

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
COLORADO RIVER BASIN REGION

**CEASE AND DESIST ORDER R7-2018-0019**  
REQUIRING WALMART INC.  
STORE 1915-04 WASTEWATER TREATMENT PLANT  
SAN BERNARDINO COUNTY  
TO CEASE AND DESIST FROM  
DISCHARGING WASTE CONTRARY TO REQUIREMENTS

The California Regional Water Quality Control Board, Colorado River Basin Region (Regional Water Board) finds that:

1. Walmart Inc. (Discharger), a Delaware Corporation, owns and operates a wastewater treatment plant (WWTP) used to treat domestic wastewater generated by the Yucca Valley Walmart Store 1915-04, located at 58501 Twentynine Palms Highway, Yucca Valley, California 92284 (Yucca Valley Walmart); and the wastewater from restaurants adjacent to the Yucca Valley Walmart. Effluent from the WWTP is discharged into onsite seepage pits.
2. The discharge is within the Warren Hydrologic Area of the Joshua Tree Hydrologic Unit. The Hi-Desert Water District (HDWD) provides domestic water services to the Town of Yucca Valley including the Yucca Valley Walmart. HDWD currently uses 17 groundwater supply wells, which draw water from the Warren Valley Sub-basin, which is within the Joshua Tree Hydrologic Unit.
3. The designated beneficial uses for groundwater in the Joshua Tree Hydrologic Unit are Municipal and Domestic Supply (MUN)<sup>1</sup> and Industrial Service Supply (IND)<sup>2</sup>.
4. On January 19, 2012, the Regional Water Board adopted Waste Discharge Requirements (WDRs) Order No. R7-2012-0003 to regulate discharges of treated wastewater from the WWTP. WDRs Order No. R7-2012-0003 specifies effluent limitations, prohibitions, specifications and provisions necessary to protect the beneficial uses of ground waters in the Joshua Tree Hydrologic Unit and to prevent nuisance conditions.
5. The WWTP started operations on June 17, 2013, and consists of a Fixed Activated Sludge Treatment (FAST) system that was installed in buried tanks. The entire WWTP is buried, with the exception of the power and controls equipment, the chemical feed systems, and the blowers. A building houses the WWTP's systems that

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<sup>1</sup> Municipal and Domestic Supply (MUN): Uses of water for community, military, or individual water supply systems including, but not limited to, drinking water supply.

<sup>2</sup> Industrial Service Supply (IND): Uses of water for industrial activities that do not depend primarily on water quality including, but not limited to, mining, cooling water supply, hydraulic conveyance, gravel washing, fire protection, and oil well repressurization.

could not be buried and must be easily accessible. The WWTP is permitted to discharge a 30-day average of 16,000 gallon per day.

6. In general, the Town of Yucca Valley relies on the area’s underlying aquifer for its domestic water supply. Most of the town’s businesses and residents use septic tanks and subsurface disposal systems to treat and dispose of their wastewater. There are, however, a handful of commercial and residential developments in the town, which have onsite wastewater package treatment plants for treatment of their wastewater, including the Discharger.
7. To address the adverse water quality impacts that septic systems are having on groundwater, the Regional Water Board adopted Resolution R7-2011-0004 on May 19, 2011, which approved an amendment to the Water Quality Control Plan for the Colorado River Basin Region (Basin Plan) to prohibit the discharges of wastes from septic systems in the Town of Yucca Valley. In March 2016, the Regional Water Board amended the Basin Plan Prohibition to, in substantive part, extend the deadlines for eliminating discharges from septic systems in three (3) specifically defined geographic areas (a.k.a. Phases) in the Town of Yucca Valley. As amended, the Prohibition requires that discharges from septic systems be eliminated as follows:
  - a. Phase 1 by June 30, 2021; and
  - b. Phase 2 and Phase 3 by December 31, 2025.

The Discharger’s Yucca Valley Walmart and its WWTP are within Phase 1 of the Prohibition.

**Relevant Provisions of WDRs Order No. R7-2012-0003**

8. WDRs Order No. R7-2012-0003 states, in relevant part, that:

“[B.7] Effluent from the WWTP shall not exceed the following effluent limits:

<b>Constituents</b>	<b>Units</b>	<b>Monthly Average</b>	<b>Weekly Average</b>	<b>Daily Maximum</b>
BOD <sub>5</sub> <sup>1</sup>	mg/L	30	45	65
Total Suspended Solids	mg/L	30	45	65
Nitrogen (as Total Nitrogen)	mg/L	10	15	20

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<sup>1</sup> 5-day biochemical oxygen demand at 20°C.

Constituents	Units	Monthly Average	Weekly Average	Daily Maximum
Total Dissolved Solids (TDS)	mg/L	550	--	--

“[E.1] The Discharger shall comply with Monitoring and Reporting Program (MRP) No. R7- 2012-0003, and future revisions thereto, as specified by the Regional Board's Executive Officer.”

“[E.7] The Discharger shall comply with all of the conditions of this Board Order. Noncompliance is a violation of the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.), and is grounds for enforcement action.”

“[E.9] By May 19, 2016, the Discharger shall either be connected to the HDWD sewer collection system or, in the event that a sewage collection system is not available, design and install an effluent disinfection system that will comply with an effluent discharge limitation for Total Coliform Organisms of less than 2.2 Most Probable Number (MPN) per 100 milliliters.”

“[E.10] The Discharger shall at all times properly operate and maintain all systems and components of collection, treatment and control, installed or used by the Discharger to achieve compliance with this Board Order. All systems in service or reserved shall be inspected and maintained on a regular basis. Records of inspections and maintenance shall be retained, and made available to the Regional Water Board Executive Officer on request.”

9. Monitoring and Reporting Program No. R7-2012-0003, under “Wastewater Treatment Facility Influent Monitoring” states that:

“The Discharger shall monitor influent to the WWTP according to the following schedule:

Constituents	Units	Type of Sample	Sampling Frequency	Reporting Frequency
Flow	gpd <sup>1</sup>	Measurement <sup>2</sup>	daily	monthly
BOD <sub>5</sub>	mg/L <sup>3</sup>	Grab	monthly	monthly

<sup>1</sup> Gallons per day (Average daily flow calculated from meter readings)

<sup>2</sup> Flow Meter Reading

<sup>3</sup> Milligrams per liter

Constituents	Units	Type of Sample	Sampling Frequency	Reporting Frequency
TSS	mg/L	Grab	monthly	monthly
Settleable Solids	mg/L	Grab	monthly	monthly

10. Monitoring and Reporting Program No. R7-2012-0003, under “Wastewater Treatment Facility Effluent Monitoring” states that:

“The Discharger shall monitor effluent from the WWTP according to the following schedule:

Constituents	Units	Type of Sample	Sampling Frequency	Reporting Frequency
Flow	gpd	Measurement <sup>1</sup>	daily	monthly
BOD <sub>5</sub>	mg/L	Grab	weekly	monthly
TSS	mg/L	Grab	weekly	monthly
Settleable Solids	mg/L	Grab	weekly	monthly
pH	s.u. <sup>2</sup>	Grab	weekly	monthly
Nitrite (as N)	mg/L	Grab	weekly	monthly
Nitrate (as N)	mg/L	Grab	weekly	monthly
Total Nitrogen (TN)	mg/L	Grab	weekly	monthly
TDS	mg/L	Grab	weekly	monthly
Total coliform organisms (TCO)	MPN <sup>3</sup>	Grab	weekly	monthly
VOCs <sup>4</sup>	ug/L <sup>5</sup>	Grab	quarterly	quarterly

<sup>1</sup> Flow Meter Reading

<sup>2</sup> Standard Units

<sup>3</sup> Most Probable Number

<sup>4</sup> Volatile Organic Compounds

<sup>5</sup> Micrograms per liter

**Alleged Violations of WDRs Order No. R7-2012-0003**

11. Self-monitoring reports submitted by the Discharger show that since June 17, 2013, the Discharger has thirty-nine (39) BOD violations, thirty-seven (37) TDS violations, ten (10) TSS violations, and eighty-five (85) Total Nitrogen violations. Appendices A through E, attached hereto and made part of this Order, detail these violations.
12. Self-monitoring data also shows that the Discharger has been in violation of the effluent limits for Total Coliform Organisms (TCO) as established in Special Provisions E.9 of WDRs Order No. R7-2012-0003, cited above in Finding No. 8. Special Provisions E.9 required the installation of the disinfection system by May 19, 2016, therefore any exceedance of 2.2 MPN/100 mL after May 19, 2016 is counted as a violation. Since May 19, 2016, the Discharger has a total of sixty-four (64) TCO violations. Appendix E, attached hereto and made part of this Order, details the TCO violations.
13. The Discharger also failed to install the disinfection system by May 19, 2016 as stated in Special Provisions E.9, cited above in Finding No. 8. The disinfection system was not in operation until November 4, 2016.

**Legal, Technical, and Other Considerations**

14. The Discharger has been in violation of the effluent limits specified by WDRs Order No. R7-2012-0003. The Discharger has made and continues to make alterations to the system to try and maintain compliance and reduce or correct the magnitude and frequency of the violations, detailed in Appendix F. While the alterations have not eliminated non-compliant discharges, the number of exceedances has been reduced over time.
15. Section 13301 of the Water Code states, in relevant part, that:

“When a regional board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action...Cease and Desist Orders may be issued directly by a board, after notice and hearing.”
16. Section 13267 of the Water Code states, in part, that:

“(a) A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement or authorized by this division, may investigate the quality of any waters of the state within this region.”

“(b)(1) In conducting an investigation specified in subdivision (a), the regional board may require that any ... citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, ... or who proposes to discharge wastes within its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports.

In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”

17. The technical reports required by this Order are necessary to assure compliance with this Cease and Desist Order and WDRs Order No. R7-2012-0003. The Discharger owns the facility that discharges the waste subject to this Order and WDRs Order No. R7-2012-0003.

18. Section 13320(a) of the Water Code states:

“Within 30 days of any action or failure to act by a regional board under subdivision (c) of Section 13225, any aggrieved person may petition the state board to review that action or failure to act. In case of a failure to act, the 30-day period shall commence upon the refusal of the regional board to act, or 60 days after request has been made to the regional board to act. The state board may, on its own motion, at any time, review the regional board’s action or failure to act.”

19. Bringing the discharge from the WWTP into compliance with WDRs Order No. R7-2012-0003 will require time and securing expertise to identify the cause(s) of noncompliance and needed operational and/or upgrades to the WWTP. This must be done, however, as early as practicable to protect water quality. In lieu of costly upgrades, the Discharger has the option to abandon its existing discharge and connect to the centralized sewage collection and treatment system that HDWD is building as soon as it becomes available.

20. Because the Discharger is in violation and susceptible to future violation of the WDRs, the Discharger needs time to either bring its discharge in full compliance with the WDRs or connect to the centralized system. It is appropriate for the Regional Water Board to adopt a Cease and Desist Order (Order) requiring the Discharger to undertake specific actions to ensure compliance with the WDRs, including the preparation and submittal of technical reports to identify the cause(s) of and correct the violations.

**Public Participation and Compliance with CEQA**

21. The Regional Water Board has notified the Discharger and all known interested agencies and persons of its intent to issue this Order and has provided it with an opportunity to submit comments.
22. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to this Order.
23. This enforcement action is exempt from the provisions of CEQA, pursuant to section 15321 (Enforcement Actions by Regulatory Agencies), article 19, chapter 3, division 6, title 14 of the California Code of Regulations.

**IT IS HEREBY ORDERED**, that, pursuant to Water Code sections 13301 and 13267, the Discharger shall:

1. Cease and desist discharging wastes in violation of WDRs Order No. R7-2012-003 by either implementing corrective actions in accordance with the tasks and time schedules specified in Item 2, below; or abandoning its existing discharge from the WWTP and connecting to the HDWD centralized sewage collection and treatment system in accordance with the provisions specified in Item 3, below.
2. Investigate non-compliance, its potential adverse impacts on water quality, and modify/upgrade the WWTP to bring its discharge into compliance with WDRs Order No. R7-2012-0003:
  - a. **By August 15, 2018**, the Discharger shall submit a technical report in the form of a work plan to the Executive Officer (EO) of the Regional Water Board for review and approval to identify WWTP deficiencies, including but not limited to construction and O&M deficiencies, which are causing and/or contributing to violations and threatened violations of Discharge Specification No. B.7 of WDRs Order No. R7-2012-0003. The work plan shall contain a description of the key tasks, milestones, and deadlines to complete this investigation by November 15, 2018.
  - b. **By December 15, 2018**, the Discharger shall submit a technical report in the form of a work plan for review and approval by the Executive Officer to correct the deficiencies and bring the discharge from the WWTP in full compliance with WDRs Order No. R7-2012-0003. This work plan shall contain a description of the key tasks, milestones, and deadlines to complete the required WWTP operational changes and/or upgrades based on the results of the investigation conducted pursuant to Item 2.a, above; and shall be based on bringing the discharge from the WWTP in full compliance with WDRs Order No. R7-2012-0003 by July 15, 2019.

- c. **By July 15, 2019**, the Discharger shall submit a technical report in the form of a revised Operation and Maintenance Manual (OMM) for its WWTP that reflects the operational changes and upgrades implemented pursuant to Item 2.b, above. The OMM shall include a flow diagram for all critical unit treatment and disposal components and:
- i. A written work order system that tracks all corrective maintenance;
  - ii. An equipment history file for each major piece of equipment such as pumps, motors, generators, etc.;
  - iii. A written schedule of preventive maintenance broken down into weekly, monthly, and annual inspections;
  - iv. A written schedule of the prescribed monitoring and reporting requirements of WDRs Order No. R7-2012-0003;
  - v. A written summary or check sheet documenting at least the date and type of preventive maintenance work actually performed;
  - vi. A calibration schedule and records for all instruments and flow measuring devices;
  - vii. Written emergency response guidelines;
  - viii. A logbook for the operators and maintenance workers in which to document both the routine tasks and any unusual observations;
  - ix. A system to track the time and cost for major repairs;
  - x. A list of backlogged work orders; and
  - xi. Periodic specialized tests or analyses performed on the critical or expensive pieces of WWTF equipment/components; and
- d. **By September 31, 2018**, the Discharger shall submit a technical report in the form of a work plan for review and approval by the Executive Officer for the design, installation, development, and operation of a groundwater monitoring well network to assess the groundwater quality impacts from its disposal operations. The work plan shall:



- i. Ensure that the network consist of a minimum one upgradient and two downgradient wells, with the upgradient well located far enough away from the discharge area to not be within the area of influence of the discharged water;
  - ii. Specify the proposed drilling and well development methods for and construction features of the groundwater monitoring wells, including soil sampling methods and intervals, laboratory testing procedures (if any), and documentation methods;
  - iii. Specify and describe the rationale for the proposed location of the monitoring wells, and include a map to scale (1 inch = 200 feet or better) showing their location;
  - iv. Include a diagram showing the key construction features of the groundwater monitoring wells, including screened interval, sanitary seals, etc;
  - v. Describe the contents of the report to be prepared to document well installation activities;
  - vi. Propose a monitoring and reporting schedule for constituents of concern, including pathogen-indicator bacteria, nitrates, TDS and "general minerals" (including pH, calcium, magnesium, sodium, potassium, bicarbonate/carbonate, sulfate and chloride), and describe the contents of monitoring reports;
  - vii. Include methods to monitor the depth to groundwater and evaluate the groundwater gradient during each monitoring episode;
  - viii. Ensure the monitoring network is designed to assess the threat to water quality of upper most groundwater in the area of the discharge; and
  - ix. Include a description of the key tasks and milestones to ensure the groundwater monitoring network is operational by **January 15, 2019**.
- e. **By October 15, 2018**, the Discharger shall submit to the Regional Water Board the first quarterly report of quarterly progress reports regarding its status of compliance with Items 2.a through 2.c, above. The reports shall describe overall progress and key milestones achieved/implemented. Subsequent quarterly reports

shall be due on the 15<sup>th</sup> day of January 2019, April 2019, and July 2019.

3. Submit to the Regional Water Board a proposed work plan, if the Discharger decides to abandon its discharge from the WWTP and connect to the HDWD centralized sewage collection and treatment system by **August 15, 2018**. The work plan shall:
  - a. Be prepared in coordination and consultation with HDWD;
  - b. Be based on the HDWD's projected construction schedule and date for completion of the HDWD's WWTP;
  - c. Include a proposed schedule for submitting to the Regional Water Board written progress reports to eliminate the onsite discharges of wastes from the Discharger's WWTP; and
  - d. Be subject to the review and approval of the Executive Officer.
4. Submit all technical reports certified by the licensed professionals. In accordance with Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of California registered professionals (i.e., civil engineer, engineering geologist, geologist, etc.) competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain work plans, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain a statement of qualifications of the responsible licensed professional(s) as well as the professional's signature and/or stamp of the seal.

If in the opinion of the Executive Officer, the Discharger violates this Order, allows the magnitude or frequency of violations to increase, or fails to timely implement corrective measures as specified herein, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

I, Jose L. Angel, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on June 14, 2018.

*Original Signed by*

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JOSE L. ANGEL, P.E.  
EXECUTIVE OFFICER