



# FLORIDA DEPARTMENT OF Environmental Protection

Central District Office  
3319 Maguire Blvd., Suite 232  
Orlando, Florida 32803

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

March 21, 2023

Shelley's Septic Tanks BTF  
James David Shelley Jr., President  
6505 W Jones Ave  
Zellwood, FL 32798  
Barb Shelley [bshelley@shelleysseptic.com](mailto:bshelley@shelleysseptic.com)

Re: Shelley's Septic Tanks BTF  
DW Facility ID #FLA016177  
OGC Case #23-0018

Dear Mr. Shelley:

Enclosed is the executed Consent Order to resolve the above referenced case. This copy is for your records.

Should you have any questions or comments, please contact Dr. Phil Kane at 407-897-4156 or via e-mail at [phil.kane@floridadep.gov](mailto:phil.kane@floridadep.gov).

Your cooperation in this matter will be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Watkins".

Aaron Watkins  
Director, Central District

Enclosure Consent Order OGC# 23-0018

cc: Lea Crandall, OGC  
Lauri Roughton, OGC  
Daun Festa, Central District



# FLORIDA DEPARTMENT OF Environmental Protection

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3319 Maguire Blvd., Suite 232  
Orlando, Florida 32803

**Ron DeSantis**  
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Secretary

February 1, 2023

Shelley's Septic Tank Inc.  
James David Shelley Jr., President  
6505 W Jones Ave  
Zellwood, FL 32798  
[bshelley@shelleysseptic.com](mailto:bshelley@shelleysseptic.com)

SUBJECT: Department of Environmental Protection v. Shelley's Septic Tank Inc.,  
OGC File No.: 23-0018  
Facility ID: FLA016177

Mr. Shelley:

The State of Florida Department of Environmental Protection ("Department") finds that Shelley's Septic Tank Inc. ("Respondent") conducted activities resulting in the following violations:

- Failure to maintain a lab certification onsite in violation of Chapter 62-620.610(18)(d), F.A.C.
- Failure to calibrate pH meter with the proper standards for high alkalinity measurements in violation of Chapter 62-160.210 (1) F.A.C.
- Failure to maintain a NIST thermometer onsite for thermometer temperature verifications in violation of Chapter 62-160.210 (1) F.A.C.
- Failure to properly complete Discharge Monitoring Reports (DMRs) in violation of Chapter 62-620.610(18)(a), F.A.C.
- Failure to report an unauthorized discharge from a treatment tank.
- Improper management and land application of raw wastewater in violation of Chapter 62-640.200 (6) and Chapter 62-640.300(1), F.A.C.

Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violation(s). These actions have since been completed.

However, due to the nature of the violation(s), the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

### **The Department's Offer**

Based on the violations described above, the Department is seeking \$ 19,125.00 in civil penalties and \$ 250.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ 19,375.00. The civil penalty in this case includes 2 violations that each warrant a penalty of \$2,000.00 or more.

### **Respondent's Acceptance**

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at 3319 Maguire BLVD Suite 232 Orlando, Florida 32803 by February 17, 2023. The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

By accepting this offer you, James David Shelley Jr.:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final;
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.; and
- (4) acknowledge that payment of the above amount does not constitute a waiver of the Department's right, if any, to recover emergency response related costs and expenses for this matter.

The Department acknowledges that the Respondent's acceptance of this offer does not liability for the violation(s) referenced above.

### **Respondent's Performance**

After signing and returning this document constitute an admission of to the Department,

- (1) Respondent must pay \$ 19,375.00 in full by March 17, 2023.

*payable by  
March 31, 2023*

*BES*

- (2) Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

Please be aware that if the Respondent declines to respond to the Department's offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

**If you have any questions, please contact Dr. Phil Kane at 407-897-4156 or at [phil.kane@floridadep.gov](mailto:phil.kane@floridadep.gov).**

Sincerely,



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Aaron Watkins  
District Director  
Central District

FOR THE RESPONDENT:

I, Barbara Shelley [Type or Print Name], HEREBY ACCEPT  
THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By: Barbara Shelley [Signature] Date: 3/20/23

Title: Vice-President  
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 21st day of March, 2023, in Orange County,  
Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



Aaron Watkins  
District Director  
Central

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department  
Clerk, receipt of which is hereby acknowledged.



\_\_\_\_\_  
Clerk

March 21, 2023

\_\_\_\_\_  
Date

Attachments: Notice of Rights

Final clerked copy furnished to:

Lea Crandall, Agency Clerk ([lea.crandall@dep.state.fl.us](mailto:lea.crandall@dep.state.fl.us))

## NOTICE OF RIGHTS

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at [Agency\\_Clerk@floridadep.gov](mailto:Agency_Clerk@floridadep.gov), within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at the address indicated above. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.