

**PRETREATMENT SETTLEMENT AGREEMENT
BETWEEN THE CITY OF PHOENIX AND
PRUDENTIAL OVERALL SUPPLY**

This Pretreatment Settlement Agreement (“Agreement”) is entered as of _____, 2019 (“Effective Date”), by and between the **CITY OF PHOENIX (“Phoenix”)**, an Arizona municipal corporation, and **PRUDENTIAL OVERALL SUPPLY (“Industrial User”)**, an Arizona corporation doing business at 5102 West Roosevelt Street, Phoenix, Arizona 85043-2716. Phoenix and Industrial User are sometimes referred to collectively as “**Parties**” and individually as a “**Party.**”

RECITALS

A. Phoenix has authority to build, repair, and regulate sewer use and enforce sewer-related ordinances pursuant to: (1) ARIZ. REV. STAT. §§ 9-276(A)(12) and 49-391(A); (2) PHOENIX CITY CHARTER ch. II, § 2(a) and ch. IV, §§ 2(26) and (45); and (3) PHOENIX CITY CODE §§ 28-44 to 28-47.

B. PHOENIX CITY CODE § 28-45(a) requires each significant industrial user that releases industrial discharge into the sewer system to obtain a **Class A** Wastewater Discharge Permit from the Director of Phoenix’s Water Services Department (“**WSD**”).

C. Industrial User is a significant industrial user that releases industrial discharge into the sewer system. On May 11, 2018, Phoenix issued **Class A** Wastewater Permit No. 1806-1960 (“**Permit**”) to Industrial User.

D. Phoenix issued to Industrial User the following compliance and enforcement notices, which are attached and incorporated by reference as **Exhibit 1:**

1. **February 19, 2019 Notice of Violation:** Reporting violation;
2. **March 11, 2019 Notice of Violation:** Effluent (pH) violation;
3. **April 3, 2019 Notice of Violation:** Reporting violation;
4. **June 3, 2019 Notice to Show Cause:** Show cause for violations occurring from December 1, 2018 through April 1, 2019.
5. **June 19, 2019 Amended Notice to Show Cause:** Show cause for violations occurring from December 1, 2018 through April 1, 2019 (including those in the April 3, 2019 Notice).

E. After receiving Phoenix’s June 3, 2019 Notice to Show Cause, Industrial User submitted to Phoenix a Response Letter dated June 17, 2019, attached and incorporated by reference as **Exhibit 2**.

F. Phoenix and Industrial User convened on July 11, 2019 for a Show Cause Meeting, where Industrial User agreed to address all notices of violation referenced in Phoenix’s June 19, 2019 Amended Notice to Show Cause (including the April 3, 2019 Notice of Violation).

G. Phoenix and Industrial User desire to resolve all disputes between them arising out of the allegations of the Notices set forth above without litigation. The parties understand the terms of this Agreement—having negotiated them freely with sufficient time and opportunity to consult with an attorney—and now enter into the Agreement voluntarily according to the following terms, conditions, and provisions.

H. Phoenix acknowledges that Industrial User enters into this Agreement as an accord to and resolution of a dispute with Phoenix, and that this Agreement does not constitute an admission of culpability or liability by Industrial User. Industrial User acknowledges that this Agreement is not—and shall not be interpreted to be—a permit issued under PHOENIX CITY CODE ch. 28.

AGREEMENT

Now, therefore, for good and valuable consideration, Phoenix and Industrial User agree as follows:

1. RECITALS/CAPTIONS. The parties acknowledge that recitals set forth above are true and correct, and are incorporated into this Agreement by reference. The captions in this Agreement are merely for reference, and not to construe or limit the text.

2. NEGOTIATED SETTLEMENT: Under ARIZ. REV. STAT. § 49-391(C), Phoenix seeks compliance with pretreatment ordinances and recovery of civil penalties by negotiated settlement.

2.1 CIVIL PENALTY. After evaluating all considerations in accordance with ARIZ. REV. STAT. § 49-391(C) and PHOENIX CITY CODE § 28-83, Phoenix assesses against Industrial User a civil penalty of **\$1,687**. After signing this Agreement, Industrial User must promptly submit to Phoenix the signed copy and a check in the amount of **\$1,687**, payable to “City of Phoenix,” which should be delivered to:

City of Phoenix Law Department
Attn: Assistant City Attorney Micah Ray Alexander
200 West Washington Street, 13th Floor
Phoenix, Arizona 85003.

Phoenix will not deposit the check until after it has executed this Agreement.

2.2 PUBLICATION AND FEE. Under ARIZ. REV. STAT. § 49-391(C), Phoenix must provide a period of at least **30 days** for public comment before finalizing the negotiated settlement. Phoenix will publicly post in a local newspaper the Industrial User's name and address, the civil penalties assessed, other conditions of settlement, and the website of WSD's Environmental Services Division where this Agreement can be examined, available at:

<https://www.phoenix.gov/waterservices/envservices/indpretreatmentprog>.

Phoenix will pay the newspaper publication fee up front, and then submit a billing statement for that fee to Industrial User. Within **10 days** of receiving that billing statement, Industrial User must reimburse Phoenix by check in an amount not to exceed **\$1,000**, payable to "City of Phoenix," which should be delivered to:

City of Phoenix Law Department
Attn: Assistant City Attorney Micah Ray Alexander
200 West Washington Street, 13th Floor
Phoenix, Arizona 85003.

After close of the 30-day public comment period, Phoenix will execute this Agreement or take whatever action it deems appropriate based upon the public comments received.

2.3 RECIRCULATION VALVE. By December 31, 2019, Industrial User will install a modulating valve (between its equalization tank and its chemical feed tanks) that will slow or shut down flows to protect against noncompliant pH discharge.

2.4 COMPLIANCE ACADEMY. By September 1, 2021, **at least two** of Industrial User's employees responsible for wastewater permit compliance (whether associate staff manager, plant manager, general manager, production manager, or maintenance technician) will attend and complete the Industrial Pretreatment Compliance Academy's six-part series hosted by WSD's Environmental Services Division.

3. RELEASE. In exchange for Industrial User's timely payment of the

civil penalty, reimbursement of the publication fee, and fulfillment of any other conditions for settlement, Phoenix acknowledges complete satisfaction of all demands, penalties, liabilities, and actions arising out of the Notices against Industrial User—and its affiliates, partners, stockholders, directors, officers, employees, agents, assigns, or successors in interest—and Phoenix releases them from any further claims for those Notices.

4. SEVERABILITY. If any provision or application of this Agreement is invalid or illegal, then the Agreement's remainder endures unaffected and enforceable to the fullest extent permitted by law—so long as the severability does not defeat this Agreement's fundamental purposes.

5. AUTHORITY. Each party represents and warrants that: (a) the person signing this Agreement on the party's behalf is duly authorized and empowered to enter into and execute the Agreement; and (b) all persons or entities affiliated with the party are bound by the terms of this Agreement.

6. ADDITIONAL DOCUMENTS/ACTIONS. The parties agree to execute and deliver all documents and take all actions reasonably necessary to implement and enforce this Agreement.

7. ENTIRE AGREEMENT. This Agreement expresses the full agreement and understanding of the parties, superseding all prior written or oral communications. No supplement, modification, or amendment of this Agreement's terms are effective unless in writing and signed by the parties.

8. NO WAIVER. Both Phoenix and Industrial User reserve any and all legal and equitable remedies available to enforce the provisions of this Agreement. A party may not construe the failure or delay of another party to enforce—or require performance of—any of this Agreement's provisions to be a waiver of that provision. Such failure or delay will not affect the validity of any part of this Agreement or the rights of the parties to enforce every provision.

9. GOVERNING LAW. Nothing in this Agreement is intended by the parties to create any private cause of action. The laws of the State of Arizona will govern this Agreement. Any citations to a statute in this Agreement refers to the version of that statute in effect when the parties execute this Agreement. ARIZ. REV. STAT. §§ 12-133 and 12-1518 may require arbitration of a dispute. Otherwise, the dispute is subject to the jurisdiction of the Maricopa County Superior Court.

10. NO BENEFICIARIES/AGENCY. Nothing in this Agreement gives any rights or benefits to anyone but the parties. All duties and responsibilities

undertaken under this Agreement are for the exclusive benefit of Phoenix and Industrial User—and not any other party. This Agreement does not create a contractual relationship with any third party or otherwise establish any third-party beneficiaries. No third party may enforce the terms and conditions of this Agreement.

11. CONFLICT OF INTERESTS. All parties acknowledge that this Agreement is subject to cancellation within three years under ARIZ. REV. STAT. § 38-511 in the event of a city official or employee's conflict of interest. No official or employee of Phoenix may: (1) have any direct or indirect interest in this Agreement; or (2) participate in any decision relating to the Agreement that is prohibited by law.

12. FORCE MAJEURE. Industrial User will not be liable for any delay in completing its obligations hereunder resulting from any cause beyond its reasonable control, including without limitation: fire; flood or other natural disaster; action or decree of civil or military authority; insurrection; act of war; or threatened or actual terrorism or bioterrorism.

In witness whereof, Phoenix and Industrial User, having carefully read and reviewed the foregoing paragraphs, have executed this Agreement to be effective on the date first written above.

**PRUDENTIAL OVERALL SUPPLY,
AN ARIZONA CORPORATION**

**CITY OF PHOENIX, AN ARIZONA
MUNICIPAL CORPORATION**

By: Rebecca L. Koury

Ed Zuercher, City Manager

Printed Name: Rebecca L. Koury

By: _____

Title: Plant Manager

Printed Name: _____

Title: _____

Public Comment Start Date

ATTEST:

Public Comment End Date

City Clerk

APPROVED AS TO FORM:

Acting City Attorney

Exhibit 1



City of Phoenix
WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION
Quality Reliability Value

February 19, 2019

Mr. Jason Bogar
Production Manager
Prudential Overall Supply
5102 West Roosevelt Street
Phoenix, Arizona 85043-2716

Certified Mail

Return Receipt Requested

NOTICE OF VIOLATION

RE: Late Reporting – Self-Monitoring Report (SMR) Lab Results

Permit Reporting Requirements – Self-Monitoring Report

Phoenix City Code Chapter 28 – Sewers, Section 28-45 (d) (3)

Title 40 Code of Federal Regulations Part 403.12 (e) and / or (h)

Prudential Overall Supply (Prudential) is required to submit complete and accurate monthly Self-Monitoring Reports as specified in Wastewater Discharge Permit № 1806-1960. The November 2018 SMR submitted by Prudential was due in our office by December 28, 2018 and was received incomplete on December 27, 2018. Quarterly sampling results from sampling conducted on November 15, 2018 was not included in the SMR received on December 17, 2018 and was not provided until requested on February 7, 2019, forty-one (41) days late. Therefore, Prudential is in violation of permit reporting requirements.

Requirement

Prudential is required to submit to the City of Phoenix Industrial Pretreatment Program (IPP) a detailed written report **no later than March 5, 2019**, outlining the reason(s) the late reporting occurred and the corrective action(s) taken to prevent future violations. At a minimum, this report must address the following:

- A. Names and positions of all people involved with the investigation into why the violation(s) occurred.
- B. A summary of the events of the investigation, including dates and the amount of time expended on the investigation.
- C. The conclusions reached.
- D. The corrective action(s) taken or to be taken and dates, including completion dates.
- E. How this action, or actions, will prevent future violations from occurring.

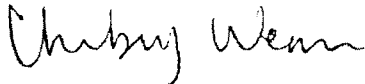
Failure to comply with the requirements of this letter will subject Prudential to further enforcement action(s). This Notice does not preclude the City from taking additional enforcement action(s) under Chapter 28 of the Phoenix City Code.

Mr. Jason Bogar
February 19, 2019
Page 2 of 2

Should you require additional time to complete the report, a written request for an extension must be submitted to IPP prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone No (602) 495-5926, or e-mail at chelsey.weaver@phoenix.gov. My office hours are from 7:00 a.m. to 3:30 p.m., Monday through Friday.

Sincerely,



Chelsey Weaver
Chief Water Quality Inspector

e-copy: Linda Palumbo
Chelsey Weaver
Jesse Flores
Julie Gentry



City of Phoenix
 WATER SERVICES DEPARTMENT
 ENVIRONMENTAL SERVICES DIVISION
 Quality Reliability Value

March 11, 2019

Ms. Rebecca Koury
 Plant Manager
 Prudential Overall Supply
 5102 West Roosevelt Street
 Phoenix, Arizona 85043-2716

Certified Mail
Return Receipt Requested

NOTICE OF VIOLATION

RE: pH Effluent Limits (Self-Monitoring)

*Permit Standard Conditions A.7.
 Phoenix City Code Section 28-8(e)*

The discharge to sewer from Prudential Overall Supply exceeded the maximum allowable limit for the following parameter as established in Wastewater Discharge Permit № 1806-1960. This violation was reported by Prudential Overall Supply on March 6, 2019.

<u>DATE</u>	<u>PARAMETER</u>	<u>DISCHARGE CONCENTRATION</u>	<u>DISCHARGE LIMITATION</u>
03/06/2019	pH	10.8 S.U.	5.0 S.U. – 10.5 S.U. (I)

* D = Daily Maximum MAV = Monthly Average I = Instantaneous Limit P = Prohibited

Requirements

1. Prudential Overall Supply is required to submit to the Environmental Services Division a detailed written report **no later than March 22, 2019**, outlining the reason(s) the late reporting and exceedance occurred, along with the corrective action(s) taken to prevent future violations. At a minimum, this report must address the following:
 - A. Names and positions of all people involved with the investigation into why the violation occurred.
 - B. A summary of the events of the investigation, including dates and amount of time expended on the investigation.
 - C. The conclusions reached.
 - D. The corrective action(s) taken or to be taken and date(s), including completion date(s).
 - E. How this action(s) will prevent future violations from occurring.

Ms. Rebecca Koury
March 11, 2019
Page 2

2. Additionally, under Standard Conditions Section G of your Permit, Prudential Overall Supply is required to automatically resample for pH, and submit in writing, the results of analysis within 30-days of becoming aware of the violation unless the City obtained a sample between the time Prudential Overall Supply performed its sampling and the time Prudential Overall Supply receives the results of the sampling.

Prudential Overall Supply became aware of the violation on **March 6, 2019; therefore, the 30-day resample is due by April 6, 2019.**

Failure to comply with the requirements of this letter will subject Prudential Overall Supply to further enforcement action(s). This Notice does not preclude the City from taking additional enforcement action(s) under Chapter 28 of the Phoenix City Code.

Should you require additional time to complete the report, a written request for an extension must be submitted to the Environmental Services Division prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone № (602) 534-1362, or e-mail at julie.gentry@phoenix.gov. My office hours are from 6:30 a.m. to 3:00 p.m., Monday through Friday.

Sincerely,



Julie Gentry
Water Quality Inspector

Enclosures: Temporary Increase in Self-Monitoring (TISM) Letter
TISM Sample Reporting Forms

c: Linda Palumbo
Chelsey Weaver
Jesse Flores
Julie Gentry



City of Phoenix
WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION
Quality Reliability Value

March 11, 2019

Ms. Rebecca Koury
Plant Manager
Prudential Overall Supply
5102 West Roosevelt Street
Phoenix, Arizona 85043-2716

Enclosure to NOV

Dated March 11, 2019

Dear Ms. Koury:

RE: Temporary Increase In Self-Monitoring (TISM) For pH

As detailed in the preceding Notice of Violation dated March 11, 2019, Prudential Overall Supply, exceeded the maximum allowable limit for pH on March 6, 2019, as established in your Wastewater Discharge Permit № 1806-1960.

REQUIREMENTS

As a result of these violations, Prudential Overall Supply is required to **sample for pH once per day for four (4) consecutive days, to begin the week of March 18, 2019.**

- a. All pH samples must be collected as grabs and instantaneous samples to be analyzed within 15-minutes of collection; therefore, the date of pH sample collection will be treated as the Aware Date for sample results for reporting purposes
- b. This sampling requirement is separate from and in addition to any other samples required under your Permit.
- c. The results of each sample must be received within five (5) days from the date of pH grab sample collection and field analysis, and shall include a twenty four (24) hour notification for any known or suspected violations.

Failure to comply with the requirements of this letter will subject Prudential Overall Supply to further enforcement action(s). Furthermore, the requested action does not preclude the City from taking additional action under Chapter 28 of the Phoenix City Code.

Should you have any questions regarding this notice, please contact me at phone № (602) 534-1362, or e-mail at julie.gentry@phoenix.gov. My office hours are from 6:30 a.m. to 3:00 p.m., Monday through Friday.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Gentry".

Julie Gentry
Water Quality Inspector

Enclosures: TISM Sample Reporting Forms



City of Phoenix
WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION
Quality Reliability Value

April 3, 2019

Ms. Rebecca Koury
Plant Manager
Prudential Overall Supply
5102 West Roosevelt Street
Phoenix, Arizona 85043-2716

Certified Mail

Return Receipt Requested

NOTICE OF VIOLATION

RE: Late Reporting – 30-Day Resample and TISM Results

Phoenix City Code Chapter 28 – Sewers, Section 28-45 (d) (3)
Title 40 Code of Federal Regulations Part 403.12 (e) and / or (h)

As part of the pH Effluent Limits (Self-Monitoring) Notice of Violation (NOV) dated March 11, 2019, Prudential Overall Supply was required to "sample for pH once per day for four (4) consecutive days, to begin the week of March 18, 2019" and report the result of those samples within five (5) days of receiving the results. Additionally, the facility was required to collect a 30-Day Resample and submit the results within five (5) days of receiving the results. The 30-Day resample was taken on March 18, 2019 and the Temporary Increase in Self-Monitoring (TISM) was started on March 19, 2019. TISM Samples were taken on March 19, 20, 21, and 22, 2019. The sample results from the 30-Day Resample and the TISM were not reported until March 25, 2019. Due to the samples being analyzed immediately following sample collection, the results should have been reported by March 23, 24, 25, 26, and 27, 2019, respectively. The 30-Day Resample and TISM Results for Prudential Overall Supply were received on March 25, 2019, therefore the 30-Day Resample and TISM #1 results were 1 and 2 days late, respectively. Prudential Overall Supply is therefore in violation.

Requirement

Prudential Overall Supply is required to submit to the City of Phoenix Industrial Pretreatment Program a detailed written report **no later than April 15, 2019**, outlining the reason(s) the late reporting occurred and the corrective action(s) taken to prevent future violations. At a minimum, this report must address the following:

- A. Names and positions of all people involved with the investigation into why the violation(s) occurred.
- B. A summary of the events of the investigation, including dates and the amount of time expended on the investigation.
- C. The conclusions reached.
- D. The corrective actions taken or to be taken and dates, including completion dates.
- E. How this action, or actions, will prevent future violations from occurring.

Ms. Rebecca Koury
April 3, 2019
Page 2

Failure to comply with the requirements of this letter will subject Prudential Overall Supply to further enforcement actions(s). This Notice does not preclude the City from taking additional enforcement action(s) under Chapter 28 of the Phoenix City Code.

Should you require additional time to complete the report, a written request for an extension must be submitted to the City of Phoenix Industrial Pretreatment Program prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone № (602) 534-1362, or e-mail at julie.gentry@phoenix.gov. My office hours are from 6:30 a.m. to 3:00 p.m., Monday through Friday.

Sincerely,



Julie Gentry
Water Quality Inspector

e-copy: Linda Palumbo
Chelsey Weaver
Jess Flores
Julie Gentry
Chase Torrence



City of Phoenix
WATER SERVICES DEPARTMENT
Quality Reliability Value

June 3, 2019

Ms. Rebecca Koury
Plant Manager
Prudential Overall Supply
5102 West Roosevelt Street
Phoenix, Arizona 85043-2716

Certified Mail

Return Receipt Requested

NOTICE TO SHOW CAUSE

Prudential Overall Supply has been previously notified of Effluent Limit and Reporting violations. In light of the pretreatment violations identified in the attached Notices, and in this Notice to Show Cause, the City of Phoenix, acting as the Control Authority pursuant to the legal authority established by Title 40, Code of Federal Regulations, Part 403, and in accordance with Chapter 28 of the Phoenix City Code, hereby notifies Prudential Overall Supply of its intent to utilize all appropriate remedies to address these pretreatment violations. These remedies include monetary penalties.

Representatives from Prudential Overall Supply are required to attend a Show Cause Meeting to be held in the Water Services Building Conference Room at:

Place: City of Phoenix 23rd Avenue WWTP
Environmental Services Division
2474 South 22nd Avenue, Building 31
Phoenix, Arizona 85009

Date: July 11, 2019

Time: 9:00 am

During the Show Cause Meeting, Prudential Overall Supply will be given the opportunity to respond to the allegations stated below, and will be asked to show cause why the City should not initiate legal action and seek the maximum penalty allowed pursuant to Phoenix City Code Chapter 28, Sections 28-82 and 28-83.

During the time period of December 1, 2018 to April 1, 2019, Prudential Overall Supply:

- Discharged in violation of applicable limitations on one occasion
- Submitted lab results a total of forty-one (41) days late

Ms. Rebecca Koury
June 3, 2019
Page 2

REQUIREMENT

Prudential Overall Supply is required to have in attendance at this meeting, persons knowledgeable about the matters alleged in this Notice, as well as persons having financial decision making authority. Representatives for Prudential Overall Supply may be accompanied by legal counsel, if so desired. A representative from the City Attorney's office will be present at the meeting.

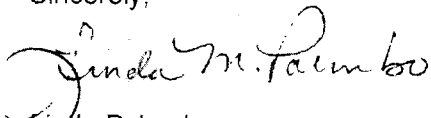
In order for any written response to this Notice to Show Cause to be considered, it must be received by the Environmental Services Division on or before Monday, July 1, 2019.

A copy of the latest edition of the City's Civil Penalty Policy is enclosed.

Your failure to appear will mean that the City of Phoenix will take all appropriate enforcement action it deems necessary, based on the facts as outlined in this Notice and attachments.

Should you have any questions regarding this Notice, please contact the Environmental Services Division at 602-262-1859. Our office hours are 8:00 a.m. to 4:00 p.m., Monday through Friday.

Sincerely,



Linda Palumbo
Environmental Programs Coordinator

Enclosures: List of Violations
NOV dated February 19, 2019 – Reporting – SMR Lab Results
Determination of Compliance Status dated February 22, 2019
NOV dated March 11, 2019 – pH Effluent Limits
Civil Penalty Policy

e-copy: Micah Alexander
Linda Palumbo
Chelsey Weaver
Jesse Flores
Julie Gentry

LIST OF VIOLATIONS

Regulated Under 40 CFR 403
Phoenix City Code Chapter 28 & Permit Number 1806-1960

CITY MONITORING VIOLATIONS

<u>Date</u>	<u>Parameter</u>	<u>Discharge Concentration</u>	<u>Discharge Limitation</u>
None	None		

SELF MONITORING VIOLATIONS

<u>Date</u>	<u>Parameter</u>	<u>Discharge Concentration</u>	<u>Discharge Limitation*</u>
03/06/2019	pH	10.8 S.U.	10.5 S.U. (I)

REPORTING VIOLATIONS

<u>Report</u>	<u>Due Date</u>	<u>Received Date</u>	<u>Days Late</u>
Self-Monitoring Report Lab Results	12/28/2018	02/07/2019	41

PERMIT CONDITIONS VIOLATIONS

<u>Date</u>	<u>Violation</u>
None	None

CITY CODE VIOLATIONS

<u>Date</u>	<u>Violation</u>
None	None

* I = Instantaneous Limit



City of Phoenix
WATER SERVICES DEPARTMENT
Quality Reliability Value

June 19, 2019

Ms. Rebecca Koury
Plant Manager
Prudential Overall Supply
5102 West Roosevelt Street
Phoenix, Arizona 85043-2716

Certified Mail

Return Receipt Requested

NOTICE TO SHOW CAUSE - Amended

Prudential Overall Supply has been previously notified of Effluent Limit and Reporting violations. In light of the pretreatment violations identified in the attached Notices, and in this Notice to Show Cause, the City of Phoenix, acting as the Control Authority pursuant to the legal authority established by Title 40, Code of Federal Regulations, Part 403, and in accordance with Chapter 28 of the Phoenix City Code, hereby notifies Prudential Overall Supply of its intent to utilize all appropriate remedies to address these pretreatment violations. These remedies include monetary penalties.

Representatives from Prudential Overall Supply are required to attend a Show Cause Meeting to be held in the Water Services Building Conference Room at:

Place: City of Phoenix 23rd Avenue WWTP
Environmental Services Division
2474 South 22nd Avenue, Building 31
Phoenix, Arizona 85009

Date: July 11, 2019

Time: 9:00 am

During the Show Cause Meeting, Prudential Overall Supply will be given the opportunity to respond to the allegations stated below, and will be asked to show cause why the City should not initiate legal action and seek the maximum penalty allowed pursuant to Phoenix City Code Chapter 28, Sections 28-82 and 28-83.

During the time period of December 1, 2018 to April 1, 2019, Prudential Overall Supply:

- Discharged in violation of applicable limitations on one occasion
- Submitted lab results a total of forty-one (41) days late
- Submitted 30-Day Resample and TISM #1 results 1 and 2 days late, respectively

Ms. Rebecca Koury
June 19, 2019
Page 2

REQUIREMENT

Prudential Overall Supply is required to have in attendance at this meeting, persons knowledgeable about the matters alleged in this Notice, as well as persons having financial decision making authority. Representatives for Prudential Overall Supply may be accompanied by legal counsel, if so desired. A representative from the City Attorney's office will be present at the meeting.

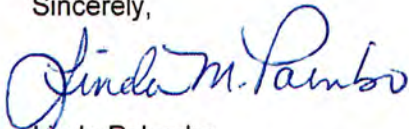
In order for any written response to this Notice to Show Cause to be considered, it must be received by the Environmental Services Division on or before Monday, July 1, 2019.

A copy of the latest edition of the City's Civil Penalty Policy is enclosed.

Your failure to appear will mean that the City of Phoenix will take all appropriate enforcement action it deems necessary, based on the facts as outlined in this Notice and attachments.

Should you have any questions regarding this Notice, please contact the Environmental Services Division at 602-262-1859. Our office hours are 8:00 a.m. to 4:00 p.m., Monday through Friday.

Sincerely,



Linda Palumbo
Environmental Programs Coordinator

Enclosures: List of Violations
NOV dated February 19, 2019 – Reporting – SMR Lab Results
Determination of Compliance Status dated February 22, 2019
NOV dated March 11, 2019 – pH Effluent Limits
NOV dated April 3, 2019 – Reporting – 30-Day Resample and TISM Results
Civil Penalty Policy

e-copy: Micah Alexander
Linda Palumbo
Chelsey Weaver
Jesse Flores
Julie Gentry

LIST OF VIOLATIONS

Regulated Under 40 CFR 403
Phoenix City Code Chapter 28 & Permit Number 1806-1960

CITY MONITORING VIOLATIONS

<u>Date</u>	<u>Parameter</u>	<u>Discharge Concentration</u>	<u>Discharge Limitation</u>
None	None		

SELF MONITORING VIOLATIONS

<u>Date</u>	<u>Parameter</u>	<u>Discharge Concentration</u>	<u>Discharge Limitation*</u>
03/06/2019	pH	10.8 S.U.	10.5 S.U. (I)

REPORTING VIOLATIONS

<u>Report</u>	<u>Due Date</u>	<u>Received Date</u>	<u>Days Late</u>
Self-Monitoring Report Lab Results	12/28/2018	02/07/2019	41
30-Day Resample Results	03/23/2019	03/25/2019	2
TISM #1 Results	03/24/2019	03/25/2019	1

PERMIT CONDITIONS VIOLATIONS

<u>Date</u>	<u>Violation</u>
None	None

CITY CODE VIOLATIONS

<u>Date</u>	<u>Violation</u>
None	None

* I = Instantaneous Limit

Exhibit 2



RECEIVED

JUN 21 2019

WATER SERVICES
ENVIRONMENTAL SERVICES
DIVISION

June 17, 2019

To the City of Phoenix Water Services Department:

This letter is in response to the Notice to Show Cause dated June 3, 2019 as a result of the pH discharge violation on March 6, 2019 and late self-monitoring lab results due on December 28, 2018. The Phoenix facility has gone through some management changes in the past several months which is part of the reason for these violations. The Notice of Violation (NOV) regarding late reporting dated February 19, 2019 was addressed to Mr. Jason Bogar who was temporarily filling in for the plant manager position at the time and not properly trained in responding to such a violation. Ms. Rebecca Koury has since taken over the plant management position and she has been much more proactive regarding wastewater treatment upsets and responding to NOV's. She responded on Mr. Bogar's behalf to the late reported NOV with the attached NonConformity Report (NCR) # 030419-001 dated March 4, 2019 and received the attached response letter from the Water Services Department on March 12, 2019. She also sent the attached NCR # 031219-01 regarding the discharge pH violation on March 12, 2019 just one day after receiving the corresponding NOV.

Prudential Overall Supply (POS) takes these violations very seriously and has recently installed an automatic dissolved air flotation skimmer that runs every two hours on a timer rather than manual skimming. POS is also working on implementing an alarm system that will alert the wastewater treatment operator if the discharge pH is getting close to the limits stated in the discharge permit. The facility has hired an experienced maintenance supervisor since the start of the year and the treatment operator has been re-trained on how to submit Self-Monitoring Report Lab Results. POS is also regularly sending Regional Maintenance Engineers to the Phoenix facility and will continue to do everything possible to stay within compliance of wastewater regulations. We hope these modifications satisfy the City of Phoenix Water Services Department.

Very sincerely,

A handwritten signature in blue ink that reads "Joel Bickel". The signature is written in a cursive style.

Joel Bickel
Environmental Staff Engineer
Prudential Overall Supply
1661 Alton Parkway
Irvine, CA 92606
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June 17, 2019
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Enclosures: NCR # 030419-001 dated March 4, 2019
NCR # 030419-001 Response Letter dated March 12, 2019
NCR # 031219-01 dated March 12, 2019

CC: Meeraj Mehta MeerajM@pos-clean.com
Leonard McAllister LeonardM@pos-clean.com
Lee Terry LeeT@pos-clean.com
Rebecca Koury RebeccaK@pos-clean.com



NonConformity Report (NCR)

NCR # 030419-001

Section 1 (Initiation)

Page 1 of 3

Date: 3/4/19

Originator: Rebecca Koury

Location: 5102 W. Roosevelt Phoenix, AZ. 85043

Manager: Steve Dalley

Material Process Complaint Other ___ Notice of
Violation _____

P.O. # (if applicable): N/A

Requirement(s):

Late Reporting: Self Monitoring Report (SMR) Lab Results. Failed to meet Permit Reporting Requirements. Phoenix

City Code Chapter 28- Sewers Section 28-45 (d) (3) Title 40 code of Federal Regulations Part 403.12 (e) and/or (h)

As per permit 1806-1960 Prudential Overall Supply is required to submit Complete and Accurate monthly Self Monitoring report.

Statement of the Non Conformity:

The November 2018 SMR report was due in office by December 28, 2018. Was received December 27, 2018 but incomplete.

The Quarterly sample results from November 15, 2018 was not included in the SMR. When Cith of Phoenix requested was provided February 7, 2019 (41 days late).

Evaluation and Potential Impact of the Non Conformity: Possible loss of permit and/or violations

Investigated root cause by General Manager, Steve Dalley, Plant Manager, Rebecca Koury, and Maintenance Supervisor Richard Foulk of Prudential.

Above Impact Evaluation Performed by: Rebecca Koury

Date: 3/4/19



NonConformity Report (NCR)

NCR # 030419-001

Document the Investigation and Analysis Performed to Identify Root Cause:

On 2/21/19 Rebecca Koury reached out to Chelsey Weaver, Chief Water Quality Inspector to request more information regarding email to Jason Bogar, noting Significant Non-Compliance Notice. Chelsey explained reason for notice. Rebecca requested to meet to review reporting requirements since New to the Phoenix location as of January 1, 2019.

Prudential has had back to back management turnover. Initially John Kinsella, previous Plant Manager was the only person in charge of the filing process. He showed Jason Bogar, Prod. Manager and Jason recently left Prudential as well.

After John Kinsella (Previous Plant Manager) left Prudential late November 2018, Jason may have not known requirement importance.

Richard Foulk misunderstood the due date of end of month to be End of month calendar. Caused 2 days late. He was not aware it was 28th of month due.

Root Cause Determination: Key Management turnover and not enough Prudential documentation and communication of process for responsible parties to comply.

Is a Corrective Action Required? YES, document required actions in section 2. NO

Root Cause & Corrective Action evaluation performed by: Rebecca Koury

Date: 3/4/19

Section 2 Proposed Corrective Action(s) & Initial Disposition:

List all Proposed Corrective Action(s) & Initial Disposition(s): Meeting/Training/ Documenting/ Planning /Verifying.

Meet with Chelsey Weaver, Chief Water Quality Inspector for Industrial Water Pre-Treatment and Julie A. Genrty, Water Quality Inspector on 2/26/19 @ 8 am. POS Attendees : Steve Dalley- GM, Rebecca Koury Plant Mngr. and Richard Foulk Maint. Supv- Completed Meeting 2/26/19.

We reviewed the permit time requirements and the reporting requirements While reviewing the Nov/ Dec 2018 report Done 2/26/19.

Rebecca reached out to Randy Helfrich of RDH Environmental Services to contract and help assure accurate and on time reporting for City of Phoenix. 3/6/19 @ 11 am Meeting set.

Chelsey sent Rebecca a copy of Prudentials Permit requirements that were forwarded to RDH for review. Meeting with RDH set for 3/6/19 at 10 am for further discussion. RDH assisted in last months report due 2/28/19. Chelsey made some reporting suggestions which are being requested from Prudntial to RDH.

This Phoenix Prudential facility will be going for ISO 9001 certification this year and a procedure on handling and managing the waste water report along with other processes of waste water will be part of Document control. All effected personal will be required to be trainied and trainig documneted on a program named ABRA.

Monthly report will be emailed to Chelsey Weaver and Julie Gentry at City of Phoenix by one of the Prudntial authorizes signees and hard copy will be Fed Ex to City of Phoenix. This will be done by the 28th of the month . Outlook calendar will be set for the three authorized Managers for a week before due date for proactive on time submissions (Steve Dalley/ Rebecca Koury/Richard



NonConformity Report (NCR)

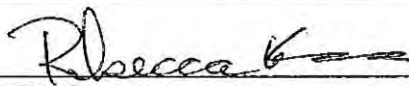
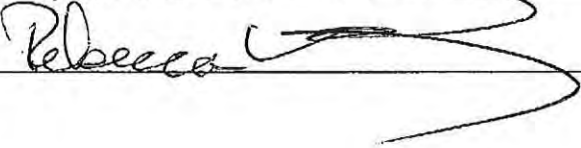
NCR # 030419-001

Foulk).

Pro-active - Prudential will send waste water Maintenance Ezequiel Garnica (Prudnetial's onsite Wastewater Tech) to the "Wastewater Compliance Sampling" class on March 28 from 9 to 11am .

On 2/26/19 Richard Foulk, Rebecca Koury and Steve Dalley completed an Authroized Signature form to assure several options for submission of report at City of Phoenix office.

Signature indicates Approval to Proceed With Above Actions and/or Disposition(s):

Responsible Manager		Date: 3/4/19
Quality Assurance		Date: 3/4/19



NonConformity Report (NCR)

NCR # 030419-001

Page 3 of 3

Section 3 Actions Performed and Completed (attach objective evidence):

Attached: Email Confirming City of Phoenix meeting date 2/26/19 @ 8 am

Attached: Email confirming RDH correspondence and Meeting date 3/6/19 @ 11 am.

Attached: Plant to be ISO certicaton this year. Corporate emai 12/12/18.

Attached: Copy of Authorized Signature form completed 2/26/19.

Attached: Richard Foulk understanding letter.

Section 4 Final Disposition(s) and Closure:

To submit Self Monitoring Reports on time to City of Phoenix no later than 28th of month.

Signature Below Indicates Confirmation of Correction, Final Disposition Completed, and Closure

Responsible Manager

Rebecca

Date:

3/4/19

Quality Assurance

Rebecca

Date:

3/4/19

Number of days to complete and close: _____

Explanation if number of days to close is over 30 days: _____

Section 5 Effectiveness Check:

Evaluation of Effectiveness of the Actions Taken: 30 Day followup 4/4/19 Scheduled

Signature below indicates the performance verification of an effectiveness check

Effectiveness Check Performed by:

(ON 4/4/19)

Date:

N/A



City of Phoenix
WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION
Quality Reliability Value

March 12, 2019

Ms. Rebecca Koury
Plant Manager
Prudential Overall Supply
5102 West Roosevelt Street
Phoenix, Arizona 85043-2716

Dear Ms. Koury:

Thank you for submitting the response letter detailing the investigative and corrective actions taken in response to the Notice of Violation (NOV) dated February 19, 2019 for the Late Reporting – Self-Monitoring Report (SMR) Lab Results violation.

While Prudential Overall Supply has met all the requirements of this NOV and no further action is required at this time, this letter does not preclude the City from considering this violation in future enforcement action(s) under Chapter 28 of the Phoenix City Code.

If you have any questions, please contact me at phone № (602) 534-1362, or e-mail at julie.gentry@phoenix.gov. My office hours are from 6:30 a.m. to 3:00 p.m., Monday through Friday.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Gentry'.

Julie Gentry
Water Quality Inspector

e-copy: Chelsey Weaver
Jesse Flores
Julie Gentry



NonConformity Report (NCR)

NCR # 031219-01

Section 1 (Initiation)

Page 1 of 3

Date: 3/12/19

Originator: Rebecca Koury

Location: 5102 W. Roosevelt Phoenix, AZ. 85043

Manager: Steve Dalley

Material Process Complaint Other Notice of Violation

P.O. # (if applicable): N/A

Requirement(s):

Readings pH Effluent Limits (Self Monitor) 5.0 pH (S.U.) to 10.5 pH (S.U.).

Permit Standard Conditions A-7 Phoenix City Code Section 28-8 (e)

Statement of the Non Conformity:

3/6/19 RDH (Lab) took reading and reported a 10.8 pH (S.U.).

Wastewater Operator relies heavily on the system that shows pH probe readings. The wastewater Operator stepped out to do an errand and while out, RDH Lab in and did a grab sample and reported 10.8 pH vs the Permit of 10.5 pH higher limit.

RDH reported that the probe was not functioning properly.

Evaluation and Potential Impact of the Non Conformity: Failure to meet Permit requirements.

Receipt of Notice of Violation

Above Impact Evaluation Performed by: Rebecca Koury

Date: 3/12/19



NonConformity Report (NCR)

NCR # _____

Page 2 of 3

Document the Investigation and Analysis Performed to Identify Root Cause:

Investigated root cause by General Manager, Steve Dalley, Plant Manager, Rebecca Koury, Maintenance Supervisor Richard Foulk Ezequiel Gamica Waste water Operator, Randy Helfrich, RDH Senior Manager, and Theresa Hayes Office Manager of RDH.

Meeting with all parties occurred on site Prudential on 3/8/19 @ 11 am. We did a walk through of oportunites so this will not occur again. Meeting was proactive to help determine root casue and corrective action.

Root Cause Determination: Bad Sensor/ New Representative for RDH

Richard Foulk concerned with skill level of RDH tech as Richard reported tech was very young and was asked several probe questions which his reply was don't know not familiar after apparent sample pulled.

Prudential Waste water Tech Ezequiel- Heavly reilant on probes.

RDH new Rep first time at Prudential and unaccompanied so Prudential was not able to verify results with New RDH personnel.

Waste Operator Ezequiel left on Errand.

Is a Corrective Action Required? YES, document required actions in section 2. NO

Root Cause & Corrective Action evaluation performed by: Rebecca Koury

Date: 3/12/19

Section 2 Proposed Corrective Action(s) & Initial Disposition:

List all Proposed Corrective Action(s) & Initial Disposition(s):

- 1) RDH will provide an established tech familiar with our facility. For consistent knowledge of Prudential. Effective right away.
- 2) RDH will be escorted by Prudential Maintenance to verify process and readings taken are verified by Prudential. Asked for RDH to page a Prudential maintenance on site to verify the process while taking readings.
- 3) Two New probes will be on site at all times 3/20/19 (Completed).
- 4) A Maintenance procedure will be created on how to clean and inspect probes by 3/29/19.
- 5) The week 3/18/19 to 3/22/19 will consist of several grab samples and reported back to City of Phoenix through RDH.
- 6) Cross training will be among all maintenance on site to allow for errands. Operator may notify relief persons of need for errand by 3/29/19. Ruben Navarro and Jorge Elizalde (Other Maintenance- Train record will be signed).
- 7) Daily Maintenance calibration will be added to daily wastewater checklist.



NonConformity Report (NCR)

NCR # _____

Signature indicates Approval to Proceed With Above Actions and/or Disposition(s):

Responsible Manager		Date: 3/12/19
Quality Assurance		Date: 3/12/19



NonConformity Report (NCR)

NCR # _____

Page 3 of 3

Section 3 Actions Performed and Completed (attach objective evidence):

Two New probes will be on site at all times 3/20/19 (Completed).

Prudential & RDH 2 hour Meeting occurred to review incident and preventive measures 3/11/19 (Completed.)

Section 4 Final Disposition(s) and Closure:

Rebecca Koury to send City of Phoenix NCR report by 3/22/19 to Chelsey Weaver & Julie Gentry

Prudential to perform extra PH Grabs for week of 3-18-19 though 3-22-19. RDH to help with official report to submit to City of Phoenix Chelsey Weaver and Julie Gentry.

Signature Below Indicates Confirmation of Correction, Final Disposition Completed, and Closure

Responsible Manager

Date:

Quality Assurance

Date:

Number of days to complete and close: _____

Explanation if number of days to close is over 30 days: _____

Section 5 Effectiveness Check:

Evaluation of Effectiveness of the Actions Taken: 30 Day review 4/12/19.

A 30 day review to follow-up and close this doc by 4/20/19.

Signature below indicates the performance verification of an effectiveness check

Effectiveness Check Performed by:

Date: