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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

State of Arizona; State of Arizona *ex rel.*
Benjamin H. Grumbles, Director,
Arizona Department of Environmental
Quality,

Plaintiffs,

v.

Ashton Company, Inc.; Contractors and
Engineers; Baldor Electric Company;
Don Mackey Oldsmobile-Cadillac, Inc.;
Dunn Edwards Corporation; Durodyne,
Inc.; Fersha Corporation; Fluor
Corporation; General Dynamics
Corporation; The Goodyear Tire and
Rubber Company and Lockheed Martin
Corporation; Holmes Tuttle Ford, Inc.;
Industrial Pipe Fittings, LLC and
Tucson Foundry & Manufacturing,
Inc.; Rowe Enterprises, Inc.; Pima
County Community College; Rollings
Corporation; Textron, Inc. and ABB,
Inc. and Combustion Engineering, Inc.;

No. _____

COMPLAINT

Cost Recovery Under the
Comprehensive Environmental
Response, Compensation, and Liability
Act

Declaratory Judgment

Cost Recovery Under the Arizona
Water Quality Assurance Revolving
Fund

1 **Texas Instruments, Inc.; Tucson Dodge;**
2 **Inc.; and, Warner Propeller and**
3 **Governor, L.L.C.,**
4 **Defendants.**

5 Plaintiffs State of Arizona and the State of Arizona *ex rel.* Benjamin H. Grumbles,
6 Director of the Arizona Department of Environmental Quality allege:

7 **I. NATURE OF THIS ACTION**

8 1. Plaintiff State of Arizona (“State”) is a sovereign state of the United States
9 of America.

10 2. The Arizona Department of Environmental Quality (“ADEQ”) is an agency
11 of the State and was established in 1986 pursuant to A.R.S. § 49-102(A).

12 3. On 22 June 2009, the Governor of the State of Arizona designated
13 Benjamin H. Grumbles as the Director of ADEQ.

14 4. This is a civil action brought by the State, pursuant to the Comprehensive
15 Environmental Response, Compensation, and Liability Act of 1980, as amended
16 (“CERCLA”), 42 U.S.C. §§ 9601 *et seq.* and pursuant to supplemental state law causes of
17 action under the Water Quality Assurance Revolving Fund (“WQARF”) A.R.S. § 49-281
18 *et seq.* This action is brought to recover necessary costs of response incurred or to be
19 incurred by Plaintiffs to respond to a Release or threat of a Release of hazardous
20 substances at and from the Broadway Pantano WQARF Registry Site #100053-00 in
21 Tucson, Pima County, Arizona.

22 5. The Broadway Pantano Landfill (“Site”), as defined herein, encompassing
23 approximately 150 acres located in east-central Tucson, Pima County, Arizona and is
24 approximately bounded by Speedway Boulevard to the north, Pantano Wash to the east,
25 Calle Madero to the south (south of Broadway Boulevard), and Craycroft Road or Kolb
26

1 Avenue for the portion of the Site to the south of Broadway Boulevard and includes the
2 geographical areal extent of contamination as depicted on the map attached hereto as
3 Exhibit 1.

4 6. The Site comprises the Broadway South and Broadway North Landfills.
5 The Broadway South Landfill was operational from approximately 1953 to 1959, and the
6 Broadway North Landfill was operational from approximately 1959 to 1972.

7 7. The Broadway Pantano WWQARF Registry Site is a Site as that term is
8 defined in A.R.S. § 49-281(14) and used in 42 U.S.C. § 9601, and is also a Facility as
9 defined in 42 U.S.C. § 9601(9) and A.R.S. § 49-281(6).

10 8. During the period between 1953 and 1972, two landfills were operational at
11 the Site which accepted hazardous industrial wastes from various entities. The Site was
12 originally a “wildcat” dump and later developed into two separate landfills. The
13 Broadway South Landfill was initially operated by Pima County and then by Sanitary
14 District No. 1 of Pima County. The Broadway North Landfill was jointly operated by
15 Sanitary District No. 1 of Pima County and the City of Tucson, and later jointly operated
16 by Pima County and the City of Tucson. During this time, various hazardous wastes
17 generators arranged for those wastes to be transported to the landfills. Some of the
18 hazardous substances have migrated from the landfills and contaminated the drinking
19 water aquifer underneath the landfills. Additionally, some of the hazardous substances
20 have migrated off-site from the landfills, further spreading contamination.

21 **II. JURISDICTION AND VENUE**

22 9. This Court has exclusive and original jurisdiction over all CERCLA claims
23 42 U.S.C. §§ 9607 and 9613(b). Additionally, this Court has federal question jurisdiction
24 over the subject matter and the Parties under 28 U.S.C. §§ 1331 and 1391. This Court has
25 supplemental jurisdiction over state law (WQARF A.R.S. §§ 49-285 and 49-292) claims
26 pursuant to 28 U.S.C. § 1367(a) because they arise out of a common nucleus of operative

1 facts and are so related to the federal question claims that they form a part of the State's
2 federal (CERCLA) claims.

3 10. Pursuant to 42 U.S.C. § 9613(b) (CERCLA §113(b)) and 28 U.S.C. §
4 1391(b), proper venue lies with the United States District Court for the District of
5 Arizona Tucson division because the releases of hazardous substances occurred in the
6 Pima County, Arizona.

7 11. After this action is filed, the State will mail copies of this Complaint to the
8 Attorney General of the United States and to the Administrator of the United States
9 Environmental Protection Agency, in accordance with Section 113(l) of CERCLA, 42
10 U.S.C. § 9613(l).

11 **III. PLAINTIFFS**

12 12. Plaintiff State of Arizona is a State of the United States of America. This
13 action has been brought on behalf of the ADEQ, and its Director, Benjamin H. Grumbles.
14 Mr. Grumbles is the duly appointed Director of ADEQ and is authorized pursuant to
15 A.R.S. §§ 49-102(B), 49-202(L), 49-287(C), and 38-211, Arizona Revised Statutes to
16 initiate this action on behalf of the State.

17 **IV. DEFENDANTS**

18 13. Ashton Company, Inc., Contractors and Engineers - Defendant The Ashton
19 Company, Inc., Contractors and Engineers, an Arizona corporation, operated a general
20 contracting and construction business in Tucson, Arizona, from as early as 1957 through
21 the 1970s, during which time the Broadway South and North Landfills were operational.
22 Defendant The Ashton Company, Inc., Contractors and Engineers, owned or possessed
23 hazardous substances that contained Site contaminants of concern such as
24 trichloroethylene ("TCE") and Tetrachloroethylene ("PCE"). A former City of Tucson
25 Sanitation Department waste hauler collected waste from The Ashton Company, Inc.,
26 Contractors and Engineers, and transported the waste to the nearest landfill, including the

1 Broadway North Landfill. The Ashton Company, Inc., Contractors and Engineers, owned
2 or possessed the hazardous substances and arranged for the disposal of those substances.
3 Therefore, it is liable as a generator pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-
4 283(A)(2).

5 14. Baldor Electric Company - Defendant Baldor Electric Company, an
6 Arkansas corporation, is the successor by merger to Reliance Electric Company, an Ohio
7 corporation, which was a contractor to the U.S. Air Force at the Titan II missile silos in
8 Tucson, Arizona, in the 1960s, during which time the Broadway North Landfill was
9 operational. Defendant Baldor Electric Company's predecessor, Reliance Electric
10 Company, owned or possessed hazardous substances that contained Site contaminants of
11 concern such as TCE and PCE. A former Tucson-area solvent recycler collected waste
12 from Reliance Electric Company and transported the waste to the Broadway South and
13 North Landfills. Reliance Electric Company owned or possessed the hazardous
14 substances and arranged for the disposal of those substances. Therefore, its successor,
15 Baldor Electric Company, is liable as a generator pursuant to 42 U.S.C. § 9607(a)(3) and
A.R.S. § 49-283(A)(2).

16 15. Don Mackey Oldsmobile-Cadillac, Inc. - Defendant Don Mackey
17 Oldsmobile-Cadillac, Inc., a Delaware corporation, sold and maintained automobiles
18 under the name Paulin Motor Company, a Delaware corporation, in Tucson, Arizona,
19 from as early as 1952 through the early 1970s, during which time the Broadway South
20 and North Landfills were operational. Defendant Don Mackey Oldsmobile-Cadillac, Inc.,
21 operating under the name Paulin Motor Company, owned or possessed hazardous
22 substances that contained Site contaminants of concern such as TCE, PCE, and
23 methylene chloride. A former City of Tucson Sanitation Department waste hauler
24 collected waste from Paulin Motor Company and transported the waste to the nearest
25 landfill, including the Broadway North Landfill. Paulin Motor Company owned or
26 possessed the hazardous substances and arranged for the disposal of those substances.

1 Therefore, its successor, Don Mackey Oldsmobile-Cadillac, Inc., is liable as a generator
2 pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-283(A)(2).

3 16. Dunn-Edwards Corporation - Defendant Dunn-Edwards Corporation, a
4 Delaware corporation, operated a retail paint business in Tucson, Arizona, from as early
5 as 1961 through the 1970s, during which time the Broadway North Landfill was
6 operational. Defendant Dunn-Edwards Corporation owned or possessed hazardous
7 substances that contained Site contaminants of concern such as methylene chloride. A
8 former City of Tucson Sanitation Department waste hauler collected waste from Dunn-
9 Edwards Corporation and transported the waste to the nearest landfill, including the
10 Broadway North Landfill. Dunn-Edwards Corporation owned or possessed the hazardous
11 substances and arranged for the disposal of those substances. Therefore, it is liable as a
12 generator pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-283(A)(2).

13 17. Durodyne, Inc. - Defendant Durodyne, Inc., an Arizona corporation,
14 operated an industrial hose manufacturing facility at the Tucson International Airport in
15 Tucson, Arizona, beginning in 1976. Defendant Durodyne, Inc., owned or possessed
16 hazardous substances that contained Site contaminants of concern such as TCE, PCE, and
17 methylene chloride. A former Tucson-area solvent recycler collected waste from
18 Durodyne, Inc., and transported the waste to the Broadway South and North Landfills
19 after the landfills had ceased operations and had become wildcat dumps. Durodyne, Inc.,
20 owned or possessed the hazardous substances and arranged for the disposal of those
21 substances. Therefore, it is liable as a generator pursuant to 42 U.S.C. § 9607(a)(3) and
22 A.R.S. § 49-283(A)(2).

23 18. Fersha Corporation- Defendant Fersha Corporation, an Ohio corporation, is
24 the successor by merger to Tucson One Hour, Inc., an Ohio corporation, which operated
25 multiple One Hour Martinizing franchise dry cleaning facilities in Tucson, Arizona, in
26 the 1960s and 1970s, during which time the Broadway South and North Landfills were
operational. Defendant Fersha Corporation's predecessor, Tucson One Hour, Inc.,

1 operating under the name One Hour Martinizing, owned or possessed hazardous
2 substances that contained Site contaminants of concern such as TCE and PCE. A former
3 City of Tucson Sanitation Department waste hauler collected waste from One Hour
4 Martinizing and transported the waste to the nearest landfill, including the Broadway
5 North Landfill. Tucson One Hour, Inc., owned or possessed the hazardous substances and
6 arranged for the disposal of those substances. Therefore, its successor, Fersha
7 Corporation, is liable as a generator pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-
8 283(A)(2).

9 19. Fluor Corporation- Defendant Fluor Corporation, a Delaware corporation,
10 operated as a contractor to the U.S. Army Corps of Engineers at the Titan II missile silos
11 in Tucson, Arizona, in the 1960s, during which time the Broadway North Landfill was
12 operational. Defendant Fluor Corporation owned or possessed hazardous substances that
13 contained Site contaminants of concern such as TCE. Two former Tucson-area solvent
14 recyclers collected waste from Fluor Corporation and transported the waste to the
15 Broadway South and North Landfills. Fluor Corporation owned or possessed the
16 hazardous substances and arranged for the disposal of those substances. Therefore, it is
17 liable as a generator pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-283(A)(2).

18 20. General Dynamics Corporation - Defendant General Dynamics
19 Corporation, a Delaware corporation, is the successor by merger to Consolidated Aircraft
20 Company, a California corporation, which operated an aircraft modification facility at the
21 Tucson International Airport in Tucson, Arizona, from 1943 to 1948. Defendant General
22 Dynamics Corporation's predecessor, Consolidated Aircraft Company, owned or
23 possessed hazardous substances that contained Site contaminants of concern such as TCE
24 and methylene chloride. A former Tucson-area solvent recycler collected waste from
25 Consolidated Aircraft Company and transported the waste to the Broadway South and
26 North Landfills when the landfills were used as wildcat dumps. Consolidated Aircraft
Company owned or possessed the hazardous substances and arranged for the disposal of

1 those substances. Therefore, its successor, General Dynamics Corporation, is liable as a
2 generator pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-283(A)(2).

3 21. The Goodyear Tire and Rubber Company and Lockheed Martin
4 Corporation - Defendants The Goodyear Tire and Rubber Company, an Ohio corporation,
5 and Lockheed Martin Corporation, a Maryland corporation, are the successors by merger
6 to Goodyear Aerospace Corporation, a Delaware corporation, which operated an aircraft
7 modification and maintenance facility in Goodyear, Arizona, beginning in 1942 under the
8 name Goodyear Aircraft Company and through the 1970s, during which time the
9 Broadway South and North Landfills were operational. Goodyear Aircraft Company
10 changed its name to Goodyear Aerospace Corporation on July 5, 1963. Defendants The
11 Goodyear Tire & Rubber Company's and Lockheed Martin Corporation's predecessor,
12 Goodyear Aerospace Corporation, owned or possessed hazardous substances that
13 contained Site contaminants of concern such as TCE, PCE, and methylene chloride. A
14 former Tucson-area solvent recycler collected waste from Goodyear Aerospace
15 Corporation and transported the waste to the Broadway South and North Landfills.
16 Goodyear Aerospace Corporation owned or possessed the hazardous substances and
17 arranged for the disposal of those substances. Therefore, its successors, The Goodyear
18 Tire & Rubber Company and Lockheed Martin Corporation, are liable as generators
19 pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-283(A)(2).

20 22. Holmes Tuttle Ford, Inc. - Defendant Holmes Tuttle Ford, Inc., an Arizona
21 corporation, operated a new and used car sales and services business in Tucson, Arizona,
22 from as early as 1958 through the early 1970s, during which time the Broadway South
23 and North Landfills were operational. Defendant Holmes Tuttle Ford, Inc., owned or
24 possessed hazardous substances that contained Site contaminants of concern such as
25 TCE, PCE, and methylene chloride. Tucson-area waste haulers collected waste from
26 Holmes Tuttle Ford, Inc., and transported the waste to the nearest landfill, including the
Broadway North Landfill. Holmes Tuttle Ford, Inc., owned or possessed the hazardous

1 substances and arranged for the disposal of those substances. Therefore, it is liable as a
2 generator pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-283(A)(2).

3 23. Industrial Pipe Fittings, LLC and Tucson Foundry & Manufacturing, Inc. -
4 Defendants Industrial Pipe Fittings, LLC, a Nevada corporation, and Tucson Foundry &
5 Manufacturing, Inc., an Arizona corporation, are the successors by merger and name
6 change, respectively, to Knight Foundry & Manufacturing, Inc., an Arizona corporation,
7 which operated a metal castings manufacturing facility in Tucson, Arizona, beginning in
8 1954, during which time the Broadway South Landfill was operational. Defendants
9 Industrial Pipe Fittings, LLC's and Tucson Foundry & Manufacturing, Inc.'s predecessor,
10 Knight Foundry & Manufacturing, Inc., owned or possessed hazardous substances that
11 contained Site contaminants of concern such as TCE and PCE. A former Tucson-area
12 solvent recycler collected waste from Knight Foundry & Manufacturing, Inc., and
13 transported the waste to the Broadway South and North Landfills. Knight Foundry &
14 Manufacturing, Inc., owned or possessed the hazardous substances and arranged for the
15 disposal of those substances. Therefore, its successors, Industrial Pipe Fittings, LLC, and
16 Tucson Foundry & Manufacturing, Inc., are liable as generators pursuant to 42 U.S.C. §
17 9607(a)(3) and A.R.S. § 49-283(A)(2).

18 24. Pima County Community College - Defendant Pima County Community
19 College District was formed in 1966 and operated at multiple locations in Tucson,
20 Arizona, through the 1970s, during which time the Broadway North Landfill was
21 operational. Defendant Pima County Community College District owned or possessed
22 hazardous substances that contained Site contaminants of concern such as TCE, PCE, and
23 methylene chloride because it received surplus government property in lots at auctions
24 from Fort Huachuca and Davis-Monthan Air Force Base. These lots included drums of
25 solvent. A former Tucson-area solvent recycler collected waste from Pima County
26 Community College District and transported the waste to the Broadway South and North
Landfills. Pima County Community College District owned or possessed the hazardous

1 substances and arranged for the disposal of those substances. Therefore, it is liable as a
2 generator pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-283(A)(2).

3 25. Rowe Enterprises, Inc. - Defendant Rowe Enterprises, Inc., an Arizona
4 corporation, is the successor by merger to Precision Motors, Ltd., an Arizona corporation,
5 which operated a car sales and services business in Tucson, Arizona, from 1961 through
6 the early 1970s, during which time the Broadway North Landfill was operational.
7 Defendant Rowe Enterprises, Inc.'s predecessor, Precision Motors, Ltd., owned or
8 possessed hazardous substances that contained Site contaminants of concern such as
9 TCE, PCE, and methylene chloride. A former City of Tucson Sanitation Department
10 waste hauler and a former Garbage Service Company of Tucson Arizona, Inc., waste
11 hauler collected waste from Precision Motors, Ltd. and transported the waste to the
12 nearest landfill, including the Broadway North Landfill. Precision Motors, Ltd., owned or
13 possessed the hazardous substances and arranged for the disposal of those substances.
14 Therefore, its successor, Rowe Enterprises, Inc., is liable as a generator pursuant to 42
15 U.S.C. § 9607(a)(3) and A.R.S. § 49-283(A)(2).

16 26. Rollings Corporation - Defendant Rollings Corporation, an Arizona
17 corporation, operated a new and used car sales and service facility under the historical
18 name Rollings Motor Company in Tucson, Arizona, from as early as 1954 through the
19 1970s, during which time the Broadway South and North Landfills were operational.
20 Defendant Rollings Corporation, operating under the name Rollings Motor Company,
21 owned or possessed hazardous substances that contained Site contaminants of concern
22 such as TCE and PCE. A former City of Tucson Sanitation Department waste hauler
23 collected waste from Rollings Motor Company and transported the waste to the
24 Broadway North Landfill. Defendant Rollings Corporation owned or possessed the
25 hazardous substances and arranged for the disposal of those substances. Therefore, it is
26 liable as a generator pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-283(A)(2).

1 27. Textron, Inc.; ABB, Inc.; and Combustion Engineering, Inc - Defendants
2 Textron, Inc., a Delaware corporation, ABB, Inc., a Delaware corporation, and
3 Combustion Engineering, Inc., a Delaware corporation, are the successors by merger to
4 Bell Aerosystem Company, a division of Bell Aerospace Corporation, a Delaware
5 corporation, which operated research facilities at the Tucson International Airport,
6 University of Arizona farm, and Davis-Monthan Air Force Base in Tucson, Arizona, in
7 the 1960s, during which time the Broadway North Landfill was operational. Defendants
8 Textron, Inc.'s, ABB, Inc.'s, and Combustion Engineering, Inc.'s predecessor, Bell
9 Aerosystem Company, owned or possessed hazardous substances that contained Site
10 contaminants of concern such as TCE. A former Tucson-area solvent recycler collected
11 waste from Bell Aerosystem Company and transported the waste to the Broadway South
12 and North Landfills. Bell Aerosystem Company owned or possessed the hazardous
13 substances and arranged for the disposal of those substances. Therefore, its successors,
14 Textron, Inc., ABB, Inc. and Combustion Engineering, Inc., are liable as generators
pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-283(A)(2).

15 28. Texas Instruments, Inc. - Defendant Texas Instruments, Inc., a Delaware
16 corporation, is the successor by merger to Burr-Brown Research Corporation, an Arizona
17 corporation, which operated a microelectronic components manufacturing facility at the
18 Tucson International Airport in Tucson, Arizona, in the 1960s, during which time the
19 Broadway North Landfill was operational. Burr-Brown Research Corporation owned or
20 possessed hazardous substances that contained Site contaminants of concern such as
21 TCE, PCE, and methylene chloride. Three former Tucson-area solvent recyclers and two
22 former City of Tucson Sanitation Department waste haulers collected waste from Burr-
23 Brown Research Corporation and transported the waste to the Broadway South and North
24 Landfills. Burr-Brown Research Corporation owned or possessed the hazardous
25 substances and arranged for the disposal of those substances. Therefore, its successor,
26 Texas Instruments, Inc., is liable as a generator pursuant to 42 U.S.C. § 9607(a)(3) and

1 A.R.S. § 49-283(A)(2).

2 29. Tucson Dodge, Inc. - Defendant Tucson Dodge, Inc., an Arizona
3 corporation, operated a new and used car sales and services business under the name Bill
4 Breck Dodge, Inc., in Tucson, Arizona, from as early as 1959 through the 1970s, during
5 which time the Broadway South and North Landfills were operational. Defendant Tucson
6 Dodge, Inc., operating under the name Bill Breck Dodge, Inc., owned or possessed
7 hazardous substances that contained Site contaminants of concern such as TCE, PCE, and
8 methylene chloride. A former Tucson-area solvent recycler and a former Garbage Service
9 Company of Tucson, Arizona, Inc., waste hauler collected waste from Bill Breck Dodge,
10 Inc., and transported the waste to the Broadway South and North Landfills. Bill Breck
11 Dodge, Inc., owned or possessed the hazardous substances and arranged for the disposal
12 of those substances. Therefore, its successor, Tucson Dodge, Inc., is liable as a generator
13 pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-283(A)(2).

14 30. Warner Propeller and Governor Co. L.L.C. - Defendant Warner Propeller
15 and Governor Co., L.L.C., an Arizona corporation, operated an aircraft repair facility at
16 the Tucson International Airport in Tucson, Arizona, beginning in 1967 through the
17 1970s, during which time the Broadway North Landfill was operational. Defendant
18 Warner Propeller and Governor Co., L.L.C., owned or possessed hazardous substances
19 including Site contaminants of concerns such as TCE and methylene chloride. A former
20 Tucson-area solvent recycler collected waste from Warner Propeller and Governor Co.,
21 L.L.C., and transported the waste to the Broadway South and North Landfills. Warner
22 Propeller and Governor Co., L.L.C., owned or possessed the hazardous substances and
23 arranged for the disposal of those substances. Therefore, it is liable as a generator
24 pursuant to 42 U.S.C. § 9607(a)(3) and A.R.S. § 49-283(A)(2).

25 **V. ALLEGATIONS APPLICABLE TO ALL COUNTS AND PARTIES**

26 31. CERCLA, also commonly referred to as “Superfund”, was enacted by the
United States Congress in 1980 to create a comprehensive approach to identifying and

1 remedying sites containing hazardous substances. Congress determined that strict and
2 retroactive liability for the costs of remedying such sites should be imposed upon: (1)
3 those who currently own or operate the sites, or those who had owned or operated the
4 sites during a previous time of disposal of any hazardous substances; (2) those who
5 generated hazardous substances which were disposed of at the sites; (3) those who
6 arranged for disposal of hazardous substances at the sites; and (4) those who transported
7 hazardous substances to the sites if they selected the site for disposal. *See* Section 107(a)
8 of CERCLA, 42 U.S.C. § 9607(a).

9 32. Congress further provided that these persons would be strictly liable for all
10 costs of remedying the sites containing hazardous substances even if at the time of the
11 disposal these persons may have been complying with existing laws. CERCLA's strict
12 liability imposes liability without the need to prove causation upon all persons who fall
13 within CERCLA's definition of Responsible Parties. *See* 42 U.S.C. § 9607(a).
14 CERCLA's judicially imposed joint and several liability scheme generally imposes
15 liability for all costs of remediation upon each responsible party, unless that responsible
16 party can affirmatively demonstrate divisibility of harm.

17 33. The Arizona WQARF superfund statutory scheme was enacted in its
18 current form in 1998 and parallels CERCLA in most of its provisions, the main
19 difference being liability under WQARF is strict and several only.

20 34. Defendants include Owners or Operators as defined in 42 U.S.C. §
21 9601(20), A.R.S. § 49-283(A)(1), 9607(a)(2), Generators and Arrangers of hazardous
22 substances under 42 U.S.C. §§ 9607(a)(1), 9607(a)(3), A.R.S. § 49-283(A)(2), and
23 Transporters as defined in 42 U.S.C. §§ 9601(26), 9607(a)(4), A.R.S. § 49-283(A)(3).

24 35. The defendants are Persons within the meaning of Section 101(21) of
25 CERCLA, 42 U.S.C. § 9601(21), and A.R.S. § 49-201(26), and as used in Section 107(a)
26 of CERCLA, 42 U.S.C. § 9607(a).

1 36. Each of the Defendants may be a Responsible Party as that term is defined
2 in 42 U.S.C. § 9607(a) and A.R.S. § 49-283(B) (3) for the releases and threatened
3 releases of hazardous substances from the Site. Under 42 U.S.C. § 9607(a) and A.R.S. §
4 49-285, Defendants are strictly and severally liable to the State for all removal, response,
5 and remedial action costs incurred and to be incurred by the State in connection with the
6 release and threatened release of hazardous substances on and from the Site.

7 37. Defendants caused events and transactions that included: owning or
8 operating the Site; generating, transporting, storing, treating, arranging, transporting, and
9 disposing of hazardous substances; or knowingly permitted others to engage in such
10 business at the Site, all of which occurred in the State of Arizona, and which give rise to
11 this action.

12 38. The substances released at the Site include halogenated volatile organic
13 compounds such as: TCE, PCE, and methylene chloride; their degradation byproducts
14 such as vinyl chloride and Cis-1, 2-dichloroethene; and, soil contaminants such as
15 arsenic, cadmium, chromium, copper, and beryllium. These substances are Hazardous
16 Substances as that term is defined in 42 U.S.C. § 9601(14), A.R.S. § 49-281(8) and as
17 used in 42 U.S.C. § 9607(a) and A.R.S. § 49-283 and which exist at the Site in
18 concentrations that exceed CERCLA and WQARF regulatory limits.

19 39. The Hazardous Substances were released from the Site as that terms is
20 defined in 42 U.S.C. § 9601(22) and A.R.S. § 49-281(11).

21 40. The State has incurred and will continue to incur costs for Response and
22 Remedial Actions as those terms are defined in Sections 101(23), (24), and (25) of
23 CERCLA, 42 U.S.C. §§ 9601(23), (24), and (25), and in A.R.S. § 49-285 attributable and
24 as a result of the Releases and threatened Releases of Hazardous Substances on and from
25 the Site. These costs include the costs incurred as it investigates, monitors, surveys, tests,
26 and gathers information to identify the existence and extent of the release or threat of

1 release of hazardous substances and/or pollutants or contaminants; the source and nature
2 of the hazardous substances and/or pollutants or contaminants involved; and the extent of
3 any risk to the public health or welfare or the environment. In addition, the State has
4 expended funds for planning, legal, and other activities necessary and appropriate to
5 direct response actions and for enforcement purposes.

6 41. Pursuant to CERCLA 107(a), 42 U.S.C. § 9607(a), the Defendants are
7 jointly and severally liable to the Plaintiffs for all removal, remedial, and response costs
8 incurred by the Plaintiffs in connection with the Site.

9 42. Pursuant to A.R.S. § 49-285, the Defendants are strictly and severally liable
10 to the Plaintiffs for their proportionate share of the removal, remedial and response costs
11 incurred by the Plaintiffs in connection with the Site.

12 43. The State's removal, response, and remedial actions with respect to the
13 Releases and threatened Releases of Hazardous Substances on and from the Site have
14 been necessary and are not inconsistent with the National Contingency Plan, 40 C.F.R.
15 Part 300, Appendix B, within the meaning of 42 U.S.C. §§ 9605, and 9607(a) and comply
16 with A.R.S. § 49-282.06.

17 VI. GENERAL ALLEGATIONS

18 44. The Plaintiffs seek a judgment ordering the Defendants to reimburse
19 Plaintiffs for the costs they have incurred and will incur in investigating, responding to,
20 removing and remediating the release or threat of release of hazardous substances.

21 45. The Plaintiffs also seek, pursuant to 28 U.S.C. §§ 2201 *et seq.*, a
22 declaratory judgment that the Defendants are liable for future costs to be incurred by the
23 Plaintiffs for investigation, removal and remedial activities at the Site.

24 46. The Plaintiffs further assert supplemental state law claims pursuant to the
25 Arizona Environmental Quality Act, as amended, specifically A.R.S. §§ 49-281 *et seq.*,
26 seeking recovery of remediation costs incurred and to be incurred at the Site.

VII. COUNT ONE
(CERCLA Cost Recovery)

1
2
3 47. Plaintiffs incorporate each and every allegation contained in paragraphs 1
4 through 48 of this Complaint as though fully set forth herein.

5 48. The Defendants are owners, operators, generators, arrangers, or transporters
6 of hazardous substances within the meaning of Section 107(a) of CERCLA, 42
7 U.S.C. § 9607(a).

8 49. The Defendants are jointly and severally liable for the costs incurred by
9 Plaintiffs in responding to the releases of hazardous substances into the environment at
10 the Site.

11 WHEREFORE, having fully set forth their first cause of action, Plaintiffs pray as
12 follows:

13 (a) That the Court enter judgment against the Defendants for all the
14 costs incurred by Plaintiffs in responding to releases or threatened releases of hazardous
15 substances into the environment at the Site and from the Site.

16 (b) That the Court award Plaintiffs prejudgment interest, and
17 post-judgment interest to which they are entitled under CERCLA § 107(a), 42 U.S.C. §
18 9607(a);

19 (c) That the Court award Plaintiffs their expert and attorneys' fees and
20 other costs incurred in this action to the extent permitted by law; and

21 (d) That the Court grant such other and further relief as the Court deems
22 just and proper under the circumstances.

23 **VIII. COUNT TWO**
24 **(Declaratory Judgment under CERCLA)**

25 50. Plaintiffs incorporate each and every allegation contained in paragraphs 1
26 through 51 of this Complaint as though fully set forth herein.

1 51. This second cause of action seeks a declaratory judgment pursuant to 28
2 U.S.C. §§ 2201 and 2202 to adjudicate a question of actual controversy between
3 Plaintiffs and the Defendants.

4 52. Plaintiffs have incurred and will continue to incur costs of response as a
5 result of releases of hazardous substances into the environment at the Site.

6 53. The Defendants are strictly and severally liable for the costs incurred and to
7 be incurred by Plaintiffs pursuant to 42 U.S.C. § 9607. Pursuant to 28 U.S.C. § 2201,
8 Plaintiffs are entitled to a declaration of their rights with respect to the Defendants.

9 WHEREFORE, having fully set forth their second cause of action, Plaintiffs pray
10 as follows:

11 (a) That the Court enter judgment for Plaintiffs declaring that the
12 Defendants are liable for all future response costs incurred by Plaintiffs in responding to
13 releases of hazardous substances into the environment at the Site, and to the extent that
14 such future costs are ascertainable, that such amount be determined at the time of trial;

15 (b) That the Court award Plaintiffs their expert and attorneys' fees and
16 other costs incurred in this action to the extent permitted by law; and

17 (c) That the Court grant such other and further relief as the Court deems
18 just and proper under the circumstances.

19 **IX. COUNT THREE**

20 **(WQARF Cost Recovery)**

21 54. Plaintiffs incorporate each and every allegation contained in paragraphs 1
22 through 55 of this Complaint as though fully set forth herein.

23 55. Releases of hazardous substances into the environment have occurred at the
24 Site within the meaning of A.R.S. §§ 49-281, 49-201 and 49-283.

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26

1 56. The Defendants are liable under A.R.S. § 49-283 as owners, operators,
2 generators, arrangers, and/or transporters of hazardous substances which were placed or
3 came to be located in or on the Site.

4 57. The Defendants are strictly and severally liable under A.R.S. § 49-285 for
5 their proportionate share of response costs incurred by the Plaintiffs.

6 WHEREFORE, having fully set forth their third cause of action, Plaintiffs pray as
7 follows:

8 (a) That the Court enter judgment against the Defendants to pay their
9 several share of the remedial action costs incurred by Plaintiffs, the exact amount of such
10 costs to be determined at the time of trial;

11 (b) That the Court award Plaintiffs their expert and attorneys' fees and
12 other costs incurred in this action to the extent permitted by law; and

13 (c) That the Court grant such other and further relief as the Court deems
14 just and proper under the circumstances.

15 **X. COUNT FOUR**

16 **(Declaratory Judgment under WQARF)**

17 58. Plaintiffs incorporate each and every allegation contained in paragraphs 1
18 through 59 of this Complaint as though fully set forth herein.

19 59. Plaintiffs have incurred and will continue to incur costs of response as a
20 result of releases of hazardous substances into the environment at the Site.

21 60. Plaintiffs are entitled to a declaration of their rights with respect to the
22 Defendants regarding such costs.

23 WHEREFORE, having fully set forth their fourth cause of action, Plaintiffs pray
24 as follows:

25 (a) That the Court enter judgment for Plaintiffs declaring that the
26 Defendants are strictly and severally liable for their proportionate share of future

1 response costs incurred by Plaintiffs in responding to releases of hazardous substances
2 into the environment at or from the Site, and to the extent that such future costs are
3 ascertainable, that such amount be determined at the time of trial;

4 (b) That the Court award Plaintiffs their expert and attorneys' fees and
5 other costs incurred in this action to the extent permitted by law; and

6 (c) That the Court grant such other and further relief as the Court deems
7 just and proper under the circumstances.

8
9 **XI. PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff requests that this Court enter judgment against the Defendant:

11 A. For recovery of its costs incurred in responding to Releases or Threatened
12 Releases of hazardous substances at or from the Site as provided under the
13 Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §
14 9601 *et seq.*;

15
16 B. For a declaratory judgment that the State will continue to incur costs of a
17 response as the result of releases of hazardous substances at the Site and the Defendants
18 are liable for those costs and to the extent that such costs can be determined, that such
19 amount be determined at the time of trial.

20
21 C. For recovery of its costs incurred in responding to Releases or threatened
22 Releases of hazardous substances at or from the Site as provided under the Water Quality
23 Assurance Revolving Fund, A.R.S. § 49-281 *et seq.*;

24 D. For the Plaintiff's costs; and,
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E. Such other additional relief as may be appropriate as this Court may deem appropriate.

RESPECTFULLY SUBMITTED this 22nd day of October, 2010.

Terry Goddard
Attorney General

/s/ Jeffrey D. Cantrell
Jeffrey D. Cantrell
Tamara L. Huddleston
Assistant Attorneys General
Office of the Arizona Attorney General
Environmental Enforcement Section

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of October, 2010, I electronically filed the attached document with the Court’s ECF System. I also mailed, via First Class U.S. Mail, a copy of the foregoing document to the following parties:

The Honorable Lisa P. Jackson, Administrator
United States Environmental Protection Agency
Executive Communications Office
Mail Code A-101
Ariel Rios Building
401 M Street, S.W.
Washington, D.C. 20460-2601

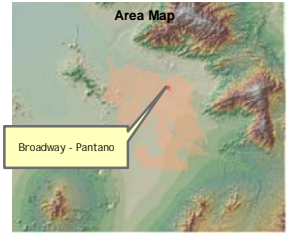
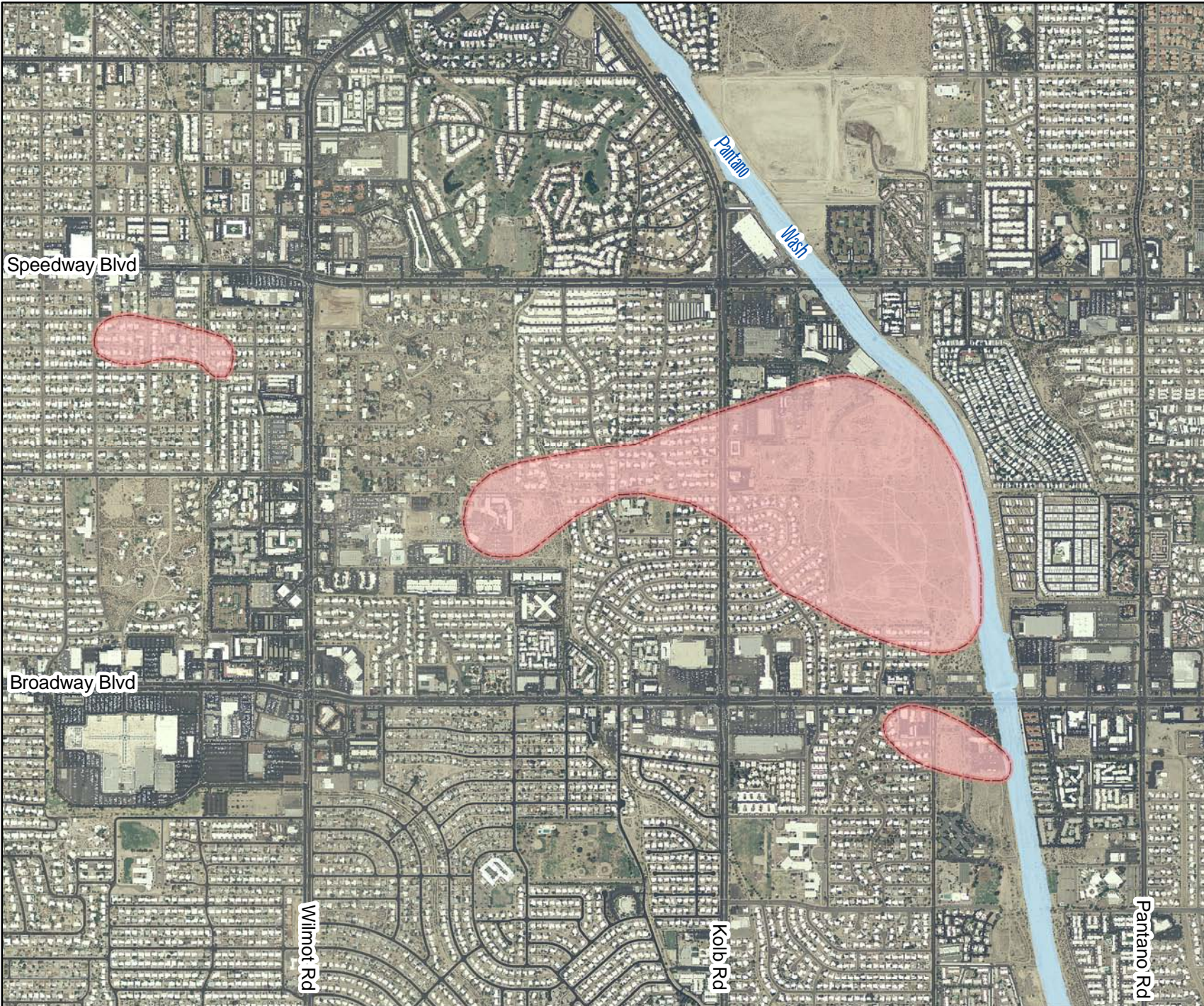
The Honorable Eric H. Holder Jr.
U.S. Attorney General
U.S. Department of Justice
Constitution Avenue & Tenth Street N.W.
Washington, D.C. 20530-0001

Jared Blumenfeld
Regional Administrator, Region 9
United States Environmental Protection Agency
75 Hawthorne Street
San Francisco, California 94105-3901

/s/ Jeffrey D. Cantrell

1146354

Exhibit 1



Legend
 Estimated Plume Boundary



2,000



Feet

**Tucson, Arizona
 January, 2009**

WASTE PROGRAMS DIVISION
 GIS and Data Management Unit

Map produced by Arizona Department of
 Environmental Quality (ADEQ), GIS and
 Data Management Unit, TS Summers

D:\superfund\Tucson\2009\broadway_pantano\
 projects\09\BroadwayPan2009.mxd

Data Sources: Arizona Department of
 Environmental Quality, Arizona Land Resources
 Information System, Arizona Department of
 Transportation. Image: Statewide, 2004
 Projection: UTM, Nad 83, Meters

"Site boundaries depicted on the site map represent ADEQ's interpretation of data available at the time the map was constructed. The map is intended to provide the public with basic information as to the estimated geographic extent of known contamination as of the date of map production. The actual extent of contamination may be different. Therefore, the geographic boundaries for this site may change in the future as new information becomes available."