surface impoundments without requesting or obtaining an amendment of the Palm
15 Shadows APP.

16 183. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
17 a person or business entity engages in practices that constitute violations of the statutory
18 provisions in A.R.S. Title 49, Chapter 2, Article 3, or violations of rules, permit conditions or
19 discharge limits adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

The Seasons Wastewater Treatment Plant

COUNT TWENTY-SEVEN

OPERATING THE SEASONS WWTP IN VIOLATION OF THE NITROGEN DISCHARGE LIMITS IN AN AQUIFER PROTECTION PERMIT

24 184. The State incorporates by reference and realleges the foregoing Paragraphs as
25 though fully set forth herein.
26

1 185. Far West has continuously operated the Seasons WWTP, 10301 E. 10th Street,
2 Yuma, Arizona, pursuant to an APP issued by ADEQ on December 24, 1998. The Seasons
3 WWTP is a sewage treatment facility subject to regulation pursuant to A.R.S. § 49-241(B)(7).

4 186. The Seasons WWTP was originally designed and permitted to treat 50,000 gpd of
5 wastewater with disposal of all of the wastewater through percolation at a surface impoundment.

6 187. The Seasons WWTP APP, Part II.B.1 and Part IV, Table 1, contains DLs for Total
7 Nitrogen and Nitrate-Nitrite.

8 188. Between December 24, 1998 (APP issuance date) and the present, Far West
9 exceeded the Total Nitrogen DL in the Seasons WWTP APP on more than 1200 days.

10 189. Between January 2003 and December 2006, Far West exceeded the Nitrate-Nitrite
11 DL in the Seasons WWTP APP on more than 880 days.

12 190. ADEQ issued Far West two NOVs for the nitrogen exceedences – one in January
13 2005 and one in March 2006. Far West continued to exceed the DLs for Total Nitrogen and
14 Nitrate-Nitrite after receiving these NOVs.

15 191. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
16 a person or business entity engages in practices that constitute violations of permit conditions,
17 discharge limits or rules adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

18 COUNT TWENTY-EIGHT

19 FAILING TO MONITOR IN VIOLATION OF THE SEASONS WWTP APP

20 192. The State incorporates by reference and realleges the foregoing Paragraphs as
21 though fully set forth herein.

22 193. The Seasons WWTP APP, Part 4.0, Table 1, requires that Far West periodically
23 monitor its wastewater discharge for specific pollutants listed in Table 1. Far West is required to
24 periodically collect, test, and analyze representative samples of the wastewater from its
25 disinfection unit and is required to report the results to ADEQ.

1 194. During the third quarter of 2003, Far West failed to sample and report, in accord
2 with the quarterly sampling and reporting requirement in Table 1, the following pollutants as
3 required in the Seasons WWTP APP, Part 4.0, Table 1: (a) Arsenic, (b) Barium, (c) Cadmium,
4 (d) Chromium, (e) Fluoride, (f) Lead, (g) Mercury and (h) Selenium.

5 195. Each incident where Far West failed to monitor and report for each pollutant as
6 required in the Seasons WWTP APP, Section 4.0, Table 1, was a separate violation of the
7 Seasons WWTP APP.

8 196. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
9 a person or business entity engages in practices that constitute violations of the statutory
10 provisions in A.R.S. Title 49, Chapter 2, Article 3, or violations of rules, permit conditions or
11 DLs adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

12 **COUNT TWENTY-NINE**

13 **OPERATING THE SEASONS WWTP IN VIOLATION OF THE WASTEWATER**
14 **FLOW DISCHARGE LIMIT IN THE AQUIFER PROTECTION PERMIT**

15 197. The State incorporates by reference and realleges the foregoing Paragraphs as
16 though fully set forth herein.

17 198. The Seasons WWTP APP, Part II.A.3 and Part IV, Table 1, establishes a
18 wastewater flow DL at 50,000 gpd.

19 199. On at least fifteen occasions from December 24, 1998 (permit issuance) through
20 December 2007, Far West exceeded and thereby violated the wastewater flow DL in the Seasons
21 WWTP APP.

22 200. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
23 a person or business entity engages in practices that constitute violations of the statutory
24 provisions in A.R.S. Title 49, Chapter 2, Article 3, or violations of rules, permit conditions or
25 discharge limits adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

1 **COUNT THIRTY**

2 **FAILURE TO NOTIFY ADEQ WITHIN FIVE DAYS OF A VIOLATION OF A**
3 **CONDITION OF THE SEASONS WWTP AQUIFER PROTECTION PERMIT**

4 201. The State incorporates by reference and realleges the foregoing Paragraphs as
5 though fully set forth herein.

6 202. The Seasons WWTP APP, Part II.H.3.a, requires Far West to notify the ADEQ's
7 Water Quality Compliance Section within five days of becoming aware of a violation of any
8 permit condition established in the APP.

9 203. The Seasons WWTP APP, Part II.C.1.a.1, requires Far West to notify ADEQ
10 within five days of becoming aware of an exceedence of an AL or DL.

11 204. On at least 50 occasions, for more than 1200 violations of the daily DLs for Total
12 Nitrogen and Nitrate-Nitrite, Far West failed to notify ADEQ within five (5) days of becoming
13 aware of the violations of Total Nitrogen and Nitrate-Nitrite DLs, described in Count Twenty-
14 Seven.

15 205. Far West became aware that it violated the DLs stated in Count Twenty-Seven, no
16 later than when it received the information in its lab reports, which Far West reported to ADEQ
17 in its SMRFs.

18 206. Far West failed to notify ADEQ within five (5) days of becoming aware of the
19 failure to monitor the eight pollutants, described above in Count Twenty-Eight.

20 207. The monitoring and reporting requirements, described in Count Twenty-Eight,
21 were explicitly stated in the Seasons WWTP APP, which was provided to Far West when the
22 APP was issued by ADEQ. Far West was, therefore, aware of the monitoring and reporting
23 violation, described in Count Twenty-Eight, on the date those violations occurred.

24 208. Far West failed to notify ADEQ within five (5) days of becoming aware of the
25 violations of the wastewater flow DL, described above in Count Twenty-Nine.

26

1 **COUNT THIRTY-TWO**

2 **FAILING TO SUBMIT A WRITTEN REPORT OF A VIOLATION**
3 **OF THE SEASONS WWTP AQUIFER PROTECTION PERMIT**

4 216. The State incorporates by reference and realleges the foregoing Paragraphs as
5 though fully set forth herein.

6 217. The Seasons WWTP APP, Part II.H.3.b, requires Far West to submit a written
7 report to ADEQ within 30 days of becoming aware of a violation of a permit condition or
8 discharge limit or an exceedence of an alert level (“30-day report”).

9 218. Far West failed to submit any 30-day reports after becoming aware of the
10 exceedences of the Total Nitrogen and Nitrate-Nitrite DLs in the Seasons WWTP APP,
11 described in Count Twenty-Seven.

12 219. Far West failed to submit any 30-day reports after becoming aware of the Seasons
13 WWTP APP monitoring and DL violations, described above in Count Twenty-Eight.

14 220. Far West failed to submit any 30-day reports after becoming aware of the
15 violations of the flow DL in the Seasons WWTP APP, described in Count Twenty-Nine.

16 221. Each incident where Far West failed to submit a 30-day report to ADEQ for a
17 violation of a permit condition, violation of a DL, or exceedence of an AL, as required in the
18 Seasons WWTP APP, Part II.H.3.b, was a separate violation of the Seasons WWTP APP.

19 222. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
20 a person or business entity engages in practices that constitute violations of permit conditions or
21 rules adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

22 **COUNT THIRTY-THREE**

23 **ILLEGAL WASTEWATER DISCHARGE AND INCREASE IN PERMITTED**
24 **WASTEWATER DISCHARGE AND CHANGE IN OPERATION**
25 **IN VIOLATION OF THE SEASONS WWTP APP**

26 223. The State incorporates by reference and realleges the foregoing Paragraphs as
though fully set forth herein.

1 224. The Seasons WWTP APP and the rules adopted pursuant to A.R.S. Title 49,
2 Chapter 2, Article 3, require Far West to apply to amend the APP for a major modification at
3 least 180 days prior to making the major modification.

4 225. In 2005, Far West expanded the Seasons WWTP and increased its wastewater
5 discharge capacity from 50,000 gpd to 150,000 gpd without applying to amend its permit prior
6 to the change.

7 226. The change in operation and increase from 50,000 to 150,000 gpd of wastewater
8 were modifications requiring notification to ADEQ and a request to ADEQ for a significant
9 permit amendment pursuant to the Seasons WWTP APP, Part II.H.4.b, and the APP rules,
10 including A.A.C. § R18-9-A211, adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

11 227. Far West's change in operation and increased wastewater discharge from the
12 Seasons WWTP, beginning in 2005 and continuing to June 3, 2008, without first amending its
13 APP or obtaining a new individual APP authorizing the additional discharge, is a violation of
14 A.R.S. § 49-241; the APP Program rules, including A.A.C. § R18-9-A211, adopted pursuant to
15 Title 49, Chapter 2; Article 3; and Seasons WWTP APP, Part II.H.4.b.

16 228. A.R.S. § 49-262 authorizes the imposition of civil penalties and injunctive relief if
17 a person or business entity engages in practices that constitute violations of the statutory
18 provisions in A.R.S. Title 49, Chapter 2, Article 3, or violations of rules, permit conditions or
19 discharge limits adopted pursuant to A.R.S. Title 49, Chapter 2, Article 3.

20 ***The Marwood Wastewater Treatment Plant***

21 **COUNT THIRTY-FOUR**

22 **PROVIDING WASTEWATER AS RECLAIMED WATER FOR DIRECT**
23 **REUSE FROM THE MARWOOD WWTP WITHOUT A PERMIT**

24 229. The State incorporates by reference and realleges the foregoing Paragraphs as
25 though fully set forth herein.
26

1 253. A.A.C. § R18-2-730(D) prohibits any person from emitting gaseous or odorous
2 materials from equipment, operations or premises under his control in such quantities or
3 concentrations to cause air pollution.

4 254. Upon information and belief, Far West has emitted septic odors from the
5 Marwood WWTP as early as 2000. In 2006, Far West discharged wastewater from the Marwood
6 WWTP that received insufficient treatment and generated septic odors. The septic odors were
7 detectable by ADEQ both at the perimeter and beyond the Marwood WWTP site and resulted in
8 the unreasonable interference with the comfortable enjoyment of life or property of a substantial
9 part of a community.

10 255. Far West's emission of gaseous or odorous materials from the Marwood WWTP
11 violated A.A.C. § R18-2-730(D).

12 256. A.R.S. §§ 49-462 and 49-463 authorize the imposition of civil penalties and
13 injunctive relief if a company engages in a practice that constitutes a violation of statutory
14 provision in Title 49, Chapter 3, Article 2 or a rule adopted pursuant to Title 49, Chapter 3,
15 Article 2.

Safe Drinking Water Program Violations

COUNT THIRTY-NINE

COLIFORM BACTERIA MONITORING DRINKING WATER VIOLATION A.A.C. § R18-4-202(F) AND (H)

16
17
18
19
20 257. The State incorporates by reference and realleges the foregoing Paragraphs as
21 though fully set forth herein.

22 258. A.A.C. § R18-4-202(E) requires, and predecessor regulations in the A.A.C.
23 required, during all times alleged in this Complaint, public water systems to sample for coliform
24 bacteria at regular intervals throughout the month. Pursuant to A.A.C. § R18-4-202(F), the
25 required minimum number of monthly sampling events depends on the size of the population
26 served.

1 259. Beginning no later than September 2000 and continuing through January 2005 or
2 later, Defendant Far West failed to collect the minimum number of total coliform bacteria
3 samples per month, as required by A.A.C. § R18-4-202(F), for the population served by Far
4 West's public water system.

5 260. Beginning no later than January 1993 and continuing through December 2006,
6 Defendant H & S and Defendant Far West failed to collect its total coliform bacteria samples at
7 regular intervals throughout the sampling month, as required by A.A.C. § R18-4-202(E).
8 Defendant H & S failed to collect total coliform samples at regular intervals from January 1993
9 through April 1998, and Defendant Far West failed to collect the samples at regular intervals
10 from April 1998 through December 2006.

11 261. A.A.C. § R18-4-202(H) requires, and predecessor regulations in the A.A.C.
12 required, during all times alleged in this Complaint, public water systems that have sampled for
13 coliform bacteria and received a positive test result, to collect repeat samples within twenty-four
14 hours of receiving notice of the positive test result.

15 262. Upon information and belief, from February 1990 through April 1998, Defendant
16 H & S, and continuing thereafter until the present, Defendant Far West, received occasional
17 notices of positive test results for coliform bacteria in the samples collected, but failed to collect
18 the required repeat samples for coliform bacteria testing.

19 263. Each incident that Defendants failed to collect a total coliform bacteria sample, as
20 required by A.A.C. § R18-4-202(F) and predecessor regulations, and each month Defendants
21 failed to collect total coliform samples at regular intervals during that month, pursuant to A.A.C.
22 § R18-4-202(E) and predecessor regulations, constituted a separate violation of A.A.C. § R18-4-
23 202.

24 264. Each occasion on which Defendants failed to collect the required number of
25 samples to re-test for coliform bacteria constituted a separate violation of A.A.C. § R18-4-
26 202(H) and predecessor regulations.

1 284. A.A.C. § R18-4-104(A), and predecessor regulations, were adopted pursuant to
2 A.R.S. Title 49, Chapter 2, Article 9.

3 285. A.A.C. § R18-4-104(A) requires, and predecessor regulations in the A.A.C.
4 required, during all times alleged in this Complaint, that public water systems test for Nitrates
5 and report the test results to ADEQ within ten days after the end of the months in which it
6 receives the analytical result or the end of the applicable monitoring period for the test events,
7 whichever occurs first.

8 286. Defendants' public water system includes Entry Points to the Distribution System
9 ("EPDS") 001 – 006, which are groundwater wells, and EPDS 007, a surface water source.
10 Annual sampling for Nitrate is required for EPDS 001 – 006, and quarterly sampling for Nitrate
11 is required for EPDS 007, pursuant to A.A.C. § R18-4-104(A).

12 287. Defendant Far West failed to report to ADEQ the complete results of the required
13 Nitrate sampling events from its public water system water sources, identified as EPDS 001,
14 002, 003, 004, 005, 006, and 007, within the required time, for 1998, 2000, 2001, 2002, 2003,
15 2004, 2005, and 2007. Defendants H & S also failed to report to ADEQ the complete results of
16 the required Nitrate sampling events from its public water system, EPDS 003, within the
17 required time, for 1998. At most, Defendants H & S and Far West reported partial results for the
18 years 1998, 2000 through 2005, and 2007.

19 288. Defendants' failure to report results of Nitrate sampling and testing for the years
20 1998, 2001 through 2005, and 2007 violated A.A.C. § R18-4-104(A), and predecessor
21 regulations.

22 289. A.R.S. §§ 49-354(G) and (H) authorize the imposition of injunctive relief and civil
23 penalties of not more than five hundred dollars (\$500) per day per violation upon any person or
24 business entity that violates a rule adopted pursuant to A.R.S. Title 49, Chapter 2, Article 9.

1 **COUNT FORTY-FIVE**

2 **CONSUMER CONFIDENCE REPORTS**
3 **DRINKING WATER VIOLATION A.A.C. § R18-4-710(A) & (C)**

4 296. The State incorporates by reference and realleges the foregoing Paragraphs as
5 though fully set forth herein.

6 297. A.A.C. § R18-4-710(A) requires a CWS to deliver a copy of a consumer
7 confidence report ("CCR") to each customer served by July 1, annually.

8 298. A.A.C. § R18-4-710(C) requires a CWS to deliver a copy of its CCR to ADEQ
9 and to verify that the CCR has been distributed to customers as required.

10 299. Upon information and belief, Far West failed to deliver a copy of its 2005 CCR to
11 customers by July 1, 2006, and failed to deliver a copy of its 2005 CCR to ADEQ.

12 300. Far West's failure to supply the 2005 CCR to its customers and to ADEQ
13 constituted violations of A.A.C. § R18-4-710(A) and (C).

14 301. A.A.C. § R18-4-710 and predecessor regulations were adopted pursuant to A.R.S.
15 Title 49, Chapter 2, Article 9.

16 302. A.R.S. §§ 49-354(G) and (H) authorize the imposition of injunctive relief and civil
17 penalties of not more than five hundred dollars (\$500) per day per violation upon any person or
18 business entity that violates a rule adopted pursuant to A.R.S. Title 49, Chapter 2, Article 9.

19 **COUNT FORTY-SIX**

20 **FAILURE TO REPORT SAMPLING RESULTS**
21 **DRINKING WATER VIOLATION A.A.C. § R18-4-104**

22 303. The State incorporates by reference and realleges the foregoing Paragraphs as
23 though fully set forth herein.

24 304. A.A.C. § R18-4-104(A) requires, and predecessor regulations in the A.A.C.
25 required, during all times alleged in this Complaint, that public water systems routinely test for
26 disinfectant (Chlorine) residuals and report results to ADEQ within ten days after the end of the

1 month, or within ten days after the end of an applicable monitoring period prescribed by Article
2 2, whichever comes first.

3 305. Far West failed to report results of chlorine residuals for the months of October
4 2004, August 2005, September 2005, August 2006 and September 2006 within ten days after the
5 end of the month, or within ten days after the end of an applicable monitoring period.

6 306. Far West's failure to timely report the results of chlorine residual sampling and
7 testing for the months identified above constituted violations of A.A.C. § R18-4-104(A).

8 307. A.A.C. § R18-4-104, and predecessor regulations, were adopted pursuant to
9 A.R.S. Title 49, Chapter 2, Article 9.

10 308. A.R.S. §§ 49-354(G) and (H) authorize the imposition of injunctive relief and civil
11 penalties of not more than five hundred dollars (\$500) per day per violation upon any person or
12 business entity that violates a rule adopted pursuant to A.R.S. Title 49, Chapter 2, Article 9.

13 **COUNT FORTY-SEVEN**

14 **FAILURE TO MONITOR FOR TRIHALOMETHANES**
15 **DRINKING WATER VIOLATION A.A.C. § R18-4-214.02**

16 309. The State incorporates by reference and realleges the foregoing Paragraphs as
17 though fully set forth herein.

18 310. A.A.C. § R18-4-214.02 requires, and predecessor regulations in the A.A.C.
19 required, during all times alleged in this Complaint, that public water systems that use a
20 chemical disinfectant test for Trihalomethanes and report the results to ADEQ.

21 311. Defendants H & S and Far West failed to monitor for total Trihalomethanes.
22 Defendant H & S failed to perform the trihalomethanes tests and reports from approximately
23 January 1993 until approximately April 1998. Far West failed to perform the tests and reports
24 from approximately April 1998 through the 3rd quarter of 2005.

25 312. Defendants' failure to test and report for Trihalomethanes during the period of
26 January 1996 through December 2006 constituted violations of A.A.C. § R18-4-214.02.

1 313. A.A.C. § R18-4-214.02, and predecessor regulations, were adopted pursuant to
2 A.R.S. Title 49, Chapter 2, Article 9.

3 314. A.R.S. §§ 49-354(G) and (H) authorize the imposition of injunctive relief and civil
4 penalties of not more than five hundred dollars (\$500) per day per violation upon any person or
5 business entity that violates a rule adopted pursuant to A.R.S. Title 49, Chapter 2, Article 9.

6 **COUNT FORTY-EIGHT**

7 **FAILURE TO REPORT INORGANIC CHEMICALS, VOLATILE**
8 **ORGANICS, AND SYNTHETIC ORGANICS**
9 **DRINKING WATER VIOLATIONS A.A.C. Title 18, Ch. 4, Art. 2 and A.A.C. § R18-4-104**

10 315. The State incorporates by reference and realleges the foregoing Paragraphs as
11 though fully set forth herein.

12 316. A.A.C. Title 18, Chapter 4, Article 2, and A.A.C. § R18-4-104 require, and
13 predecessor regulations in the A.A.C. required, during all times alleged in this Complaint, that a
14 CWS monitor for, and report the analytical results for (a) inorganic chemicals (A.A.C. § R18-4-
15 104(U)(1)(a)), including Arsenic, Barium, Antimony and Thallium; (b) volatile organic
16 chemicals (A.A.C. § R18-4-104(U)(1)(e)), including Benzene, Carbon Tetrachloride and
17 Toluene; and (c) synthetic organic chemicals (A.A.C. § R18-4-104(U)(1)(f)), including Diquat,
18 Toxaphene, and Endrin, within ten days after the end of the month in which the CWS receives
19 the analytical results, or within ten days after the end of the applicable monitoring period
20 prescribed by rule. Test results must be reported to ADEQ in accordance with A.A.C. § R18-4-
21 104(S).

22 317. Defendants H & S and Far West failed to report, or failed to monitor and report,
23 the analytical results for inorganic chemicals, including Arsenic, Barium, Antimony and
24 Thallium; volatile organic chemicals, including Benzene, Carbon Tetrachloride and Toluene;
25 and synthetic organic chemicals, including Ciquat, Toxaphene, and Endrin. H & S failed to
26 report, or failed to monitor and report, the analytical results from approximately January 1993

1 until approximately April 1998. Far West failed to report, or failed to monitor and report, the
2 analytical results from approximately April 1998 through 2006.

3 318. Each occasion of Defendants' failure to monitor or report the required analytical
4 results between January 1993 and December 2006, as described in the paragraphs above,
5 constituted a violation of A.A.C. § R18-4-104, and predecessor regulations.

6 319. A.A.C. § R18-4-104, and predecessor regulations, were adopted pursuant to
7 A.R.S. Title 49, Chapter 2, Article 9.

8 320. A.R.S. §§ 49-354(G) and (H) authorize the imposition of injunctive relief and civil
9 penalties of not more than five hundred dollars (\$500) per day per violation upon any person or
10 business entity that violates a rule adopted pursuant to A.R.S. Title 49, Chapter 2, Article 9.

11 COUNT FORTY-NINE

12 FAILURE TO PROVIDE PUBLIC NOTICE 13 DRINKING WATER VIOLATION A.A.C. § R18-4-105

14 321. The State incorporates by reference and realleges the foregoing Paragraphs as
15 though fully set forth herein.

16 322. A.A.C. § R18-4-105 requires, and predecessor regulations in the A.A.C. required,
17 during all times alleged in this Complaint, that public water systems provide public notice of
18 any violations of the A.A.C. provisions governing public water systems. Public notice must be
19 provided within 24 hours, within 30 days, or annually depending on the potential of the violation
20 for serious adverse effects on human health.

21 323. Defendants H & S and Far West failed to provide public notice of violations in
22 accordance with A.A.C. § R18-4-105. H & S failed to provide the public notice from
23 approximately August 1991 until approximately April 1998. Far West failed to provide public
24 notice of violations from approximately April 1998 through the present.

25 324. Upon information and belief, the Defendants failed to provide copies of the public
26 notices to ADEQ pursuant to A.A.C. § R18-4-104.

1 VERIFICATION

2
3 STATE OF ARIZONA)
4 County of Maricopa) ss.

5 Joan Card, being first duly sworn upon her oath, deposes and says:

6 1. I am the Director of the Arizona Department of Environmental Quality, Water
7 Quality Division, and have been delegated the authority to verify Complaints by the Director of
8 the Department.

9 2. I have read the foregoing Complaint, know the contents thereof, and declare that
10 on my own knowledge and belief, the matters alleged herein are true, except for those matters
11 alleged on information and belief, and as to those matters, I believe the Complaint to be true.

12
13 Joan Card
14 Joan Card, Director
15 Water Quality Division
16 Arizona Department of Environmental Quality

17 SUBSCRIBED AND SWORN TO before me this 8th day of September, 2008.

18
19 Vivian Buen 9/8/08
20 Notary Public 602.771.4608

21 My Commission Expires:

22 08/31/2009



23 **WILLIAM J. BURNS**
24 Notary Public - Arizona
25 Maricopa County
26 Expires 08/31/09
27