



# Senator Eliot Shapleigh

District 29

Texas Press Release

**Contact:**

Daniel Collins

(915) 544-1990

[daniel.collins@senate.state.tx.us](mailto:daniel.collins@senate.state.tx.us)



---

## For Immediate Release

April 16, 2009

### **JUDGE RULES THAT TCEQ MUST RELEASE OPEN RECORD DOCUMENTS TO SENATOR SHAPLEIGH**

*"In our democracy, the public has the right and duty to oversee public agencies. Public agencies that hide documents hide from public oversight. TCEQ cannot decide what the people have a right to know."*

\*\*\*\*\*

**EL PASO** - Today, a [Texas District Court Judge ruled](#) that the Texas Commission on Environmental Quality (TCEQ) could not deny a request made by Senator Eliot Shapleigh (D-El Paso) to release documents pertaining to potentially illegal secret meetings the commission held with ASARCO LLC representatives during their El Paso copper smelter's re-permitting process.

On Monday morning, Travis County District Judge Scott H. Jenkins heard Senator Shapleigh's motion for summary judgment in an open records lawsuit with the commission.

This motion stems from a public [information request Senator Shapleigh filed with TCEQ](#) immediately after its commissioners approved ASARCO's air permit on a 3-0 vote in February 2008. Senator Shapleigh filed two Texas Public Information Act requests with TCEQ on [February 14, 2008](#) and [February 18, 2008](#) asking for key documents, emails, and cell phone records. The requests were made under the "[legislative purpose](#)" statute, which allows legislators to gain access to otherwise confidential information, provided that it is for a legislative use.

[Invoices](#) filed in bankruptcy court show that ASARCO's lawyers at Baker Botts L.L.P. met on at [least three occasions with TCEQ commissioners](#) about ASARCO's pending permit, a possible violation of the state's administrative procedures law.

- More -

800 WYOMING AVE., SUITE A • EL PASO, TEXAS 79902

---

(800) 544-1990 • (915) 544-1990

Upon receiving Senator Shapleigh's public information request, instead of releasing the materials, TCEQ submitted an [18 page letter](#) to Texas Attorney General Greg Abbott (AG) on March 4, 2008, arguing that the Senate office should not be given access to confidential information, despite the clear intent of the statute. On May 16, 2008, however, the AG disagreed with TCEQ and said Senator Shapleigh was entitled to all requested materials. In a further attempt to deny access to the documents, [TCEQ filed suit](#) on May 29, 2008, in the 345th Judicial District in Travis County in order to challenge the AG's ruling and continue to withhold documents from the Senator. Senator Shapleigh filed a plea in intervention, requesting that the court allow the Senator to act as a party in the lawsuit.

"In our democracy, the public has the right and duty to oversee public agencies. Public agencies that hide documents hide from public oversight. TCEQ cannot decide what the people have a right to know," Senator Shapleigh said.

You may read the judge's [ruling here](#).

- End -

800 WYOMING AVE., SUITE A • EL PASO, TEXAS 79902

---

(800) 544-1990 • (915) 544-1990