STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-WE-11-0028**
WAL-MART STORES, INC.	*	
	*	**Enforcement Tracking No.**
AI # 15780	*	**WE-CN-05-0542**
	*	**WE-CN-05-0542A**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Wal-Mart Stores, Inc. ("Respondent") and the Department of Environmental Quality ("LDEQ" 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 sewage treatment plant facility located in Galliano, Lafourche Parish, Louisiana ("the Facility").

II

On August 30, 2007, the LDEQ issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-05-0542, which was based upon the following findings of fact:

The Respondent owns and/or operates a sewage treatment plant serving Wal-Mart Supercenter Store #502 located at 16759 La. Hwy. 3235 in Galliano, Lafourche Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG540000 on February 19, 1998, and specifically was assigned permit

number LAG540776. The permit expired on August 27, 2002, but was administratively continued. LPDES permit LAG540776 was re-issued to the Respondent on or about December 20, 2004, and will expire on or about February 28, 2008. (The permit was subsequently re-issued on or about December 1, 2008.) Under the terms and conditions of LPDES permit LAG540776, the Respondent is authorized to discharge treated sanitary wastewater into an unnamed ditch, thence into Bayou Lafourche, both waters of the state.

The Respondent was issued Compliance Order WE-C-01-0383 on or about February 22, 2002. The relevant violations of the Findings of Fact were:

A. Unauthorized discharge of sanitary wastewater.

B. Deficiencies in operations and maintenance.

C. Failure to submit Discharge Monitoring Reports (DMRs).

The relevant requirements of the Compliance Order were to:

A. Immediately take any and all steps necessary to meet and maintain compliance with LPDES General Permit LAG540776, including the submission of Discharge Monitoring Reports (DMRs) and performing proper operation and maintenance.

B. Submit properly completed DMRs for the monitoring periods noted in Paragraph IV of Findings of Fact. If the Respondent failed to monitor and sample its effluent during the monitoring periods specified, the Respondent was required to submit a letter to the Department stating that no monitoring was performed during those periods.

C. Submit a complete written report including a detailed description of the circumstances of the cited violations, and the actions taken to achieve compliance with the Compliance Order.

The Respondent submitted a written response on or about October 10, 2003. Compliance Order WE-C-01-0383 is a final action of the Department and is not subject to further review.

An inspection conducted by the Department on or about October 16, 2002, in response to a citizen's complaint, revealed that the Respondent did submit incomplete and/or inaccurate DMRs.

Specifically, data from samples collected on or about July 8, 2002, was placed on the DMR for the monitoring period of April through June 2002, and data from samples collected on or about October 17, 2002, was placed on the DMR for the monitoring period of July through September 2002. The Respondent's failure to submit accurate DMRs is in violation of LPDES permit LAG540776 (Part I, Section C.6, and Part III, Section A.2) La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A. Also, the Department's inspection conducted on or about October 16, 2002, revealed that the Respondent failed to indicate the number of excursions on its DMRs.

An inspection conducted by the Department on or about October 16, 2002, in response to a citizen's complaint, revealed the Respondent did cause and/or allow the unauthorized discharge of untreated sanitary wastewater from its facility to an unnamed ditch, thence into Bayou Lafourche, both waters of the state. Specifically, an inoperable lift station at the Respondent's sewage treatment plant caused sewage to back-up. Broken collection lines for the Respondent's sewage treatment plant allowed for the unauthorized discharge of untreated sanitary wastewater to the storm water drainage. The Respondent's unauthorized discharge of untreated sanitary wastewater is in violation of Compliance Order WE-C-01-0383, LPDES permit LAG540776 (Part III, Section A.2) La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

An inspection conducted by the Department on or about October 16, 2002, in response to a citizen's complaint, and a subsequent file review conducted by the Department on or about August 20, 2007, revealed the Respondent failed to report an unauthorized discharge. Specifically, the Respondent failed to submit notification to the Department at the time monitoring reports were submitted for the unauthorized discharge described above. Each failure to report an unauthorized discharge in writing to the Department is in violation of LPDES permit LAG540776 (Part III,

Sections A.2 and D.7), La. R.S. 30:2076(A)(1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.L.7.

An inspection conducted by the Department on or about October 16, 2002, in response to a citizen's complaint, revealed the Respondent failed to follow approved test methods. Specifically, the Respondent exceeded pH holding times for the monitoring periods of October through December 2001, January through March 2002, July through September 2002, and October through December 2002. The Respondent's failure to follow approved test methods is in violation of LPDES permit LAG540776 (Part III, Sections A.2 and C.5), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.J.4.

An inspection conducted by the Department on or about October 16, 2002, in response to a citizen's complaint, and a subsequent file review conducted by the Department on or about August 20, 2007, revealed the Respondent was discharging inadequately treated sanitary wastewater from its facility to waters of the state. Specifically, a review of the Respondent's Discharge Monitoring Reports (DMRs) revealed the following excursions:

Date	**Parameter**	**Permit Limitations**	**Reported Value**
10-12/01	BOD_5 (Monthly Avg.)	30 mg/L	354 mg/L
	BOD_5 (Weekly Avg.)	45 mg/L	354 mg/L
	TSS (Monthly Avg.)	30 mg/L	104 mg/L
	TSS (Weekly Avg.)	45 mg/L	104 mg/L
	Fecal Coliform (Monthly Avg.)	200 col/100 ml	Too numerous to count (TNTC).
	Fecal Coliform (Weekly Avg.)	400 col/100 ml	TNTC
	Oil & Grease (Weekly Avg.)	15 mg/L	20 mg/L
01-03/02	BOD_5 (Monthly Avg.)	30 mg/L	47 mg/L
	BOD_5 (Weekly Avg.)	45 mg/L	47 mg/L
	TSS (Monthly Avg.)	30 mg/L	34 mg/L
	Fecal Coliform (Monthly Avg.)	200 col/100 ml	15,000 col/100 ml
	Fecal Coliform (Weekly Avg.)	400 col/100 ml	15,000 col/100 ml

Date	Parameter	Permit Limitations	Reported Value
04-06/02	BOD_5 (Monthly Avg.)	30 mg/L	705 mg/L
	BOD_5 (Weekly Avg.)	45 mg/L	705 mg/L
	TSS (Monthly Avg.)	30 mg/L	84 mg/L
	TSS (Weekly Avg.)	45 mg/L	84 mg/L
	Fecal Coliform (Monthly Avg.)	200 col/100 ml	100,000 col/100 ml
	Fecal Coliform (Weekly Avg.)	400 col/100 ml	100,000 col/100 ml
	Oil & Grease (Weekly Avg.)	15 mg/L	17 mg/L
07-09/02	BOD_5 (Monthly Avg.)	30 mg/L	342 mg/L
	BOD_5 (Weekly Avg.)	45 mg/L	342 mg/L
	TSS (Monthly Avg.)	30 mg/L	80 mg/L
	TSS (Weekly Avg.)	45 mg/L	80 mg/L
	Fecal Coliform (Monthly Avg.)	200 col/100 ml	TNTC
	Fecal Coliform (Weekly Avg.)	400 col/100 ml	TNTC
	Oil & Grease (Weekly Avg.)	15 mg/L	17 mg/L
10-12/02	TSS (Monthly Avg.)	30 mg/L	80 mg/L
	TSS (Weekly Avg.)	45 mg/L	80 mg/L
07-09/03	BOD_5 (Monthly Avg.)	30 mg/L	38 mg/L
	Fecal Coliform (Monthly Avg.)	200 col/100 ml	2,350 col/100 ml
	Fecal Coliform (Weekly Avg.)	400 col/100 ml	2,350 col/100 ml
04-06/06	Fecal Coliform (Monthly Avg.)	200 col/100 ml	3,720 col/100 ml
	Fecal Coliform (Weekly Avg.)	400 col/100 ml	3,720 col/100 ml

Also, the Department's inspection conducted on or about October 16, 2002, revealed that the Respondent's discharge was septic, black, and contained excessive solids. Samples collected during the inspection revealed a BOD_5 value of 124 mg/L and a TSS value of 524 mg/L. The Department's inspection conducted on or about March 29, 2005, revealed that the Respondent's discharge was gray and contained excessive solids, and samples collected during the inspection revealed a BOD_5 value of 88.1 mg/L and a TSS value of 84 mg/L. Each effluent limitation violation constitutes a violation of Compliance Order WE-C-01-0383, LPDES permit LAG540776 (Part I, Section B, 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.

An inspection conducted by the Department on or about October 16, 2002, in response to a citizen's complaint, and a subsequent file review conducted by the Department on or about August

20, 2007, revealed that the Respondent failed to have DMRs signed by the responsible person listed as signatory authority for the monitoring periods of October through December 2001, January through June 2001, October 2001 through December 2002, and July 2003 through March 2005. Each failure by the Respondent to have DMRs signed by the responsible person listed as signatory authority is in violation of LPDES permit LAG540776 (Part III, Sections A.2, and D.10), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.K. In a letter submitted to the Department which was dated April 13, 2005, the Respondent designated B.J. Hicks the signatory authority to sign DMRs. B.J. Hicks is the name and signature on DMRs for the monitoring periods of October 2003 through June 2006.

An inspection conducted by the Department on or about October 16, 2002, in response to a citizen's complaint, and an inspection conducted by the Department on or about March 29, 2005, revealed that the Respondent failed to sample as required by LPDES permit LAG540776. Specifically, the Department's inspection on or about October 16, 2002, revealed that the Respondent failed to sample for the monitoring period of April through June 2002. The Department's inspection on or about March 29, 2005, revealed that the Respondent failed to sample for the monitoring period of January through March 2005. A DMR was submitted for the monitoring period of April through June 2002, but data from a sample taken in July 2002 was indicated on this DMR. Each failure by the Respondent to sample as required is in violation of LPDES permit LAG540776 (Part I, Page 3 of 5, Part II, and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

An inspection conducted by the Department on or about October 16, 2002, in response to a citizen's complaint, and an inspection conducted by the Department on or about March 29, 2005, revealed that the Respondent failed to properly operate and maintain its sewage treatment plant.

Specifically, the Department's inspection conducted on or about October 16, 2002, revealed that the Respondent's lift station was inoperable causing the sewerage lines to back-up, which led to the unauthorized discharge of untreated sanitary wastewater. In addition, the Respondent failed to have adequate chlorine for proper disinfection. The Department's inspection conducted on or about March 29, 2005, revealed that the Respondent's sewage treatment plant contained gray sewage with excessive solids and sludge. The Respondent's failure to properly operate and maintain its sewage treatment plant prior to December 20, 2004, is in violation of Compliance Order WE-C-01-0383, LPDES permit LAG540776 (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. The Respondent's failure to properly operate and maintain its sewage treatment plant subsequent to December 19, 2004, is in violation of Compliance Order WE-C-01-0383, LPDES permit LAG540776 (Part II, Section M.5, and 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.

A file review conducted by the Department on or about August 20, 2007, revealed that the Respondent failed to submit a timely response to Compliance Order WE-C-01-0383. Specifically, Compliance Order WE-C-01-0383 required the Respondent to submit to the Enforcement Division, within ten (10) days after receipt of the Compliance Order, properly completed DMRs for the monitoring periods noted in Paragraph IV of Findings of Fact. Also, Compliance Order WE-C-01-0383 required the Respondent to submit to the Enforcement Division, within thirty (30) days after receipt of the Compliance Order, a complete written report that included a detailed description of the circumstances of the cited violations and the actions taken to achieve compliance with the Compliance Order. Compliance Order WE-C-01-0383 was received by the Respondent on or about February 26, 2002. A response was submitted on behalf of the Respondent on or about October 10,

2003. The Respondent's failure to timely submit properly completed DMRs and a written response to Compliance Order WE-C-01-0383 is in violation of La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A.

A file review conducted by the Department on or about August 20, 2007, revealed that the Respondent failed to submit quarterly DMRs as required by LPDES permit LAG540776. Specifically, the Respondent failed to submit quarterly DMRs for the monitoring periods of July through September 2001, January through March 2003, April through June 2003, January through March 2006, and July through September 2006. Each failure by the Respondent to timely submit DMRs is in violation of Compliance Order WE-C-01-0383, LPDES permit LAG540776 (Part I, Section C.6, and Part III, Sections A.2 and 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. Each failure by the Respondent to timely submit DMRs is in violation of Compliance Order WE-C-01-0383, LPDES permit LAG540776 (Part II, Section M.8, and Part III, Sections A.2 and 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.

A file review conducted by the Department on or about August 20, 2007, revealed that the Respondent failed to submit timely, quarterly DMRs as required by LPDES permit LAG540776. Discharge Monitoring Reports (DMRs) are due by the 28th day of the month following each monitoring period. The following untimely DMRs were submitted by the Respondent:

Monitoring Period	**Date Received**	**Due Date**
October through December 2003	January 4, 2006	January 28, 2004
January through March 2004	January 4, 2006	April 28, 2005
April through June 2004	January 4, 2006	July 28, 2004
July through September 2004	January 4, 2006	October 28, 2004
October through December 2004	January 4, 2006	January 28, 2005
January through March 2005	January 4, 2006	April 28, 2005
April through June 2005	January 4, 2006	July 28, 2005
July through September 2005	January 4, 2006	October 28, 2005

Monitoring Period	Date Received	Due Date
April through June 2006	October 9, 2006	July 28, 2006
October through December 2006	May 24, 2007	January 28, 2007
January through March 2007	June 26, 2007	April 28, 2007

Each submittal of an untimely DMR by the Respondent on or before December 19, 2004, is in violation of LPDES permit LAG540776 (Part I, Section C.6, and Part III, Sections A.2 and 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. Each submittal of an untimely DMR by the Respondent on or after December 20, 2004, is in violation of LPDES permit LAG540776 (Part II, Section M.8, and Part III, Sections A.2 and 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.

On November 23, 2008, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-05-0542A, amending Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-05-0542, as follows:

The Department amended paragraph III of the Findings of Fact to read as follows:

"III.

The Department hereby adds additional violations that were discovered by the Department during a file review conducted by the Department on or about November 10, 2008. The Respondent failed to submit complete and/or accurate Discharge Monitoring Reports (DMRs) to the Department. Specifically, the Respondent did not report monthly averages for the following parameters BOD5, TSS, and Fecal Coliform on the DMRs for the following monitoring periods: 2nd and 3rd quarters of 2006, 1st, 2nd and 3rd quarters of 2007. The Respondent's failure to submit complete and/or accurate

DMRs is in violation of Compliance Order WE-C-01-0383, LPDES permit LAG540776 (Part I, Section C.6, and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:IX.2701.L.4.d.

The Department amended paragraph VII of the Findings of Fact to read as follows:

"VII.

The Department hereby adds additional violations that were discovered by the Department during a file review conducted by the Department on or about November 10, 2008. These effluent violations were reported by the Respondent on DMRs:

Monitoring Period	Parameter	Permit Limit	Sample Value
7-9/07	TSS mo avg	30 mg/L	307 mg/L
	TSS wkly avg	45 mg/L	307 mg/L
	Fecal Coliform mon avg	200 col/100 ml	2,260 col/100 ml
	Fecal Coliform wkly avg	400 col/100 ml	2,260 col/100 ml

Each exceedance of an effluent violation constitutes a violation of LPDES permit LAG540776 (Part I, Section B, 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."

The Department added paragraph IV to the Order section of the Consolidated Compliance Order & Notice of Potential Penalty WE-CN-05-0542 to read as follows:

"IV.

The Respondent shall accomplish the following tasks and comply with the following schedule of activities associated with its sewer rehabilitation project referenced in the Respondent's letter dated February 25, 2008, and was revised on May 23, 2008.

Milestone	Completion Date
Submit Project for Bid	September 29, 2008 Completed
Receive and Award Contract	October 7, 2008 Completed
Begin Construction	October 10, 2008 Completed
Complete Construction	January 30, 2009
Compliance with effluent limits	April 30, 2009

The Respondent shall submit quarterly construction progress reports until the completion of the aforementioned proposed improvements. The Respondent shall submit the next progress reports fifteenth (15) days following the end of the calendar quarter. The first progress report is due January 15, 2009. Within 15 days of any completion date specified in the schedule above, the Respondent shall submit a certification of compliance or non-compliance with that activity. If the Respondent reports non-compliance with a schedule event, the certification shall include a discussion of the cause of the delay, an anticipated date of completion and a discussion of any impairment of a subsequent due date."

The Department incorporated all of the remainder of the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-05-0542 and Agency Interest No. 15780 as if reiterated therein.

The Amended Consolidated Compliance Order & Notice of Potential Penalty was effective upon receipt.

III

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

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the LDEQ agrees to accept, a payment in the amount of TWENTY-SIX THOUSAND FIVE HUNDRED AND NO/100 DOLLARS ($26,500.00), of which One Thousand Two Hundred Ninety-One and 52/100 Dollars ($1,291.52) represents the LDEQ'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 LDEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the LDEQ may consider the inspection report(s), the Consolidated Compliance Order & Notice of Potential Penalty, the Amended Consolidated Compliance Order & Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the LDEQ 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. Respondents may urge any mitigating factors they believe applicable in any such future proceedings.

VI

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 LDEQ to enforce this agreement.

VII

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 LDEQ considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Lafourche Parish, Louisiana. The advertisement, in form, wording, and size approved by the LDEQ, 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 LDEQ and, as of the date this Settlement is executed on behalf of the LDEQ, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the LDEQ. 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 A).

X

In consideration of the above, any claims for penalties relating to or arising from the findings of fact in Consolidated Compliance Order & Notice of Potential Penalty No. WE-CN-05-0542 dated

August 30, 2007 (as amended by Consolidated Compliance Order & Notice of Potential Penalty No. WE-CN-05-0542A dated November 25, 2008) are hereby compromised and settled in accordance with the terms of this Settlement.

XI

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.

WAL-MART STORES, INC.

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