

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

H2O SYSTEMS, INC., f/k/a
GREENLEAVES UTILITY COMPANY

AI # 19599

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-WE-09-0067
*
* Enforcement Tracking No.
* WE-CN-08-0147; WE-C-02-0081;
* WE-CN-02-1116; WE-PP-04-0001;
* WE-CN-04-1063; MM-CN-05-0034;
* WE-CN-06-0053; WE-CN-07-0102
*
* Docket No. 2008-7497-EQ; 2004-4180-EQ;
* 2006-0844-EQ; 2007-6359-EQ;
* 2008-2664-EQ; 2008-2676-EQ

SETTLEMENT

The following Settlement is hereby agreed to between H2O Systems, Inc., formerly known as Greenleaves Utility Company ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation that owns and/or operates a sanitary wastewater treatment facility located in Mandeville, St. Tammany Parish, Louisiana ("the Facility").

II

On May 28, 2008, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-08-0147 (Exhibit 1), which was based upon the following findings of fact:

The Respondent owns and/or operates a sanitary wastewater treatment facility located at 3075 White Oak Lane in Mandeville, St. Tammany Parish, Louisiana. The Respondent was issued

Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0068730 effective on April 1, 2002, with an expiration date of March 30, 2007. The Respondent submitted a permit renewal application on or about October 3, 2006, and LPDES permit LA0068730 was administratively continued. On or about August 6, 2007, LPDES permit LA0068730 was issued with an effective date of September 1, 2007. LPDES permit LA0068730 will expire on August 31, 2012. LPDES permit LA0068730 authorizes the Respondent to discharge treated sanitary wastewater into Bayou Chinchuba, thence into Lake Pontchartrain, waters of the state.

The Respondent was issued Compliance Order WE-C-02-0081 on or about February 28, 2002, for the following violations: failure to sample, failure to submit noncompliance reports, operation and maintenance deficiency, and violations of permit effluent limits. This Compliance Order mandated the Respondent to take any and all steps necessary to meet and maintain compliance with LPDES permit LA0068730 and submit a written response to the Compliance Order. A construction schedule was contained in the Order requiring the Respondent to upgrade its treatment plant and to submit quarterly progress reports accordingly. Compliance Order WE-C-02-0081 is a final action of the Department and is not subject to further review. (Exhibit 2)

The Respondent was issued Consolidated Compliance Order and Notice of Potential Penalty WE-CN-02-1116 on or about February 27, 2003, for the following violations: untimely submittal of a written response to the Compliance Order WE-C-02-0081, operation and maintenance deficiencies, violations of permit effluent limits, and failure to submit noncompliance reports. Consolidated Compliance Order and Notice of Potential Penalty WE-CN-02-1116 mandated the Respondent to take any and all steps necessary to meet and maintain compliance with LPDES permit LA0068730 and submit a written response to the Consolidated Compliance Order and Notice of Potential Penalty. A construction schedule was contained in the Order requiring the Respondent to upgrade

its treatment plant and to submit quarterly progress reports accordingly. A written response was received by the Department on or about April 8, 2003. The Respondent requested a hearing for Consolidated Compliance Order and Notice of Potential Penalty WE-CN-02-1116, which is currently under adjudicatory review. (Exhibit 3)

The Respondent was issued Notice of Potential Penalty WE-PP-04-0001 on or about March 8, 2004 for allowing the discharge of solids from its sanitary wastewater facility into Bayou Chinchuba, waters of the state, and for failure to notify the Department in a timely manner of the discharge. A written response was received by the Department on or about March 17, 2004. Notice of Potential Penalty WE-PP-04-0001 is a final action of the Department and is not subject to further review. (Exhibit 4)

The Respondent was issued Consolidated Compliance Order and Notice of Potential Penalty WE-CN-04-1063 on or about November 24, 2004, for permit effluent violations. The Respondent also failed to submit a written response in a timely manner. The failure to submit a written response is in violation of Consolidated Compliance Order and Notice of Potential Penalty WE-CN-04-1063. Consolidated Compliance Order and Notice of Potential Penalty WE-CN-04-1063 required the Respondent to take any and all steps necessary to meet and maintain compliance with LPDES permit LA0068730 and to submit a written response to the Consolidated Compliance Order and Notice of Potential Penalty. The Respondent requested a hearing for Consolidated Compliance Order and Notice of Potential Penalty WE-CN-04-1063, which is currently under adjudicatory review. (Exhibit 5)

The Respondent was issued Consolidated Compliance Order and Notice of Potential Penalty MM-CN-05-0034 on or about May 26, 2006, for failure to maintain and/or retain maintenance and calibration records, failure to record preservatives on the chain-of-custody forms, failure to follow

adequate quality control procedures and expired pH buffer standards, causing and/or allowing the deposition of regulated solid waste without a permit, failure to provide sample preservation and failure to collect samples in a sterile container, the unauthorized discharges of wastewater, operation and maintenance deficiencies, effluent violations, failure to sample, and the failure to submit accurate DMRs. Consolidated Compliance Order and Notice of Potential Penalty MM-CN-05-0034 required the Respondent to take any and all steps necessary to meet and maintain compliance with LPDES permit LA0068730 and the Water Quality Regulations, Hazardous Waste Regulations, and the Solid Waste Regulations, to submit properly completed DMRs, and to submit a written response to the Consolidated Compliance Order and Notice of Potential Penalty. The Respondent submitted a written response on or about July 5, 2006 and requested a hearing for Consolidated Compliance Order and Notice of Potential Penalty MM-CN-05-0034, which is currently under adjudicatory review. (Exhibit 6)

The Respondent was issued Consolidated Compliance Order and Notice of Potential Penalty WE-CN-06-0053 on or about November 29, 2006, for effluent violations. Consolidated Compliance Order and Notice of Potential Penalty WE-CN-06-0053 required the Respondent to take any and all steps necessary to meet and maintain compliance with LPDES permit LA0068730 and the Water Quality Regulations and to submit a written response to the Consolidated Compliance Order and Notice of Potential Penalty. The Respondent failed to submit a written response in a timely manner.

The failure to submit a written response is in violation of Consolidated Compliance Order and Notice of Potential Penalty WE-CN-06-0053. The Respondent requested a hearing for Consolidated Compliance Order and Notice of Potential Penalty WE-CN-06-0053, which is currently under adjudicatory review. (Exhibit 7)

The Respondent was issued Consolidated Compliance Order and Notice of Potential Penalty

WE-CN-07-0102 on or about May 7, 2007, for effluent violations. Consolidated Compliance Order and Notice of Potential Penalty WE-CN-07-0102 required the Respondent to take any and all steps necessary to meet and maintain compliance with LPDES permit LA0068730, to complete and accomplish the closure of the existing lagoon based on the schedule provided in the Order, to submit progress reports and certification statements of achievements in closing the lagoon, to comply with the Water Quality Regulations and to submit a written report that included a detailed description of the circumstances surrounding the cited violations and actions taken to achieve compliance with the Consolidated Compliance Order and Notice of Potential Penalty . The Department received a written response on August 16, 2007. The Respondent requested a hearing for Consolidated Compliance Order and Notice of Potential Penalty WE-CN-07-0102, which is currently under adjudicatory review. (Exhibit 8)

Inspections conducted by the Department from April 2007 through December 2007, pursuant to citizen's complaint, revealed that the Respondent did cause or allow the following unauthorized discharges of sewage from manholes into waters of the state:

Date of Overflow/Incident	Date of Inspection	Overflow Location	Impacted Stream	Amount
04/23/2007	April 23, 2007	Manhole between Richland East & Richland West	retention pond thence to Bayou Chinchub	Unknown*
5/4/2007	May 4, 2007	Manhole along Greenleaves blvd	retention pond thence to Bayou Chinchuba	Unknown*
5/30/2007	May 30, 2007	Manhole between Richland East & Richland West	retention pond thence to Bayou Chinchuba	Unknown*

Date of Overflow/Incident	Date of Inspection	Overflow Location	Impacted Stream	Amount
6/1/2007	June 1, 2007	Manhole between Richland East & Richland West	retention pond thence to Bayou Chinchuba	Unknown*
6/13/2007	June 18, 2007	Manhole between Richland East & Richland West	retention pond thence to Bayou Chinchuba	Unknown*
9/1/07-9/04/07	September 4, 2007	Manhole between Richland East & Richland West Manhole between MayHaw Branch Rd., & Lonesome Rd.	retention pond thence to Bayou Chinchuba	Unknown* Unknown*
11/06/07	November 6, 2007	Greenleaves Blvd., near Lonesome Rd.	retention pond thence to Bayou Chinchuba	Unknown*
11/01/2007	December 6, 2007	Manhole between Richland East & Richland West Greenleaves Blvd. MayHaw Branch Rd.	retention pond thence to Bayou Chinchuba	Unknown* Unknown*

* Failed to Notify the Department.

Each unauthorized discharge of untreated sanitary wastewater from a location not specified in the permit is in violation of LPDES permit LA0068730 (Part III, Section A.2), La. R.S. 30:2076 (A) (1) (a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. The failure to properly operate and maintain the collection system is in violation of LPDES permit

LA0068730 (Part III, Sections A.2 and B.3.a), La. R. S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.E. In addition, the Respondent failed to notify the Department verbally (within 24 hours) and/or in writing (within 7 days) of the aforementioned unauthorized discharges. The failure to notify the Department of the unauthorized discharges is in violation of LPDES permit LA0068730 (Part II, Section A.6, and Part III, Sections A.2 and D.7), La. R.S. 30:2025 (J)(2), La. R.S. 30:2076 (A)(3), La. R.S. 30:2076 (D), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.7.

A file review conducted by the Department on or about February 27, 2008, of the Discharge Monitoring Reports (DMRs) for LPDES permit LA0068730, revealed the following effluent violations:

Monitoring Period	Parameter	Permit Limit	Reported Value
April 2006	Total Residual Chlorine, wkly avg	0.099 mg/L	<0.9 mg/L
April-June 2007	Total Copper, mon avg.	0.035 lbs/day	<0.04 lbs/day
	Total Zinc, mon avg.	0.03 lbs/day	0.18 lbs/day
July-September* 2007	Total Zinc, mon avg.	0.3 lbs/day	0.32 lbs/day
	Total Copper, mon avg.	0.035 lbs/day	<0.08 lbs/day
December* 2007	Total Copper, mon avg.	0.035 lbs/day	<0.051 lbs/day
	Total Zinc, mon avg.	0.3 lbs/day	0.39 lbs/day
	Total Nitrogen Ammonia, mon avg.	4 mg/L	5.10 mg/L

* Failed to submit a noncompliance report.

Each of the above-noted effluent exceedances is in violation of Compliance Order WE-C-02-0081, Consolidated Compliance Order and Notice of Potential Penalty WE-CN-02-1116, Consolidated Compliance Order and Notice of Potential Penalty WE-CN-04-1063, Consolidated Compliance Order and Notice of Potential Penalty MM-CN-05-0034, Consolidated Compliance Order and Notice of Potential Penalty WE-CN-06-0053, Consolidated Compliance Order and Notice of Potential Penalty WE-CN-07-0102, and LPDES permit LA0068730 (Part I, page 2 of 7, and Part III, Section

A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. Each failure to submit a non-compliance report is a violation of LPDES permit LA0068730 (Part III, Sections A.2 and D.7), La R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.7.

Consolidated Compliance Order and Notice of Potential Penalty, Enforcement Tracking No. WE-CN-08-0147, and each of the enforcement actions referred to therein are included herein and made part of this settlement agreement.

The following violations, although not cited in any enforcement action issued to the Respondent, also are included herein and made a part of this settlement agreement.

Inspections conducted by the Department on or about June 2, 2008, June 4, 2008, and June 16, 2008, in response to a citizen's complaint revealed the Respondent did cause or allow the following unauthorized discharges of sewage from manholes into waters of the state:

Date of Overflow/Incident	Date of Inspection	Overflow Location	Impacted Stream	Amount
06/02/2008	06/02/2008	Greenleaves Parkway and May Haw Branch Rd.	retention pond thence to Bayou Chinchub	Unknown*
6/4/2008	6/4/2008	Richland Dr. East and Richland Dr. West	retention pond thence to Bayou Chinchuba	Unknown*
6/16/2008	6/16/2008	Greenleaves Blvd. across from Scotchpine blvd. Greenleaves Blvd. across from the entrance to the colony	retention pond thence to Bayou Chinchuba	Unknown*

Date of Overflow/Incident	Date of Inspection	Overflow Location	Impacted Stream	Amount
		Greenleaves Blvd. north of Colony Trail		
		Greenleaves blvd. north of May Haw		
9/24/2009	9/30/2009	Spring Water Dr.	Unnamed ditch	500 gallons

* Failed to Notify the Department.

Each unauthorized discharge of untreated sanitary wastewater from a location not specified in the permit is in violation of LPDES permit LA0068730 (Part III, Section A.2), La. R.S. 30:2076 (A) (1) (a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. The failure to properly operate and maintain the collection system is in violation of LPDES permit LA0068730 (Part III, Sections A.2 and B.3.a), La. R. S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.E. In addition, the Respondent failed to notify the Department verbally (within 24 hours) and/or in writing (within 7 days) of the aforementioned June 2008 unauthorized discharges.

A file review conducted by the Department on or about February 27, 2008, of the Discharge Monitoring Reports (DMRs) for LPDES permit LA0068730, revealed the following effluent violations:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
June 2008	001Q	Total Copper, mon avg.	0.035 lbs/day	<0.05 lbs/day
		Total Zinc, mon avg.	0.03 lbs/day	0.33 lbs/day
September 2008	001A	Total Zinc, mon avg.	0.3 lbs/day	0.32 lbs/day
		Total Copper, mon avg.	0.035 lbs/day	<0.05 lbs/day
		CBOD, mon avg.	10 mg/L	12 mg/L
		CBOD, wkly avg.	15 mg/L	33 mg/L

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
April-June	TX1Q	Biomonitoring (re-test)	Pass/Fail	Failed C.dubia (lethal) C.dubia (sub-lethal)
April -June	TX1Q	Biomonitoring (re-test)	Pass/Fail	Failed Pimephales (lethal) Pimephales (sub-lethal)

Each of the above-noted effluent exceedances is in violation of LPDES permit LA0068730 (Part I, page 2 of 7, and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

A file review conducted by the Department revealed the Respondent failed to sample the effluent for toxicity. Specifically, the Respondent failed the toxicity test for the 2nd quarter of 2008. LPDES permit LA0068730 requires the Respondent to perform two monthly toxicity confirmation tests for the affected species. The Respondent also failed to sample for Total Cyanide, Total Zinc, Total Copper, and Dichromochloromethane for the 1st quarter of 2008. Each failure to sample is in violation of LPDES permit LA0068730 (Part I, page 2 of 7, and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

The Respondent failed to submit DMRs for March, June and September of 2008 in a timely manner. Each failure to submit DMRs in a timely manner is a violation of LPDES permit LA0068730 (Part I, Section A.9, and Part III, Sections A.2, D.4), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.a.

The Respondent deposited waste activated sludge from a former related company (now merged into Respondent), Northlake Environmental Engineering Services, Inc., into Respondent's Aerated Lagoon 168 times, as indicated in Respondent's January 14, 2005 Report on Aerated Lagoon

that was submitted to the Department. Each deposit of such waste activated sludge into the Aerated Lagoon is a violation of LPDES permit LA 0068730 (Part III, Sections A.2 and B.3.a), La. R.S. 30:2076 (A)(1)(b), La. R.S. 30:2076 (A)(3), La. R.S. 30:2076 (A)(4), La. R.S. 30:2076 (D), La. R.S. 30:2077, LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:IX.2701.E, LAC 33:IX.7301.G.1, and LAC 33:IX.7301.G.2.

III

As noted above, in response to the Enforcement Actions included in this settlement, Respondent made one or more timely requests for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of EIGHTY FIVE THOUSAND AND NO/100 DOLLARS (\$85,000.00), of which Five Thousand Eight and 21/100 Dollars (\$5,008.21) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Compliance Order, the Notice of Potential Penalty, and the Consolidated Compliance Orders and Notices of Potential Penalty and this Settlement for the purpose of determining compliance history in

connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Tammany Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made in twenty-four (24) monthly installments. The first twenty-three (23) installments shall be Three Thousand and No/100 Dollars (\$3,000.00) each. The first payment is due within ten (10) days from notice of the Secretary's signature. Subsequent payments are due on the first day of each consecutive month. A twenty-fourth (24th) installment and final payment shall be Sixteen Thousand and No/100 Dollars (\$16,000.00), for a total of Eighty-Five Thousand and No/100 Dollars (\$85,000.00). If payment is not received within this time frame and in the amount stipulated above, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit 9).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

**H2O SYSTEMS, INC. , f/k/a
GREENLEAVES UTILITY COMPANY**

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Peggy M. Hatch Secretary

BY: _____
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved: 
Cheryl Sonnier Nolan, Assistant Secretary