

**PRETREATMENT SETTLEMENT AGREEMENT
BETWEEN THE CITY OF PHOENIX AND
LIQUID ENVIRONMENTAL SOLUTIONS OF ARIZONA, LLC.**

This Pretreatment Settlement Agreement (“**Agreement**”) is entered as of _____, 2022 (“**Effective Date**”), by and between the City of Phoenix (“**Phoenix**”), an Arizona municipal corporation, and Liquid Environmental Solutions of Arizona, LLC (“**Industrial User**”), a Delaware limited liability company operating a facility at 5159 West Van Buren Street, Phoenix, Arizona 85043. 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 ch. 28.

B. PHOENIX CITY CODE ch. 28, art. VI requires industrial users that release industrial wastewater to the Phoenix sewer system to obtain a wastewater discharge permit from Phoenix’s Water Services Department requiring compliance with its terms.

C. Industrial User releases industrial wastewater to the Phoenix sewer system. On November 25, 2019, Phoenix issued an Amended Class A Wastewater Discharge Permit No. 1912-21741 to Industrial User authorizing it to discharge wastewater to the Phoenix sewer system in accordance with the effluent limits, sampling and reporting requirements, and other conditions set forth in the facility permit from December 1, 2019 through August 31, 2022.

D. The events and circumstances giving rise to the compliance and enforcement notices identified below occurred during the period in which Industrial User was operating under the amended wastewater discharge permit (CSP No. 21741.06 for organic-bearing wastes and CSP No. 21741.07 for oily wastes).

E. Phoenix issued to Industrial User the following compliance and enforcement notices, which are attached and incorporated by reference as **Exhibit A** and referred to collectively as the “**Notices**”:

1. August 6, 2021 Notice of Violation for discharge of industrial wastewater exceeding the facility’s maximum-allowable-daily and monthly-average-value limits for **Copper** (daily discharge concentration of **0.512 mg/L on 6/30/2021** and monthly-average-value discharge concentration of **0.512 mg/L on 6/30/2021**);

2. September 10, 2021 Notice of Violation for discharge of industrial wastewater exceeding the facility’s maximum-allowable-daily discharge for **Selenium** (daily

discharge concentration of **0.23 mg/L on 8/4/2021**);

3. September 10, 2021 Notice of Violation for failing to report the exceedances for **Selenium** (after learning of them on August 24, 2021) within 24 hours, and first reporting them **13 days late on September 7, 2021**;

4. October 21, 2021 Notice of Violation for failing to resample and report results for **Selenium** (after learning of exceedances on August 24, 2021) within 30 days, and first reporting results for the resample **19 days late on October 13, 2021**;

5. December 8, 2021 Notice of Violation for discharge of industrial wastewater exceeding the facility's maximum-allowable-daily and monthly-average-value limits for **p-Cresol** (daily discharge concentration of **10,000 ug/L on 11/3/2021**, daily discharge concentration of **17,000 ug/L on 11/4/2021**, daily discharge concentration of **7,400 ug/L on 11/18/2021**, daily discharge concentration of **7,800 ug/L on 11/19/2021**, daily discharge concentration of **8,300 ug/L on 11/22/2021**, and monthly-average-value discharge concentration of **10,100 ug/L on 11/30/2021**);

6. January 19, 2022 Notice of Violation for discharge of industrial wastewater exceeding the facility's maximum-allowable-daily and monthly-average-value limits for **p-Cresol** (daily discharge concentration of **950 ug/L on 12/7/2021**, daily discharge concentration of **1,700 ug/L on 12/10/2021**, and monthly-average-value discharge concentration of **680 ug/L on 12/31/2021**);

7. January 28, 2022 Determination of Significant Noncompliance for discharge of industrial wastewater exceeding the facility's maximum-allowable-daily and monthly-average-value limits for **p-Cresol** during the period of **July 1, 2021 through December 31, 2021**; and

8. February 2, 2022 Notice to Show Cause (Amended), scheduling a hearing for March 2, 2022 to address Industrial Pretreatment Violations by Industrial User during the period of **June 1, 2021 through January 15, 2022**.

F. Phoenix and Industrial User convened by virtual web platform on March 2, 2022 for a Show Cause Proceeding, at which the Parties addressed the events and circumstances resulting in the issuance to Industrial User of the Notices by Phoenix.

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 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 any provision of the Phoenix City Code.

AGREEMENT

For good and valuable consideration, Phoenix and Industrial User agree as follows:

1. RECITALS/CAPTIONS. The Parties acknowledge that the 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. Pursuant to 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 circumstances and 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 **\$56,330.00**. After signing this Agreement, Industrial User must promptly submit to Phoenix the signed copy and a check in the amount of **\$56,330.00**, 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. Pursuant to 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 if applicable, and the website of the Phoenix Water Service Department’s Environmental Services Division where this Agreement can be examined, available at:

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 for the publication fee charged by the newspaper in an amount not to exceed **\$500**, 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 INDUSTRIAL PRETREATMENT COMPLIANCE ACADEMY. By April 30, 2024, Industrial User's **Plant Lead** will attend and complete the Industrial Pretreatment Compliance Academy six-part series of bimonthly classes on wastewater discharge permit compliance hosted by the WSD's Environmental Services Division. There is no charge or fee to Industrial User for its personnel to attend the Industrial Pretreatment Compliance Academy classes and all six classes are offered annually, allowing Industrial User's **Plant Lead** to make up a class in the second year if unable to attend the first year.

2.4 PROCESS EQUIPMENT ADDITIONS. By December 31, 2022, Industrial User will make the following process equipment additions to its facility (at 5159 West Van Buren Street, Phoenix, Arizona 85043) for more effective separations:

2.4.1. Exempt Waste Process (Septic/Grease).

- Add Encapsulated Air Flotation (EAF) device, including new polymer/flocculent metering and compressed air system;
- Add new observation tank, including new transfer pump, piping, and valves;
- Add new level indicators for treatment tanks; and
- Add piping, electrical, and automation requirements.

2.4.2. Industrial Process (Centralized Waste Treatment).

- Add Hydro-Cyclone (or equivalent technology), receiving mix tank, and transfer pump;
- Add new dewatering hopper for solids from Hydro-Cyclone (or equivalent technology); and
- Add piping, electrical, and automation requirements.

3. RELEASE. In exchange for Industrial User's timely payment of the civil penalty, reimbursement of the publication fee, and fulfillment of all 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 the pretreatment violations alleged in the Notices and the Determination of Significant Noncompliance.

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. The Parties acknowledge that this Agreement is subject to cancellation within three years under ARIZ. REV. STAT. § 38-511 in the event of a Phoenix 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.

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.

LIQUID ENVIRONMENTAL SOLUTIONS OF ARIZONA, LLC, A DELAWARE LIMITED LIABILITY CO.

CITY OF PHOENIX, AN ARIZONA MUNICIPAL CORPORATION

By: 

JEFFREY BARTON, CITY MANAGER

Name: THOMAS G. HILLSTROM

By: _____

Name: _____

Title: VICE-PRESIDENT, TREATMENT & OPERATIONS

Title: _____

4/11/2022
Public Comment Start Date

ATTEST:

5/11/2022
Public Comment End Date

City Clerk

APPROVED AS TO FORM:

CRIS MEYER, CITY ATTORNEY

Assistant Chief Counsel

Exhibit A



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

August 6, 2021

Mr. Jonathan Bradley
 Plant Manager
 Liquid Environmental Solutions
 5159 West Van Buren Street
 Phoenix, Arizona 85043-3720

Certified Mail

Return Receipt Requested

NOTICE OF VIOLATION

RE: Effluent Limits (City-Monitoring)

*Wastewater Discharge Permit No 1912-21741
 Phoenix City Code Section 28-44 (A)
 40 CFR 437.2 (p)*

The discharge to sewer from Liquid Environmental Solutions exceeded the maximum allowable concentration for the following parameter as established in Wastewater Discharge Permit No 1912-21741 at Compliance Sample Point No 21741.07. The City of Phoenix verified that sample collection and analysis met all QA/QC criteria for these results on August 2, 2021.

<u>DATE</u>	<u>PARAMETER</u>	<u>DISCHARGE CONCENTRATION</u>	<u>DISCHARGE LIMITATION</u>
06/30/2021	Copper	0.512 mg/L	0.500 mg/L (D)
06/30/2021	Copper	0.512 mg/L	0.242 (MAV)

* D = Daily Maximum MAV = Monthly Average

Requirements

1. Liquid Environmental Solutions **is required to submit to the City of Phoenix Industrial Pretreatment Program a detailed written report no later than August 31, 2021**, outlining the reason(s) the exceedance 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 amount of time expended on the investigation.
 - C. The conclusions reached.

Mr. Jonathan Bradley
August 6, 2021
Page 2

- 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. Automatic 30-day resampling and analysis are not required by the Permittee where the City of Phoenix has performed the sampling and analysis in lieu of the Permittee. The City of Phoenix will perform the 30-day resampling and analysis unless it notifies the Permittee of the violation AND requires the Permittee to perform the 30-day resampling and analysis.

The City of Phoenix collected the 30-day resample on July 2, 2021; therefore, Liquid Environmental Solutions is not required to do so.

Failure to comply with the requirements of this letter will subject Liquid Environmental Solutions 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 City of Phoenix Industrial Pretreatment Program prior to the above due date.

Should you have any questions regarding this notice, please contact me at 602-534-2077, or email at laura.hall@phoenix.gov. My office hours are 6:00 a.m. to 2:30 p.m., Monday through Friday.

Sincerely,



Laura Hall
Senior Water Quality Inspector

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

e-copy: Linda Palumbo
Chelsey Weaver
Laura Hall



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

September 10, 2021

Mr. Jonathan Bradley
 Plant Manager
 Liquid Environmental Solutions of Arizona, LLC.
 5159 West Van Buren Street
 Phoenix, Arizona 85043-3720

Certified Mail

Return Receipt Requested

NOTICE OF VIOLATION

RE: Effluent Limits (Self-Monitoring)

*Wastewater Discharge Permit № 1912-21741.
 Phoenix City Code Section 28-44 (A)
 40 CFR 403.5 (d) Local Limit*

Wastewater discharged to sewer from Liquid Environmental Solutions of Arizona, LLC. (LES) exceeded the maximum allowable concentration for the following parameter as established in Wastewater Discharge Permit № 1912-2741 for Compliance Sample Point 21741.07. The violation was reported by LES on September 7, 2021, and the analytical results were received by LES on August 24, 2021.

<u>DATE</u>	<u>PARAMETER</u>	<u>DISCHARGE CONCENTRATION</u>	<u>DISCHARGE LIMITATION</u>
08/04/2021	Selenium	0.23 mg/L	0.10 mg/L (D)*

* D = Daily Maximum

Requirements

1. **LES is required to submit to the City of Phoenix Industrial Pretreatment Program a detailed written report no later than September 24, 2021**, 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).

Mr. Jonathan Bradley
September 10, 2021
Page 2

2. Additionally, under Standard Conditions Section G of the Permit, **LES is required to automatically resample for Selenium, and submit to the City of Phoenix Industrial Pretreatment Program in writing, the results of analysis within 30-days of becoming aware of the violation.**

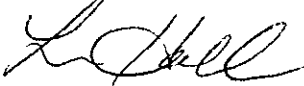
LES became aware of the violation on **August 24, 2021; therefore, the 30-day resample is due no later than September 24, 2021.**

Failure to comply with the requirements of this letter will subject LES 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 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 No (602) 534-2077, or e-mail at laura.hall@phoenix.gov. My office hours are from 6:00 a.m. to 2:30 p.m., Monday through Friday.

Sincerely,



Laura Hall
Senior Water Quality Inspector

Enclosures: Temporary Increase in Self-Monitoring (TISM) Letter
30-Day Resample & TISM Sample Reporting Forms

e-copy: Linda Palumbo
Chelsey Weaver
Laura Hall



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

September 10, 2021

Mr. Jonathan Bradley
Plant Manager
Liquid Environmental Solutions of Arizona, LLC.
5159 West Van Buren Street
Phoenix, Arizona 85043-3720

Certified Mail

Return Receipt Requested

NOTICE OF VIOLATION

RE: Late Reporting – 24-Hour Notification

*Permit Standard Conditions, Section G.1
Phoenix City Code Chapter 28 – Sewers, Section 28-44.5 (A)(2)
Title 40 Code of Federal Regulations Part 403.12 (g) (2)*

Liquid Environmental Solutions of Arizona, LLC. (LES) is required to notify the City of Phoenix Industrial Pretreatment Program within 24-hours of becoming aware of a known or suspected violation as specified in Wastewater Discharge Permit № 1912-21741 Permit Standard Conditions, Section G.1.– *Notification of Noncompliance*.

Because LES became aware of the Selenium value on August 24, 2021 for Compliance Sample Point 21741.07, the excursion should have been reported by August 25, 2021. This exceedance was not reported until September 7, 2021, 13 days late. Therefore, LES is in violation for late reporting - 24-hour notification of a permit violation.

Requirement

LES is required to submit to the City of Phoenix Industrial Pretreatment Program a detailed written report **no later than September 24, 2021** 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.

Mr. Jonathan Bradley
September 10, 2021
Page 2

Failure to comply with the requirements of this letter will subject LES 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) 534-2077, or e-mail at laura.hall@phoenix.gov. My office hours are from 6:00 a.m. to 2:30 p.m., Monday through Friday.

Sincerely,

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

Laura Hall
Senior Water Quality Inspector

e-copy: Linda Palumbo
Chelsey Weaver
Laura Hall



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

October 21, 2021

Mr. Jonathan Bradley
Plant Manager
Liquid Environmental Solutions of Arizona, LLC
5159 West Van Buren Street
Phoenix, Arizona 85043-3720

Certified Mail

Return Receipt Requested

NOTICE OF VIOLATION

RE: Late Reporting – 30 Day Resample

*Phoenix City Code Chapter 28 – Sewers, Section 28-44.5 (A)(2)
Title 40 Code of Federal Regulations Part 403.12 (e)*

Wastewater discharged to sewer from Liquid Environmental Solutions of Arizona, LLC. (LES) exceeded the maximum allowable concentration for Selenium on August 4, 2021, as established in Wastewater Discharge Permit (Permit) № 1912-21741 for Compliance Sample Point 21741.07. Under Standard Conditions Section G of the Permit, LES was required to automatically resample for Selenium, and submit to the City of Phoenix Industrial Pretreatment Program in writing, the results of analysis within 30-days of becoming aware of the violation. LES became aware of the violation on **August 24, 2021; therefore, the 30-day resample was due no later than September 24, 2021.**

The Selenium 30 Day Resample was not collected within the required timeframe, and the test result was not reported until **October 13, 2021, 19 days late**. Therefore, LES is in violation for Late Reporting – 30 Day Resample.

Requirement

LES is required to submit to the City of Phoenix Industrial Pretreatment Program a detailed written report **no later than November 5, 2021** 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.

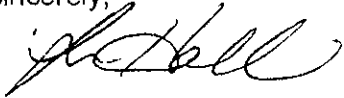
Mr. Bradley
October 21, 2021
Page 2

Failure to comply with the requirements of this letter will subject LES 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) 534-2077, or e-mail at laura.hall@phoenix.gov. My office hours are from 6:00 a.m. to 2:30 p.m., Monday through Friday.

Sincerely,

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

Laura Hall
Senior Water Quality Inspector

e-copy: Linda Palumbo
Chelsey Weaver
Laura Hall



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

December 8, 2021

Mr. Jonathan Bradley
 Plant Manager
 Liquid Environmental Solutions of Arizona, LLC
 5159 West Van Buren Street
 Phoenix, Arizona 85043-3720

Certified Mail

Return Receipt Requested

NOTICE OF VIOLATION

RE: Effluent Limits (Self-Monitoring)

*Wastewater Discharge Permit № 1912-21741
 Phoenix City Code Section 28-44 (A)
 40 CFR 437.36 (PSNS)*

The discharge to sewer from Liquid Environmental Solutions of Arizona, LLC (LES) exceeded the maximum allowable concentration for the following parameter as established in Wastewater Discharge Permit № 1912-21741 at Compliance Sample Point № 21741.06. The violations were reported by LES on November 16 and 18, 2021 and November 27, 2021, and the analytical results were received LES on November 16, 17, and 26, 2021.

<u>DATE</u>	<u>PARAMETER</u>	<u>DISCHARGE CONCENTRATION</u>	<u>DISCHARGE LIMITATION</u>
11/03/2021	p-Cresol	10000 ug/L	698 ug/L (D)
11/04/2021	p-Cresol	17000 ug/L	698 ug/L (D)
11/18/2021	p-Cresol	7400 ug/L	698 ug/L (D)
11/19/2021	p-Cresol	7800 ug/L	698 ug/L (D)
11/22/2021	p-Cresol	8300 ug/L	698 ug/L (D)
11/30/2021	p-Cresol	10100 ug/L	205 ug/L (MAV)

* D = Daily Maximum *MAV = Monthly Average

Requirements

1. **LES is required to submit to the City of Phoenix Industrial Pretreatment Program a detailed written report no later than December 31, 2021**, outlining the reason(s) the exceedance 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.

Mr. Jonathan Bradley
December 8, 2021
Page 2

- 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 the Permit, **LES is required to automatically resample for p-Cresol and submit to the City of Phoenix Industrial Pretreatment Program in writing, the results of analysis within 30-days of becoming aware of the violation.**

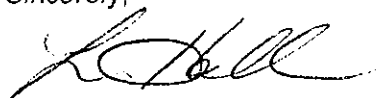
LES became aware of the violation on **November 29, 2021; therefore, the 30-day resample is due no later than December 29, 2021.**

Failure to comply with the requirements of this letter will subject LES 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 City of Phoenix Industrial Pretreatment Program prior to the above due date.

Should you have any questions regarding this notice, please contact me at 602-534-2077, or email at laura.hall@phoenix.gov. My office hours are 6:00 a.m. to 2:30 p.m., Monday through Friday.

Sincerely,



Laura Hall
Senior Water Quality Inspector

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

e-copy: Linda Palumbo
Chelsey Weaver
Laura Hall



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

January 19, 2022

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Mr. Jonathan Bradley
 Plant Manager
 Liquid Environmental Solutions of Arizona, LLC
 5159 West Van Buren Street
 Phoenix, Arizona 85043-3720

NOTICE OF VIOLATION

RE: Effluent Limits (Self-Monitoring)
 Wastewater Discharge Permit № 1912-21741
 Phoenix City Code Section 28-44 (A)
 40 CFR 437.36 (PSNS)

The discharge to sewer from Liquid Environmental Solutions of Arizona, LLC (LES) exceeded the maximum allowable concentration for the following parameter as established in Wastewater Discharge Permit № 1912-21741 at Compliance Sample Point (CSP) № 21741.06. The violations were reported by LES on December 20, 2021 and December 22, 2021, and the analytical results were received LES on December 20, 2021 and December 22, 2021. Additional p-Cresol sample results taken in the month of December 2021 by LES (27 ug/L and 43 ug/L) were averaged into the monthly average (MAV) calculation below.

<u>DATE</u>	<u>PARAMETER</u>	<u>DISCHARGE CONCENTRATION</u>	<u>DISCHARGE LIMITATION</u>
12/07/2021	p-Cresol	950 ug/L	698 ug/L (D)
12/10/2021	p-Cresol	1700 ug/L	698 ug/L (D)
12/31/2021	p-Cresol	680 ug/L	205 ug/L (MAV)

*D = Daily Maximum *MAV = Monthly Average

Requirements

1. **LES is required to submit to the City of Phoenix Industrial Pretreatment Program a detailed written report no later than January 31, 2022**, outlining the reason(s) the exceedance 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 amount of time expended on the investigation.

Mr. Jonathan Bradley
January 19, 2022
Page 2

- 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 the Permit, **LES would be required to automatically resample for p-Cresol and submit to the City of Phoenix Industrial Pretreatment Program in writing, the results of analysis within 30-days of becoming aware of the violation.**

However, LES was issued a Sampling Waiver on January 5, 2022 for p-Cresol sampling due to zero discharge of specified waste through CSP № 21741.06 as the facility investigates the cause of recent p-Cresol exceedences. Therefore, the 30-day resample and a Temporary Increase in Self-Monitoring (TISM) is not required at this time.

Failure to comply with the requirements of this letter will subject LES 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 City of Phoenix Industrial Pretreatment Program prior to the above due date.

Should you have any questions regarding this notice, please contact me at 602-534-2077, or email at laura.hall@phoenix.gov. My office hours are 6:00 a.m. to 2:30 p.m., Monday through Friday.

Sincerely,



Laura Hall
Senior Water Quality Inspector

e-copy: Linda Palumbo
Chelsey Weaver
Laura Hall



City of Phoenix
WATER SERVICES DEPARTMENT
 Quality Reliability Value

January 28, 2022

Certified Mail

Mr. Jonathan Bradley
 Plant Manager
 Liquid Environmental Solutions of Arizona, LLC
 5159 West Van Buren Street
 Phoenix, Arizona 85043-3720

Return Receipt Requested

Determination of Compliance Status

Status: **SIGNIFICANT NONCOMPLIANCE**
 Criteria: **Monthly Average/Daily Maximum TRC**
 Period: **July 1, 2021 through December 31, 2021**

The U. S. Environmental Protection Agency (EPA) requires that the City of Phoenix identify, on a quarterly basis, Significant Industrial Users in Significant Noncompliance (SNC) with pretreatment requirements. The definition of SNC is specified by the Federal General Pretreatment Regulations at 40 CFR 403.8(f)(2)(viii), and is defined in Section 28-46.4 of the Phoenix City Code.

Liquid Environmental Solutions of Arizona, LLC has been determined to be in SNC for violations of the Phoenix City Code Chapter 28 and Wastewater Discharge Permit No. 1912-21741 in that it meets the definition of SNC for Monthly Average Technical Review Criteria (TRC), and Daily Maximum TRC, for quarter four itemized as follows:

Monthly Average TRC – 4th Quarter				
<u>Month</u>	<u>Parameter</u>	<u>Monthly Average Discharge Concentration</u>	<u>TRC Discharge Limitation</u>	<u>Compliance Criteria Status</u>
July	p-Cresol	0.080 mg/L	0.205 mg/L	Compliance
August	p-Cresol	0.197 mg/L	0.205 mg/L	Compliance
September	p-Cresol	0.060 mg/L	0.205 mg/L	Compliance
October	p-Cresol	0.055 mg/L	0.205 mg/L	Compliance
November	p-Cresol	10.100 mg/L	0.205 mg/L	Violation
December	p-Cresol	0.680 mg/L	0.205 mg/L	Violation

TRC Non-Compliance Percentage = 33.3 % (TRC SNC = 33% or greater)

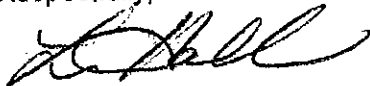
Daily Maximum TRC - 4th Quarter				
Day	Parameter	Daily Maximum Discharge Concentration	TRC Discharge Limitation	Compliance Criteria Status
07/08/2021	p-Cresol	0.1400	0.698 mg/L	Compliance
07/09/2021	p-Cresol	0.0190	0.698 mg/L	Compliance
08/17/2021	p-Cresol	0.5200	0.698 mg/L	Compliance
08/23/2021	p-Cresol	0.0000	0.698 mg/L	Compliance
08/24/2021	p-Cresol	0.0720	0.698 mg/L	Compliance
09/01/2021	p-Cresol	0.1200	0.698 mg/L	Compliance
09/02/2021	p-Cresol	0.0000	0.698 mg/L	Compliance
10/13/2021	p-Cresol	0.0180	0.698 mg/L	Compliance
10/21/2021	p-Cresol	0.0910	0.698 mg/L	Compliance
11/03/2021	p-Cresol	10.0000	0.698 mg/L	Violation
11/04/2021	p-Cresol	17.0000	0.698 mg/L	Violation
11/18/2021	p-Cresol	7.4000	0.698 mg/L	Violation
11/19/2021	p-Cresol	7.8000	0.698 mg/L	Violation
11/22/2021	p-Cresol	8.3000	0.698 mg/L	Violation
12/07/2021	p-Cresol	0.9500	0.698 mg/L	Violation
12/08/2021	p-Cresol	0.0270	0.698 mg/L	Compliance
12/10/2021	p-Cresol	1.7000	0.698 mg/L	Violation
12/21/2021	p-Cresol	0.0430	0.698 mg/L	Compliance

TRC Non-Compliance Percentage = 38.9% (TRC SNC = 33% or greater)

As required by the National Pretreatment Program regulations and the Phoenix City Code, the City must publish Liquid Environmental Solutions of Arizona, LLC in a newspaper of general circulation as being in Significant Noncompliance with applicable pretreatment requirements during the calendar year 2021. This publication will take place in the first or second quarter of 2022.

Should you have any questions regarding how SNC status was determined please contact me at phone No (602) 534-2077, or e-mail at laura.hall@phoenix.gov. My office hours are from 6:00 a.m. to 2:30 p.m., Monday through Friday.

Respectfully,



Laura Hall
 Senior Water Quality Inspector

Enclosures: Determination of TRC Significant Noncompliance (SNC)

Mr. Jonathan Bradley
January 28, 2022
Page 3

e-copy: Jennifer Calles
Linda Palumbo
Chelsey Weaver
Jesse Flores
Stephen Wetherell
Laura Hall

CITY OF PHOENIX CIVIL PENALTY POLICY

INTRODUCTION

The purpose of the civil penalty policy is to (1) deter potential violators, (2) to provide fair and equitable treatment of the regulated community, (3) to facilitate swift resolution of environmental problems, (4) to deter future noncompliance by providing an incentive for users to remain in compliance, and (5) to remove the economic benefit a user gains over others by not complying. Any civil penalty associated with pretreatment violations must reflect the seriousness, frequency and persistence of each and every violation. The penalty amount should be such that it deters the violator from making future violations while sending a general message of deterrence to the regulated community. For purposes of arriving at a settlement with a violator, the City has devised a mathematical formula for computing a penalty amount for pollutant and reporting violations. It should be noted that **ANY COSTS ASSOCIATED WITH THE VIOLATION(S) (SUCH AS SAMPLING, ANALYSIS, INVESTIGATION, SURVEILLANCE) AND ANY HARM DONE TO THE ENVIRONMENT OR DAMAGE TO THE CITY IS NOT TAKEN INTO ACCOUNT IN ARRIVING AT A PENALTY. THESE COSTS CAN BE RECOVERED** under the authorities contained in various sections of the Phoenix City Code, including Chapter 28, and **MUST BE** recovered in addition to any civil penalty.

The City has developed a Civil Penalty Policy (CPP) that contains detailed procedures as to how the City of Phoenix Pollution Control Division will calculate civil penalties for instances of industrial user noncompliance. The CPP is intended for the use of City personnel and does not create any rights or obligations nor should it be used or relied upon by non-city personnel for any purpose. The City of Phoenix Pollution Control Division reserves the right to act at variance with the CPP and to change it at any time without public notice.

CRIMINAL PENALTY FINE AUTHORITY

Any violation of Chapter 28 of the Phoenix City Code is a Class 1 misdemeanor punishable by up to \$2,500 for each violation in addition to a maximum prison term of 6 months. This is authorized by Section 28-62 of the Phoenix City Code and Section 9-240 of the Arizona Revised Statutes.

CIVIL PENALTY AUTHORITY

Civil Penalties are authorized under Section 28-83 of the Phoenix City Code and Section 49-391 of the Arizona Revised Statutes. The maximum amount that can be imposed is \$25,000 per day for each violation. For continuing violations, each day may constitute a separate offense.

SEEKING CIVIL PENALTIES

Pretreatment violations are not created equally. This requires a review of all surrounding facts in order to determine the appropriate enforcement response. Civil and criminal penalties can be sought for a single pretreatment violation. You do not have to wait until a specific number of pretreatment violations is reached before seeking these penalties. A single violation may be such that the imposition of civil and or criminal penalties is necessary. Generally the City will seek civil penalties under the following circumstances:

- (1) two or more effluent violations have occurred within a ninety (90) day period.
- (2) Unpermitted discharges:
 - Failure to comply; continues after notice by the POTW
 - Discharge continues after expiration, termination or revocation of permit.
- (3) Reporting violation
 - Two or more reports are late within a 180 day period.
 - Any single report thirty days or more late.
 - Failure to correct report with missing or incomplete information.
 - Failure to report spill or changed discharge.
- (4) Recurring failure to monitor correctly.
- (5) Recurring improper sampling.
- (6) Recurring missed milestones in an enforceable compliance schedule.
- (7) Failure to start construction, complete construction, or achieve compliance within 90 days of the date specified in an enforceable order.
- (8) Recurring wastestreams diluted in lieu of treatment.
- (9) Failure to mitigate noncompliance or halt production, aware of noncompliance in progress.
- (10) Failure to comply with a requirement to cease discharge.
- (11) Recurring to properly operate and maintain pretreatment facility.
- (12) Recurring failure to provide free access.
- (13) Recurring inadequate record keeping.
- (14) Recurring failure to report additional monitoring.
- (15) Any other situation in which civil penalties are necessary or legal action is contemplated, or
- (16) Any instance of Significant (SNC).

CIVIL COMPLAINT TO OBTAIN CIVIL PENALTY

If the City and violator cannot arrive at a settlement for past pretreatment violations, then a lawsuit may be filed by the City Attorney in Maricopa County Superior Court. The amount of civil penalty is determined by the judge, after a consideration of the following statutory factors:

1. "The seriousness of the violation,
2. The economic benefit, if any, resulting from the violation,
3. Any history of such violation,
4. Any good faith efforts to comply with the applicable requirements,
5. The economic impact of the penalty on the violator, and
6. Such other factors as justice may require."

ARS §49-391C.

Determination of Civil Penalty

The determination of the Civil Penalty is accomplished by calculating the economic benefit a violator is expected to have realized by delaying installation or improper operation of pretreatment equipment and adding this amount to the gravity component determined by the Civil Penalty Formula discussed below. Economic Benefit is calculated by following the procedures of the EPA Manual Dated September 5, 1990 entitled Guidance Manual for POTWs to Calculate the Economic Benefit of Noncompliance.

GRAVITY COMPONENT OF CIVIL PENALTY FORMULA

Violations of Permit Conditions

The penalty for permit conditions is not easy to calculate because it is not as susceptible to exact mathematical precision as are discharge limits and reporting violations. Therefore, a general common sense approach focusing on the seriousness, frequency and persistence of the problem must be used to arrive at an amount somewhere between \$1.00 and \$25,000. The following penalty amounts should be considered minimum, and represent the normal penalty for this type of violation:

pH analysis	\$100
Cyanide	\$200
Metals analysis	\$300
TTO	\$600

Discharge Limit

The penalties for discharge limitation violations are computed from the formula shown below. **FOR SETTLEMENT PURPOSES:** The City uses a monetary multiplier of \$300 multiplied by the total factor to arrive at a penalty amount for daily average or instantaneous limit effluent violations. The monetary multiplier for monthly average effluent violations is \$50 multiplied by the total factor and the number of production days in the month.

FOR EACH VIOLATION, a separate calculation is performed. The formula represents a base amount* multiplied by a sum of factors:

DAILY LIMIT

$$\text{\$ Penalty} = \text{\$}300 \times (1+A+B+C+D)$$

MONTHLY AVERAGE

$$\text{\$ Penalty} = \text{\$}50 \times (1+A+B+C+D) \times 30$$

4-DAY AVERAGE

$$\text{\$ Penalty} = \text{\$}300 \times (1+A+B+C+D) \times 4$$

* Base amount for Daily Limit violations of Copper and Lead is \$600, and \$100 for monthly average violations.

Magnitude Component

A. (i) Significance of Discharge Limit Violation

<u>% Exceedance of Daily or Slug Limit</u>	<u>% Exceedance of Average Limit</u>	<u>Factor</u>
1 - 50	1 - 20	1
51 - 100	21 - 40	2
101 - 200	41 - 100	3
201 - 600	101 - 300	4
601 - 1000	301 - 500	5
1001 - 2000	501 - 1000	6
2001 - 3000	1001 - 1500	7
3001 - 4000	1501 - 2000	8
4001 - 5000	2001 - 2500	9
> 5000	> 2500	10

(ii) Significance of pH Violation

<u>Low pH Range</u>	<u>High pH Range</u>	<u>Factor</u>
4.50 - 4.99	10.51 - 10.99	0
4.00 - 4.49	11.00 - 11.49	1
3.50 - 3.99	11.50 - 11.99	3
3.00 - 3.49	12.00 - 12.49	6
<3.0	12.50	10

B. Health and Environmental Harm or Potential Harm

<u>Discharge Volume (gpd)</u>	<u>Health Effects*</u>	<u>Aquatic or Sludge</u>
to 10,000	0.2	0.1
10,000 - 25,000	0.4	0.2
25,001 - 50,000	0.8	0.4
50,001 - 100,000	1.2	0.6
100,001 - 250,000	2.0	1.0
> 250,000	4 - 10	2 - 10

*Applies to pH, Cyanide, Sulfides, residual Chlorine, VOCs, or any other material posing a threat to workers in the system, or the public.

C. Number of Violations

This factor accounts for the number of violations occurring in a given month, or the frequency of the violations. For violations of both an average limit and daily limit(s), the same factor should be applied.

Determine the percentage of the number of measurements which were violations and multiply this percentage by 2.5. Repeat this calculation for the average limit and then add the two results to arrive at a factor.

Example:

Four (4) violations of the daily copper limit and one (1) violation of the monthly copper limit occur in March. There were eight (8) daily measurements made and one (1) computation (measurement) of the monthly average.

NOTE: This frequency computation is performed separately for self-monitoring and City monitoring. Do **NOT** combine either the number of violations or the number of measurements.

4 daily violations / 8 measurements = 50%
1 average violation / 1 measurement = 100%

2.5 x 0.50 = 1.25
2.5 x 1.00 = 2.50

The factor then = 3.75

D. Duration of Non-Compliance

Factor = 0 - 5

This factor addresses the length of time the violator has been in noncompliance. Count the number of months in the penalty period (18 months) in which the parameter limit was violated one or more times and divide this count by the total number of months in the penalty period. This fraction is then multiplied by 5.0 and rounded to one decimal place to arrive at this "Duration Factor".

Example:

Violations from April through December are being addressed in a Show Cause Hearing for copper, lead and zinc. Copper violations occurred in April, October and November.

3 months of violations
9 month penalty period X 5.0 = 1.7 factor

ALL REPORTING VIOLATIONS

One of the more common types of pretreatment violations is in the area of late reporting. This occurs when a reporting deadline passes and the report is filed late or not at all. These types of violations should not occur because compliance with reporting deadlines is generally within the absolute control of the Permittee. The amount of civil penalty for reporting violations can be derived from the following table.

Significance of Reporting Violations

A. Reports Not Showing Discharge Limit Violation

No. Of Days A Report Is Late	Amount
1 - 29	\$ 30.00 Day (1-29 days)
30 - 59	\$ 50.00 Day (1-59 days)
60 - 89	\$ 100.00 Day (1-89 days)
90 - 179	\$ 200.00 Day (1-179 days)
180 or more	\$ 400.00 Day (each day)

B. Report Showing Discharge Limit Violation

No. Of Days A Report Is Late	Amount
1 - 29	\$ 60.00 Day (1-29 days)
30 - 59	\$ 100.00 Day (1-59 days)
60 - 89	\$ 200.00 Day (1-89 days)
90 - 179	\$ 400.00 Day (1-179 days)
180 or more	\$ 800.00 Day (each day)

ADJUSTMENT FACTORS

After the economic benefit and gravity elements have been calculated, the next and final step is to apply certain adjustment factors that may increase or decrease the amount calculated thus far. These adjustment factors are:

- * The ability of the violator to pay may be considered in order to decrease the amount of the total penalty to be paid.
- * The history of recalcitrance of the violator may be considered to make an increase in the total penalty to be paid.
- * Litigation considerations may be used to make a decrease in the total penalty to be paid.

IN SUMMARY, THE PENALTY CALCULATION EQUALS THE SUM OF THE ECONOMIC BENEFIT AND THE GRAVITY COMPONENTS PLUS OR MINUS ANY ADJUSTMENTS.

REPEAT VIOLATORS

There may be instances when industries who have previously paid civil penalties for pretreatment violations and or were required to perform under a compliance schedule later commit new violations after payment of penalties or after completion of the compliance schedule. Repeat violators must be addressed and handled as described in this section. If all violations occur after six (6) consecutive months in which the industry was in full compliance with pretreatment requirements, then calculate the economic benefit and the civil penalty amounts using the Determination of Civil Penalty formula previously described above. However, if any pretreatment violation occurs prior to achieving six (6) consecutive months of compliance, then the base amount of the formula is **doubled** and the dollars per day amount for reporting violations is calculated by the formula shown below. Continue the calculation using the remaining elements of the formula. If, after the penalty amount has been calculated and the total is less than the maximum amount that could be imposed under the law, the recalcitrance adjustment factor shall be carefully analyzed to determine its applicability in this instance. In summary, for repeat violators, the penalty amount is determined as follows:

\$ Penalty = Economic Benefit + \$600(1+A+B+C+D) + reporting violations ± adjustment factors:

A. Reports Not Showing Discharge Limit Violation

No. Of Days A Report Is Late		Amount
1 - 29	\$ 60.00 Day	(1-29 days)
30 - 59	\$ 100.00 Day	(1-59 days)
60 - 89	\$ 200.00 Day	(1-89 days)
90 - 179	\$ 400.00 Day	(1-179 days)
180 or more	\$ 800.00 Day	(each day)

B. Report Showing Discharge Limit Violation

No. Of Days A Report Is Late		Amount
1 - 29	\$ 120.00 Day	(1-29 days)
30 - 59	\$ 200.00 Day	(1-59 days)
60 - 89	\$ 400.00 Day	(1-89 days)
90 - 179	\$ 800.00 Day	(1-179 days)
180 or more	\$1600.00 Day	(each day)



City of Phoenix
WATER SERVICES DEPARTMENT
Quality Reliability Value

February 2, 2022

Mr. Jonathan Bradley
Plant Manager
Liquid Environmental Solutions of Arizona, LLC.
5159 West Van Buren Street
Phoenix, Arizona 85043-3720

Certified Mail

Return Receipt Requested

NOTICE TO SHOW CAUSE - AMENDED

Liquid Environmental Solutions of Arizona, LLC. (LES) has been previously notified of effluent limit and reporting violations. In light of the pretreatment violations identified below and detailed in the attached notices, the City of Phoenix – acting as the Control Authority under 40 CFR Part 403 and operating in accordance with Phoenix City Code, Chapter 28 – hereby notifies Industrial User that the City will use all appropriate remedies (including monetary penalties) to address the pretreatment violations.

Industrial User's representatives must attend a Show Cause Proceeding at:

Address: **WebEx – Virtual Platform**
Room: **Link and information to be provided via e-mail**
Date/Time: **9:00 am on Wednesday, March 2, 2022**

During the Show Cause Proceeding, Industrial User will have the opportunity to respond to the City's allegations and to show cause why the City should not initiate legal action or seek the maximum penalty allowed under Phoenix City Code Sections 28-82, 83.

Industrial User, during the time period of **June 1, 2021 to January 15, 2022:**

- **Discharged in violation of applicable limitations on at least nine occasions.**
- **Submitted two reports a total of thirteen and nineteen days late respectively.**

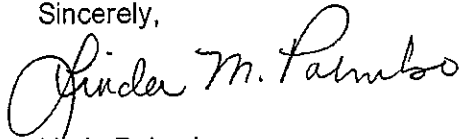
REQUIREMENT

For the City to consider any written response to this Notice to Show Cause, the City's Environmental Services Division must receive that response from Industrial User by **Monday, February 28, 2022**. A Copy of the City's Civil Penalty Policy detailing such considerations is enclosed.

Industrial User must have persons knowledgeable about the alleged matters – and persons having financial decision-making authority – in attendance at this meeting. Industrial User's representatives may be accompanied by their legal counsel if desired. (A representative from City's Law Department will be present at the meeting.) Industrial User's failure to appear at the meeting will result in the City taking all appropriate enforcement action it deems necessary, based on the facts outlined in this Notice and its attachments.

If you have any questions regarding this Notice, please contact the Environmental Services Division at 602-262-1859. Its 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
Penalty Calculations
NOV dated August 6, 2021 - Copper
NOV dated September 10, 2021 - Selenium
NOV dated September 10, 2021 - Late Reporting
NOV dated October 21, 2021 - Late Reporting
NOV dated December 8, 2021 – p-Cresol
NOV dated January 19, 2022 – p-Cresol
Determination of Compliance Status dated January 28, 2022
Civil Penalty Policy

e-copy: Stephen Wetherell
Jennifer Calles
Linda Palumbo
Chelsey Weaver
Jesse Flores
Laura Hall

LIST OF VIOLATIONS

Regulated Under 40 CFR 403, 40 CFR 437
Phoenix City Code Chapter 28 & Permit Number 1912-21741

CITY MONITORING VIOLATIONS

<u>Date</u>	<u>Parameter</u>	<u>Compliance Sampling Point</u>	<u>Discharge Concentration</u>	<u>Discharge Limitation*</u>
06/30/2021	Copper	21741.07	0.512 mg/L	0.500 mg/L (D)
06/30/2021	Copper	21741.07	0.512 mg/L	0.242 mg/L (MAV)

SELF MONITORING VIOLATIONS

<u>Date</u>	<u>Parameter</u>	<u>Compliance Sampling Point</u>	<u>Discharge Concentration</u>	<u>Discharge Limitation*</u>
08/04/2021	Selenium	21741.07	0.23 mg/L	0.10 mg/L (D)
11/03/2021	p-Cresol	21741.06	10000 µg/L	698 µg/L (D)
11/04/2021	p-Cresol	21741.06	17000 µg/L	698 µg/L (D)
11/18/2021	p-Cresol	21741.06	7400 µg/L	698 µg/L (D)
11/19/2021	p-Cresol	21741.06	7800 µg/L	698 µg/L (D)
11/22/2021	p-Cresol	21741.06	8300 µg/L	698 µg/L (D)
11/30/2021	p-Cresol	21741.06	10100 µg/L	205 µg/L (MAV)
12/07/2021	p-Cresol	21741.06	950 µg/L	698 µg/L (D)
12/10/2021	p-Cresol	21741.06	1700 µg/L	698 µg/L (D)
12/31/2021	p-Cresol	21741.06	680 µg/L	205 µg/L (MAV)

REPORTING VIOLATIONS

<u>Report</u>	<u>Due Date</u>	<u>Received Date</u>	<u>Days Late</u>
24 Hour Notification	08/25/2021	09/07/2021	13
30 Day Resample	09/24/2021	10/13/2021	19

PERMIT CONDITIONS VIOLATIONS

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

CITY CODE VIOLATIONS

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

* D = Daily Maximum

MAV = Monthly Average

PENALTY CALCULATIONS WORKSHEET

Penalty Period: June 1, 2021 through January 15, 2022 = 7.5 months

Effluent Violations

Parameter	No from City Monitoring	No from Self-Monitoring	Total Violations	Total Penalty
Copper	2	0	2	\$ 26,453.33
Selenium	0	1	1	\$ 2,270.00
p-cresol	0	9	9	\$ 45,033.33
Subtotal of Effluent Violations				\$ 73,756.66

Reporting Violations

Type of Report	Total Penalty	
24-Hour Notification	\$ 780.00	
30-Day resample	\$ 570.00	
Subtotal of Reporting Violations		\$ 1,350.00

Permit Conditions Violations

Type of Violation	Total Violations	Total Penalty
None		
Subtotal of Permit Condition Violations		\$ 0.00

City Code Violations

Type of Violation	Total Violations	Total Penalty
None		
Subtotal of City Code Violations		\$ 0.00

Penalty Totals

Total Penalties	\$ 75,106.66
Public Notification Publication Fee	\$1,000
Total of Penalties and Publication Fee	\$ 76,106.66

