

October 2005 Update
Fouling the Father of Waters

Mr. Complete Chrysler Recycled Parts – 2635 Jackson Ave. – Permit # TNR051479 – Sector M
Facility Description: Automobile salvage yard.

File Audit Date:	Comments
10/6/05	<p>9/3/04: Mr. Complete was mailed a certified letter by DWPC personnel advising the correct constituents that a "Sector M" facility is to sample for. See: File audit for 8/27/04.</p> <p>Official report by facility: Storm water sample taken 10/18/04, reported on 10/28/04. All constituents below the "cut-off concentration".</p> <p>NOTE: Facility sampled for pH. While this was not required, pH that was reported based on Chain-of-Custody form was invalid as it was tested >15 minutes after collection. EPA requires that pH be tested immediately, which is defined as within 15 minutes of collection.</p> <p>See: 40 CFR Part 136.3 as amended "<i>Required containers, preservation techniques, and holding times</i>" 38 Federal Register 28758, Oct. 16, 1973, as most recently amended.</p>

NexAir, LLC – 1259 North McLean. – Permit # TNR054429 – Sector C
Facility Description: Chemical and allied products manufacturing facility.

File Audit Date:	Comments
10/6/05	<p>8/23/05: Notice of Violation (NOV) issued for failure to conduct storm water sampling in 2004. Response to NOV was due on 9/16/05.</p> <p>NOTE: Response <i>may</i> have been mailed to Nashville. No copy in Memphis EFO files.</p> <p>10/11/05: E-mail to Memphis EFO asking for clarification of facility response.</p>

Velsicol Chemical Corporation – 1199 Warford Ave. – Permit # TNR051057 – Sectors C & K
Facility Description: Chemical and allied products manufacturing facility (sector-C) and hazardous waste treatment, storage or disposal facility (sector-K).

File Audit Date:	Comments
10/6/05	<p>11/4/04: TDEC letter to facility. Requirement to sample for Chlordane, Heptachlor and Dieldrin in storm water discharge. Also, facility is required to sample for Sector K parameters in addition to Sector C. See: File audit for 8/27/04.</p> <p>There are two sets of storm water sample data for 2003 (taken 10/10/03 and 12/29/03).</p> <p>As of 10/6/05, did not see any samples for 2004 in the Memphis EFO file.</p> <p>Facility sampled for Chlordane, Heptachlor and Dieldrin. Unknown sample date, but there is a 12/7/04 facility cover letter. The data did not give units of measurement, although there is a fax in the Memphis EFO file from April 2005 giving the units of measurement as milligrams per liter.</p> <p>Results in milligrams per liter: Outfall # 1 Chlordane: 0.00011 Heptachlor: 0.0038 Dieldrin: 0.00008</p> <p>Outfall # 2 Chlordane: 0.0038 Heptachlor: 0.034 Dieldrin: 0.0003</p> <p>10/11/05: E-mail to Memphis EFO asking for clarification of two sets of 2003 storm water data, the location of the 2004 data, and the sample date of the pesticide data.</p>

Jorgensen Bennett Mfg. – 1230 North Seventh St. – Permit # TNR051863 – Sector A
Facility Description: Timber products facility.

File Audit Date:	Comments
10/6/05	<p>Official report by facility: Storm water sample taken 12/21/04, reported with cover letter on 3/24/05. The results showed that Chemical Oxygen Demand (COD) was 5 TIMES TDEC's "cut-off concentration". Total Suspended Solids (TSS) was 6.4 TIMES TDEC's "cut-off concentration". Zinc slightly exceeded its "cut-off concentration".</p> <p>10/8/05: TN Water Sentinels drive-by reconnaissance shows one possible reason for higher levels of COD, TSS, and Zinc is the unpaved lot of the lumber storage area in the drainage of the outfall.</p> <p>10/11/05: E-mail to Memphis EFO asking for follow-up inspection of the unpaved area that is a potential source of storm water pollutants.</p>

Iskiwitz Metals. – 604 Marble Ave. – Permit # TNR054012 – Sector N
Facility Description: Scrap recycling and waste recycling facility.

File Audit Date:	Comments
10/6/05	<p>8/4/05: Notice of Violation (NOV) issued for failure to conduct storm water sampling in 2004.</p> <p>9/4/05: Fax from Nashville TDEC office to Memphis EFO. Facility has expressed a desire to comply from now on.</p> <p>12/27/04: Facility letter with storm water sampling results.</p> <p>Sept. 2004 results: No raw data sheets in the file, unsure of exact date of sampling, and data had no units of measurement. Aluminum was 4 TIMES the “cut-off concentration”, Copper was 171 TIMES the “cut-off concentration”, Lead was 4.8 TIMES the “cut-off concentration”, and Zinc was 4.4 TIMES the “cut-off concentration”.</p> <p>Nov. 2004 results: Confusion exists as to the date of sampling. The official TDEC data sheet states 12/23/04, but raw data sheets from lab states 11/30/04 as the date of sampling. Aluminum was 1.9 TIMES the “cut-off concentration”, and Copper was 19.5 TIMES the “cut-off concentration”. All the rest were right at, or below the “cut-off concentration”.</p> <p>NOTE: Facility sampled for pH. While this was not required, pH that was reported based on Chain-of-Custody form was invalid as it was tested >15 minutes after collection. EPA requires that pH be tested immediately, which is defined as within 15 minutes of collection.</p> <p>See: 40 CFR Part 136.3 as amended “<i>Required containers, preservation techniques, and holding times</i>” 38 Federal Register 28758, Oct.16, 1973, as most recently amended.</p>

Metal Management (Perlco) – 540 Weakley Ave. – Permit # TNR053315 – Sector N
Facility Description: Scrap recycling and waste recycling facility.

File Audit Date:	Comments
10/6/05	<p>11/11/04: Sierra Club Formal Complaint mailed to Commissioner Child.</p> <p>11/22/04: Notice of Violation (NOV) issued as a result of a 11/19/04 Compliance Evaluation Inspection (CEI) in which deficiencies from a 5/21/04 were not corrected. See: File audit for 8/27/04.</p> <p>12/7/04: Second NOV issued for a second CEI of 11/29/04.</p> <p>1/24/05: First TDEC response to Formal Complaint stating that formal enforcement action is being prepared.</p> <p>1/31/05: Second TDEC response to Formal Complaint.</p> <p>3/31/05: Another CEI conducted. Table of facility supplied data in this letter show that in sampling events of 12/22/04 and 3/9/05, significant quantities of pollutants in excess of the “cut off concentrations” were discharged. Problem appears that soil and dirt are entraining metallic pollutants and that this soil is washing off-site. This is the same issue that Sierra Club observed in its sampling of 3/18/03 and 6/2/03 from two sites accessed from the public street.</p> <p>7/18/05: Commissioner’s Order against facility. Fine of \$2K immediately, with an additional \$6K for failure to comply with the Commissioner’s Order.</p> <p>8/12/05: Facility response. \$2K fine (of the \$8K total) paid. Facility stated they have spent >\$80K to keep up pollution reducing “Best Management Practices (BMPs). They have purchased a \$50K street sweeper and other BMPs. Facility traffic is >500 customer vehicles/day.</p>

Ben Mogy and Son – 2530 Shasta Ave.. – Permit # TNR056704 – Sector N
Facility Description: Scrap recycling and waste recycling facility.

File Audit Date:	Comments
10/7/05	<p>9/21/04: Sierra Club Formal Complaint mailed to Commissioner Child.</p> <p>10/19/04: Letter from Memphis-Shelby County Health Department sheds new light on the non-compliance of the Owner of Record. The Shelby County Prosecutor is involved with two active cases in Environmental Court. The Memphis Fire Department is also involved in these anti-neglect cases.</p> <p>12/9/04: TDEC response to Formal Complaint stating that formal enforcement action is being prepared.</p> <p>6/14/04: Director’s Order against the facility. Fine for \$1K immediately, with an additional \$2K for failure to comply with the Director’s Order.</p> <p>On or about April 2005: Notice of Intent to obtain coverage under the storm water general permit is filed by the Owner of Record.</p> <p>10/11/05: E-mail to Memphis EFO asking for the status of the Director’s Order. Also e-mail pointed out that the Yellow Pages phone directory now lists the name of the facility as “B&R Scrap Processors” at the same Shasta address. This is found under the heading “scrap”.</p>

Conclusions that are drawn from the October 6 & 7, 2005 file audit:

- Continued pressure by the Tennessee Water Sentinels on TDEC is essential. It drives the agency in a positive direction, which is defined in pollution being reduced through TDEC's efforts at insuring compliance with all discharge permits they issue.
- As discussed on page 25, the filing system at the Memphis EFO has made it difficult for citizens to accurately audit the files. In the October 6&7 audit, some filing issues remain to be resolved.
- Timely follow-up file audits are absolutely essential to insuring that the agency is keeping the promises that are documented in any response.
- Timely communications with agency personnel after conducting follow-up file audits are absolutely essential. In Memphis, with six agency personnel handling a multitude of duties and overseeing about 1,500 water quality permits in a three-county area, then it can become difficult to routinely observe problems, either in the field or in the files. That is the benefit of citizen water quality monitors. We Tennessee Water Sentinels can be the eyes and ears as well as provide guidance with file audits and communication. We can do only so much, but after that, it is up to the agency that is charged to protect the rights of all citizens to have unpolluted waters in Tennessee, in the year 2005 and beyond.
- While TDEC thought outside the regulatory box and required Velsicol to analyze their storm water discharges for Chlordane and Heptachlor, it took over 4 MONTHS for Velsicol to notify the Memphis EFO of the units of measurement. Tennessee Water Sentinels requests that Velsicol be continued to sample their storm water discharges for Chlordane, Heptachlor, Dieldrin and any other pesticide that was ever made at the Memphis facility.
- TDEC must begin to verify facility self-monitoring data with their own data.

Stay tuned for further updates...