

**Executive Summary – Enforcement Matter – Case No. 60805**  
**City of Wilmer**  
**RN109997601**  
**Docket No. 2021-0684-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Wilmer MS4, located in the area within the City of Wilmer limits that is located within the Dallas Fort Worth Arlington urbanized area, Dallas County

**Type of Operation:**

Municipal separate storm sewer system

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** October 22, 2021

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$25,000

**Amount Deferred for Expedited Settlement:** \$5,000

**Total Paid to General Revenue:** \$20,000

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** April 28, 2021

**Date(s) of NOE(s):** May 14, 2021

**Executive Summary – Enforcement Matter – Case No. 60805**  
**City of Wilmer**  
**RN109997601**  
**Docket No. 2021-0684-WQ-E**

***Violation Information***

1. Failed to maintain authorization to discharge stormwater under Texas Pollutant Discharge Elimination System ("TPDES") General Permit for municipal separate storm sewer systems. Specifically, TPDES General Permit No. TXR040000 expired on December 13, 2018 and the Respondent failed to submit a Notice of Intent and a Stormwater Management Plan by the permit application deadline of July 23, 2019 [30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121, and 40 CODE OF FEDERAL REGULATIONS § 122.26(a)(9)(i)(A)].
2. Failed to submit concise annual reports to the Executive Director within 90 days of the end of each reporting year. Specifically, the Respondent did not submit annual reports for the years 2018 and 2019 [30 TEX. ADMIN. CODE § 305.125(1) and expired TPDES General Permit No. TXR040635, Part IV, Section B(2)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Immediately and until such time that authorization to discharge stormwater is obtained, or until 180 days, whichever is earlier, comply with the permit requirements in expired TPDES General Permit No. TXR040635.
- b. Within 30 days:
  - i. Submit a Notice of Intent and a Stormwater Management Plan;
  - ii. Develop and implement procedures and conduct employee training to submit annual reports to the Executive Director within 90 days of the end of each reporting year; and
  - iii. Submit the 2019 annual report to the Executive Director.
- c. Within 45 days, submit written certification to demonstrate compliance with b.ii. and b.iii.
- d. Within 180 days, submit written certification that authorization to discharge stormwater has been obtained.

**Executive Summary – Enforcement Matter – Case No. 60805**  
**City of Wilmer**  
**RN109997601**  
**Docket No. 2021-0684-WQ-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Harley Hobson, Enforcement Division,  
Enforcement Team 3, MC 219, (512) 239-1337; Michael Parrish, Enforcement Division,  
MC 219, (512) 239-2548

**Respondent:** The Honorable Sheila Petta, Mayor, City of Wilmer, 128 North Dallas  
Avenue, Wilmer, Texas 75172

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	17-May-2021	<b>Screening</b>	20-May-2021	<b>EPA Due</b>	
	<b>PCW</b>	20-May-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Wilmer
<b>Reg. Ent. Ref. No.</b>	RN109997601
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60805	<b>No. of Violations</b>	2
<b>Docket No.</b>	2021-0684-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Harley Hobson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$25,000
---	-------------------	----------

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	0.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$0
---------------------------	-----------------	--------------------------------	-----

Notes: No adjustment for Compliance History.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$586	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,175	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$25,000
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$25,000
-----------------------------	----------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$25,000
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$5,000
-----------------	-------	-----------	-------------------	----------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$20,000
------------------------	----------

**Screening Date** 20-May-2021

**Docket No.** 2021-0684-WQ-E

**PCW**

**Respondent** City of Wilmer

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 60805

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN109997601

**Media** Water Quality

**Enf. Coordinator** Harley Hobson

### Compliance History Worksheet

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

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
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 judgments 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 submitted</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%
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)** 0%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

No adjustment for Compliance History.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 0%

**Screening Date** 20-May-2021  
**Respondent** City of Wilmer  
**Case ID No.** 60805  
**Reg. Ent. Reference No.** RN109997601  
**Media** Water Quality  
**Enf. Coordinator** Harley Hobson

**Docket No.** 2021-0684-WQ-E

**PCW**

*Policy Revision 5 (January 28, 2021)*

*PCW Revision February 11, 2021*

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 281.25(a)(4), Tex. Water Code § 26.121, and 40 Code of Federal Regulations § 122.26(a)(9)(i)(A)

**Violation Description**

Failed to maintain authorization to discharge stormwater under Texas Pollutant Discharge Elimination System ("TPDES") General Permit for municipal separate storm sewer systems. Specifically, TPDES General Permit No. TXR040000 expired on December 13, 2018 and the Respondent failed to submit a Notice of Intent ("NOI") and a Stormwater Management Plan ("SWMP") by the permit application deadline of July 23, 2019.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
		X			10.0%

Matrix Notes

100% of the rule requirements were not met.

**Adjustment** \$22,500

\$2,500

**Violation Events**

Number of Violation Events 8 Number of violation days 667

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$20,000

Eight quarterly events are recommended from the July 23, 2019 permit application due date to the May 20, 2021 screening date.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	

Notes

The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$20,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$427

**Violation Final Penalty Total** \$20,000

**This violation Final Assessed Penalty (adjusted for limits)** \$20,000

## Economic Benefit Worksheet

**Respondent** City of Wilmer  
**Case ID No.** 60805  
**Reg. Ent. Reference No.** RN109997601  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,725	23-Jul-2019	9-Sep-2022	3.13	\$427	n/a	\$427

**Notes for DELAYED costs**

Estimated cost to prepare and submit an NOI and a SWMP, and obtain authorization to discharge stormwater. The Date Required is the permit application deadline and the Final Date is the estimated compliance date.

### Avoided Costs

**ANNUALIZE avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$2,725

**TOTAL**

\$427

**Screening Date** 20-May-2021 **Docket No.** 2021-0684-WQ-E **PCW**  
**Respondent** City of Wilmer *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60805 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN109997601  
**Media** Water Quality  
**Enf. Coordinator** Harley Hobson

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and expired TPDES General Permit No. TXR040635, Part IV, Section B(2)

**Violation Description** Failed to submit concise annual reports to the Executive Director within 90 days of the end of each reporting year. Specifically, the Respondent did not submit annual reports for the years 2018 and 2019.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="10.0%"/>

**Matrix Notes** 100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

daily	<input type="text"/>
weekly	<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**

Two single events are recommended, one for each missing report.

**Good Faith Efforts to Comply**  Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Notes** The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal**

**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.** 60805  
**Reg. Ent. Reference No.** RN109997601  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	31-Mar-2019	27-Apr-2022	3.08	\$38	n/a	\$38
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	30-Mar-2020	27-Apr-2022	2.08	\$10	n/a	\$10

#### Notes for DELAYED costs

Estimated Training/Sampling cost to develop and implement procedures and conduct employee training to submit annual reports to the Executive Director within 90 days of the end of each reporting year. The Date Required is the date the first missing annual report was due and the Final Date is the estimated date of compliance.

Estimated Other cost to submit the 2019 annual report to the Executive Director. The Date Required is the annual report due date and the Final Date is the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$100	31-Mar-2019	20-May-2021	2.14	\$11	\$100	\$111
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Estimated avoided cost to submit the 2018 annual report to the Executive Director. The Date Required is the date the 2018 annual report was due and the Final Date is the screening date.

Approx. Cost of Compliance

\$450

**TOTAL**

\$159

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

Compliance History Report for CN600738256, RN109997601, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN600738256, City of Wilmer **Classification:** SATISFACTORY **Rating:** 2.18  
**Regulated Entity:** RN109997601, CITY OF WILMER MS4 **Classification:** HIGH **Rating:** 0.00  
**Complexity Points:** 8 **Repeat Violator:** NO  
**CH Group:** 14 - Other  
**Location:** Area within the City of Wilmer limits that is located within the Dallas Fort Worth Arlington urbanized area in Dallas County, Texas  
**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**

**WATER QUALITY NON PERMITTED ID NUMBER**  
R04109997601

**Compliance History Period:** September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

**Date Compliance History Report Prepared:** May 18, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 18, 2016 to May 18, 2021

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Harley Hobson

**Phone:** (512) 239-1337

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

N/A

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**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  
RN109997601**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2021-0684-WQ-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Wilmer (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a municipal separate storm sewer system located in the area within the City of Wilmer limits that is located within the Dallas Fort Worth Arlington urbanized area in Dallas County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$25,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$20,000 of the penalty and \$5,000 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.

6. 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 Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

## **II. ALLEGATIONS**

During a record review conducted on April 28, 2021, an investigator documented that the Respondent:

1. Failed to maintain authorization to discharge stormwater under Texas Pollutant Discharge Elimination System ("TPDES") General Permit for municipal separate storm sewer systems, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121, and 40 CODE OF FEDERAL REGULATIONS § 122.26(a)(9)(i)(A). Specifically, TPDES General Permit No. TXR040000 expired on December 13, 2018 and the Respondent failed to submit a Notice of Intent ("NOI") and a Stormwater Management Plan ("SWMP") by the permit application deadline of July 23, 2019.
2. Failed to submit concise annual reports to the Executive Director within 90 days of the end of each reporting year, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and expired TPDES General Permit No. TXR040635, Part IV, Section B(2). Specifically, the Respondent did not submit annual reports for the years 2018 and 2019.

## **III. DENIALS**

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

## **IV. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Wilmer, Docket No. 2021-0684-WQ-E" to:

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

2. The Respondent shall undertake the following technical requirements:
- a. Immediately and until such time that authorization to discharge stormwater is obtained, or until 180 days, whichever is earlier, comply with the permit requirements in expired TPDES General Permit No. TXR040635.
  - b. Within 30 days after the effective date of this Order:
    - i. Submit an NOI and SWMP to:

Applications Review and Processing Team  
Water Quality Division, MC 148  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
    - ii. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.
    - iii. Develop and implement procedures and conduct employee training to submit annual reports to the Executive Director within 90 days of the end of each reporting year.
    - iii. Submit the 2019 annual report to the Executive Director.
  - c. Within 45 after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.b.ii and 2.b.iii, in accordance with Ordering Provision No. 2.d.
  - d. Within 180 days after the effective date of this Order, submit written certification that authorization to discharge stormwater has been obtained. The certification shall be signed by the Respondent and shall 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 fines 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:

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

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and

may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



3/7/2022

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

September 15, 2021

Date

Lana Stringfellow

Name (Printed or typed)

City Administrator

Title

Authorized Representative of  
City of Wilmer

If mailing address has changed, please check this box and provide the new address below:

**Instructions:** Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.