

**PRETREATMENT SETTLEMENT AGREEMENT
(Carl T. Hayden VA Medical Center)**

AGREEMENT NO. _____

This Agreement is dated February ____, 2015, between the City of Phoenix (the “City”), a municipal corporation, and the Phoenix VA Health Care System (“PVAHCS”), a Federal agency, operating the Carl T. Hayden VA Medical Center (“CTHMC”) facility at 650 East Indian School Road, Phoenix, Arizona, 85012.

WHEREAS, pursuant to Arizona Revised Statutes, Sections 9-276 and 49-391, City of Phoenix Charter, Chapter II, Section 2 and Chapter IV, Sections 2(26) and 2(45), and Chapter 28 of the Phoenix City Code, the City has authority to build, repair and regulate sewer use and enforce the ordinances related thereto; and

WHEREAS, pursuant to Section 28-45(a) of the Phoenix City Code, the City requires each significant industrial user who releases industrial discharge into the sewer system to obtain a Class “A” Wastewater Discharge Permit from the Director of the Water Services Department; and

WHEREAS, PVAHCS’s CTHMC facility is a significant industrial user that releases industrial discharge into the sewer system; and

WHEREAS, the Water Services Director issued Class “A” Wastewater Discharge Permit Number 1201-2590 (hereinafter referred to as “Permit”) to PVAHCS for the CTHMC; and

WHEREAS, the City issued to PVAHCS the following compliance and enforcement notices in connection with its wastewater discharge at the CTHMC, all of which are attached hereto as Exhibit A and referred to collectively as the “Notices”:

- 1) August 29, 2013 Notice of Violation for exceeding the facility’s maximum allowable limit for Copper (daily discharge concentration of 1.97 mg/L on 7/5/2013);
- 2) August 29, 2013 Notice of Violation for failing to comply with the Permit condition requiring notification to the City within 24 hours of becoming aware of a discharge that is known or suspected to be in violation of any effluent limitation or provision of the Permit (24 Hour Notification Report for the Copper discharge violation due on 8/10/2013 was received eleven days late);
- 3) November 5, 2013 Notice of Violation for failing to timely report the week four results of the Temporary Increase in Self Monitoring (TISM) for Copper

(TISM #4 Report due on 10/28/13 was received one day late);

4) February 18, 2014 Notice of Violation for exceeding the facility's maximum allowable limit for Copper (daily discharge concentration of 1.83 mg/L on 1/8/2014) and Zinc (daily discharge concentration of 16.6 mg/L on 1/8/2014);

5) April 18, 2014 Notice of Violation for failing to timely report the week one results of the Temporary Increase in Self Monitoring (TISM) for Copper and Zinc (TISM #1 Report due on 3/28/14 was received 13 days late); and

6) July 31, 2014 Notice to Show Cause for violations that occurred during the time period of July 1, 2013 through March 31, 2014 as set forth in a portion of the above Notices; and

WHEREAS, the City and PVAHCS met on August 27, 2014, for a Show Cause meeting; and

WHEREAS, PVAHCS submitted a Response to the Show Cause, a copy of which is attached as Exhibit B; and

WHEREAS, it is the desire of the City and PVAHCS to resolve all disputes between them arising out of the allegations contained in the Notices without litigation; and

WHEREAS, to that end, the City and PVAHCS have entered into this Agreement in order to resolve all disputes between them arising out of the allegations contained in the Notices according to the terms, conditions and provisions hereof.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

In consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. PVAHCS has installed cathodic protection for piping of dissimilar metals throughout Building 21 at the CTHMC: (a) to reduce or eliminate pipe corrosion, (b) as a pollution prevention measure, and (c) to reduce the amount of copper and zinc leached from pipes and subsequently discharged into the City of Phoenix sanitary sewer. PVAHCS will submit written notification of the completed cathodic protection installation with supporting documentation on or before March 13, 2015 to the Environmental Services Division, City of Phoenix Water Services Department, 2474 S. 22nd Avenue, Bldg. 31, Phoenix, Arizona 85009-6918, Attn: Marji Dukowitz.

2. PVAHCS shall prepare a written procedure identifying the steps, processes, chain of command, redundancy of responsibilities, and control measures it will utilize to ensure compliance with Wastewater Discharge Permit reporting requirements at the CTHMC. The procedure must also include communication methods to be required of, and to be incorporated into contracts with, third parties performing wastewater-sampling, analysis, and/or reporting analytical results to PVAHCS. PVAHCS shall submit a draft version of the procedure to the City on or before March 13, 2015. A final version of the procedure shall be submitted by the PVAHCS to the City on or before March 27, 2015. Both versions shall be submitted to the Environmental Services Division, City of Phoenix Water Services Department, 2474 S. 22nd Avenue, Bldg. 31, Phoenix, Arizona 85009-6918, Attn: Marji Dukowitz.

3. PVAHCS shall modify content of the written training module delivered to construction project coordinators and contractors working at the CTHMC facility to include: (a) information regarding prohibited and allowable wastewater discharges, (b) requirements for project coordinators and contractors to notify PVAHCS's Green Environmental Management System¹ (GEMS) Coordinator of activities having any potential to impact wastewater discharged from the CTHMC, and (c) logs of project coordinator and contractor training. PVAHCS shall submit the modified written training module for the CTHMC to the City on or before February 27, 2015 to the Environmental Services Division, City of Phoenix Water Services Department, 2474 S. 22nd Avenue, Bldg. 31, Phoenix, Arizona 85009-6918, Attn: Marji Dukowitz.

4. PVAHCS agrees to pay a public notice newspaper publication fee in an amount not to exceed One Thousand Dollars, which shall be paid within thirty days of a receipt of a billing statement sent by the City. PVAHCS shall pay the actual publication costs and not any associated fees or penalties.

5. Timely and complete performance of all elements contained in Paragraphs 1 through 4 constitutes complete satisfaction of all claims against, and all amounts owing by, PVAHCS and its directors, officers, employees, and agents to the City arising because of or in connection with the events at the CTHMC described in the Notices. The City hereby releases PVAHCS and its directors, officers, employees, and agents from all claims, demands, penalties, liabilities, and actions, arising because of or in connection with the events at the CTHMC described in the Notices.

6. Both the City and PVAHCS reserve all legal remedies available to enforce the provisions of this Agreement. The City acknowledges that PVAHCS has entered into this Agreement as an accord to and resolution of a dispute with City, and that this Agreement does not constitute an admission of culpability or liability by PVAHCS.

¹ See VHA Directive 2005-011, March 7, 2005.

7. PVAHCS acknowledges that this Agreement is not and shall not be interpreted to be a permit issued under Chapter 28 of the Phoenix City Code.

8. The provisions of this Agreement shall be severable, and should any provision be declared by a court of competent jurisdiction to be unenforceable, the remaining provisions shall remain in full force and effect.

9. The persons executing this Agreement expressly represent and warrant that they are authorized to execute the same. Further, the parties expressly acknowledge that they, and each of them, have been, or had the opportunity to be represented by their respective attorneys in connection with the preparation and execution of this Agreement.

10. The parties agree that each of them shall undertake such further actions and execute such further documents, if any, which may be necessary or appropriate to implement this Agreement according to its terms.

11. This Agreement sets forth the complete and exclusive understanding between the parties relating to the subject matter hereof and supersedes all prior oral and written understandings, representations, proposals and communications.

12. No waiver, modification, or amendment of any provision of this Agreement shall be binding upon either party unless agreed to in writing and executed by the parties.

13. This Agreement shall be governed by U.S. Federal law. The U.S. Court will apply the laws of the State of Arizona in those circumstances where Federal law incorporates the same.

14. Nothing in this Agreement shall create any private cause of action or other right or interest in favor of any person not a party to this Agreement.

15. The parties acknowledge that this Agreement is subject to cancellation by the City pursuant to the provisions of A.R.S. Section 38-511, to the extent that state law does not conflict with federal law. PVAHCS shall not be liable for the payment of any fees or commissions described in A.R.S. Section 38-511.E.

16. Any requirement for the payment or obligation of funds by the Department of Veteran Affairs established by the terms of this Agreement shall be subject to availability of funds, and no provision herein shall be interpreted to require obligation of funds in violation of the federal Anti-Deficiency Act, 31 U.S.C. Section 1341. In cases where payment or obligation of funds would constitute a violation of the Anti-Deficiency Act, the dates established requiring the payment or obligation of funds shall be appropriately adjusted.

17. THIRTY-DAY PUBLIC COMMENT PERIOD

a. The PVAHCS acknowledges that before this Agreement can become final the City must provide a thirty-day public comment period. At a minimum, a public notification will appear in the Arizona Republic newspaper and will, among other things, inform the public of the name and address of PVAHCS, the terms of the Agreement and the locations where this Agreement may be examined. This Agreement will also be posted on the Environmental Services Division Website. After the close of the thirty-day public comment period the City will execute this Agreement or take whatever action it deems appropriate based upon the public comments received.

b. A copy of the Affidavit of Newspaper Publication will be attached as Exhibit C to this Agreement.

****** Remainder of this page intentionally left blank ******

The parties have caused this Agreement to be duly executed by their authorized representatives.

CITY OF PHOENIX, a municipal Corporation
ED ZUERCHER
City Manager

Phoenix VA Health Care System
GLEN GRIPPEN
Interim Director

By: _____

By: _____

Title: _____

Title: _____

Attest:

City Clerk

Approved as to Form:

City Attorney

Public Comment Start Date

Public Comment End Date

SLW/ab:1168939v1

Exhibit A



City of Phoenix
 WATER SERVICES DEPARTMENT
 ENVIRONMENTAL SERVICES DIVISION

August 29, 2013

Ms. Sharon M. Helman
 Medical Center Director
 Carl T. Hayden Medical Center
 650 East Indian School Road
 Phoenix, Arizona 85012

Certified Mail
Return Receipt Requested

NOTICE OF VIOLATION #17012 2920 0000 0578
 6544

RE: Effluent Limits (Self-Monitoring)

The discharge to sewer from Carl T. Hayden Medical Center (Carl T. Hayden), site 2590.06, exceeded the maximum allowable limit for the following parameter as established in your Wastewater Discharge Permit № 1201-2590. This violation was reported by Carl T. Hayden on August 21, 2013.

<u>DATE</u>	<u>PARAMETER</u>	<u>DISCHARGE CONCENTRATION</u>	<u>DISCHARGE LIMITATION</u>
7/5/2013	Copper	1.97 mg/L	1.5 mg/L (D)

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

Requirements

1. **Carl T. Hayden is required to submit to the Environmental Services Division (ESD) a detailed written report by September 13, 2013**, outlining the reason(s) the 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.

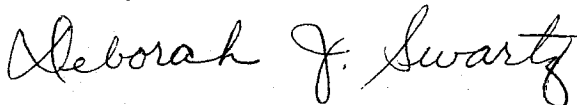
2. Additionally, under Standard Conditions Section (G) of your Permit, Carl T. Hayden is required to automatically resample for Copper, and submit in writing, the results of analysis within 30-days of becoming aware of the violation unless the City obtained a sample between the time Carl T. Hayden performed its sampling and the time Carl T. Hayden receives the results of the sampling. The City did not obtain samples during the required time frame. **Carl T. Hayden became aware of the violation on August 9, 2013; therefore, the 30-day resample is due by September 8, 2013.** Since the result of the 30-day resample was received by ESD on August 22, 2013, this requirement has been met.

Failure to comply with the requirements of this letter will subject Carl T. Hayden 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 ESD prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone No (602) 534-2082, or e-mail at deborah.swartz@phoenix.gov. My office hours are from 5:30 a.m. to 4:00 p.m., Monday through Thursday.

Sincerely,



Deborah J. Swartz
Senior Water Quality Inspector

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

c: Linda Palumbo
Marji Dukowitz



City of Phoenix

WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION

August 29, 2013

Ms. Sharon M. Helman
Medical Center Director
Carl T. Hayden Medical Center
650 East Indian School Road
Phoenix, Arizona 85012

Certified Mail
Return Receipt Requested

#7012 2920 0000 0578
4568

NOTICE OF VIOLATION

RE: Reporting – 24-Hour Notification

Carl T. Hayden Medical Center (Carl T. Hayden) is required to notify the Environmental Services Division (ESD) within 24-hours of becoming aware of a known or suspected violation as specified in Wastewater Discharge Permit № 1201-2590 Permit Standard Conditions, Section G.1. –**Notification of Noncompliance**. During a self-monitoring event on July 5, 2013, Carl T. Hayden exceeded the allowable limit for Copper. Because Carl T. Hayden received the analytical results from their contract lab on August 9, 2013, the Copper limit exceedance should have been reported by August 10, 2013. This exceedance was not reported until August 21, 2013, eleven (11) days late. Therefore, Carl T. Hayden is in violation.

Requirement

Carl T. Hayden is required to submit to ESD a detailed written report **by September 13, 2013**, 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.

Failure to comply with the requirements of this letter will subject Carl T. Hayden 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.

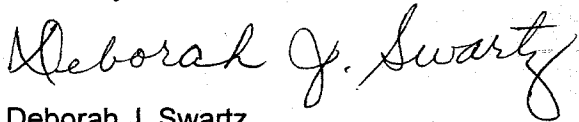
Ms. Sharon M. Helman
August 29, 2013
Page 2

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 ESD prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone № (602) 534-2082, or e-mail at deborah.swartz@phoenix.gov. My office hours are from 6:30 a.m. to 5:00 p.m., Monday through Thursday.

Sincerely,



Deborah J. Swartz
Senior Water Quality Inspector

c: Linda Palumbo
Marji Dukowitz



City of Phoenix
WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION

November 5, 2013

Ms. Sharon M. Helman
Medical Center Director
Carl T. Hayden Medical Center
650 East Indian School Road
Phoenix, Arizona 85012

Certified Mail
Return Receipt Requested

#7011150 0002 1233 123

NOTICE OF VIOLATION

RE: Reporting – Late TISM

As detailed in the Notice of Violation (NOV) dated August 29, 2013, Carl T. Hayden Medical Center exceeded the maximum allowable limit for Copper at the site 2590.06 on July 5, 2013, as established in your Wastewater Discharge Permit N° 1201-2590. As specified in the Temporary Increase in Self Monitoring letter that accompanied the NOV, Carl T. Hayden Medical Center is required to sample for Copper once per week for four consecutive weeks. The result of each sample must be received by Environmental Services Division within five days from when Carl T. Hayden Medical Center has knowledge of the result.

Because Carl T. Hayden received the analytical results for TISM #4 from their contract lab on October 23, 2013, the TISM result should have been reported by October 28, 2013. The result was not submitted until October 29, 2013; one day late. Therefore, Carl T. Hayden is in violation.

Requirement

Carl T. Hayden Medical Center is required to submit to the Environmental Services Division a detailed written report **by November 20, 2013**, 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.

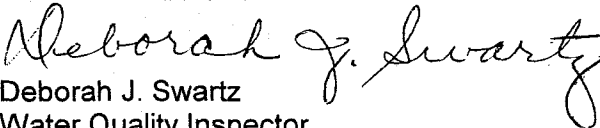
Ms. Sharon M. Helman
November 5, 2013
Page 2

Failure to comply with the requirements of this letter will subject Carl T. Hayden Medical Center 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 Environmental Services Division prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone N° (602) 534-2082, or e-mail at deborah.swartz@phoenix.gov. My office hours are from 6:30 a.m. to 4:00 p.m., Monday through Thursday.

Respectfully,


Deborah J. Swartz
Water Quality Inspector

c: Marji Dukowitz



City of Phoenix

WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION

February 18, 2014

Ms. Sharon M. Helman
Medical Center Director
Carl T. Hayden Medical Center
650 East Indian School Road
Phoenix, Arizona 85012

Certified Mail
Return Receipt Requested

#17011150000212333343

NOTICE OF VIOLATION

RE: Effluent Limits (Self-Monitoring)

The discharge to sewer from Carl T. Hayden Medical Center (Carl T. Hayden), site 2590.06, exceeded the maximum allowable limits for the following parameters as established in your Wastewater Discharge Permit № 1201-2590. These violations were reported by Carl T. Hayden on February 10, 2014.

<u>DATE</u>	<u>PARAMETER</u>	<u>DISCHARGE CONCENTRATION</u>	<u>DISCHARGE LIMITATION</u>
01/08/2014	Copper	1.83 mg/L	1.5 mg/L (D) *
01/08/2014	Zinc	16.6 mg/L	3.5 mg/L (D) *

* D = Daily Maximum

Requirements

1. **Carl T. Hayden is required to submit to the Environmental Services Division (ESD) a detailed written report by March 5, 2014**, outlining the reason(s) the 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. Sharon M. Helman
February 18, 2014
Page 2

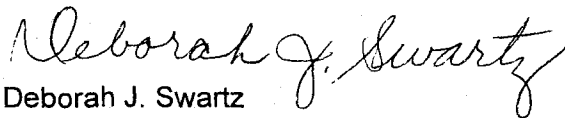
2. Additionally, under Standard Conditions Section (G) of your Permit, Carl T. Hayden is required to automatically resample for Copper and Zinc, and submit in writing the results of analysis within 30-days of becoming aware of the violation unless the City obtained a sample between the time Carl T. Hayden performed its sampling and the time Carl T. Hayden receives the results of the sampling. The City did not obtain samples during the required time frame. **Carl T. Hayden became aware of the violation on February 9, 2014; therefore, the 30-day resample is due by March 11, 2014.**

Failure to comply with the requirements of this letter will subject Carl T. Hayden 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 ESD prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone № (602) 534-2082, or e-mail at deborah.swartz@phoenix.gov. My office hours are from 6:30 a.m. to 5:00 p.m., Monday through Thursday.

Sincerely,



Deborah J. Swartz
Senior Water Quality Inspector

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

c: Linda Palumbo
Marji Dukowitz
Andrea Cooper



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

April 18, 2014

Ms. Sharon M. Helman
Medical Center Director
Carl T. Hayden Medical Center
350 East Indian School Road
Phoenix, Arizona 85012

Certified Mail
Return Receipt Requested

#17012 2920 0000 0586 0517
NOTICE OF VIOLATION

RE: Permit Conditions – Late Temporary Increase in Self Monitoring (TISM)

On February 10, 2014, Carl T. Hayden Medical Center became aware of Copper and Zinc violations which occurred during a self-monitoring event on January 8, 2014. As specified in the Temporary Increase in Self Monitoring (TISM) letter dated February 18, 2014, Carl T. Hayden Medical Center is required to sample for Copper and Zinc once per week for four consecutive weeks and submit, in writing, the analytical results within five days from when Carl T. Hayden Medical Center has knowledge of the results but in no event more than 30 days from the date of sampling. The sampling for the first TISM was performed on February 26, 2014. The analytical results were due on or before March 28, 2014 but were received on April 10, 2014: thirteen days late. Therefore, Carl T. Hayden Medical Center is in violation.

Requirements

1. Carl T. Hayden Medical Center is required to submit to the Environmental Services Division (ESD) a detailed written report **by May 3, 2014**, 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 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.

Failure to comply with the requirements of this letter will subject Carl T. Hayden Medical Center to further enforcement actions(s). This Notice does not preclude the City from taking

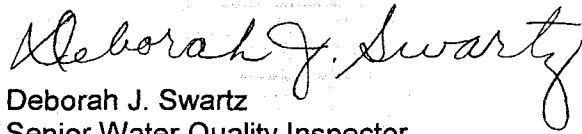
Ms. Sharon M. Helman
April 18, 2014
Page 2

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 ESD prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone No (602) 534-2082, or e-mail at deborah.swartz@phoenix.gov. My office hours are from 6:00 a.m. to 4:30 p.m., Monday through Thursday.

Respectfully,



Deborah J. Swartz
Senior Water Quality Inspector

c: Linda Palumbo
Marji Dukowitz



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

July 31, 2014

Ms. Sharon Helman
 Medical Center Director
 Carl T. Hayden Medical Center
 650 East Indian School Road
 Phoenix, Arizona 85012-1892

Certified Mail

Return Receipt Requested

7012 2920 0000 058r
 5569

NOTICE TO SHOW CAUSE

Carl T. Hayden Medical Center (Carl T. Hayden) has been previously notified of Effluent violations at Compliance Sampling Point № 2590.06. 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 Carl T. Hayden of its intent to utilize all appropriate remedies to address these pretreatment violations. These remedies include monetary penalties.

Representatives from Carl T. Hayden are required to attend a Hearing to Show Cause to be held in the Water Services Building Conference Room at:

Place: **Environmental Services Division
 2474 South 22nd Avenue, Building 31
 Phoenix, Arizona 85009**

Date: **August 27, 2014**

Time: **10:00 AM**

During the Show Cause Hearing, Carl T. Hayden will be given the opportunity to respond to the allegations stated below, and will be asked to show cause why the City should not seek monetary and/or other penalties in response to the following:

During the time period of July 1, 2013 through March 31, 2014:

- Discharged in violation of applicable limitations on at least three occasions.
- Submitted required reports late on at least three occasions.

IT IS HEREBY REQUIRED that Carl T. Hayden have in attendance at this hearing, persons knowledgeable about the matters alleged in this Notice, as well as persons having financial decision making authority. Your representatives may be accompanied by legal counsel, if you so desire. A representative from the City Attorney's office will be present at the hearing.

Ms. Sharon Helman
July 31, 2014
Page 2

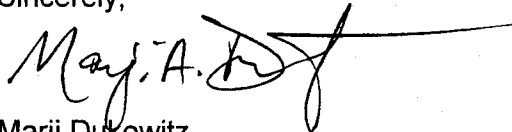
In order for us to consider any written response to this Notice, it must be received by the Environmental Services Division **on or before August 22, 2014.**

A copy of the latest edition of the City's Civil Penalty Policy, together with the Civil Penalty Calculation Worksheet, 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 5:00 p.m., Monday through Friday.

Sincerely,



Marji Dukowitz
Chief Water Quality Inspector

Enclosures: List of Violations
Penalty Calculations
Two NOVs dated August 29, 2013
NOV dated November 5, 2013
NOV dated February 18, 2014
NOV dated April 18, 2014
Civil Penalty Policy

c: Stephen Wetherell
Linda Palumbo
Marji Dukowitz
Deborah J. Swartz

LIST OF VIOLATIONS

August 27, 2014
Permit Number: 1201-2590
(Compliance Sampling Point 2590.06)
Carl T. Hayden Medical Center
650 East Indian School Road
Phoenix, Arizona 85012-1892

Regulated Under 40 CFR 403 and
City of Phoenix Local Limits

Penalty Period: July 1, 2013 through March 31, 2014 = 9 months

CITY MONITORING VIOLATIONS

<u>Date</u>	<u>Parameter</u>	<u>Discharge Concentration</u>	<u>Discharge Limitation</u>
N/A	N/A	N/A	N/A

SELF MONITORING VIOLATIONS

<u>Date</u>	<u>Parameter</u>	<u>Discharge Concentration</u>	<u>Discharge Limitation*</u>
07/05/2013	Copper	1.97 m/L	1.5 mg/L (D)
01/08/2014	Copper	1.83 m/L	1.5 mg/L (D)
01/08/2014	Zinc	16.6 m/L	3.5 mg/L (D)

REPORTING VIOLATIONS

<u>Report</u>	<u>Due Date</u>	<u>Received Date</u>	<u>Days Late</u>
24-Hour Notification	08/10/2013	08/21/2013	11
Temporary Increase In Self Monitoring	10/28/2013	10/29/2014	1
Temporary Increase In Self Monitoring	03/28/2014	04/10/2014	13

PERMIT CONDITIONS VIOLATIONS

<u>Date</u>	<u>Violation</u>
N/A	N/A

* D = Daily Maximum

MAV = Monthly Average

I = Instantaneous Limit

P = Prohibited

PENALTY CALCULATIONS WORKSHEET

August 27, 2014
 Permit Number: 1201-2590 (Site 2590.06)
 Carl T. Hayden Medical Center
 650 East Indian School Road
 Phoenix, Arizona 85012-1892

Penalty Period: July 1, 2013 through March 31, 2014 = 9 months

Effluent Violations

DATE	07/05/2013	01/08/2014	01/08/2014
PARAMETER	Copper	Copper	Zinc
VALUE	1.97 mg/L	1.83 mg/L	16.6 mg/L
LIMIT	1.5 mg/L	1.5 mg/L	3.5 mg/L
% OVER LIMIT	31%	22%	374%
TYPE VIOLATION	Daily	Daily	Daily
CITY/SELF MONITORING	Self	Self	Self
DISCHARGE (GPD)	27,992	2,530	2,530
No DAILY MEASUREMENTS	1	1	1
No AVERAGE MEASUREMENTS	N/A	N/A	N/A
A SIGNIFICANCE	1	1	4
B HEALTH	0	0	0
B AQUATIC	0.4	0.1	0.1
C FREQUENCY, DAILY	2.5	2.5	2.5
C FREQUENCY, AVERAGE	N/A	N/A	N/A
D DURATION	1.1	1.1	0.6
UNIT FACTOR	1	1	1
TOTAL FACTOR	6.0	5.7	8.2
MONETARY MULTIPLIER*	\$600	\$600	\$300
PENALTY AMOUNT	\$3,600	\$3,420	\$2,460
SUBTOTAL PENALTIES THIS PAGE			\$9,480

PENALTY CALCULATIONS WORKSHEET

August 27, 2014
 Permit Number: 1201-2590 (Site 2590.06)
 Carl T. Hayden Medical Center
 650 East Indian School Road
 Phoenix, Arizona 85012-1892

Penalty Period: July 1, 2013 through March 31, 2014 = 9 months

Reporting Violations – Missed or Late Reports

TYPE OF REPORT	24-Hour Notification	Temporary Increase in Self-Monitoring	Temporary Increase in Self-Monitoring
DATE DUE	08/10/2013	10/28/2013	03/28/2014
DATE SUBMITTED	08/21/2013	10/29/2013	04/10/2014
DAYS LATE	11	1	13
EFFLUENT VIOLATION SHOWN?	Yes	No	No
\$ PENALTY PER DAY LATE	\$60	\$30	\$30
PENALTY AMOUNT	\$660	\$30	\$390
SUBTOTAL PENALTIES THIS TABLE			\$1,080

Permit Conditions – Missed Analyses

METHOD CRITERIA- TABLE 1

PARAMETER			
PERIOD COVERED			
NUMBER REQUIRED			
NUMBER PERFORMED			
NUMBER MISSING			
\$ PENALTY PER			
PENALTY AMOUNT			
SUBTOTAL PENALTIES THIS TABLE			\$0
SUBTOTAL PENALTIES THIS PAGE			\$1,080

PENALTY CALCULATIONS WORKSHEET

August 27, 2014
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Penalty Period: July 1, 2013 through March 31, 2014 = 9 months

Effluent Violations

Parameter	No from City Monitoring	No from Self Monitoring	Total Violations	Total Penalty
Copper		2		\$7,020
Zinc		1		\$2,460
Subtotal of Effluent Violations				\$9,480

Reporting Violations

Type of Report	Total Penalty
24-Hour Notification	\$660
Late Temporary Increase in Self-Monitoring	\$420
Subtotal of Reporting Violations	
	\$1,080

Permit Condition Violations

Type of Violation	Total Violations	Total Penalty
Subtotal of Permit Condition Violations		\$0

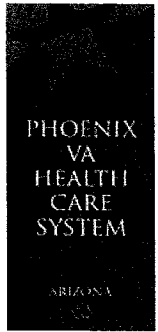
Penalty Totals

Total Penalties	\$10,560
Public Notification Publication Fee	\$1,000
Total of Penalties and Publication Fee	\$11,560

Exhibit B



DEPARTMENT OF VETERANS AFFAIRS
Phoenix VA Health Care System



August 20, 2014

In Reply Refer To: 644/00

Ms. Marji Dukowitz, Chief Water Quality Inspector
City of Phoenix Water Services Department
Environmental Services Division
2474 S. 22nd Avenue, Building 31
Phoenix, AZ 85009

Dear Ms. Dukowitz:

This letter is in response to the Notice to Show Cause regarding wastewater discharge from the Carl T. Hayden Medical Center of the Phoenix VA Health Care System (PVAHCS). We fully recognize the importance of wastewater management and appreciate the City's effort to manage our effluent in an effective manner for all of our community members. The Phoenix VA Health Care System strives to be an exemplary neighbor in our community.

Please accept the following as demonstration that the PVAHCS continues to strive to meet our permit agreement with the City.

1. **Late Notice:** we accept that we were delinquent on delivering to the City the necessary information as cited. Each incident occurred because of a unique situation attributed to our internal process or the delinquency due to our third party contractor. We have evaluated our internal processes, and have made improvements to streamline that process, including routing efficiency within our organization and backup personnel support.
2. **Excessive Discharge Concentrations:** we accept and acknowledge that concentrations exceeded the permissible limits per our agreement. For each incident, we responded with a Temporary Increase in Self-Monitoring. Additionally, following a recent second spike in discharge, we retained a third party engineer to provide an independent assessment of our entire sampling plan and to evaluate our system to determine if there was an explicit area that was leading to high concentrations.
3. **Independent Evaluation:** we retained an independent local leading expert professional engineer in wastewater systems to evaluate our sampling methods, testing laboratory, physical system and daily operations. The intention of this independent analysis was to assure our testing methods are standard and accurate, assess our daily operations and use of materials to indicate any potentially adverse impact to the wastewater discharge, and to evaluate our infrastructure to identify contributing factors to the high concentrations. That

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Carl T. Hayden VA Medical Center, Phoenix, AZ

Globe - Miami VA Health Care Clinic, Globe, Arizona Northwest VA Health Care Clinic, Surprise, Arizona
Show Low VA Health Care Clinic, Show Low, Arizona Southeast VA Health Care Clinic, Gilbert, Arizona
Thunderbird VA Health Care Clinic, Phoenix, Arizona Payson VA Health Care Clinic, Payson, Arizona

Exhibit B

evaluation indicated that our methods and processes would not abnormally cause high concentrations. The evaluation also found that while our building infrastructure could cause an increase in concentration levels, the most noticeable cause for high level concentrations was low flow in the system.

4. Low Flow: Each event of excessive concentration has occurred in the same discharge control point, our three-inch North Parshall flume (ID: 2590.06). Over the last three year recorded period, this control point has averaged approximately four gallons per minute (5,760 gallons per day). Additionally, the flow at that control point has widely varied demonstrated by a monthly standard deviation of four gallons per minute. As compared to our other three-inch Parshall flume (ID: 2590.05) which averages 14 gpm (3.6 gpm standard deviation). Flow in this similar sized flume is greater by a range of two-seven times compare to that of the north flume.
5. Overall contribution: While recognizing that our permit is written to concentration levels, we trust that the City uses that as a proxy to determine the overall volume of contaminants discharged to its system. We have provided an accompanying graphical site plan and chart to show that all discharges ultimately combine at the southeast corner near the Medical Center. Over a three-year period, the culprit control point represents less than 5% of the total discharge from the Medical Center. During this period, the maximum combined concentration of copper from the Medical Center was 0.60 mg/L, which is approximately 40% of the permissible 1.50 mg/L concentration. Similarly, for zinc, the maximum combined concentration for zinc has been 0.75 mg/L compared to the permissible concentration of 3.5 mg/L, or 22% of the permissible limit.

We fully accept responsibility for timely reporting and for exceeding the permissible concentration levels set forth in our agreement. We acknowledge that we compromised our agreement and are responsible for the assessed penalties.

However, I ask that a combined weighted assessment be used in the future for the Medical Center. We have determined that physically combining discharges on the campus would cost several million dollars to achieve, and would be very disruptive to patient care for our Veterans. Essentially, that would achieve a similar result as a weighted assessment of our discharge. I propose that we continue to report all three discharge control points, but use a combined weighted concentration method to evaluate our discharge parameters. In addition to the excessive costs associated with increased sampling and reporting, the level of effort is also large.

Page 3

Thank you for working with us to provide a solution that meets the needs of our community and helps us to stay focused on patient care to our Veterans.

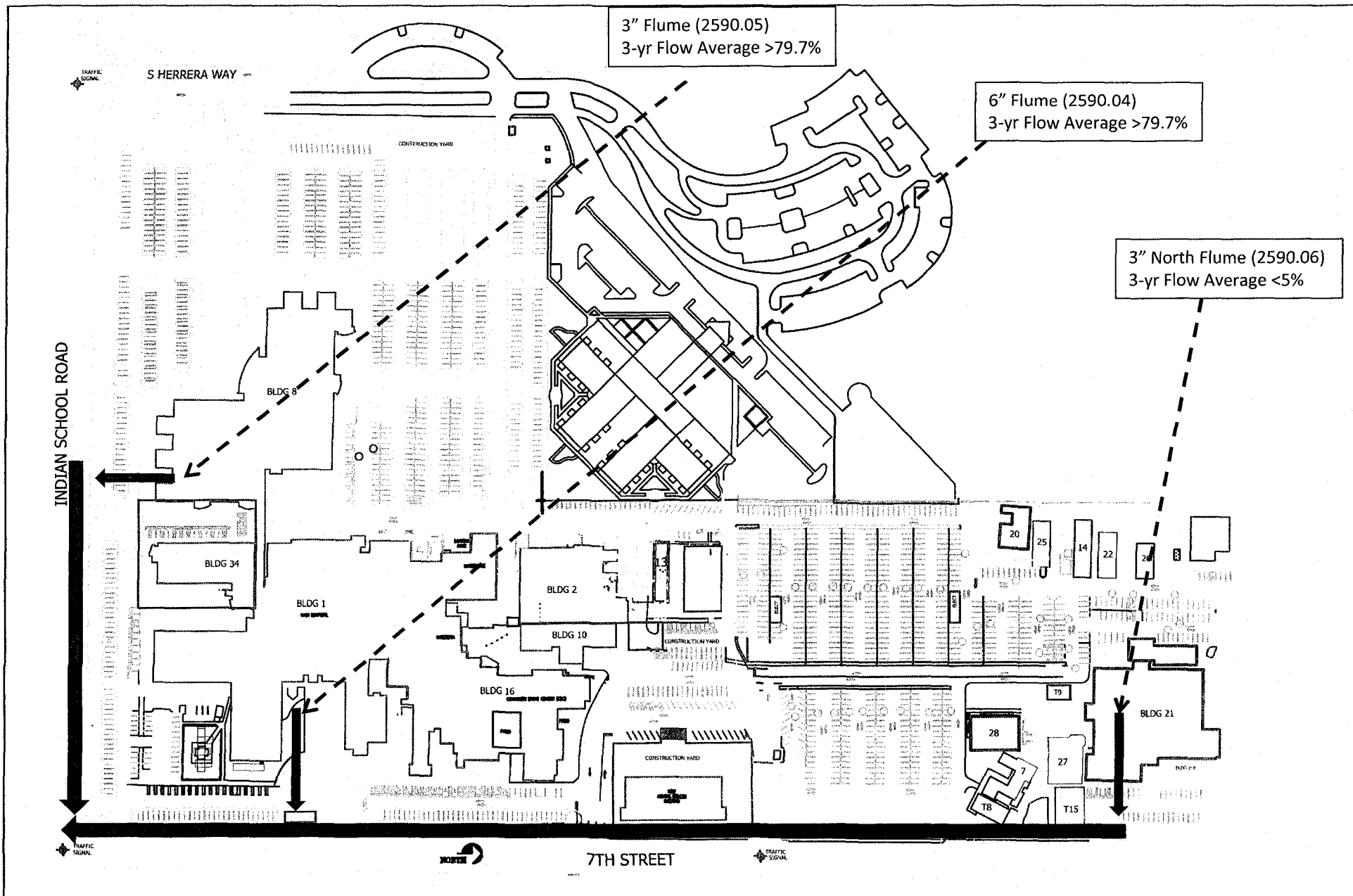
Sincerely,

A handwritten signature in black ink, appearing to read 'Glenn A. Costie', written in a cursive style.

GLENN A. COSTIE, FACHE
Interim CEO/Medical Center Director

Enclosure

Site Plan and Discharge Control Points
Graph – 3 year relative discharge



3" Flume (2590.05)
3-yr Flow Average >79.7%

6" Flume (2590.04)
3-yr Flow Average >79.7%

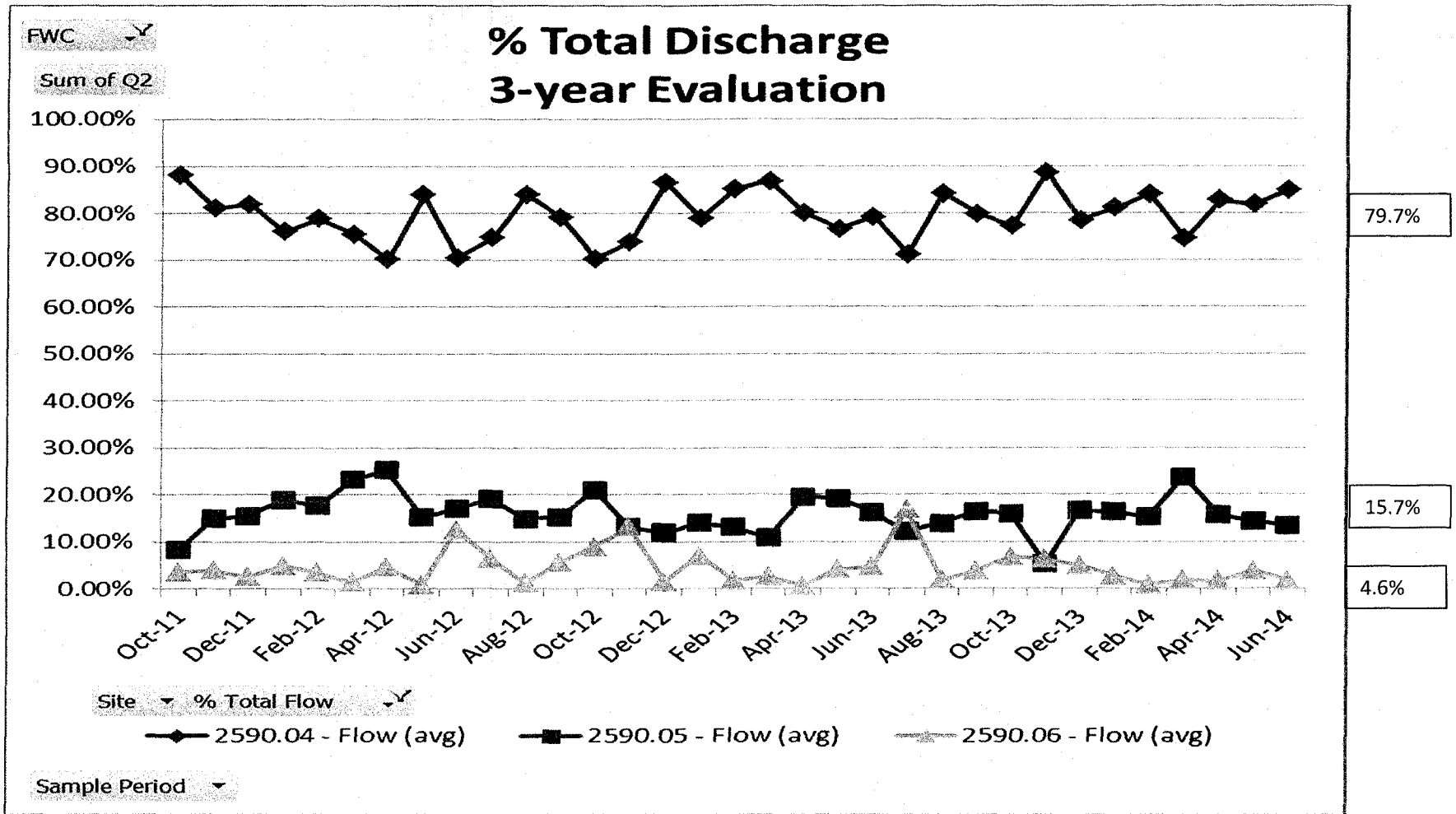
3" North Flume (2590.06)
3-yr Flow Average <5%

INDIAN SCHOOL ROAD

S HERRERA WAY

7TH STREET

TITLE: SITE PLAN WASTEWATER DISCHARGE			DATE: 11/15/11	DRAWN BY:
PROJECT:	LOCATION:	SCALE:	SHEET NO.:	TOTAL SHEETS:
APPROVED BY:	PROJECT CHIEF:	DESIGNER:	LOCATION:	PHOENIX VA HCS



- 3"North Parshall Flume