



BEFORE THE DIRECTOR OF THE ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of: Tucson Electric Power Company located at: 3950 East Irvington Road Tucson, AZ 85706 ADEQ Place ID: 2773 CONSENT ORDER Docket No. A-15-09

To: The Tucson Electric Power Company ("TEP"), in its capacity as the owner or operator of Irvington Generating Station located at 3950 East Irvington Road, Tucson, Pima County, Arizona.

RECITALS

TEP acknowledges that no promise of any kind or nature whatsoever, was made to induce it to enter into this Consent Order, and TEP has done so voluntarily.

By entering into this Consent Order, TEP does not admit to any civil or criminal liability, or waive any right including but not limited to the assertion of any defense available to TEP under applicable law. Further, TEP does not admit, and both the Arizona Department of Environmental Quality ("ADEQ") and TEP retain the right to controvert in any subsequent proceeding, except a proceeding to implement or enforce this Consent Order, the validity of any Findings of Fact or Conclusions of Law contained in this Consent Order.

The undersigned representative of TEP certifies that he is fully authorized to execute this Consent Order on behalf of TEP and to legally bind TEP to this Consent Order.

TEP admits to the jurisdiction of the Director of ADEQ.

Except as to the right to controvert the validity of any Findings of Fact or Conclusion of Law contained in this Consent Order in a proceeding other than to enforce this Consent Order,

1 TEP consents to the terms and entry of this Consent Order and agrees not to contest the validity
2 or terms of this Consent Order in any subsequent proceeding.

3 **THEREFORE, IT IS HEREBY ORDERED** as follows:

4 **I. JURISDICTION**

5 The Director of ADEQ has jurisdiction over the subject matter of this action and is
6 authorized to issue this Consent Order pursuant to the Arizona Revised Statute ("A.R.S.") §§ 49-
7 461 and 41-1092.07(F)(5).

8 **II. FINDINGS**

9 **THE DIRECTOR HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND**
10 **CONCLUSIONS OF LAW:**

11 A. Findings of Fact

12 1. TEP owns or operates Irvington Generating Station, an electricity generating
13 station at 3950 East Irvington Road, Tucson, Pima County, Arizona (the "Facility").

14 2. The Facility is permitted under a Pima County Department of Environmental
15 Quality Class I permit, Permit No. 1052 (the "Permit").

16 3. TEP owns or operates one coal-fired electric utility steam generating unit
17 ("EUSGU") at the Facility with equipment identification number 75-19487. The terms
18 "EUSGU" and "EUSGUs" as used in this Consent Order mean only the coal-fired electric utility
19 steam generating units at the Facility. The EUSGUs at the Facility all operate at the same
20 geographic location.

21 4. On March 15, 2005, the United States Environmental Protection Agency
22 ("EPA") promulgated the Clean Air Mercury Rule ("CAMR") in Title 40 Code of Federal
23 Regulations ("C.F.R.") Part 60, Subpart Da (40 C.F.R. §§ 60.40a through 60.49a) and Subpart
24 HHHH (40 C.F.R. §§ 60.4101-4176) to address emissions of mercury from EUSGUs.

1 5. CAMR applied to most EUSGUs throughout the United States, including
2 those operated at the Facility.

3 6. On January 29, 2007, ADEQ issued, by final rule making, Arizona
4 Administrative Code (“A.A.C.”), Title 18, Chapter 2, Article 7, Sections 733, 733.01 and 734
5 (A.A.C. R18-2-733, -733.01 and -734) (the “Arizona Mercury Rule” or the “Rule”), which
6 consist of the following provisions:.

7 a. A.A.C. R18-2-733 and -733.01 incorporate CAMR into the Arizona
8 Mercury Rule by reference.

9 b. A.A.C. R18-2-734 (the “State Mercury Standard”) requires the Facility to
10 achieve either a 90 percent reduction in mercury emissions (based on inlet mercury in the coal)
11 or an outlet mercury emission rate of 0.0087 lb/GW-hr by December 31, 2013, and incorporates
12 the CAMR monitoring provisions as the method for determining compliance with these limits.

13 7. On February 8, 2008, the United States Court of Appeals for the District of
14 Columbia (“the Court”) vacated CAMR.

15 8. On April 4, 2008, ADEQ opened a rulemaking docket to consider amending
16 the Arizona Mercury Rule to take into account the decision of the Court to vacate CAMR.

17 9. A.A.C. R18-2-734(D) requires the Facility to measure, record, and report the
18 mercury in the exhaust gases in accordance with CAMR and 40 C.F.R. Part 75, Subpart I.

19 10. The Court’s vacatur of CAMR creates uncertainty for the Facility and ADEQ,
20 as it is unclear whether compliance with R18-2-733, R18-2-733.01 or the CAMR monitoring
21 provisions incorporated by reference into the State Mercury Standard, is required.

22 11. At the time of the CAMR vacatur, EPA ceased work on technical issues that
23 are necessary to properly monitor, record and report emissions of mercury, making compliance
24 with the Arizona Mercury Rule’s monitoring, recordkeeping and reporting requirements
25 infeasible. Missing technical elements include:

1 a. The creation and certification of calibration gases necessary to properly
2 certify continuous emissions monitoring systems (“CEMS”) for mercury; and

3 b. The data acquisition systems and computer software necessary for the
4 mercury CEMS and sorbent traps.

5 12. The Court’s vacatur of CAMR requires EPA to develop a National Emissions
6 Standard for Hazardous Air Pollutants (“NESHAP”) for emissions of mercury from EUSGUs in
7 accordance with the provisions of Section 112 of the Clean Air Act.

8 13. EPA may adopt a NESHAP that requires the application of a maximum
9 achievable control technology (“MACT” or “MACT Standard”) that addresses mercury
10 emissions from EUSGUs by December 31, 2013.

11 14. The MACT Standard may be incompatible with the controls that are necessary
12 to achieve compliance with the State Mercury Standard .

13 15. At the time that EPA promulgates a MACT Standard that addresses mercury
14 emissions from EUSGUs, ADEQ intends to propose amendments to A.A.C. R18-2-734 to ensure
15 that the Arizona Mercury Rule is not incompatible with the MACT Standard.

16 16. Until EPA promulgates a MACT Standard that addresses mercury emissions
17 from EUSGUs, TEP is capable of implementing an interim mercury control strategy at the
18 Facility without interfering with the Facility’s ability to comply with the State Mercury Standard
19 for the 12-month calendar year period ending on December 31, 2016, or the eventual MACT
20 Standard that addresses mercury emissions from EUSGUs.

21 17. On October 22, 2008, the Arizona Utilities Group, of which TEP is a member,
22 submitted to ADEQ an alternative plan for delaying A.A.C. R18-2-734(B)’s requirement to
23 reduce mercury emissions by December 31, 2013. The plan provided for the voluntary
24 implementation of an early mercury control strategy expected to achieve total mercury emissions
25 reductions that over time will be substantially similar to the emissions reductions that would be

1 realized by complying with the State Mercury Standard. The alternative plan called for one of
2 the two following options:

3 a. Implement a mercury control strategy that is designed to achieve a 50
4 percent reduction of mercury emissions, or equivalent rate, on a Facility-wide annual average
5 basis (based on inlet mercury in the coal) on or before January 1, 2011; or

6 b. Implement a mercury control strategy that is designed to achieve a 70
7 percent reduction of mercury emissions, or equivalent rate, on a Facility-wide annual average
8 basis (based on inlet mercury in the coal) on or before January 1, 2012.

9 18. Except as provided in A.A.C. R18-2-734(G) and (H), enforcement of the
10 State Mercury Standard, would result in a minimum annual average reduction in mercury
11 emissions of 54 percent during the time period of January 1, 2011, through December 31, 2015.

12 19. The alternative strategy identified in Section II.A.17.a would be designed to
13 result in a minimum Facility-wide annual average reduction in mercury emissions of 50 percent
14 (based on inlet mercury in the coal) during the time period of January 1, 2011, through
15 December 31, 2015.

16 20. The alternative strategy identified in Section II.A.17.b would be designed to
17 result in a minimum Facility-wide annual average reduction in mercury emissions of 56 percent
18 (based on inlet mercury in the coal) during the time period of January 1, 2011, through
19 December 31, 2015 (0 percent reduction required for calendar year 2011, 70 percent targeted for
20 calendar years 2012 through 2015).

21 21. Thus, because the alternative strategies identified in Section II.A.17 provide
22 for the early implementation of a control strategy, they would be designed to result in total
23 reductions in mercury emissions over the period January 1, 2011 through December 31, 2015,
24 that are substantially similar to the reductions that would result from enforcement of the State
25 Mercury Standard.

1 22. In order to be enforceable, an operating and maintenance plan (O&M Plan)
2 for the control strategy described in Section II.A.17.a or b must be incorporated into the
3 Facility's permit through a significant permit revision. It is not feasible for TEP to prepare and
4 submit a significant permit revision application and for ADEQ to act on that revision within one
5 year from the execution of this Consent Order. Instead, completion of the permitting process will
6 require approximately two years.

7 B. Conclusions of Law

8 1. Pursuant to A.A.C. R18-2-734(B), the "...rolling 12-month average mercury
9 emissions from an electric generating plant shall not exceed 10 percent of inlet mercury or
10 0.0087 pound per gigawatt-hour, whichever is greater. Mercury emissions from an electric
11 generating unit, when averaged with emissions from other electric generating units at the same
12 electric generating plant, shall comply with this limit for the 12 calendar months ending on the
13 later of the following, and each subsequent 12-calendar month period:

14 a. December 31, 2013; or

15 b. Twelve full calendar months after the electric generating unit starts
16 commercial operation."

17 2. A.A.C. R18-2-734(E) requires TEP to submit an application for a significant
18 permit revision under R18-2-320 to incorporate the monitoring, recordkeeping and reporting
19 requirements from CAMR into the Permit, no later than January 1, 2008.

20 3. On or before January 1, 2008, TEP submitted an application to ADEQ
21 pursuant to A.A.C. R18-2-734(E).

22 4. A.A.C. R18-2-734(D) requires TEP to measure, record, and report the
23 mercury emissions in the exhaust gases from each EUSGU, as required by CAMR, no later than
24 January 1, 2009.

1 5. A.A.C. R18-2-734(F) requires TEP to submit an application for a significant
2 permit revision under R18-2-320, no later than January 1, 2009, in order to:

- 3 a. Incorporate the State Mercury Standard into the Facility's permit;
4 b. Include a control strategy for meeting the State Mercury Standard; and
5 c. Provide a demonstration that the control strategy is projected to meet the
6 State Mercury Standard.

7 TEP did not submit an application for a significant permit revision by January 1, 2009.

8 6. For reasons identified in Section II.A.11, on January 1, 2009, TEP's Facility
9 will not be capable of properly measuring, recording and reporting data corresponding to the
10 mercury in the exhaust gases of each EUSGU to ADEQ in the manner prescribed in A.A.C. R18-
11 2-734(D).

12 7. The purpose of this Consent Order is to agree to an alternative plan for the
13 Facility to achieve compliance with the State Mercury Standard by December 31, 2016. From
14 the effective date of this Consent Order until its termination under Section XV, the terms of this
15 Consent Order shall apply, and the Arizona Mercury Rule shall not apply, to the Facility.

16 8. Arizona Revised Statutes, Title 49, Section 461 states that "...[a]n order
17 issued under this section shall require the persons to whom it is issued to comply with the
18 requirement, provision or rule as expeditiously as practicable. In the case of a source required to
19 obtain a permit pursuant to this article and title V of the clean air act, the order shall require
20 compliance no later than one year after the date the order was issued and may be renewable for
21 no more than one additional year on a showing of good cause to the director." For the reasons
22 stated in Section II.A.22, there is good cause to renew this Consent Order for one additional year
23 as provided in A.R.S. § 49-461.

24 9. The alternative mercury control strategy required in this Consent Order is
25 intended to achieve mercury reductions substantially similar to those required under the State

1 Mercury Standard and provides a plan to achieve compliance with the Standard by December 31,
2 2016, by submitting an application for a significant permit revision as required by Section III of
3 this Order.

4 **III. COMPLIANCE SCHEDULE**

5 **THE DIRECTOR HEREBY ORDERS** and TEP agrees to comply with the provisions of this
6 Consent Order as follows:

7 A. On or before the deadline established in Section III.C, TEP shall submit an
8 application to ADEQ for a significant permit revision pursuant to A.A.C. R18-2-320 that
9 contains the following:

10 1. A proposal to implement a mercury control strategy that is designed to
11 achieve:

12 a. A 50 percent reduction of total mercury emissions (based on inlet
13 mercury in the coal) from all EUSGUs for which this option is selected or a rate of emissions of
14 0.0087 pound per gigawatt-hour for the time period beginning on January 1, 2011, and ending on
15 December 31, 2015; or

16 b. A 70 percent reduction of total mercury emissions (based on inlet
17 mercury in the coal) from all EUSGUs for which this option is selected or a rate of emissions of
18 0.0087 pound per gigawatt-hour for the time period beginning on January 1, 2012, and ending on
19 December 31, 2015.

20
21 2. A demonstration that the mercury control strategy is designed to achieve
22 the reductions in Section III.A.1;

23 3. A proposed enforceable O&M Plan that will ensure that the mercury
24 control strategy specified in Section III.A.1 is implemented; and

1 4. A proposed monitoring system and recordkeeping and reporting methods
2 for determining mercury emissions from each EUSGU at the Facility and for assuring that the
3 control system is functioning in accordance with the O&M Plan.

4 5. A proposal to include in the permit revision a requirement to submit the
5 application for a significant permit revision required by A.A.C. R18-2-724(F) by no later than
6 January 1, 2014, and to include the following elements in the application:

7 a. The State Mercury Standard and any amendments thereto adopted
8 pursuant to Section II.A.15 after the date of this Consent Order;

9 b. A control strategy for meeting the State Mercury Standard and any
10 amendments thereto adopted pursuant to Section II.A.15 after the date of this Consent Order;

11 c. A demonstration that the control strategy is designed to meet the
12 State Mercury Standard and any amendments thereto adopted pursuant to Section II.A.15 after
13 the date of this Consent Order; and

14 d. A proposal to comply with the State Mercury Standard by
15 December 31, 2016, except as provided in A.A.C. R18-2-734(H), under the following
16 conditions:

17 i. For the purposes of applying the exception established in
18 A.A.C. R18-2-734(H), each date specified in that provision shall be increased by three calendar
19 years.

20 ii. The exception in A.A.C. R18-2-734(G) shall not apply.

21 B. For purposes of this Consent Decree, “inlet mercury” means the average
22 concentration of mercury in the coal burned at the Facility, as determined by ASTM methods,
23 EPA-approved methods or an alternative method approved by the Director.

24 C. The deadline for submitting the application required by Section III.A shall be:

1 1. June 30, 2009, if TEP selects the option established in Section III.A.1.a for
2 any EUSGU at the Facility;

3 2. December 31, 2009, if TEP selects the option established in Section
4 III.A.1.b for all EUSGUs at the Facility.

5 D. If ADEQ provides TEP with a written finding that the application submitted under
6 Section III.A fails to comply with this Order or contains insufficient information to determine
7 whether the application complies and identifies the deficiencies or missing information with
8 reasonable specificity, TEP shall submit a detailed response within sixty (60) days after receipt
9 of the finding.

10 E. The target date for ADEQ to act on an application for a significant permit revision
11 submitted under Section III.A shall be June 30, 2010, for an application submitted under
12 Sections III.A.1.a and III.C.1, or December 31, 2010, for an application submitted under
13 Sections III.A.1.b and III.C.2 (the "Target Date"). If TEP complies with Section III.D and
14 ADEQ fails to issue, in response to the application submitted under Section III.A, a final permit
15 revision or a decision to deny the permit revision by the Target Date, the deadlines specified in
16 Section III.A.1 shall be extended by the number of days between the Target Date and the date
17 ADEQ issues the final permit revision or the decision to deny.

18 F. A significant permit revision issued in response to the application submitted under
19 Section III.A shall not include an enforceable mercury emissions limitation or any commitment
20 to achieve any mercury emissions reductions. Only the approved O&M Plan specified in the
21 significant permit revision application and the approved monitoring system, recordkeeping and
22 reporting methods specified in the significant permit revision application shall be made
23 enforceable in the significant permit revision. Except as otherwise provided in this Consent
24 Order, the significant permit revision shall specify that the State Mercury Standard does not
25 apply to the Facility until December 31, 2016.

1 **IV. STATUS REPORTS**

2 A. TEP agrees to submit a written status report to ADEQ every six (6) calendar
3 months beginning with the first compliance certification that is required pursuant to the Permit,
4 after the effective date of this Consent Order, until termination of this Consent Order. Each
5 written status report shall describe what measures, if any, have been taken to comply with this
6 Consent Order. Each report shall be accompanied by evidence of compliance including, as
7 appropriate, submittal of documents, photographs or copies of any other supporting information
8 that TEP deems necessary.

9 B. ADEQ will review the status reports and relay any questions in writing to TEP.

10 **V. VIOLATIONS OF ORDER/STIPULATED PENALTIES**

11 A. Under A.R.S. § 49-463, violation of this Consent Order subjects TEP to civil
12 penalties of up to \$10,000 per day per violation. ADEQ and TEP agree that the calculation of
13 civil penalties for violation of this Consent Order would be very difficult.

14 B. ADEQ and TEP therefore agree that if TEP fails to comply with any requirement
15 of this Consent Order, TEP shall pay a stipulated penalty pursuant to the schedule below:

Period of Failure to Comply	Penalty Per Day of Violation
1st to 30th day	\$1,000 per day per violation
31st to 60th day	\$3,000 per day per violation
After 60 days	\$5,000 per day per violation

16
17 C. Except as otherwise provided herein, stipulated penalties shall begin to accrue on
18 the day that performance is due or that a violation of this Consent Order occurs and shall
19 continue to accrue until correction of the act of noncompliance is completed. Neither issuance
20 by ADEQ nor receipt by TEP of a Notice of Violation of the terms and conditions of this
21 Consent Order are conditions precedent to the accrual of stipulated penalties.

1 D. Stipulated penalty payments shall be made pursuant to a civil settlement (e.g.,
2 Consent Judgment) with ADEQ filed in a court of competent jurisdiction. If ADEQ and TEP are
3 unable to reach agreement for payment of stipulated penalties under a civil settlement, or if TEP
4 fails to make payment of stipulated penalties due under a civil settlement, ADEQ may file a civil
5 action seeking the maximum civil penalty allowed under Federal or State law for violation of this
6 Consent Order.

7 E. The stipulated penalties required by this Consent Order shall be in addition to
8 injunctive remedies or sanctions otherwise available to ADEQ by reason of any failure by TEP
9 to comply with this Consent Order. The payment of stipulated penalties shall not relieve TEP
10 from compliance with the terms and conditions of this Consent Order or Federal or State laws,
11 nor limit the authority of the State to require compliance with the Consent Order or State law.

12 VI. COMPLIANCE WITH OTHER LAWS

13 A. This Consent Order does not encompass issues regarding releases, contamination,
14 sources, operations, facilities or processes not expressly covered by the terms of this Consent
15 Order, and is without prejudice to the rights of the State of Arizona or TEP, arising under any
16 federal or Arizona environmental statutes and rules with regard to such issues.

17 B. Nothing in this Consent Order shall constitute a permit of any kind, or a
18 modification of any permit of any kind, or relieve TEP in any manner of its obligation to apply
19 for, obtain, and comply with all applicable permits. Nothing in this Consent Order shall in any
20 way alter, modify or revoke federal, state, or local law, or relieve TEP in any manner of its
21 obligation to comply with such laws. Compliance with the terms of this Consent Order shall not
22 be a defense to any action to enforce any such permits or laws.

23 VII. FORCE MAJEURE

24 A. TEP shall perform all the requirements of this Consent Order according to the
25 time limits set forth herein, unless performance is prevented or delayed by events which

1 constitute a *force majeure*. *Force majeure*, for the purposes of this Consent Order, is defined as
2 any event, arising from causes beyond the control of TEP or its authorized representatives which
3 delays or prevents the performance of any obligation under this Consent Order and which could
4 not have been overcome or prevented by TEP. The financial inability of TEP to comply with the
5 terms of this Consent Order shall not constitute a *force majeure*.

6 B. In the event of a *force majeure*, the time for performance of the activity affected
7 by the *force majeure* shall be reasonably determined by ADEQ and extended for a period no
8 longer than the delay caused by the *force majeure*. The time for performance of any activity
9 dependent on the delayed activity shall be similarly extended. In the event of a *force majeure*,
10 TEP shall notify ADEQ in writing within five (5) calendar days after TEP or its agents become
11 aware of the occurrence. The written notice provided to ADEQ shall describe in detail the event,
12 the anticipated delay, the measures taken and to be taken by TEP to prevent or minimize delay,
13 and a proposed timetable under which those measures will be implemented. TEP shall take all
14 reasonable measures to prevent or minimize any delay caused by the *force majeure*. Failure of
15 TEP to comply with any requirements of this paragraph for a particular event shall preclude TEP
16 from asserting any claim of *force majeure* for that event.

17 VIII. SITE ACCESS

18 ADEQ may at any time, upon presentation of credentials to authorized personnel on duty,
19 enter upon the premises at the Facility for the purpose of observing and monitoring compliance
20 with the provisions of this Consent Order. This right of entry shall be in addition to, and not in
21 limitation of or substitution for, ADEQ's rights under applicable law.

22 IX. CORRESPONDENCE

23 All documents, materials, plans, notices, or other items submitted as a result of this
24 Consent Order shall be transmitted to the addresses specified below:

25 To ADEQ:

1 Arizona Department of Environmental Quality
2 Air Quality Division/Enforcement Unit
3 Attention: Timothy Franquist, Manager
4 1110 West Washington Street
5 Phoenix, Arizona 85007-2935
6 Telephone: 602-771-4684
7 Email: tsf@azdeq.gov
8

9 To Tucson Electric Power Company:

10 Erik Bakken, Manager
11 Corporate Environmental Services and Land Management
12 Tucson Electric Power Company
13 1 South Church, Mail Stop DS503, PO Box 711
14 Tucson, AZ 85702
15 (520) 918-8351
16

17 Submissions to ADEQ as a result of this Consent Order shall be deemed submitted upon receipt.

18 **X. RESERVATION OF RIGHTS**

19 A. This Consent Order is based solely upon currently available information. If
20 additional information is discovered, which indicates that the actions taken under this Consent
21 Order are or will be inadequate to protect human health, safety, or the environment, or to
22 conform with applicable federal or state laws, ADEQ shall have the right to require further action
23 consistent with applicable laws and regulations.

24 B. Except as otherwise provided in this Consent Order, ADEQ shall have the right:
25 to pursue civil penalties for violations of any and all violations of A.R.S. Title 49, or the rules
26 promulgated thereunder, occurring before entry of this Consent Order; to disapprove of work
27 performed by TEP that fails to comply with this Consent Order; to take enforcement action for
28 any and all violations of this Consent Order; and to take enforcement action for any and all
29 violations of A.R.S. Title 49, or the rules promulgated thereunder, occurring after the entry of
30 this Consent Order.

1 **XI. SEVERABILITY**

2 The provisions of this Consent Order are severable. If any provision of this Consent
3 Order is declared by a court of law to be invalid or unenforceable, all other provisions of this
4 Consent Order shall remain in full force and effect.

5 **XII. MODIFICATIONS**

6 Any modifications of this Consent Order shall be in writing and must be approved by
7 both TEP and ADEQ.

8 **XIII. EFFECTIVE DATE**

9 The effective date of this Consent Order shall be the date this Consent Order is signed by
10 ADEQ and TEP. If such signatures occur on different dates, the later date shall be the effective
11 date of this Consent Order.

12 **XIV. PARTIES BOUND**

13 No change in ownership, corporate status, or partnership status relating to the subject of
14 this Consent Order will in any way alter the responsibilities of TEP under this Consent Order.
15 TEP will be responsible, and will remain responsible, for carrying out all activities required
16 under this Consent Order.

17 **XV. TERMINATION**

18 This Consent Order shall terminate on (a) January 31, 2011, (b) the date ADEQ makes a
19 final administrative decision under A.R.S. §§ 49-427, 49-428, and 41-1092.08 on the application
20 submitted under Section III.A or (c) the date TEP's right to appeal an appealable agency action
21 by ADEQ on the application submitted under Section III expires under A.R.S. § 49-1092.03(B),
22 whichever occurs first; provided, however, that TEP and ADEQ may mutually agree in writing
23 to terminate this Consent Order before then. For the reasons specified in Sections II.A.22 and
24 II.B.2, this Consent Order is renewed for one additional year beyond the normal termination date
25 of January 31, 2010.

1 ISSUED this 7th day of February, 2007

2

3

4

5

6

7

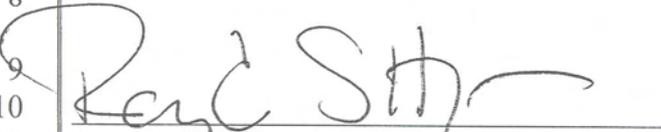


Nancy C. Wrona, Director
Air Quality Division
Arizona Department of Environmental Quality

1 **CONSENT TO ORDER**

2 The undersigned, on behalf of TEP, hereby acknowledges that he has read the foregoing Consent
3 Order in its entirety, agrees with the statements made therein, consents to its entry and issuance
4 by the Arizona Department of Environmental Quality, agrees that Tucson Electric Power
5 Company will abide by the same and waive any right to appeal therefrom.

6
7 DATED 2nd day of February, 2009.

8
9 
10 _____
11 Raymond S. Heyman
12 Senior Vice President and General Counsel
13 Tucson Electric Power Company
14

1 ORIGINAL of the foregoing Consent Order was sent certified mail, return receipt requested,
2 this 18 day of February, 2009, to:

3
4
5 Raymond S. Heyman
6 Senior Vice President and General Counsel
7 Tucson Electric Power Company
8 1 South Church, PO Box 711
9 Tucson, AZ 85702

10
11
12 COPY of the foregoing Consent Order was filed this 18 day of February, 2009, with:

13
14 Arizona Department of Environmental Quality
15 Office of Special Counsel
16 Attention: Judith Fought, Hearing Administrator
17 1110 West Washington Street
18 Phoenix, Arizona 85007-2935

19
20 COPIES of the foregoing Consent Order were sent by regular/interdepartmental mail, this 18
21 day of February, 2009, to the following:

22
23 Erik Bakken
24 Manager, Corporate Environmental Services and Land Management
25 Tucson Electric Power Company
26 1 South Church, Mail Stop DS503, PO Box 711
27 Tucson, AZ 85702

28
29 Tamara Huddleston, Chief Counsel
30 Environmental Enforcement Section, Office of the Attorney General

31
32 Joseph Mikitish
33 Assistant Attorney General, Office of the Attorney General

34
35 Eric Massey, Manager
36 Air Quality Compliance Section