

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0563-MWD-E **TCEQ ID:** RN101527224 **CASE NO.:** 37619
RESPONDENT NAME: Shelbyville Independent School District

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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 type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" 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
<p>SITE WHERE VIOLATION(S) OCCURRED: Shelbyville ISD, located 1,000 feet due south of the intersection of Farm-to-Market Road 417 and State Highway 87, on the west side of State Highway 87, Shelby County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 28, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Ray West, Superintendent, Shelbyville Independent School District, P.O. Box 325, Shelbyville, Texas 75973 Mr. Mario Osby, Principal, Shelbyville Independent School District, P.O. Box 325, Shelbyville, Texas 75973 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: February 5, 2009</p> <p>Date of NOV Relating to this Case: March 23, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for total suspended solids, dissolved oxygen, biochemical oxygen demand, and total residual chlorine [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013370001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6, and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$15,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$15,000</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: This is a Findings Order because the Respondent has had three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013370001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0013370001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	30-Mar-2009	Screening	9-Apr-2009	EPA Due	
	PCW	10-Apr-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Shelbyville Independent School District
Reg. Ent. Ref. No.	RN101527224
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37619	No. of Violations	1
Docket No.	2009-0563-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Steve Villatoro
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$4,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	310.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$12,400
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Notes: The penalty is enhanced due to 52 self-reported monthly effluent violations, two NOV's with violations that are same/similar to those cited in this action, and two final agreed orders containing a denial of liability.

Culpability	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$0
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts \$3,789
 Approx. Cost of Compliance \$31,688
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$16,400
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-8.5%	<i>Adjustment</i>	-\$1,400
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction in penalty so that monthly self-reported effluent violations do not overly impact penalty amount.

<i>Final Penalty Amount</i>	\$15,000
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$15,000
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DEFERRAL	0.0% Reduction	<i>Adjustment</i>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$15,000
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Screening Date 9-Apr-2009
Docket No. 2009-0563-MWD-E
Respondent Shelbyville Independent School District
Case ID No. 37619
Reg. Ent. Reference No. RN101527224
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

PCW
 Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

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 (number of NOVs meeting criteria)	54	270%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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) 310%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty is enhanced due to 52 self-reported monthly effluent violations, two NOVs with violations that are same/similar to those cited in this action, and two final agreed orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 310%

Screening Date	9-Apr-2009	Docket No.	2009-0563-MWD-E	PCW
Respondent	Shelbyville Independent School District			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37619			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101527224			
Media [Statute]	Water Quality			
Enf. Coordinator	Steve Villatoro			
Violation Number	1			

Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013370001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6.
Violation Description	Failed to comply with permit effluent limits, as documented during a record review conducted on February 5, 2009 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	5000	Harm			Percent	10%	
		Release	Major	Moderate			Minor
		Actual					x
	Potential						

26688

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent	0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow, total residual chlorine, total suspended solids, and dissolved oxygen were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
single event		

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,789

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

Economic Benefit Worksheet

Respondent: Shelbyville Independent School District
Case ID No.: 37619
Reg. Ent. Reference No.: RN101527224
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	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	30-Nov-2007	28-Feb-2010	2.25	\$37	\$750	\$787
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	\$26,688	30-Nov-2007	28-Feb-2010	2.25	\$3,001	n/a	\$3,001
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated costs to remove 8,000 gallons of sludge and to hire an engineer to determine the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$31,688	TOTAL	\$3,789
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EFFLUENT VIOLATION TABLE

Shelbyville Independent School District

TPDES Permit No. WQ0013370001

Docket No. 2009-0563-MWD-E

Months	Total Suspended Solids Daily Avg. Conc.	Total Suspended Solids Single Grab Conc.	Dissolved Oxygen Min. Conc.	BOD Daily Avg. Conc.	Total Residual Chlorine Max. Conc.
	Limit = 20 mg/L	Limit = 65 mg/L	Limit \geq 3.0 mg/L	Limit = 20 mg/L	Limit = 4.0 mg/L
11/30/2007	22.6	c	c	c	4.2
12/31/2007	33.5	c	c	c	c
1/31/2008	25.7	c	c	c	c
2/29/2008	33.5	c	c	22.1	c
3/31/2008	24.9	c	c	c	c
4/30/2008	28.2	c	c	c	c
5/31/2008	37	c	c	c	c
6/30/2008	31.9	76	c	c	c
7/31/2008	80.8	136	c	c	c
8/31/2008	33.4	c	2.8	c	c
9/30/2008	35.3	c	1.9	c	c
10/31/2008	30.1	c	1.8	c	c

BOD = biochemical oxygen demand

Max. = maximum

Min. = minimum

avg. = average

mg/L = milligrams per liter

c = compliant

lbs/day = pounds per day

conc. = concentration

Compliance History Report

Customer/Respondent/Owner-Operator: CN600800791 Shelbyville Independent School District Classification: AVERAGE Rating: 5.92

Regulated Entity: RN101527224 SHELBYVILLE ISD Classification: AVERAGE Site Rating: 5.92

ID Number(s):
 WASTEWATER PERMIT WQ0013370001
 WASTEWATER PERMIT TPDES0102261
 WASTEWATER PERMIT TX0102261
 WASTEWATER LICENSING LICENSE WQ0013370001

Location: 1,000 feet due south of the intersection of Farm-to-Market Road 417 and State Highway 87, on the west side of State Highway 87 in Shelby County, Texas

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: April 09, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 09, 2004 to April 09, 2009

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

Name: Steve Villatoro Phone: 512-239-4930

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 02/05/2006 ADMINORDER 2005-0923-MWD-E
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: Effluent Limits PERMIT
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
- Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: Self-reporting Requirements PERMIT
 Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.
- Effective Date: 05/25/2007 ADMINORDER 2006-1980-MWD-E
 Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)
 Description: Failure to install flow measurement equipment (staff gauge) at the proper location.
- Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F,305.125(1)
 Rqmt Prov: M&RR 7c PERMIT
 Description: Failure to notify the TCEQ of effluent violations that deviated from the permitted limitations by more than 40 percent.
- Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Rqmt Prov: M&RR 3b PERMIT
 Description: Failure maintain all records and information resulting from the required monitoring activities.
- Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 Rqmt Prov: OpR 1 PERMIT

Description: Failure to ensure that the Facility and all of its systems of treatment and control are properly operated and maintained.

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	04/15/2004	(363727)
2	05/19/2004	(363728)
3	06/21/2004	(363729)
4	07/28/2004	(363730)
5	08/18/2004	(363731)
6	09/20/2004	(363732)
7	10/21/2004	(363733)
8	11/19/2004	(388430)
9	01/14/2005	(388431)
10	01/14/2005	(388432)
11	02/28/2005	(388429)
12	04/15/2005	(425966)
13	04/15/2005	(425967)
14	04/21/2005	(373376)
15	04/27/2005	(373241)
16	05/31/2005	(425968)
17	06/21/2005	(425969)
18	08/05/2005	(446429)
19	08/22/2005	(446430)
20	10/03/2005	(479011)
21	10/05/2005	(479010)
22	11/21/2005	(479012)
23	12/16/2005	(479013)
24	01/26/2006	(479014)
25	02/21/2006	(479008)
26	03/24/2006	(479009)
27	04/28/2006	(504936)
28	05/25/2006	(504937)
29	06/30/2006	(504938)
30	08/16/2006	(488622)
31	08/31/2006	(527239)
32	08/31/2006	(527240)
33	09/29/2006	(527241)
34	10/27/2006	(628172)
35	11/01/2006	(513324)
36	11/20/2006	(628174)
37	01/08/2007	(628176)
38	01/23/2007	(628178)
39	02/26/2007	(628164)
40	04/05/2007	(628165)
41	04/27/2007	(628166)
42	05/24/2007	(628167)
43	06/21/2007	(628168)
44	07/25/2007	(628169)
45	08/24/2007	(628170)
46	09/24/2007	(628171)
47	10/11/2007	(542737)
48	10/19/2007	(628173)
49	10/23/2007	(598129)
50	12/03/2007	(628175)
51	12/27/2007	(628177)
52	01/11/2008	(676342)
53	02/15/2008	(676341)
54	03/28/2008	(694734)
55	04/22/2008	(694735)
56	05/23/2008	(694736)
57	06/27/2008	(716219)
58	07/18/2008	(716220)

59 08/25/2008 (716221)
 60 10/01/2008 (716222)
 61 10/28/2008 (716223)
 62 11/19/2008 (731745)
 63 01/29/2009 (723430)
 64 03/25/2009 (726264)

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

Date: 04/30/2004 (363728) CN600800791
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2004 (363729) CN600800791
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2004 (363732) CN600800791
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2004 (363733) CN600800791
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2004 (388430) CN600800791
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2004 (388431) CN600800791
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/31/2004 (388432) CN600800791
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2005 (388429) CN600800791
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/28/2005 (425966) CN600800791
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2005 (425967) CN600800791
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/28/2005 (373241) CN600800791
 Self Report? NO Classification: Moderate
 Citation: OT 6 PERMIT
 Description: Failure by the permittee to submit an annual sludge report to the TCEQ Region 10 office and TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the permittee to properly dispose of the influent screenings.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 SP IA1 PERMIT
 Description: Failure by the permittee to have sludge hauled by a properly registered sludge transporter.

Self Report?	NO	Classification:	Minor
Citation:	OpR 1 PERMIT		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Moderate
Citation:	M&RR 7c PERMIT		
Description:	Failure by the permittee to notify the TCEQ Region 10 Office and the Manager of the Enforcement Section III (MC 149) of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.		
Self Report?	NO	Classification:	Moderate
Citation:	FEL&MR 1 PERMIT		
Description:	Failure by the permittee to discharge effluent that is compliant with permitted limitations.		
Self Report?	NO	Classification:	Minor
Citation:	FEL&MR 3 PERMIT		
Description:	Failure by the permittee to discharge effluent that is compliant with permitted limitations.		
Self Report?	NO	Classification:	Moderate
Citation:	M&RR 2 PERMIT		
Description:	Failure by the permittee to check the colorimeter used for chlorine residual analysis against secondary standards.		
Self Report?	NO	Classification:	Minor
Citation:	FEL&MR 5 PERMIT		
Description:	Failure by the permittee to install and maintain a flow measurement device after the last treatment unit.		
Self Report?	NO	Classification:	Moderate
Citation:	OT 4 and 5 PERMIT		
Description:	Failure by the permittee to comply with Other Permit Requirements, No. 4 and No. 5.		
Self Report?	NO	Classification:	Minor
Citation:	M&RR 3b PERMIT		
Description:	Failure by the permittee to maintain the required records and have them available for review during the investigation.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 106, SubChapter V 106.491 30 TAC Chapter 116, SubChapter B 116.110(a)(4) 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure by the permittee to obtain the required permit by rule authorization before commencing operation.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.1(e)(3)		
Description:	Failure by the permittee to maintain an Operations and Maintenance (O&M) Manual for the constructed wetland on-site and readily available for review, upon request.		
Date:	04/30/2005	(425968)	CN600800791
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	05/31/2005	(425969)	CN600800791
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2005	(446429)	CN600800791
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2005	(479010)	CN600800791
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/30/2005	(479011)	CN600800791
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2005	(479012)	CN600800791
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		

Description:	TWC Chapter 26 26.121(a)		
Date:	11/30/2005	(479013)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)		
Date:	12/31/2005	(479014)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)		
Date:	01/31/2006	(479008)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)		
Date:	02/28/2006	(479009)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)		
Date:	03/31/2006	(504936)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)		
Date:	04/30/2006	(504937)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)		
Date:	05/31/2006	(504938)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)		
Date:	06/30/2006	(527239)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)		
Date:	08/31/2006	(527241)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	TWC Chapter 26 26.121(a)		
Date:	09/30/2006	(628172)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
Description:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Date:	10/31/2006	(628174)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
Description:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Date:	11/30/2006	(628176)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
Description:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Date:	12/31/2006	(628178)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
Description:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Date:	01/31/2007	(628164)	CN600800791
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
Description:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Description: Failure by Shelbyville Independent School District to report greater than 40% permit noncompliances.

Date: 01/31/2009

CN600800791

Self Report? YES

Classification: Moderate

Citation:

2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2009

CN600800791

Self Report? YES

Classification: Moderate

Citation:

2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2009

CN600800791

Self Report? YES

Classification: Moderate

Citation:

2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

N/A

Sites Outside of Texas

N/A

Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	09/30/2008	(716223) CN600800791
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	10/31/2008	(731745) CN600800791
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	11/30/2008	CN600800791
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	12/31/2008	CN600800791
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	01/28/2009	(723430) CN600800791
Self Report?	NO	Classification: Moderate
Citation:	OpR PERMIT	
Description:	Failure by Shelbyville Independent School District to properly operate and maintain air gap or RPZ on main potable line to the WWTP.	
Self Report?	NO	Classification: Minor
Citation:	OpR PERMIT	
Description:	Failure by Shelbyville Independent School District to maintain secure access to the WWTP.	
Self Report?	NO	Classification: Minor
Citation:	SP II PERMIT	
Description:	Failure by Shelbyville Independent School District to submit the Annual Sludge Report.	
Self Report?	NO	Classification: Minor
Citation:	OR PERMIT	
Description:	Failure by Shelbyville Independent School District to maintain complete sludge disposal records.	
Self Report?	NO	Classification: Minor
Citation:	OpR PERMIT	
Description:	Failure by Shelbyville Independent School District to maintain the solids inventory in the WWTP.	
Self Report?	NO	Classification: Minor
Citation:	ELMR PERMIT	
Description:	Failure by Shelbyville Independent School District to discharge effluent compliant with Chlorine Residual permit limits.	
Self Report?	NO	Classification: Minor
Citation:	MRR PERMIT	
Description:	Failure by Shelbyville Independent School District to have records available for review.	
Self Report?	NO	Classification: Minor
Citation:	MRR PERMIT	
Description:	Failure by Shelbyville Independent School District to to perform accuracy check on for the chlorine meter.	
Self Report?	NO	Classification: Minor
Citation:	MRR PERMIT	
Description:	Failure by Shelbyville Independent School District to to use an EPA approved method for measuring Dissolved Oxygen (DO).	
Self Report?	NO	Classification: Minor
Citation:	MRR PERMIT	
Description:	Failure by Shelbyville Independent School District to correctly calculate loadings.	
Self Report?	NO	Classification: Moderate
Citation:	OR PERMIT	
Description:	Failure by Shelbyville Independent School District to comply with Other Requirements.	
Self Report?	NO	Classification: Moderate
Citation:	ELMR PERMIT	
Description:	Failure by Shelbyville Independent School District to discharge effluent compliant with permit limitations.	
Self Report?	NO	Classification: Moderate
Citation:	MRR PERMIT	

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SHELBYVILLE INDEPENDENT
SCHOOL DISTRICT
RN101527224

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0563-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Shelbyville Independent School District ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located 1,000 feet due south of the intersection of Farm-to-Market Road 417 and State Highway 87, on the west side of State Highway 87 in Shelby County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. During a record review on February 5, 2009, TCEQ staff documented the following effluent data from the Facility's self-reported discharge monitoring reports ("DMR"):

EFFLUENT VIOLATION TABLE					
Months	Total Suspended Solids Daily Avg. Conc.	Total Suspended Solids Single Grab Conc.	Dissolved Oxygen Min. Conc.	BOD Daily Avg. Conc.	Total Residual Chlorine Max. Conc.
	Limit = 20 mg/L	Limit = 65 mg/L	Limit \geq 3.0 mg/L	Limit = 20 mg/L	Limit = 4.0 mg/L
11/30/2007	22.6	c	c	c	4.2
12/31/2007	33.5	c	c	c	c
1/31/2008	25.7	c	c	c	c
2/29/2008	33.5	c	c	22.1	c
3/31/2008	24.9	c	c	c	c
4/30/2008	28.2	c	c	c	c
5/31/2008	37	c	c	c	c
6/30/2008	31.9	76	c	c	c
7/31/2008	80.8	136	c	c	c
8/31/2008	33.4	c	2.8	c	c
9/30/2008	35.3	c	1.9	c	c
10/31/2008	30.1	c	1.8	c	c

BOD = biochemical oxygen demand
Min. = minimum
mg/L = milligrams per liter
lbs/day = pounds per day

Max. = maximum
avg. = average
c = compliant
conc. = concentration

4. The Respondent received notice of the violations on March 27, 2009.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013370001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Fifteen Thousand Dollars (\$15,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Fifteen Thousand Dollar (\$15,000) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Fifteen Thousand Dollars (\$15,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Shelbyville Independent School District, Docket No. 2009-0563-MWD-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, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013370001, including specific corrective actions that were

implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. 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:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed 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 Agreed 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.
5. 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 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.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed 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 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.
9. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sullivan
For the Executive Director

9/3/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Shelbyville Independent School District. I am authorized to agree to the attached Agreed Order on behalf of Shelbyville Independent School District, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Shelbyville Independent School District waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Ray West
Signature

7-14-09
Date

Ray West
Name (Printed or typed)
Authorized Representative of
Shelbyville Independent School District

Superintendent
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.