



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

**In the Matter of:**

**CONSENT ORDER**

City of Goodyear – 157<sup>th</sup> WWTP located at  
4980 S. 157<sup>th</sup> Avenue, Goodyear, Maricopa  
County, Arizona 85338

Place Id #: 1378

**Docket No.**\_\_\_\_\_

**I. RECITALS**

- A. City of Goodyear is the owner and operator of 157th WWTP facility located at 4980 S. 157th Avenue, Goodyear, Maricopa County, Arizona.
- B. Mr. Brian Dalke, City Manager is a representative of City of Goodyear and certifies that he is fully authorized to execute this Consent Order on behalf of City of Goodyear and to legally bind City of Goodyear to this Consent Order.
- C. The Director of Arizona Department of Environmental Quality (ADEQ) has jurisdiction of this action's subject matter and is authorized to issue this Consent Order pursuant to the Arizona Revised Statutes (A.R.S.) §§ 49-261, and 41-1092.07(F)(5).
- D. City of Goodyear agrees that the Director of ADEQ has jurisdiction of this action's subject matter.
- E. This Consent Order contains the full terms of the agreement between City of Goodyear and ADEQ.
- F. City of Goodyear voluntarily agrees to this Consent Order based only on the terms contained in the Consent Order.
- G. City of Goodyear understands that agreeing to this Consent Order does not resolve any liability that it may have for civil penalties for a violation of any State or Federal environmental law.
- H. City of Goodyear understands that agreeing to this Consent Order does not mean it admits to any civil or criminal liability, or waive any right or assertion of any defense available to City of Goodyear under applicable law.

Initials \_\_\_\_\_

- I. City of Goodyear does not admit the validity of any Agency Determinations and Findings contained in this Consent Order.
- J. Except in a proceeding to implement or enforce this Consent Order, both ADEQ and City of Goodyear retain the right to dispute the validity of any Agency Determinations and Findings contained in this Consent Order in any future proceeding.
- K. Except as stated in Recital J, City of Goodyear agrees to the terms of this Consent Order and agrees not to dispute the validity or terms of this Consent Order in any future proceeding.

## **II. AGENCY DETERMINATIONS AND FINDINGS**

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

A. Agency Determination/Findings:

**Permit 62909 (AZ0022357) - Part V.B.3.c. Failure to fully implement the programmatic functions as provided in 40 CFR Part 403.8(f)(2).**

As required by 40 CFR 403.8(f)(2)(v), inspect and sample the effluent from each Significant Industrial User (SIU) at least once a year. Several SIUs identified by City of Goodyear have not been permitted, inspected, or sampled.

On April 20, 2017, City of Goodyear was issued a Notice of Violation for not fully implementing its Industrial Pretreatment Program and was required to provide proof and documentation, within 120 days, that all SIUs have been permitted, inspected, and sampled.

City of Goodyear's 120-day response (dated August 24, 2017), stated the following:

- A total of eleven (11) SIUs were investigated by City of Goodyear;
- Of the eleven SIUs, three (3) did not need to be permitted;
- Of the eleven SIUs, eight (8) needed to be issued discharge permits;
- Of the eight needed to be issued discharge permits, one (1) also needed to be sampled.

### **III. COMPLIANCE SCHEDULE**

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

- A. City of Goodyear shall complete the inspection, sampling, and permitting activities pursuant to the schedule as set forth in Appendix A of this Order. City of Goodyear shall report on the progress of its inspection, sampling and permitting efforts in the monthly status report required under Section IV of this Order.
- B. By December 7, 2018, City of Goodyear shall submit in writing that the City has implemented its Industrial Pretreatment Program by issuing needed discharge permits, conducted all needed inspections and sampling efforts of the facilities set forth in Appendix A.

### **IV. STATUS REPORTS**

- A. City of Goodyear agrees to submit a written status report to ADEQ every 30 calendar days beginning 30 days from the effective date of this Consent Order, until this Consent Order terminates. Each written status report must:
  - 1. Describe what measures have been taken under Section III of this Consent Order;
  - 2. Certify when compliance with the requirements of Section III of this Order are achieved;
  - 3. Be accompanied by evidence showing compliance, as appropriate. Evidence showing compliance can include documents, photographs, or copies of any other supporting information that City of Goodyear deems necessary.
- B. ADEQ will review the status reports and inform City of Goodyear in writing of any disputes. City of Goodyear must incorporate all required modifications, changes or other alterations to the status report that ADEQ requests within a reasonable time specified by ADEQ.

## **V. COMPLIANCE WITH OTHER LAWS**

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

## **VI. SITE ACCESS**

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

## **VII. CORRESPONDENCE**

- A. City of Goodyear shall send all correspondence, such as documents, materials, plans, notices, or other items under this Consent Order, to:

Arizona Department of Environmental Quality  
Water Quality Division  
Attention: Galileo Gutierrez, EES  
1110 West Washington Street  
Phoenix, Arizona 85007-2935  
Telephone: (602) 771-3958  
Email: Gutierrez.galileo@azdeq.gov

- B. Any submission to ADEQ is treated as submitted when ADEQ receives it.
- C. ADEQ shall send all correspondence under this Consent Order to:

Javier Setovich  
City of Goodyear

190 N. Litchfield Road  
Goodyear, AZ 85338  
(623) 923-3910

With a copy to:  
Roric Massey, City Attorney  
190 N. Litchfield Road  
Goodyear, AZ 85338

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

- A. ADEQ agrees to this Consent Order based solely upon currently available information. If additional information is discovered, which indicates that the actions under this Consent Order are or will be inadequate to protect human health, safety, or the environment, or to conform with applicable federal or state laws, ADEQ has the right to require further action.
- B. ADEQ has the right to:
  - 1. Seek civil penalties for any and all violations of A.R.S. Title 49 or the applicable rules, occurring before the effective date of this Consent Order;
  - 2. Disapprove City of Goodyear's work that fails to comply with this Consent Order;
  - 3. Take enforcement action for any and all violations of this Consent Order; and,
  - 4. Take enforcement action for any and all violations of A.R.S. Title 49 or the applicable rules, occurring after the effective date of this Consent Order.
- C. As to this Consent Order, City of Goodyear waives all rights to the informal appeals process under A.R.S. § 49-1091, including an informal appeal of an approval, disapproval, or evaluation within the discretion of ADEQ.

#### **IX. VIOLATIONS OF ORDER**

If City of Goodyear fails to comply with this Consent Order, City of Goodyear can be liable for other administrative or judicial sanctions, including civil penalties under A.R.S. §49-262, the same as if for a violation of any State or Federal environmental law.

## **X. SEVERABILITY**

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

## **XI. MODIFICATIONS**

Any modifications of this Consent Order must be in writing and City of Goodyear and ADEQ both must approve the modifications.

## **XII. EFFECTIVE DATE**

The effective date of this Consent Order is the date this Consent Order is signed by ADEQ and City of Goodyear. If ADEQ and City of Goodyear sign on different dates, the later date is the effective date of this Consent Order.

## **XIII. PARTIES BOUND**

City of Goodyear is responsible, and will remain responsible, for carrying out all activities required under this Consent Order, regardless of a transfer of assets or real or personal property relating to the subject of this Consent Order, unless:

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

## **XIV. TERMINATION**

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

**Signed** this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

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Krista Osterberg, Section Manager  
Surface Water Section  
Arizona Department of Environmental Quality

**CONSENT TO ORDER**

Brian Dalke, on behalf of City of Goodyear acknowledges that he has read all of the Consent Order. Brian Dalke agrees:

- A. With the statements made,
- B. To this Consent Order with the Arizona Department of Environmental Quality, and,
- C. That City of Goodyear will comply with Consent Order and waive any right to appeal.

**Signed** this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

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Brian Dalke  
City Manager  
City of Goodyear

**ORIGINAL** of this Consent Order was sent certified mail, return receipt requested, this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, to:

CC: Via certified mail, return receipt requested on:

Roric Massey, City Attorney  
City of Goodyear  
190 N. Litchfield Road  
Goodyear, AZ 85338

[Certified Mail "Z" Number]

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

Curtis Cox, Environmental Enforcement Section, Office of the Attorney General  
Andy Koester, Unit Manager, ADEQ  
Bob England, M.D., Director, Maricopa County Health Department  
Ken Greenberg, US EPA Regional Office IX