

BURNT

IMPROVING THE ENVIRONMENT THROUGH
CITIZEN INVOLVEMENT WITH GOVERNMENT,
BUSINESS, AND ACADEMIA

Please respond also to
1285-D 4th Avenue South
Nashville, Tennessee 37210

16 October 2007

Mr. Steven Stout
Office of General Counsel
Tennessee Department of Environment and Conservation *via electronic mail & hand delivery*

RE: Request for Sanctions Against the Metropolitan Nashville Air Board

Dear Mr. Stout:

I plan to deliver to your office tomorrow "Petitioners Motion for Justice Cottrell to Recuse Herself From the Above Decision" filed today as part of the citizen appeal of the Board of Health decision granting the North American Galvanizing air permits. This filing graphically describes a Board of Health which allowed the Department of Law to make policy, overturned portions of Laidlaw Env. v. Metro Bd. Of Health (934 S.W. 2d 40), and with no legal precedent created a two tier permitting system which exempts minor source permits, when appealed to the Board, from mandated review under Metro Code 10.56.020(A), Metro Code 10.56.040(A), and Metro Code 10.56.100. We have previously submitted substantial, documented complaints including

A. The Board violated Section 129(e) of the Clean Air Act by regulating a solid waste incinerator owned, designed, and financed by Metropolitan Government

B. The Board failed to hold a required public hearing when a *Metro Code 2.36.140* appeal was filed against a decision of the Director concerning enforcement of multiple violations by Thermal prior to closing

C. The Board failed to hold a required public hearing when the Director reopened the Thermal Operating Permit

D. The Board did not follow required procedures including a public hearing when the fine against Thermal was reduced from \$945,000 to \$95,000.

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E. Numerous procedural errors during hearings on pesticide spraying which led to a reversal of a Board decision in the Court of Appeals with several cases pending in the Chancery Court and Administrative Law Judge.

I believe the State Air Quality Control Board had a high degree of interest in these charges. It was made very clear they had next to zero tolerance for a local Air Quality Control Board, granted considerable powers by the State of Tennessee and Federal Government, which has a pattern of abusing citizen rights to participate. These citizen rights are guaranteed by the Federal Government which also grants Tennessee authority to regulate air quality.

There should be no equivocating. The Metro Board refused to hold public hearings during the lengthy Thermal violation process and at least three (3) were required. Metro violated the Federal Clean Air Act by regulating and permitting a solid waste incinerator it also owned, controlled, and designed. Public hearings and process on North American Galvanizing are a shambles. And, pesticide spraying and citizen participation makes three. Please consider the very real consequences of this decision making—the Thermal plant burned down in a spectacular fire that polluted Nashville air for days because of poor maintenance and management of this public utility permitted by the Metro Air Board. Very few public utilities burn down.

These are facts. Your Air Quality Control Board has evinced strong interest in this case. We propose a reasonable sanction—without disbanding the authority of the Metro Air District, place all permitting and Board actions on air permits under State supervision for twenty-four (24) months. Metro would pay all costs. No Metro jobs would be lost. State personnel could do most work from their offices.

Thank you

Bruce Wood