

PINEWOOD SANITARY DISTRICT OF COCONINO COUNTY
18075 FAIRWAY DRIVE
MUNDS PARK AZ 86017

1 **KRISTIN MAYES**

Attorney General

2 Firm Bar No. 14000

3 **GINGER SPRONG**

Assistant Attorney General

4 Environmental Enforcement Section

5 State Bar No. 037459

2005 N. Central Avenue

6 Phoenix, Arizona 85004-1592

7 Telephone: (602) 542-8521

environmental@azag.gov

8 *Attorneys for Plaintiff*

9 **THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **FOR MARICOPA COUNTY**

11 **STATE OF ARIZONA,**

12 **Plaintiff,**

13 **vs.**

14 **Pinewood Sanitary District of Coconino**
15 **County,**

16 **Defendant.**

Civil Action No. CV2024-027256

CONSENT JUDGMENT

(Non-classified Civil)

(Assigned to Hon. Susanna Pineda)

17
18
19 **I. RECITALS**

20
21 A. The State of Arizona, Arizona Department of Environmental Quality (the
22 “State,” “ADEQ,” “Plaintiff” or “Department”), filed civil complaint CV2024-027256
23 (“Complaint”) against Pinewood Sanitary District of Coconino County, (“Defendant”)
24 pursuant to the Arizona Aquifer Protection Permit program (“APP”) and the Arizona
25 Pollutant Discharge Elimination System program (“AZPDES”), Arizona Revised Statutes
26

1 (“A.R.S.”) Title 49, Chapter 2, Articles 3 and 3.1; and the Arizona Administrative Code
2 (“A.A.C”) Title 18, Chapter 9. The Complaint sought civil penalties and injunctive relief
3 pursuant to A.R.S. § 49-262.
4

5 B. The Defendant owns and operates the Pinewood Sanitary District
6 Wastewater Treatment Plant (“WWTP”), located at 18075 Fairway Drive, Munds Park,
7 Arizona, 86017.
8

9 C. On or about September 27, 2024, the State filed the Complaint in the
10 Superior Court of Arizona, County of Maricopa against the Defendant. The Defendant
11 acknowledges through its authorized representative it has been served with a copy of the
12 Summons and Complaint in this action and has been fully advised of its right to a trial in
13 this matter and waives the same.
14

15 D. Defendant admits the jurisdiction of this Court and that venue is proper in
16 Maricopa County.

17 E. Defendant has consented to the terms and entry of this Consent Judgment
18 and acknowledges that the State has made no promise of any kind or nature other than
19 what is set forth in this Consent Judgment, and that the Defendant has entered into this
20 Consent Judgment voluntarily and after due consideration.
21

22 F. It is in the best interests of the State and the public to enter into this
23 Consent Judgment. The parties hereby intend to completely and finally settle and release
24 the civil liability of the Defendant for the violations described in the Complaint, and
25 hereby move the Court to enter this Consent Judgment according to the following terms:
26

1 **NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND**
2 **DECREED** as follows:

3 **II. JURISDICTION AND VENUE**

4 A. The Court has jurisdiction over the subject matter of this action and the
5 parties pursuant to the Arizona Constitution Article 6, §14 and A.R.S. §§ 49-262, *et. seq.*
6 The Complaint states claims upon which relief may be granted against Defendants.

7 B. Venue is proper in Maricopa County under A.R.S. § 12-401(17) and A.R.S.
8 § 49-265.
9

10 **III. BINDING EFFECT**

11 A. This Consent Judgment constitutes and embodies the full and complete
12 understanding of the parties and supersedes all prior understandings or agreements,
13 whether oral or in writing, which pertain to the subject matter contained herein.
14

15 B. The parties hereby consent to the terms and entry of this Consent Judgment,
16 and agree not to contest its validity in any subsequent proceeding. This Consent
17 Judgment applies to and is binding upon the State and upon the Defendant and its officers
18 and directors.
19

20 C. The Defendant shall provide a copy of this Consent Judgment to each
21 contractor retained to perform any activity required by this Consent Judgment. In any
22 action to enforce this Consent Judgment, the Defendant shall not raise as a defense the
23 failure by any of its agents, servants, contractors, employees, successors or assigns to
24 take actions necessary to comply with this Consent Judgment.
25
26

1 D. Any change in ownership or corporate status of the Defendant including,
2 but not limited to, any transfer of assets or real or personal property shall in no way alter
3 such Defendant's responsibilities under this Consent Judgment. If the Defendant sells or
4 otherwise conveys or assigns any of its right, title or interest in the WWTP, such sale,
5 conveyance or assignment shall not release the Defendant from any obligation imposed
6 by this Consent Judgment, unless:
7

8 1) The party to whom the right, title or interest has been sold, transferred or
9 assigned agrees in writing to fulfill the obligations of this Consent Judgment; and,
10

11 2) ADEQ approves the provision transferring the obligations.

12 E. The Defendant shall notify the State in writing of any purchase or
13 succession in interest at least thirty (30) days prior to such transfer. The Defendant shall
14 give written notice of the existence of this action and provide a copy of this Consent
15 Judgment to any successors in interest or transferees.
16

17 F. Defendant certifies that its undersigned representative is fully authorized to
18 enter into the terms and conditions of this Consent Judgment, to execute it on behalf of
19 Pinewood Sanitary District and to legally bind Pinewood Sanitary District to its terms.
20

21 G. The State shall have the right to record this Consent Judgment in every
22 County in Arizona.
23

24 **IV. DEFINITIONS**

25 The terms used in this Consent Judgment shall have the same meanings as defined
26 in Title 49, A.R.S., Chapter 2, and all applicable regulations enacted thereunder.

1 “Complaint” means the civil complaint no. CV2024-027256 filed by the State in
2 the Superior Court of Arizona, County of Maricopa against the Defendant on or about
3 September 27, 2024.
4

5 “Consent Judgment” shall mean this Consent Judgment agreed to and signed by
6 the parties, and adopted by the Court as a resolution to the Complaint.

7 “Defendant” shall mean Pinewood Sanitary District.

8 “Day” shall mean a calendar day, unless otherwise noted. In computing any
9 period under this Consent Judgment, where the last day would fall on a Saturday,
10 Sunday, or a State or Federal holiday, the period shall run until the close of business of
11 the next working day.
12

13 “Effective Date” shall be the date that the Consent Judgment is entered by this
14 Court.
15

16 “Facility” shall mean Defendants WWTP located near 18075 Fairway Drive,
17 Munds Park, Arizona 86017.

18 “Force Majeure” is defined as any event arising from causes beyond the
19 reasonable control of Pinewood Sanitary District or its contractors that delays the
20 performance of any obligation under this Consent Judgment. Force Majeure does not
21 include financial inability to complete any requirement of this Consent Judgment.
22

23 “Parties” means the State, and Pinewood Sanitary District.

24 “State” means the Plaintiff, State of Arizona, Arizona Department of
25 Environmental Quality. For purposes of this Consent Judgment, the State does not
26

1 include any other Agency, Board, Commission, Department, Officer or employees of the
2 State of Arizona.

3 4 **V. CIVIL PENALTY**

5 A. The Defendant shall pay to the State the sum of \$150,000 United States
6 dollars as a civil penalty pursuant to A.R.S. §49-262(C). The civil penalty shall be paid in
7 three (3) installments. Defendant shall pay the sum of \$50,000 to the State within 30
8 days from the Effective Date; Defendant shall pay the sum of \$50,000 to the State within
9 365 days from the Effective Date; Defendant shall pay the sum of \$50,000 to the State
10 within 730 days from the Effective Date.

12 B. The Defendant may make any payment required by this Consent Judgment
13 at any time prior to the deadline specified in this Consent Judgment without premium or
14 penalty.

16 C. The Defendant and the State agree that the civil penalty imposed by the
17 State and agreed to by the Defendant constitutes a debt for a fine, penalty or forfeiture
18 payable to and for the benefit of a governmental unit, is not compensation for actual
19 pecuniary loss, and is specifically non-dischargeable under 11 U.S.C. § 523(a)(7). Upon
20 entry of this Consent Judgment, the State shall be deemed a judgment creditor for
21 purposes of collecting the civil penalty.

23 24 **VI. MANNER OF PAYMENT**

25 All payments made to the State under this Consent Judgment, including the civil
26 penalty and any interest payments, shall be made by cashier's check, county warrant, or

1 money order payable to ADEQ and shall be hand-delivered or mailed and postmarked,
2 postage prepaid, to:

3
4 Assistant Director, Business and Finance
Arizona Department of Environmental Quality
5 1110 W. Washington Street
Phoenix, AZ 85007
6 Attention: Accounts Receivable
accountsreceivable@azdeq.gov
7

8 together with a letter tendering the check. All letters regarding payment shall identify this
9 case by the names of the Parties and the Court docket number. Copies of the letters shall
10 be sent to the Office of the Attorney General at:

11
12 Ginger Sprong
Assistant Attorney General
13 Environmental Enforcement Section
Office of the Attorney General
14 2005 N. Central Ave, Phoenix, Arizona 85004
Ginger.Sprong@azag.gov
15

16 and to ADEQ at:

17 Case Manager
Danielle Duncan
18 Arizona Department of Environmental Quality
1110 W. Washington Street
19 Phoenix, AZ 85007
Duncan.Danielle@azdeq.gov
20

21 **VII. COMPLIANCE SCHEDULE**

22 Upon the Effective Date, the Defendant shall:

- 23
24 A. In addition to the monitoring and reporting requirements outlined in the Defendant's
25 AZPDES and APP permits, in the event of an unauthorized discharge, or anticipated
26 or unanticipated bypass of the full wastewater treatment process:

- 1 1. Cease the discharge as soon as possible, and promptly disinfect and
2 dechlorinate the discharge.;
- 3 2. Report to ADEQ the following within thirty (30) days of the discharge or
4 bypass:
 - 5 i. Volume and location of discharge;
 - 6 ii. Sample the discharge, and provide results (including data package(s)) of
7 sampling according to AZPDES Permit No. AZ0025879 Table 1 –
8 Effluent Limitations and Monitoring Requirements. Sampling must be
9 completed according to AZPDES Permit No. AZ0025879 Section A
10 Sample Collection and Analysis.
- 11 3. Notify Pinewood Sanitary District customers and users according to the
12 Communications Plan created under part (D) of this Section (Compliance
13 Schedule) within twenty-four (24) hours. If the Communications Plan has not
14 been approved yet and a bypass or discharge event occurs, Defendant shall
15 notify Pinewood Sanitary District customers and downstream users within 24-
16 hours.
- 17 4. If ADEQ issues a notice of violation to Defendant subsequent to a discharge or
18 bypass event, any additional information requested within the notice shall be
19 submitted to ADEQ within the time frame specified in the notice.
20
21
22
23
24
25
26

1 B. On the first day of the first month of each quarter, (January 1, April 1, July 1, October
2 1), after the Effective Date, until this Judgment terminates or ADEQ adjusts the
3 reporting schedule, Defendant shall submit a written status report to ADEQ;
4

5 1. Each status report shall:

6 i. Describe what measures have been taken to comply with this Judgment;

7 ii. Certify what compliance requirements of this Judgment have been
8 fulfilled, and include evidence to show fulfillment, as appropriate.
9

10 Evidence showing compliance may include documents, photographs, or
11 copies of any other supporting information.

12 2. ADEQ shall review the status reports and inform Defendant of any disputed
13 information, or if more information is needed, in writing.
14

15 3. If ADEQ determines that more information is needed, Defendant shall provide
16 the requested information within the time specified by ADEQ.

17 C. Defendant shall attend meetings with ADEQ on a schedule determined by ADEQ in
18 order to discuss progress with the requirements of this Judgment. The meeting
19 schedule may be modified at ADEQ's discretion.
20

21 D. Within forty-five (45) days after the Effective Date, Defendant shall submit a
22 Communications Plan to ADEQ for review and approval.

23 1. The Communications Plan shall include methods, including written, email,
24 telephone, and other electronic formats, for notifying Pinewood Sanitary
25 District customers, golf course users, downstream users (including but not
26

- 1 limited to, downstream communities, Coconino County, recreational facilities),
2 of any unauthorized discharges.
- 3
4 2. The Communications Plan shall also include the volume of the discharge,
5 disinfection actions taken by Defendant, and the results of fecal, total coliform,
6 and E. coli analyses.
- 7
8 3. The Communications Plan shall include methods to notify customers and
9 downstream users of current actions that Defendant is taking to avoid
10 unauthorized discharges and repair the collection system.
- 11
12 4. Defendant shall copy ADEQ on any such notifications that Defendant
13 distributes.
- 14
15 5. Once ADEQ and Defendant have agreed upon the Proposed Communications
16 Plan, Defendant shall implement the Communications Plan within two (2)
17 days.
- 18
19 6. Any revisions to the Communications Plan shall be submitted to ADEQ review
20 and approval before implementation. Once approved, any changes shall be
21 implemented within two (2) days.
- 22
23 E. Within one hundred and eighty (180) days after the Effective Date, Defendant shall
24 sign a contract ("the Contract") for Professional Services to map the entire wastewater
25 collection system (WWCS), inspect all manholes and collection lines within the
26 WWCS, evaluate the capacity of the WWCS, complete a conditional assessment
("Assessment") of the WWCS, implement any corrective actions including repair and

1 rehabilitation of the WWCS needed to decrease inflow and infiltration into the
2 system, and obtain a 2.05 General Permit and develop a Capacity Management
3 Operations and Maintenance (CMOM) plan in accordance with A.A.C. R18-9-
4 C305(D).
5

6 1. The Assessment of the WWCS shall include:

7 i. An inventory and map of all WWCS facilities including but not limited
8 to manholes and collection lines;
9

10 1. Each manhole shall be assigned a number;

11 2. Each manhole located within a wash shall be identified;

12 3. Each drainage way and flow path shall be identified;

13 ii. A categorized listing of the condition of all WWCS facilities as follows:
14

15 1. Low: requires little to no Corrective Action

16 2. Medium: requires some Corrective Action(s)

17 3. High: poor condition requiring immediate Corrective Action(s)
18

19 iii. A prioritized list of Corrective Actions based upon the categorization
20 within (E)(1)(ii) of this section.

21 F. Within one-hundred-eighty (180) days of (a) Defendant entering into the Contract, or
22 (b) the Effective Date, whichever is later, Defendant shall implement the terms of the
23 Contract and submit a report detailing the results of the WWCS inventory, mapping,
24 manhole identification, capacity, conditional Assessment, and Corrective Action
25 prioritization to ADEQ for review and approval.
26

1 1. ADEQ shall review the submittal for sufficiency and completeness. ADEQ
2 shall notify Defendant if the submittal is approved. If any deficiencies are
3 identified, ADEQ shall notify Defendant in writing. Defendant shall address
4 any deficiencies within fifteen (15) days from ADEQ's written notification.
5

6 G. Within forty-five (45) days of receiving ADEQ's approval of the WWCS Assessment,
7 Defendant shall submit a scope of work and timeline for addressing the Corrective
8 Actions. The timeline shall not to exceed one (1) year, and shall use the categories in
9 (E)(1)(iii) as the basis for the timeline.
10

11 1. ADEQ shall review and approve the scope of work prior to Defendant
12 commencing the work.
13

14 H. Within thirty (30) days of ADEQ approving the scope of work and timeline for
15 Corrective Actions, Defendant shall submit documentation to ADEQ that the Medium
16 and High Corrective Actions have commenced.

17 I. Ninety (90) days after Defendant submits the WWCS Assessment, Defendant shall
18 submit to ADEQ a 2.05 General Permit Notice of Intent, the final CMOM report and
19 a Capital Improvement Plan for the District.
20

21 1. The Capital Improvement Plan shall identify capital projects and equipment
22 purchases related to the Facility and Corrective Actions, provide a planning
23 schedule, and identify options for financing the Plan.
24

25 2. ADEQ shall review the CMOM for deficiencies, and notify Defendant in
26 writing if any deficiencies are identified. Defendant shall address any

1 deficiencies within twenty-one (21) days from receipt of written notification
2 from ADEQ.

3 J. Within one (1) year of ADEQ's approval of the scope of work for Corrective Actions,
4 Defendant shall complete the Corrective Actions.

5 K. Upon completion of the Corrective Actions, Defendant shall submit to ADEQ a report
6 of all Corrective Actions taken. The report shall include maps, photos, figures, and
7 invoices, and any other additional documentation necessary to detail the Corrective
8 Actions taken.
9

10 1. ADEQ shall review the report for deficiencies. If ADEQ identifies any
11 deficiencies within the report, Defendant shall address those deficiencies
12 within twenty-one (21) days from receipt of notification from ADEQ.
13

14 L. With regard to the activities undertaken pursuant to this Section, each contractor and
15 subcontractor shall be deemed to be in a contractual relationship with the Defendant.
16

17 M. ADEQ shall have the right to disapprove of work performed under this Section.
18

19 **VIII. SUBMISSIONS**

20 A. Documents, materials or notices submitted in accordance with this Consent
21 Judgment shall be deemed submitted when postmarked, return receipt requested,
22 accepted for delivery by a commercial delivery service, sent by telecopy, emailed, or
23 hand delivered.

24 B. All reports submitted to the State pursuant to this Consent Judgment shall
25 certify under penalty of law that the information contained in the report is true, accurate
26

1 and complete by having an authorized representative of the Defendant sign the following
2 statement:

3
4 I certify under penalty of law that this document and all attachments, if any,
5 were prepared under my direction or supervision by qualified personnel
6 responsible for properly gathering and evaluating the information
7 submitted. Based on my inquiry of the person or people who are
8 responsible for gathering and evaluating the information, to the best of my
9 knowledge and belief, the information submitted is true, accurate and
complete. I am aware that there are significant penalties for knowingly
submitting false information, including the possibility of fines and
imprisonment for knowing violations.

10 **IX. LIQUIDATED DAMAGES**

11 The Parties agree that calculating the harm to the State for violations of the
12 following provisions of this Consent Judgment would be very difficult. The Parties
13 therefore agree that a violation of the following provisions renders the Defendant liable
14 for liquidated damages. The liquidated damages shall begin to accrue on the day that
15 performance is due, and shall continue to accrue through the day before performance is
16 completed.
17

18 A. If the Defendant fails to comply with any of the requirements of Section
19 VII (COMPLIANCE SCHEDULE) of this Consent Judgment, Defendant shall pay the
20 following liquidated damages pursuant to the schedule below:
21

<u>Period of Failure to Comply</u>	<u>Damages Per Day of Violation</u>
22 1st through 30th day	23 \$100 per day per violation
24 31st through 60th day	25 \$200 per day per violation
26 After 60 days	\$300 per day per violation

1 B. Unless the Defendant invokes, in writing, the dispute resolution procedure
2 specified in Section XI of this Consent Judgment, the Defendant shall pay the liquidated
3 damages set forth in this Section within thirty (30) days following written demand by the
4 State. Payment shall be made in the manner set forth in Section VI. Liquidated damages
5 shall begin to accrue on the day after performance is due and shall continue through the
6 final day of completion, even if no notice is sent to the Defendant. Nothing herein shall
7 prevent the simultaneous accrual of separate liquidated damages for separate violations of
8 the Consent Judgment.
9

10
11 C. Liquidated damages shall accrue as provided in this Section during the
12 dispute resolution procedure required by Section XI of this Consent Judgment, but the
13 due date for payment of liquidated damages shall be extended until the dispute resolution
14 process is concluded.
15

16 D. If the Defendant provides notice to ADEQ that a compliance condition will
17 be late prior to the date the compliance condition is due, and completes the compliance
18 condition within twenty (20) days of the due date, no liquidated damages shall be due.
19

20 **X. STIPULATED PENALTIES**

21 A. If the Defendant, or any entity owned, controlled or managed by the
22 Defendant, commits civil violations of A.R.S. Title 41, Chapter 2, Articles 3 and 3.1, the
23 rules adopted thereunder, or a permit issued pursuant to those rules, at any time during
24 the next three (3) years, commencing on the Effective Date, the State in its sole
25
26

1 discretion, shall have the option of either collecting stipulated penalties pursuant to this
2 section, or pursuing statutory penalties.

3
4 B. If the State elects to collect stipulated penalties for violations of the Arizona
5 Aquifer Protection Program or Arizona Pollutant Discharge Elimination System program,
6 not to include a bypass event, the Defendant agrees to pay a civil penalty pursuant to the
7 schedule below, within thirty (30) days of the State's written demand:

<u>Period of Violation</u>	<u>Damages Per Day of Violation</u>
1st through 30th day	\$100 per day per violation
31st through 60th day	\$200 per day per violation
After 60 days	\$300 per day per violation

13 C. If the State elects to collect stipulated penalties for a bypass event, the
14 Defendant agrees to pay, within thirty (30) days of the State's written demand, a civil
15 penalty of \$5,000 for each bypass event that occurs. If a bypass event occurs over more
16 than one day but is still the same event, it will be counted as one violation under this
17 subsection.

18 D. Collection of these stipulated civil penalties does not prevent the State from
19 taking any other enforcement action necessary to protect the public health, welfare, or the
20 environment for these future violations.

XI. DISPUTE RESOLUTION

23 A. All decisions of the State rendered pursuant to Sections VII
24 (COMPLIANCE SCHEDULE) and XII (FORCE MAJEURE) of this Consent Judgment
25 including, but not limited to, the meaning or the application of this Consent Judgment and
26

1 its provisions, or whether the Defendant is in compliance with its terms, shall be
2 delivered in writing to the Defendant in the manner described in Section VIII
3 (SUBMISSIONS) with an explanation for the decision. Such decisions shall be final
4 unless the Defendant invokes the dispute resolution provisions below.
5

6 B. After notice is received by the Defendant as provided in Paragraph A
7 above, the Parties shall engage in informal negotiations regarding the dispute for a period
8 of ten (10) business days, or for a longer period mutually agreed upon by the Parties.
9

10 C. If the dispute is not resolved pursuant to the informal process described in
11 Paragraph B above, the State shall issue a written decision regarding the matter in
12 dispute. The decision of the State shall be considered final and binding unless the
13 Defendant requests, in writing and within five (5) business days of receipt of the State's
14 decision, that the ADEQ Director of the Water Quality Division ("Division Director")
15 reconsider the initial decision. The Division Director shall issue a final written decision
16 after receipt of the request. The written decision of the Division Director is final and
17 binding.
18

19
20 D. The Defendant waives any right to any judicial review of an administrative
21 decision pursuant to A.R.S. Title 12, any formal administrative appeal pursuant to A.R.S.
22 Title 41 or any informal appeal pursuant to A.R.S. Title 49 of disputes which relate to
23 this Consent Judgment.
24

25 E. Any disputes not covered by this Section shall be within the exclusive
26 jurisdiction of this Court for resolution.

1 F. The Defendant's invocation of this Section shall not itself toll or extend any
2 time periods for performance by the Defendant under the provisions of this Consent
3 Judgment.
4

5 **XII. FORCE MAJEURE**

6 A. Defendant shall perform all the requirements of this Consent Judgment
7 according to the time limits set forth herein, unless its performance is prevented or
8 delayed by events which constitute a Force Majeure. Defendant shall take all reasonable
9 measures to prevent or minimize any delay in performing the requirements of this
10 Consent Judgment.
11

12 B. If any Force Majeure event occurs that may delay the performance of any
13 work under this Consent Judgment, the Defendant shall notify ADEQ within twenty-four
14 (24) hours. Within two (2) days of the Force Majeure event the Defendant shall provide
15 to ADEQ in the manner provided under Section VIII (SUBMISSIONS) a written
16 explanation and description of the reasons for the delay in performance; the anticipated
17 duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a
18 schedule for implementation of any measures to be taken to prevent or mitigate the delay
19 or the effect of the delay; and the rationale for attributing such delay to a Force Majeure
20 event. Failure to comply with the above requirements shall preclude the Defendant from
21 asserting any claim of Force Majeure. The Defendant shall be deemed to have
22 knowledge of any Force Majeure circumstance of which its contractors or any party
23 acting on its behalf had or should have had knowledge.
24
25
26

1 C. If the State agrees that the delay in performance is attributable to a Force
2 Majeure event or is reasonable under the circumstances, the time for performance of the
3 obligations under this Consent Judgment that are affected by the Force Majeure event and
4 the time for performance of any activity dependent on the delayed activity shall be
5 extended for such time as is necessary to complete those obligations. An extension of
6 time for performance of the obligations affected by the Force Majeure event or non-Force
7 Majeure event shall not, of itself, extend the time for performance of any other
8 obligation. If the State does not approve the delay or agree that the delay or anticipated
9 delay has been or will be caused by a Force Majeure event, or is not otherwise
10 reasonable, the State shall notify the Defendant in writing of its decision. If the State
11 agrees that the delay is attributable to a Force Majeure event or is reasonable under the
12 circumstances, the State shall notify the Defendant in writing of the length of the
13 extension which will be equivalent in time to the reasonable delay, if any, for
14 performance of the obligations affected by the Force Majeure event, or as otherwise
15 approved by the State. The decision of the State pursuant to this paragraph is subject to
16 the dispute resolution procedure in Section X of this Consent Judgment.

21 **XIII. MATERIAL BREACH**

22 Any failure by the Defendant to pay the monetary judgment within the times
23 specified by Section V (CIVIL PENALTY), pay the liquidated damages within the times
24 specified by Section IX (LIQUIDATED DAMAGES), pay the stipulated damages within
25 the times specified by Section X (STIPULATED PENALTIES) or conduct the work
26

1 within the times specified by Section VII (COMPLIANCE SCHEDULE), shall constitute
2 a material breach and violation of this Consent Judgment. The State, in its sole
3 discretion, shall have the option of either:

4
5 A. Enforcing this Consent Judgment through the Court, in which case the Defendant
6 shall be liable for interest and additional penalties pursuant to the provisions of
7 A.R.S. § 49-113(B) and the State's reasonable costs and attorney fees incurred in
8 enforcing this Consent Judgment; or

9
10 B. Declaring the Consent Judgment null and void, and the State may pursue the
11 Complaint or refile this action against the Defendant. In this event the Defendant
12 shall be barred from alleging the affirmative defenses of estoppel, laches, or the
13 expiration of any statute of limitations. In any future actions for the violations
14 contained in the Complaint, the Defendant shall receive credit for any civil
15 penalties paid to the State pursuant to this Consent Judgment.
16

17 **XIV. RELEASE**

18 A. Upon fulfillment of its obligations under Sections V (CIVIL PENALTY),
19 VII (COMPLIANCE SCHEDULE), IX (LIQUIDATED DAMAGES), and X
20 (STIPULATED PENALTIES) the Defendant is hereby released from any and all civil
21 liability to the State for any and all violations alleged in the Complaint.
22

23 B. This release does not cover criminal liability under any local, state or
24 federal statute or regulation.
25
26

1 C. The Defendant releases the State of Arizona, its agencies, departments,
2 officials, employees or agents from any and all claims or causes of action against arising
3 under or related to the allegations contained in the Complaint.
4

5 **XIV. SEVERABILITY**

6 This Consent Judgment is not severable. If any Section of this Consent Judgment
7 is declared by this Court to be invalid or unenforceable, the entire Consent Judgment is
8 rendered invalid and the parties shall return to the positions they occupied prior to the
9 execution of this Consent Judgment.
10

11 **XV. APPLICABLE LAW**

12 The validity, meaning, interpretation, enforcement and effect of this Consent
13 Judgment shall be governed by the law of the State of Arizona.
14

15 **XVI. COSTS OF SUIT**

16 Each party shall bear its own costs and attorney's fees in this action, except that
17 pursuant to Section XIII(A) (MATERIAL BREACH), the Defendant shall be liable for
18 the State's reasonable costs and attorney fees incurred in enforcing this Consent
19 Judgment.
20

21 **XVII. RESERVATION OF RIGHTS**

22 A. Entry of this Consent Judgment is solely for the purpose of settling the
23 Complaint and except as expressly set forth herein, does not preclude the Plaintiff or any
24 other agency or officer of the State of Arizona, or subdivision thereof, from instituting
25 other administrative, civil or criminal proceedings as may be appropriate now or in the
26

1 future, initiating a civil or criminal action against Defendants for violations of Title 49,
2 A.R.S., Chapter 2, or the rules promulgated thereunder, or any other violation of Arizona
3 state law, occurring after the Effective Date, except as provided in Section X
4 (STIPULATED PENALTIES).

6 B. This Consent Judgment does not encompass issues regarding violations,
7 sources, operations, facilities or processes of Defendant not expressly covered by the
8 terms of this Consent Judgment and are without prejudice to the rights of the State of
9 Arizona arising under any of the environmental statutes and rules of Arizona with regard
10 to such matters. The State reserves the right to take any appropriate legal action against
11 the Defendant for violations which are not alleged in the Complaint or not included
12 within the consent judgment. The State reserves the right to take any and all appropriate
13 action necessary to protect the public health, welfare, or the environment.

16 C. Nothing in this Consent Judgment shall constitute a permit of any kind, or a
17 modification of any permit of any kind, under federal, state or local law. Nothing in this
18 Consent Judgment shall in any way alter, modify or revoke federal, state or local statutes,
19 regulations, rules or requirements. Nor shall this Consent Judgment affect or relieve
20 Defendant in any manner of its obligations to apply for, obtain and comply with
21 applicable federal, state and local permits. Compliance with the terms of this Consent
22 Judgment shall be no defense to an action to enforce any such permits or requirements.
23 The State does not by its consent to the entry of this Consent Judgment, warrant or avers
24 that compliance with this Consent Judgment will constitute or result in compliance with
25
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1 Arizona law. Notwithstanding the State's review and approval of any materials
2 submitted pursuant to this Consent Judgment, the Defendant shall remain solely
3 responsible for compliance with any other applicable federal, state or local law or
4 regulation. Any submissions made to the State pursuant to this Consent Judgment shall
5 not be interpreted as a waiver or limitation of the State's authority to enforce any federal,
6 state, or local statute or regulation including permit conditions.
7

8 D. The State shall have the right to take enforcement action for any and all
9 violations of this Consent Judgment and reserves the right to pursue all legal and
10 equitable remedies.
11

12 E. This Consent Judgment does not affect any Consent Orders in effect
13 between the State and Pinewood Sanitary District.
14

15 F. The entry of this Consent Judgment shall not serve as a basis for any
16 defenses of claim splitting, estoppels, laches, res judicata, or waiver challenging the
17 State's legal right to bring an action regarding matters not expressly covered by this
18 Consent Judgment.
19

20 **XVIII. RIGHT OF ENTRY**

21 The State or its representatives, contractors, consultants and agents, shall have the
22 right to enter the Facility at any location, at all reasonable times, for the purpose of:
23

24 A. Observing and monitoring the progress and compliance with the
25 provisions of this Consent Judgment.
26

1 B. Verifying any data or information submitted to the State in
2 accordance with the terms of the Consent Judgment;

3 C. Obtaining samples, and, upon request, splits of any samples taken by
4 the Defendant or its consultants.
5

6 This right of entry shall be in addition to, and not in limitation of or substitution
7 for, the State's rights under applicable law. The State's Right of Entry in no way affects
8 or reduces any rights of entry or inspection that the State has under any law or regulation.
9

10 **XIX. MODIFICATIONS**

11 Any modification of this Consent Judgment must be in writing and approved by
12 the parties and the Court, except that any extensions for the performance of any
13 requirement of this Consent Judgment may be requested in writing by Defendant and
14 consented to in writing by the State.
15

16 **XX. RETENTION OF JURISDICTION**

17 The Court shall retain jurisdiction over both the subject matter of this Consent
18 Judgment and the Parties to effectuate and enforce this Consent Judgment, or to provide
19 further orders, direction, or relief as may be necessary or appropriate for the construction,
20 modification, or execution of this Consent Judgment.
21

22 **XXI. TERMINATION**

23 The provisions of this Consent Judgment shall be deemed satisfied and shall
24 terminate after all of the following have occurred:
25
26

A. The Defendant has paid the civil penalties and any stipulated penalties due under Sections V (CIVIL PENALTY), IX (LIQUIDATED DAMAGES), and X (STIPULATED PENALTIES) of this Consent Judgment; and

B. The Defendant has completed all of the actions required by Section VII (COMPLIANCE SCHEDULE) of this Consent Judgment.

After satisfaction of this Consent Judgment, upon request by the Defendant, the State shall execute and file a satisfaction of judgment with this Court and in any County in which this Judgment was recorded.

SO ORDERED this 9th day of October, 2024.

/s/ Susanna C. Pineda
Honorable Susanna Pineda
Maricopa County Superior Court

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CONSENT TO JUDGMENT

Kass Krall, on behalf of Defendant Pinewood Sanitary District of Coconino County hereby acknowledges that (s)he is authorized to sign this Consent Judgment and bind the Defendant Pinewood Sanitary District of Coconino County to its entry, has read the foregoing Consent Judgment in its entirety, agrees with the statements made therein, consents to its entry by the Court and agrees that Defendant Pinewood Sanitary District of Coconino County will abide by the same.

DATED this 12th day of September, 2024.

/s/Kass Krall
Kass Krall
Board Chair
Pinewood Sanitary District of Coconino County

Trevor Baggione, on behalf of Plaintiff State of Arizona, hereby acknowledges that he is authorized by the Director of ADEQ to sign this Consent Judgment, has read the foregoing in its entirety, agrees with the statements made therein, consents to its entry by the Court and agrees that the State and ADEQ will abide by the same.

DATED this 9th day of September, 2024.

/s/Trevor Baggione
Trevor Baggione
Division Director
Arizona Department of Environmental Quality

#12140527

eSignature Page 1 of 1

Filing ID: 18656056 Case Number: CV2024-027256
Original Filing ID: 18648884

Granted with Modifications



/S/ Susanna Pineda Date: 10/9/2024
Judicial Officer of Superior Court

ENDORSEMENT PAGE

CASE NUMBER: CV2024-027256

SIGNATURE DATE: 10/9/2024

E-FILING ID #: 18656056

FILED DATE: 10/10/2024 8:00:00 AM

BRANDON J KAVANAGH

GINGER SPRONG

PINEWOOD SANITARY DISTRICT OF COCONINO
COUNTY
18075 FAIRWAY DRIVE MUNDS PARK AZ 86017