

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1884-PWS-E **TCEQ ID:** RN101414332 **CASE NO.:** 31568

RESPONDENT NAME: City of Wilmer

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Wilmer Public Water Supply, 128 North Dallas Avenue, Wilmer, Dallas County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: No complaints were received. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 16, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Michael Meyer, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-4492; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468

Respondent: The Honorable Don Hudson, Mayor, City of Wilmer, 128 North Dallas, Wilmer, Texas 75172

Mr. Earl Kendrick, Water Superintendent, City of Wilmer, 128 North Dallas, Wilmer, Texas 75172

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 30, 2006</p> <p>Date of NOE Relating to this Case: August 7, 2006 (NOE)</p> <p>Background Facts: This was a follow-up investigation conducted to determine if the violations documented during the previous investigation, conducted on October 25, 2005, had been corrected. Five violations were documented.</p> <p>WATER</p> <p>1) Failed to employ at least two operators holding a Class "C" License or higher groundwater license for a groundwater system serving more than 1,000 connections. Specifically, the investigator documented that the system serves approximately 1,318 connections but did not employ at least two operators who hold a Class "C" or higher groundwater license [30 TEX. ADMIN. CODE § 290.46(e)(4)(C) and TEX. HEALTH & SAFETY CODE § 341.033(a)].</p> <p>2) Failed to initiate maintenance and housekeeping practices to ensure good working condition and general appearance of the system's facilities and equipment. Specifically, the investigator observed that the interior of the 125,000 gallon ground storage tank was rusted [30 TEX. ADMIN. CODE § 290.46(m)].</p> <p>3) Failed to maintain water storage facilities at pump station No. 2 and well No. 2 in a watertight condition. Specifically, the investigator observed that the line coming from well No. 2 was leaking. In addition, lines coming from the service pumps were also leaking [30 TEX. ADMIN. CODE § 290.46(m)(4)].</p>	<p>Total Assessed: \$2,087</p> <p>Total Deferred: \$417 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,669</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that on September 22, 2006, the City submitted a copy of a Class "C" Groundwater Treatment Plant Operator License issued to the Facility operator by the TCEQ on September 15, 2006. This license, along with water superintendent's existing license satisfied the rule requirements for the number of certified operators for this drinking water system.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a) Immediately upon the effective date of this Agreed Order, begin maintaining a minimum free chlorine residual of 0.2 mg/L throughout the distribution system;</p> <p>b) Within 30 days after the effective date of this Agreed Order, repair the rusted interior of the ground storage tank and the leaking water lines from well No. 2 and the service pump;</p> <p>c) Within 60 days after the effective date of this Agreed Order, begin providing a well capacity of 0.6 gpm per connection; and</p> <p>d) Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and other records to demonstrate compliance with Ordering Provision Nos. 2.a. through c.</p>

<p>4) Failed to provide a well capacity of 0.6 gallon per minute ("gpm") per connection. Specifically, the investigator documented a production capacity of 0.566 gpm, approximately 5.6 percent less than the required well capacity, based on a production capacity of 746.6 gpm for 1,318 connections [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>5) Failed to maintain a minimum chlorine residual of at least 0.2 milligrams per liter (mg/L) throughout the distribution system. Specifically, the investigator measured a free chlorine residual of 0.0 mg/L [30 TEX. ADMIN. CODE §§ 290.110(b)(4) and 290.46(d)(2)(A)].</p>		
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Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	05-Sep-2006	Screening	27-Oct-2006	EPA Due	
	PCW	21-Nov-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Wilmer
Reg. Ent. Ref. No.	RN101414332
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	31568	No. of Violations	5
Docket No.	2006-1884-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Michael Meyer
Multi-Media		EC's Team	Enforcement Team 8
Admin. Penalty \$	Limit Minimum \$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 7% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with a small x)

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	<input type="text" value="\$293"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$4,585"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 20% Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 27-Oct-2006 **Docket No.** 2006-1884-PWS-E **PCW**
Respondent City of Wilmer *Policy Revision 2 (September 2002)*
Case ID No. 31568 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101414332
Media [Statute] Public Water Supply
Enf. Coordinator Michael Meyer

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes One previous NOV for similar violations and one for a dissimilar violation during the previous five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 7%

Screening Date 27-Oct-2006 **Docket No.** 2006-1884-PWS-E **PCW**
Respondent City of Wilmer *Policy Revision 2 (September 2002)*
Case ID No. 31568 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101414332
Media [Statute] Public Water Supply
Enf. Coordinator Michael Meyer
Violation Number 1
Primary Rule Cite(s) 30 Tex. Admin. Code § 290.46(e)(4)(C)
Secondary Rule Cite(s) Tex. Health & Safety Code § 341.033(a)
Violation Description Failure to employ at least two operators holding a Class "C" or higher groundwater license for a groundwater system serving more than 1,000 connections, as documented during an investigation conducted on June 30, 2006. Specifically, the system serves approximately 1,318 connections but did not employ at least two operators who hold a Class "C" or higher groundwater license.

Base Penalty \$1,000

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 25%
	Potential		X		

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels protective of human health or the environment.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 3

<i>mark only one use a small x</i>	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$750

Three monthly events are recommended from the June 30, 2006 investigation to the date of compliance (September 15, 2006).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$803

This violation Final Assessed Penalty (adjusted for limits) \$803

Economic Benefit Worksheet

Respondent City of Wilmer
 Case ID No. 31568
 Reg. Ent. Reference No. RN101414332
 Media [Statute] Public Water Supply
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$235	30-Jun-2006	15-Sep-2006	0.2	\$2	n/a	\$2
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Cost of the test preparation course and certification test to certify its operators. The Date Required is the June 30, 2006 investigation and the Final Date is the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 27-Oct-2006 **Docket No.** 2006-1884-PWS-E **PCW**
Respondent City of Wilmer *Policy Revision 2 (September 2002)*
Case ID No. 31568 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101414332
Media [Statute] Public Water Supply
Enf. Coordinator Michael Meyer

Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to pollutants which would not exceed levels protective of human health or the environment."/>				

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Wilmer
 Case ID No. 31568
 Reg. Ent. Reference No. RN101414332
 Media [Statute] Public Water Supply
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,500	30-Jun-2006	13-Jun-2007	1.0	\$5	\$95	\$100
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to repair the interior of the ground storage tank. The Date Required is the June 30, 2006 investigation and the Final Date is the projected date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$1,500** TOTAL **\$100**

Screening Date 27-Oct-2006 **Docket No.** 2006-1884-PWS-E **PCW**
Respondent City of Wilmer *Policy Revision 2 (September 2002)*
Case ID No. 31568 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101414332
Media [Statute] Public Water Supply
Enf. Coordinator Michael Meyer
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

Harm

Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Wilmer
 Case ID No. 31568
 Reg. Ent. Reference No. RN101414332
 Media [Statute] Public Water Supply
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$250	30-Jun-2006	13-Jun-2007	1.0	\$1	\$16	\$17
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to repair the leaking water lines. The Date Required is the June 30, 2006 investigation and the Final Date is the projected date of compliance.

Item Description	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs					
Disposal		0.0	\$0	\$0	\$0
Personnel		0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling		0.0	\$0	\$0	\$0
Supplies/equipment		0.0	\$0	\$0	\$0
Financial Assurance [2]		0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]		0.0	\$0	\$0	\$0
Other (as needed)		0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$250** **TOTAL \$17**

Screening Date 27-Oct-2006 **Docket No.** 2006-1884-PWS-E **PCW**
Respondent City of Wilmer *Policy Revision 2 (September 2002)*
Case ID No. 31568 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101414332
Media [Statute] Public Water Supply
Enf. Coordinator Michael Meyer

Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description
 Failure to provide a well capacity of 0.6 gallons per minute ("gpm") per connection, as documented during an investigation conducted on June 30, 2006. Specifically, the investigator documented a production capacity of 0.566 gpm per connection, approximately 5.6 percent less than the required well capacity, based on a production capacity of 746.6 gpm for 1,318 connections.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Wilmer
 Case ID No. 31568
 Reg. Ent. Reference No. RN101414332
 Media [Statute] Public Water Supply
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$2,500	30-Jun-2006	13-Jun-2007	1.0	\$8	\$159	\$167
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to properly operate and maintain the public water supply system to ensure a pumping capacity of 0.6 gallons per minute per connection. The Date Required is the June 30, 2006 investigaton date and the Final Date is the projected date of compliance.

Item Description	ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs					
Disposal		0.0	\$0	\$0	\$0
Personnel		0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling		0.0	\$0	\$0	\$0
Supplies/equipment		0.0	\$0	\$0	\$0
Financial Assurance [2]		0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]		0.0	\$0	\$0	\$0
Other (as needed)		0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 27-Oct-2006 **Docket No.** 2006-1884-PWS-E **PCW**
Respondent City of Wilmer *Policy Revision 2 (September 2002)*
Case ID No. 31568 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101414332
Media [Statute] Public Water Supply
Enf. Coordinator Michael Meyer
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description
Base Penalty

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent <input type="text" value="50%"/>
	Potential	<input checked="" type="checkbox"/>			

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Wilmer
 Case ID No. 31568
 Reg. Ent. Reference No. RN101414332
 Media [Statute] Public Water Supply
 Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$100	30-Jun-2006	13-Jun-2007	1.0	\$0	\$6	\$7
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated daily cost to operate and maintain the chlorine distribution system to maintain the required free chlorine residual. The Date Required is the June 30, 2006 investigation and the Final Date is the projected date of compliance.

Item Description	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs				
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)				
Disposal	0.0	\$0	\$0	\$0
Personnel	0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.0	\$0	\$0	\$0
Supplies/equipment	0.0	\$0	\$0	\$0
Financial Assurance [2]	0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	0.0	\$0	\$0	\$0
Other (as needed)	0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN600738256 City of Wilmer	Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN101414332 CITY OF WILMER PWS	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0570018
	WATER LICENSING	LICENSE	0570018
Location:	128 N DALLAS AVE, WILMER, TX, 75172		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	April 30, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 06, 2001 to September 06, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Michael Meyer Phone: (512) 239-4492

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	11/12/2002	(16181)
2	08/20/2003	(146222)
3	12/05/2005	(432158)
4	08/30/2006	(488193)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	11/13/2002 (16181)	Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)				
Description:	Incomplete sanitary easements for well 1.				
Date:	12/02/2005 (432158)	Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)				
Description:	Failure to provide the chlorination room at pump station #1, located at 230 N. First Street, with an upper level screened vent.				
Self Report?	NO	Classification:	Moderate		
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(4)(C)				
Description:	Failure to employ at least two operators who hold a Class "C" or higher groundwater license.				
Self Report?	NO	Classification:	Minor		
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)				
Description:	Failure to provide well #1 (G0570018A) with a well casing 18 inches above the elevation of the finished floor of the pump house or natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block.				
Self Report?	NO	Classification:	Minor		
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)				

Description: Failure to provide well #2 (G0570018B) with a concrete sealing block extending at least 3 feet from the exterior well casing in all directions.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(G)

Description: Failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. These practices should include maintaining the inside of the 125,000 gallon ground storage tank located at pump station #2.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)

Description: Failure to maintain copies well completion data, disinfection information, microbiological sample results and a chemical analysis report of a representative sample of water from the well for well # 1(G0570018A) and well #2 (G0570018B).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Description: Failure to maintain the roof hatch on the 125,000 gallon ground storage tank in a locked condition at all times to prevent any contamination from entering the water supply from outside sources.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to maintain water storage facilities at pump station #2 and well #2 (G0570018B) in a watertight condition.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(i)

Description: Failure to provide a well capacity of 0.6 gallons per connection.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF WILMER
RN101414332**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2006-1884-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Wilmer ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a public water supply at 128 North Dallas Avenue in Wilmer, Dallas County, Texas (the "Facility") that has approximately 1,318 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
3. The City received notice of the violations alleged in Section II ("Allegations") on or about August 12, 2006.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Two Thousand Eighty-Seven Dollars (\$2,087) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid One Thousand Six Hundred Sixty-Nine Dollars (\$1,669) of the administrative penalty and Four Hundred Seventeen Dollars (\$417) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
9. The Executive Director recognizes that on September 22, 2006, the City submitted a copy of a Class "C" Groundwater Treatment Plant Operator License issued to the Facility operator by the TCEQ on September 15, 2006. This license, along with water superintendent's existing license satisfied the rule requirements for the number of certified operators for this drinking water system.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to employ at least two operators holding a Class "C" License or higher groundwater license for a groundwater system serving more than 1,000 connections, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(4)(C) and TEX. HEALTH & SAFETY CODE § 341.033(a), as documented during an investigation conducted on June 30, 2006. Specifically, the investigator documented that the system serves approximately 1,318 connections but did not employ at least two operators who hold a Class "C" or higher groundwater license.
2. Failed to initiate maintenance and housekeeping practices to ensure good working condition and general appearance of the system's facilities and equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m), as documented during an investigation conducted on June 30, 2006. Specifically, the investigator observed that the interior of the 125,000 gallon ground storage tank was rusted.

3. Failed to maintain water storage facilities at pump station No. 2 and well No. 2 in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4), as documented during an investigation conducted on June 30, 2006. Specifically, the investigator observed that the line coming from well No. 2 was leaking. In addition, lines coming from the service pumps were also leaking.
4. Failed to provide a well capacity of 0.6 gallon per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on June 30, 2006. Specifically, the investigator documented a production capacity of 0.566 gpm, approximately 5.6 percent less than the required well capacity, based on a production capacity of 746.6 gpm for 1,318 connections.
5. Failed to maintain a minimum chlorine residual of at least 0.2 milligrams per liter (mg/L) throughout the distribution system, in violation of 30 TEX. ADMIN. CODE §§ 290.110(b)(4) and 290.46(d)(2)(A), as documented during an investigation conducted on June 30, 2006. Specifically, the investigator measured a free chlorine residual of 0.0 mg/L.

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Wilmer, Docket No. 2006-1884-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the City shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, begin maintaining a minimum free chlorine residual of 0.2 mg/L throughout the distribution system, in accordance with 30 TEX. ADMIN. CODE §§ 290.110(b)(4) and 290.46(d)(2)(A);

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. This is essential for ensuring the integrity of the financial statements and for providing a clear audit trail. The records should be kept up-to-date and should be easily accessible to all relevant parties.

2. The second part of the document outlines the procedures for handling any discrepancies or errors that may arise. It is important to identify the cause of the error and to take appropriate steps to correct it. This may involve adjusting the accounts or providing additional information to the relevant parties. The goal is to ensure that the financial statements are accurate and reliable.

3. The third part of the document discusses the importance of maintaining a good working relationship with the auditors. The auditors are an essential part of the financial reporting process and their work is crucial for ensuring the accuracy and reliability of the financial statements. It is important to provide them with all the information they need and to be open to their recommendations.

4. The fourth part of the document discusses the importance of maintaining a good working relationship with the tax authorities. The tax authorities are an essential part of the financial reporting process and their work is crucial for ensuring the accuracy and reliability of the financial statements. It is important to provide them with all the information they need and to be open to their recommendations.

- b. Within 30 days after the effective date of this Agreed Order, repair the rusted interior of the ground storage tank and the leaking water lines from well No. 2 and the service pumps, in accordance with 30 TEX. ADMIN. CODE § 290.46(m) and (m)(4);
- c. Within 60 days after the effective date of this Agreed Order, begin providing a well capacity of 0.6 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i); and
- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and other records to demonstrate compliance with Ordering Provision Nos. 2.a. through c.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section
Dallas\Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated

showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

City of Wilmer
DOCKET NO. 2006-1884-PWS-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

8/13/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

5/1/07
Date

Don Hudson
Name (Printed or typed)
Authorized Representative of
City of Wilmer

Mayor
Title

Instructions: Send the original signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

