

**From:** [Stephanie Durman](#)  
**To:** [Jessica Murphy](#)  
**Cc:** [Vojin Janjic](#); [Patrick Parker](#); [Barry Sulkin](#)  
**Subject:** 118(a) Complaints - Gerdau, Southern Central, Lebanon Scrap  
**Date:** Monday, March 02, 2015 12:05:55 PM

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Jessica,

I have attached courtesy copies of three 118(a) complaints TCWN and PEER jointly filed today via certified mail. All three concern PCB discharges from scrap yards.

We are copying Vojin because this relates to our pending TMSP comments and because these complaints request DWR to require individual permit coverage.

Thank you in advance for your attention to these facilities.

Stephanie Ann Durman  
General Counsel  
Tennessee Clean Water Network  
P.O. Box 1521  
Knoxville, TN 37901  
865.522.7007 x 102  
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Knoxville, TN 37901

625 Market St, 8<sup>th</sup> Floor  
Knoxville, TN 37902

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March 2, 2015

Commissioner Robert J. Martineau, Jr.  
Tennessee Department of Environment & Conservation  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 2nd Floor  
Nashville, Tennessee 37243

**Certified Mail 7011-2970-0001-6807-8797**

Re: Section 118(a) Complaint  
Southern Central Waste Services – TNR050225<sup>1</sup>

Dear Commissioner Martineau,

The Tennessee Clean Water Network (TCWN) and the Tennessee office of Public Employees for Environmental Responsibility (PEER) (collectively, Complainants) hereby submit this formal complaint pursuant to Tenn. Code Ann. § 69-3-118(a) regarding illegal discharges to waters of the state from the scrap metal recycling facility operated by Southern Central Waste Services at 4530 Manchester Highway in McMinnville, TN. This facility is covered as a Sector N facility by the Tennessee Multi-Sector General Permit for Industrial Stormwater (TMSP) under tracking number TNR050225.

Specifically, Complainants allege Southern Central Waste Services is discharging polychlorinated biphenyls (PCBs) to waters of the state in amounts that are likely causing instream exceedances of state water quality criteria and that are detrimental or potentially harmful to fish and aquatic life and public health in violation of the Tennessee Water Quality Control Act and its NPDES permit.

Tennessee's most stringent water quality criterion for total PCBs is .00064 µg/L for recreational use, which applies to all Tennessee streams.<sup>2</sup> The Tennessee Water Quality Control Act prohibits the "discharge of any substance into the waters of the state or to place or cause any substance to be placed in a location where such substances, either by themselves or in combination with others, cause any of the damages as defined in § 69-3-103...."<sup>3</sup> Such damages include causing a

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<sup>1</sup> The named permittee is Southern Central Iron and Metal. However, on January 22, 2015, Southern Central Waste Services sent a notice of ownership change.

<sup>2</sup> Tenn. Comp. R. & Regs. 0400-03-.03-4(j).

<sup>3</sup> Tenn. Code Ann. § 69-3-114(a).

condition of pollution, which includes the alteration of the chemical properties of waters of the state that will result in harm, potential harm, or detriment to fish and aquatic life or public health or leave waters in a condition that violates water quality standards.<sup>4</sup> Part 7.1.2 of the TMSP expressly provides that “any person who...violates a water quality standard established under this part...is subject to a civil penalty of up to ten thousand dollars (\$10,000) per day” and that “nothing in this permit shall be construed to preclude the State of Tennessee from taking any legal action or relieve the discharger from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or the Federal Water Pollution Control Act.”

Sampling conducted for TCWN downstream from this facility indicates the presence of PCBs in waters of the state that exceed the recreational standard by several orders of magnitude. During rain events, the site has sheet flow (see diagram below) coming out from under the fence along a linear wetland. This sheet flow concentrates at several points and then discharges into the wetland. Samples locations are indicated in the Google Earth image below:



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<sup>4</sup> Tenn. Code Ann. § 69-3-103(28).

Sampling results are as follows:<sup>5</sup>

8/26/2014	35 deg. 38' 33.70" / 85 deg. 49' 55.21"	McMinnville 2 (above wetland)	sediment	-	0.55 mg/kg
1/12/2015	35 deg. 38' 32.50" / 85 deg. 49' 58.29"	McMinnville 1 (below wetland)	water	0.0013 mg/l	-
1/12/2015	35 deg. 38' 33.70" / 85 deg. 49' 55.21"	McMinnville 2 (above wetland)	water	0.00075 mg/l	-

Complainants allege these water samples indicate exceedances of WQC in waters of the state. Moreover, the very high levels of PCBs in the water and sediment (which could be released to waters in a rain event) indicate likely water quality exceedances further downstream.

PCBs are highly toxic, persistent, and bioaccumulative. PCBs were used in electrical equipment, fluorescent light ballasts, and a variety of consumer products until they were banned in 1979. Unfortunately, many of these old products remain in circulation, and may be recycled at scrap metal recycling facilities. According to the U.S. Environmental Protection Agency, "PCBs do not readily break down and therefore may remain for long periods of time cycling between air, water, and soil."<sup>6</sup> PCBs in our waterways are consumed by aquatic organisms and move up the food chain, which means "people who ingest fish may be exposed to PCBs that have bioaccumulated in the fish they are ingesting."<sup>7</sup> PCBs are probable human carcinogens and are also strongly believed to have harmful effects on the immune, reproductive, and nervous systems. Emerging evidence also suggests that PCBs may disrupt the endocrine system. In addition to human health impacts, PCBs are directly harmful to fish and aquatic life.

Complainants request DWR investigate this complaint and take the appropriate enforcement action necessary to bring this facility into compliance and protect water quality. Specifically, we request that DWR secure additional samples either directly or through the permittee to verify that the site is discharging PCBs. Complainants further request that DWR require the facility to

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<sup>5</sup> Complainants note the annual sampling for this site was conducted by the permittee on 1/23/15, approximately two weeks after the PCB water samples. The permittee reports a TSS discharge of 140 mg/L, which complied with the TMSP benchmark. This constitutes additional evidence that compliance with TSS limits at these facilities does not ensure protection from PCB discharges.

<sup>6</sup> PCBs: Basic Information, available at <http://www.epa.gov/epawaste/hazard/tsd/pcbs/pubs/about.htm>.

<sup>7</sup> *Id.*

obtain coverage under an individual NPDES permit with numeric PCB limits and at least monthly PCB monitoring requirements.

I appreciate your attention to this matter. Please do not hesitate to contact me at 865-522-7007 x 102 or [stephanie@tcwn.org](mailto:stephanie@tcwn.org).

Sincerely,



Stephanie A. Durman  
General Counsel

Barry Sulkin  
Tennessee Office  
Public Employees for Environmental Responsibility

cc (via electronic mail):

Vojin Janjić, DWR  
Jessica Murphy, DWR  
Patrick Parker, OGC

March 2, 2015

Commissioner Robert J. Martineau, Jr. **Certified Mail 7011-2970-0001-6807-8797**  
Tennessee Department of Environment & Conservation  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 2nd Floor  
Nashville, Tennessee 37243

Re: Section 118(a) Complaint: Gerdau Chattanooga Metallica Raw Materials – TNR058274

Dear Commissioner Martineau,

The Tennessee Clean Water Network (TCWN) and the Tennessee office of Public Employees for Environmental Responsibility (PEER) (collectively, Complainants) hereby submit this formal complaint pursuant to Tenn. Code Ann. § 69-3-118(a) regarding illegal discharges to waters of the state from the scrap metal facility operated by Gerdau Chattanooga Metallica Raw Materials (Gerdau) at 2912 S. Market St., Chattanooga, TN. This facility is covered as a Sector N facility by the Tennessee Multi-Sector General Permit for Industrial Stormwater (TMSP) under tracking number TNR058274.

Specifically, Complainants allege Gerdau is likely discharging polychlorinated biphenyls (PCBs) to Chattanooga Creek in amounts that are causing or contributing to instream exceedances of state water quality criteria that are detrimental or potentially harmful to fish and aquatic life and public health in violation of the Tennessee Water Quality Control Act and its NPDES permit.

TDEC lists Chattanooga Creek pursuant to 303(d) of the Clean Water Act, 33 U.S.C. § 1313(d), as impaired for recreational use in part as a result of PCBs. Thus, any discharge of PCBs is, at a minimum, contributing to water quality violations. Moreover, the applicable TMDL for this section of Chattanooga Creek applies a wasteload allocation of zero to point source discharges of PCBs.<sup>1</sup> Therefore, any discharge of PCBs from this facility to Chattanooga Creek is in violation

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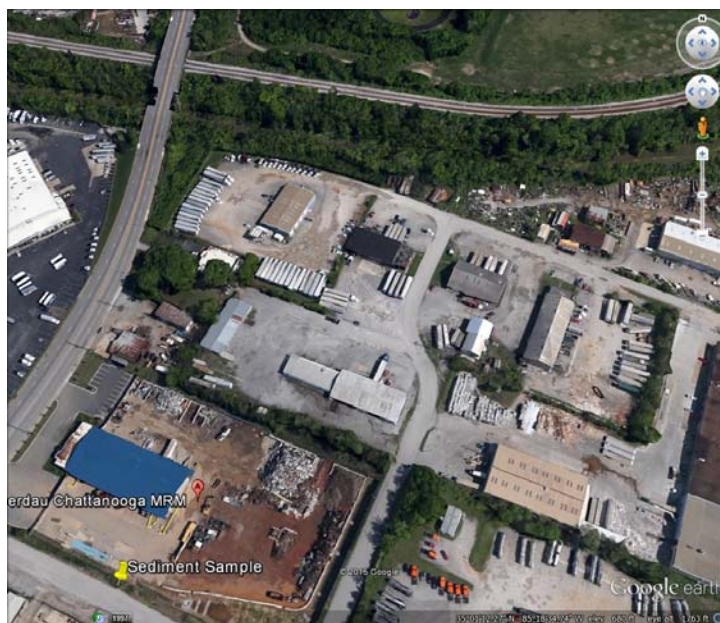
<sup>1</sup> Total Maximum Daily Loads (TMDLs) for Dioxins and Polychlorinated Biphenyls (PCBs) in Chattanooga Creek, Lower Tennessee River Watershed (HUC0602001), Hamilton County, Tennessee (June 30, 2009), at vii, 14 (“However, there are currently no permitted point source dischargers with existing allocations for dioxins or PCBs in the Lower Tennessee River Watershed.”), 17.



of the applicable TMDL and the Clean Water Act.<sup>2</sup> Moreover, if the facility is discharging PCBs to Chattanooga Creek, it is not eligible for coverage under the TMSP.<sup>3</sup>

Tennessee's most stringent water quality criterion for total PCBs is .00064 µg/L for recreational use, which applies to all Tennessee streams.<sup>4</sup> The Tennessee Water Quality Control Act prohibits the "discharge of any substance into the waters of the state or to place or cause any substance to be placed in a location where such substances, either by themselves or in combination with others, cause any of the damages as defined in § 69-3-103...."<sup>5</sup> Such damages include causing a condition of pollution, which includes the alteration of the chemical properties of waters of the state that will result in harm, potential harm, or detriment to fish and aquatic life or public health or leave waters in a condition that violates water quality standards.<sup>6</sup> Part 7.1.2 of the TMSP expressly provides that "any person who...violates a water quality standard established under this part...is subject to a civil penalty of up to ten thousand dollars (\$10,000) per day" and that "nothing in this permit shall be construed to preclude the State of Tennessee from taking any legal action or relieve the discharger from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or the Federal Water Pollution Control Act."

The location of this facility makes it difficult for citizens to secure a water sample without trespassing. Accordingly, sediment sampling was conducted at a publicly accessible location depicted below:



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<sup>2</sup> See, e.g., 40 C.F.R. § 122.44(d)(vii)(B) (effluent limitations must be consistent with the assumptions and requirements of any applicable TMDL).

<sup>3</sup> TMSP Parts 1.4 &

<sup>4</sup> Tenn. Comp. R. & Regs. 0400-03-.03-4(j).

<sup>5</sup> Tenn. Code Ann. § 69-3-114(a).

<sup>6</sup> Tenn. Code Ann. § 69-3-103(28).

Two samples taken from this location (Lat 35 Deg. 01' 07.40"/Long 85 Deg. 18' 39.55") on December 11, 2014 found PCBs in sediment at .017 mg/kg and .021 mg/kg. During a rain event, stormwater from this location would likely reach Chattanooga Creek, which is just north of the facility. Moreover, the presence of PCBs at this location indicates the likelihood that PCBs are also present throughout the facility, including at locations closer to Chattanooga Creek.

PCBs are highly toxic, persistent, and bioaccumulative. PCBs were used in electrical equipment, fluorescent light ballasts, and a variety of consumer products until they were banned in 1979. Unfortunately, many of these old products remain in circulation, and may be recycled at scrap metal recycling facilities. According to the U.S. Environmental Protection Agency, "PCBs do not readily break down and therefore may remain for long periods of time cycling between air, water, and soil."<sup>7</sup> PCBs in our waterways are consumed by aquatic organisms and move up the food chain, which means "people who ingest fish may be exposed to PCBs that have bioaccumulated in the fish they are ingesting."<sup>8</sup> PCBs are probable human carcinogens and are also strongly believed to have harmful effects on the immune, reproductive, and nervous systems. Emerging evidence also suggests that PCBs may disrupt the endocrine system. In addition to human health impacts, PCBs are directly harmful to fish and aquatic life.

Complainants request DWR investigate this complaint and take the appropriate enforcement action necessary to bring this facility into compliance and protect water quality. Specifically, we request that DWR secure additional samples either directly or through the permittee to verify that the site is discharging PCBs to Chattanooga Creek. Complainants further requests that DWR require the facility to obtain coverage under an individual NPDES permit with a PCB limit of zero consistent with the application wasteload allocation and at least monthly monitoring requirements.

I appreciate your attention to this matter. Please do not hesitate to contact me at 865-522-7007 x 102 or [stephanie@tcwn.org](mailto:stephanie@tcwn.org).

Sincerely,



Stephanie A. Durman  
General Counsel

Barry Sulkin  
Tennessee Office  
Public Employees for Environmental Responsibility

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<sup>7</sup> PCBs: Basic Information, available at <http://www.epa.gov/epawaste/hazard/tsd/pcbs/pubs/about.htm>.

<sup>8</sup> *Id.*



cc (via electronic mail):

Vojin Janjić, DWR

Jessica Murphy, DWR

Patrick Parker, OGC

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March 2, 2015

Commissioner Robert J. Martineau, Jr.  
Tennessee Department of Environment & Conservation  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 2nd Floor  
Nashville, Tennessee 37243

**Certified Mail 7011-2970-0001-6807-8797**

Re: Section 118(a) Complaint  
Lebanon Scrap Metals and Salvage

Dear Commissioner Martineau,

The Tennessee Clean Water Network (TCWN) and the Tennessee office of Public Employees for Environmental Responsibility (PEER) (collectively, Complainants) hereby submit this formal complaint pursuant to Tenn. Code Ann. § 69-3-118(a) regarding illegal discharges to waters of the state from the scrap metal facility operated by Lebanon Scrap Metals and Salvage (Lebanon Scrap) at 790 Cainsville Road, Lebanon, TN. Complainants did not find this facility in TDEC's water permit database.

Specifically, Complainants allege Lebanon Scrap is likely discharging polychlorinated biphenyls (PCBs) to waters of the state without an NPDES permit. Moreover, regardless of whether Lebanon Scrap is covered by an NPDES permit, it is discharging PCBs in amounts that are causing or contributing to instream exceedances of state water quality criteria that are detrimental or potentially harmful to fish and aquatic life and public health in violation of the Tennessee Water Quality Control Act. If Lebanon Scrap is covered by an NPDES permit (presumably the TMSP), it is likely violating that permit, and if it is not, it is discharging pollutants without a NPDES permit.

Tennessee's most stringent water quality criterion for total PCBs is .00064 µg/L for recreational use, which applies to all Tennessee streams.<sup>1</sup> The Tennessee Water Quality Control Act prohibits the "discharge of any substance into the waters of the state or to place or cause any substance to be placed in a location where such substances, either by themselves or in combination with others, cause any of the damages as defined in § 69-3-103...."<sup>2</sup> Such damages include causing a condition of pollution, which includes the alteration of the chemical properties of waters of the state that will result in harm, potential harm, or detriment to fish and aquatic life or public health

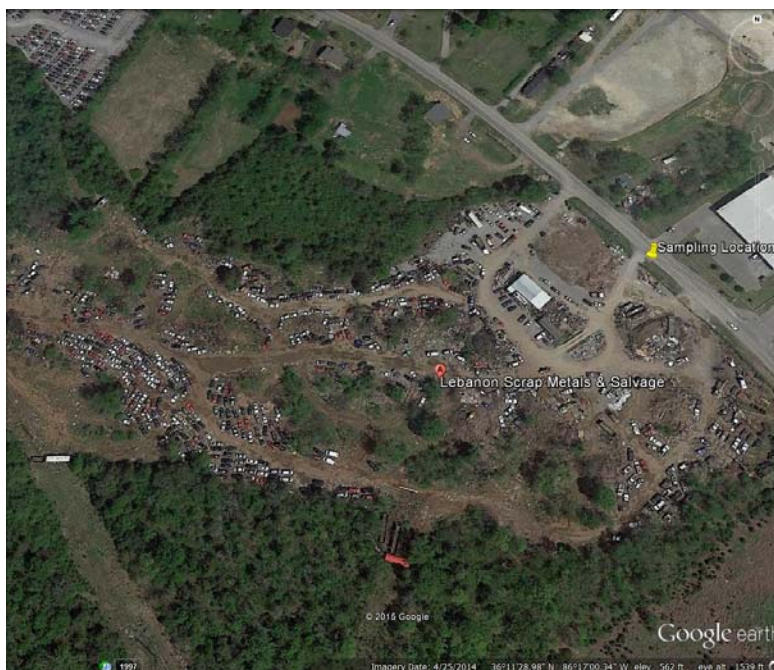
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<sup>1</sup> Tenn. Comp. R. & Regs. 0400-03-.03-4(j).

<sup>2</sup> Tenn. Code Ann. § 69-3-114(a).

or leave waters in a condition that violates water quality standards.<sup>3</sup> Part 7.1.2 of the TMSP expressly provides that “any person who...violates a water quality standard established under this part...is subject to a civil penalty of up to ten thousand dollars (\$10,000) per day” and that “nothing in this permit shall be construed to preclude the State of Tennessee from taking any legal action or relieve the discharger from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or the Federal Water Pollution Control Act.”

Sampling conducted downstream from this facility indicates the site is discharging PCBs. The sample was collected on January 12, 2015 at the following location (Lat 36 deg. 11' 30.34", Long 86 deg. 16' 55.37"):



The discharge sample included PCBs at a concentration of .0005 mg/L. The very high level of PCBs in the water sample indicate likely water quality exceedances further downstream.

PCBs are highly toxic, persistent, and bioaccumulative. PCBs were used in electrical equipment, fluorescent light ballasts, and a variety of consumer products until they were banned in 1979. Unfortunately, many of these old products remain in circulation, and may be recycled at scrap metal recycling facilities. According to the U.S. Environmental Protection Agency, “PCBs do not readily break down and therefore may remain for long periods of time cycling between air, water, and soil.”<sup>4</sup> PCBs in our waterways are consumed by aquatic organisms and move up the food

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<sup>3</sup> Tenn. Code Ann. § 69-3-103(28).

<sup>4</sup> PCBs: Basic Information, available at <http://www.epa.gov/epawaste/hazard/tsd/pcbs/pubs/about.htm>.

chain, which means “people who ingest fish may be exposed to PCBs that have bioaccumulated in the fish they are ingesting.”<sup>5</sup> PCBs are probable human carcinogens and are also strongly believed to have harmful effects on the immune, reproductive, and nervous systems. Emerging evidence also suggests that PCBs may disrupt the endocrine system. In addition to human health impacts, PCBs are directly harmful to fish and aquatic life.

Complainants request DWR investigate this complaint and take the appropriate enforcement action necessary to bring this facility into compliance and protect water quality. Specifically, we request that DWR (1) determine whether the site has a NPDES permit; (2) if not, determine whether the site is discharging pollutants to waters of the state; (3) secure additional samples either directly or through the permittee to verify that the site is discharging PCBs to waters of the state; and (4) require the facility to obtain coverage under an individual NPDES permit with a numeric PCB limit and at least monthly monitoring requirements.

I appreciate your attention to this matter. Please do not hesitate to contact me at 865-522-7007 x 102 or [stephanie@tcwn.org](mailto:stephanie@tcwn.org).

Sincerely,



Stephanie A. Durman  
General Counsel

Barry Sulkin  
Tennessee Office  
Public Employees for Environmental Responsibility

cc (via electronic mail):

Vojin Janjić, DWR  
Jessica Murphy, DWR  
Patrick Parker, OGC

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<sup>5</sup> *Id.*