

Notes on Telephone Conversation between Diane Arnst of the Bureau and Gary Lander, Esquire, on May 25, 1995
Chambliss & Bahner, 1000 Tallan Building, Chattanooga, TN 37401
757-0220

Mr. Lander called today and initially spoke to Loyd Gravitt about Ernest Oliver having alleged that mercury emissions from Summitt Landfill getting into McKee Baking products. Mr. Lander represents McKee Baking. Loyd then discussed the telephone call with Diane and with Bob Colby.

Diane then returned Mr. Lander's call. He said Mr. Oliver had visited him for more than 1.5 hours earlier this week. Mr. Oliver had entered Mr. Lander's office and placed a tape recorder on Lander's desk that ran for 1.5 hours before tape ran out. Mr. Oliver then retrieved a second tape recorder from his pocket. Mr. Lander recorded the entire meeting with his own recording equipment, and a transcript has since been prepared. Mr. Lander treated the meeting as a deposition and asked Mr. Oliver to identify each document he produced.

Mr. Lander said that since January of 1995 Mr. Oliver has claimed that mercury emissions are being released from Summitt Landfill. After Mr. Oliver's conversation with Loyd Gravitt of the Bureau in early April Mr. Oliver expanded his claim to allege that methane flaring at Summitt Landfill was releasing mercury into ambient air.

Mr. Lander expressed doubt about the science of methane flaring and any release of mercury emissions. However, he said last year he had obtained groundwater monitoring information from the City of Chattanooga for Summitt Landfill from 1984-1994. It showed the presence of mercury in groundwater from one of the wells starting in 1988. Sampling done by the Tennessee Department of Environment and Conservation also showed mercury, but Lander recalled they were below TCLP levels. Lander had talked with an Assistant City Attorney about the sampling data, and that person said the City thinks the problem is with the installation of the well itself and plans to stop sampling from that well. Mr. Lander thought it would be more appropriate to determine the origin of the mercury and keep sampling from that well.

Last year when McKee opposed expansion of the Summitt Landfill, Mr. Lander observed the wells with an expert geologist. They saw a 6" stand pipe well with visible vapor coming out the top at a height of 2" or 3". The geologist said this was dangerous. Mr. Lander said when the City drilled test holes, methane appeared and their testers stopped testing because of the danger of explosion.

Mr. Lander asked if methane flaring is allowed under the air pollution control ordinance, but he said he is not asking this in an official capacity on behalf of McKee. He is just curious.

His impression is that because Mr. Oliver's litigation was dismissed from federal district court with prejudice, Mr. Oliver is trying to find another mechanism by which to raise his issues for a decision on the merits. Mr. Lander stated that Mr. Oliver has threatened to go to the newspapers with his claim that there may be mercury in McKee Baking's products. Lander believes that Mr. Oliver wants McKee Baking to sue him for slander/libel so that Mr. Oliver can then raise the "truthfulness" of his claims as a counterclaim.