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ATLANTA, GA.

Tennessee Chapter

Chickasaw Group, Sierra Club

P.O. Box 111094, Memphis, TN 38111

August 30, 2004

Mr. Bob Rogers-Acting Pollution Control Manager
Memphis and Shelby County Health Department
814 Jefferson Ave.
Memphis, TN 38105

RE: Petition to reclassify Shelby County,Tennessee and Crittenden County, Arkansas from "moderate" to "marginal" in regards of ozone non-attainment

Dear Mr. Rogers,

On July 24, 2004, we read an article in the Memphis *Commercial Appeal*, by Tom Charlier that local and state officials, "...are trying to convince federal regulators that while the Memphis area has a smog problem, it's edging ever closer to meeting pollution standards." On an initial look, that appears to be great news, closer inspection reveals that there are some issues that need to be addressed.

- **Public notice and involvement in the petition process:**

Our first knowledge of this petition was reading about it in the newspaper article mentioned above. The mission statement of the Health Department is, *"To promote, protect and improve the health and environment of all Shelby County residents."* Please explain what method of public notice and involvement that MSCHD engaged in prior to submitting this petition. We hope that it was not just an obscure notice published on a web-site or in the Legal Notices section of the newspaper. The MSCHD exists to do the public's business in regards of the public health and our rights to breathe unpolluted air and must inform the general public using several methods that make it easier for citizens to participate in the process of taking ownership of their clean air rights.

- **The MSCHD is being too hasty in attempting to win this new designation:**

On April 15, 2004, the EPA designated non-attainment areas for the 8-hour ground level ozone standard. Shelby County, Tennessee, together with Crittenden County, Arkansas was designated as moderate non-attainment.

According to the Environmental Defense web-site at:
http://www.scorecard.org/env-releases/cap/rank-counties-emissions.tcl?fips_state_code=47
In 1999, Shelby County ranks first in the state in counties with emissions of volatile organic compounds (VOCs) at 80,914 tons, Oxides of Nitrogen (NO_X) at 174,285 tons, VOCs-ozone season daily average at 255 tons and NO_X-ozone season daily average of 444 tons. While this data is 5 years old, and undoubtedly there has been some shift in industrial source output of these ozone precursors, mobile sources (cars, trucks and vehicle miles driven) have increased. According to the United States Public Interest Research Group at:
http://www.cleanairnow.org/cleanairnow.asp?id2=12485
"While vehicles coming off today's assembly lines are 80 to 99 percent cleaner per mile than those of the 1960s, cars and trucks remain a leading source of air pollution because of the dramatic increase in driving. From 1970 to 2002, the number of vehicle-miles traveled in urban areas tripled from 570 billion to 1.73 trillion miles." Also on this same web-site, Memphis is listed as #17 in the country, as a Metropolitan Area Smog-Forming Nitrogen Oxide Emissions from Vehicles, Per Capita, 1999

In addition, as additional residential and commercial development has taken place since 1999, area sources of ozone precursors have increased as well.

In a March 17, 2004 article in the Bristol Herald Courier at:
http://www.railsolution.org/Press/BHC%203-18-04AsthmaRisk.doc
"The Asthma and Allergy Foundation of America placed a number of the state's cities in its rankings of asthma risk factors in U.S. cities. Tennessee cities account for three of the top ten worst cities on the list, with Memphis rated at No. 6 and Nashville at No. 9." Knoxville received a No. 1 ranking.

Ozone formation, as well as a potential exceedance of the 8-hour ozone standard is directly related to the meteorological conditions on a given day. See:
http://www.epa.gov/air/urbanair/ozone/what.html
Even when all else was equal (the concentration of ozone precursors), if the weather conditions resulted in an atmospheric "inversion" condition with bright sunshine, then it is a sure bet that the levels of ozone would have been higher in Shelby and Crittenden County during the 2004 ozone season. As it is, the on-going 2004 ozone season has been marked by a number of cold fronts during the latter half of July and August. Therefore, ozone formation has been suppressed by the weather conditions.

- **Recommendations:**

The public was not involved in this petition process. Our first "public notice" that the petition had been filed should not have been the newspaper article that MSCHD had **submitted** a petition, it should have been an article that announcing a series of public meetings to discuss the issue and seek public input. As such, this petition should be declared **invalid**, and the process started over from the beginning. EPA should require MSCHD and TDEC to involve the public in the decisions about the cleanliness of our air. All public meeting(s) should have been held in a central location, on a weekday evening and/or a weekend day to explain what MSCHD planned to do and to obtain public input.

- **Recommendations, cont.:**

We believe it is unwise to petition EPA, based on **one incomplete ozone season's data**, to change the non-attainment level for ozone from moderate to marginal for Shelby County, Tennessee and Crittenden County, Arkansas. Therefore, the Chickasaw Group of the Tennessee Chapter of the Sierra club asks that the MSCHD, TDEC and EPA retain the moderate designation, until enough data to justify a reclassification to "marginal" is collected. We believe that five years of daily data should be collected before a valid judgment on air quality can be reached.

Vehicle emissions testing should be done for Shelby County, Tennessee, Crittenden County, Arkansas, and Desoto County, Mississippi, not just for those citizens of Memphis. Those who live outside of Memphis, and drive in and through Memphis, are externalizing the costs of their vehicle's pollution on all of us. Emissions testing fees would cover the costs of such a program. If one owns a vehicle(s), one must pay their fair share of the air pollution burden their vehicle(s) emit.

While it remains difficult to get people out of their cars and onto mass transit, MSCHD, TDEC, EPA and private companies should explore ways of fostering enough commuter confidence so that they park their cars and take transit. One may have to look to various European models to get those ideas.

A timely written response to this letter is requested.

Sincerely;

Charles A. Rond

Charles A. Rond – Chair, Chickasaw Group-Sierra Club

James H. Baker

James H. Baker – Conservation Chair, Chickasaw Group – Sierra Club

c. Liz Dixon-Chair, Tennessee Chapter-Sierra Club
Gary Bowers-Conservation Chair-Tennessee Chapter-Sierra Club
Don Richardson-vice Conservation Chair-Tennessee Chapter-Sierra Club
David Orr-Air Quality Committee Chair-Tennessee Chapter-Sierra Club
Rita Harris-Associate Regional Environmental Justice Organizer-Tennessee Chapter-Sierra Club
Barry R. Stephens-Director-TDEC-APC
Kay Prince-Chief of Air Planning Branch-USEPA Region 4
Tom Charlier, *Memphis Commercial Appeal*
File

Definitions of Air Pollution Source Categories:
http://www.scorecard.org/env-releases/def/air_source.html#mobile

Point Sources:
Point sources include major industrial facilities like chemical plants, steel mills, oil refineries, power plants, and hazardous waste incinerators.

Mobile Sources:
Mobile sources include both on-road vehicles (such as cars, trucks and buses) and off-road equipment (such as ships, airplanes, agricultural and construction equipment).

Area Sources:
Area sources include small pollution sources like dry cleaners, gas stations, and auto body paint shops.