

**SUMMARY OF INTERACTIONS BETWEEN
TENNESSEE DIVISION OF WATER POLLUTION
AND
CHATTANOOGA STORM WATER PROGRAM**

1. June 16, 2004, Letter to Mayor Corker from Richard Urban, WPC Field Office Manager, entitled Compliance Evaluation Inspection – Chattanooga Municipal Separate Storm Sewer System (MS4) – NPDES Permit Number TNS068063 – Hamilton County – **NOTICE OF VIOLATION**
 - a. Joint EPA and WPC inspection of the Storm Water Program
 - b. “The inspectors evaluated and discussed the permit compliance with your staff. The Division and EPA consider the City’s Storm Water Program in significant non-compliance with the NPDES permit, although, some progress has been achieved since the last CEI in December 2002. **The Division and EPA believe that the City needs to increase both its financial and labor resources for the Storm Water Program so this program can achieve its already delinquent schedule.” (Emphasis added)**

2. July 8, 2004, Letter to Mayor Corker from James D. Giattina, Director, Water Management Division, EPA Region IV, entitled Information Request – Section 308 of the Clean Water Act (CWA) – NPDES Permit Nos. TNS06068063 and TN0024210. EPA Region IV requested detailed information concerning the City’s Storm Water Program in the following categories:
 - a. Drainage System Inventory Geographic Inventory System (GIS)
 - b. Drainage System Inspection and Maintenance
 - c. New and Redevelopment Discharge Controls
 - d. Roadways
 - e. Flood Control Projects
 - f. Discharges from Solid Waste Management Facilities
 - g. Application of Pesticides, Herbicides, and Fertilizers
 - h. Illicit Discharges and Improper Disposal
 - i. Industrial and High Risk Run-Off
 - j. Construction Site Run-Off
 - k. Wet Weather Monitoring

3. May 16, 2005, Letter to William McDonald from Sam Wallace, TDEC Assistant General Counsel, transmitting the fully executed **CONSENT ORDER** between the City of Chattanooga and TDEC – Case No. 05-0171. The City had negotiated the dates incorporated into the Consent Order.

4. June 3, 2006, Letter to Mayor Littlefield from Richard Urban entitled Compliance Evaluation – Chattanooga Municipal Separate Storm Sewer System (MS4) – NPDES Permit Number TNS068063 – Hamilton County.

- a. Results of the May 24 - May 26, 2005, inspection of the City's MS4 program.
 - b. "The inspectors evaluated and discussed the permit compliance with your staff. The Division considers the City's Storm Water Program to be in **significant non-compliance** with their NPDES permit. The city of Chattanooga is making satisfactory progress on the compliance schedule contained in Consent Order Case No. 05-0171. **The Division believes that the City needs to continue to provide adequate financial and labor resources to the storm Water Program in order for the program to achieve the goals listed in the compliance schedule.**" (Emphasis added)
5. September 11, 2006, Letter to Mayor Littlefield from Richard Urban entitled Compliance Evaluation Inspection (CEI) Report – Municipal Separate Storm Sewer System (MS4) – Phase I – NPDES Permit Number TNS068063 – Hamilton County, TN.
- a. Results of the May 25 through 26, 2006, inspection of the City's MS4 program.
 - b. "The purpose of the inspection was to evaluate the storm water program's compliance with the terms and conditions of the NPDES Permit Number TNS068063 and with the Consent Order 05-0171."
 - c. Findings identified under "**Fee Management** rating: **Unsatisfactory**" were:
 - i. "Funds received for Stormwater fees are used for other government activities. According to Mr. Payne, if State Law allows reallocation of funds then the city does utilize Stormwater monies outside of the Stormwater quality program. The City maintains a fund for future equipment and infrastructure replacement. Currently, the City has a surplus of funds."
 - ii. "**It is the position of the Division that as long as the City of Chattanooga is not fully complying with their NPDES MS4 Permit and the intent of their Permit there should be no diversion of Stormwater fee monies from the Stormwater program.** Only after the City has achieved full compliance with the permit and are meeting the intent of the stormwater program should any consideration of fund diversion be considered."(Emphasis added)
6. November 30, 2006, Letter to Richard Urban from Steve Leach, entitled MS4 NPDES Permit Number TNS068063 – Compliance Evaluation Inspection (CEI) Report, is a response to the September 11, 2006, CEI Inspection Report.
- a. "Regarding the Stormwater Fee, the City manages the fees collected as authorized by TCA 68-221-1101 et seq. In addition to the requirements of

the City's NPDES permit the City has an obligation under Tennessee case law to protect the public health, safety, and welfare regarding drainage. Furthermore, fees spent on both stormwater quality and drainage are supplemented in both areas by general funds, state street aid funds and solid waste funds as necessary to maintain both programs. The City is conducting a Level of Service/Cost of Service Analysis that is analyzing all current and anticipated future needs of both programs and is developing a five-year plan for presentation to Council to assure proper funding of both programs in the future.”

7. November 22, 2006, Letter to Mayor Littlefield from Richard Urban entitled **Notice of Show Cause Meeting – City of Chattanooga MS4 – NPDES Permit No. TNS068063** setting the Show Cause meeting for December 1, 2006 at 1:00 p.m. The issues to be discussed were:
 - a. Compliance Evaluation Inspection conducted on May 25, 2006 and May 26, 2006
 - b. Permit Requirements involving Inspection and Enforcement on Land Disturbance Activities
 - c. Integrity of Enforcement Protocol on Land Disturbance Activities discharges to 303(d) listed streams

8. December 7, 2006, Letter to Mayor Littlefield from Richard Urban entitled **Conclusions of the Show Cause Meeting – City of Chattanooga MS4 – NPDES Permit No. TNS068063** – purpose of the Show Cause meeting was to give direction to the City related to the MS4 permit.

9. December 21, 2007, Letter to Mayor Littlefield from Richard Urban entitled Compliance Evaluation Inspection (CEI) Report – Municipal Separate Storm Sewer System (MS4) – Phase I – NPDES Permit Number TNS068063 – Hamilton County, TN.
 - a. “The purpose of the inspection was to evaluate the storm water program’s compliance with the terms and conditions of the NPDES Permit Number TNS068063 and with the Consent Order 05-0171.
 - b. One finding was – “there is strong evidence documented during this Compliance Evaluation Inspection that by dividing roles and responsibilities for Stormwater related issues between different Divisions within the Public Works Department that accountability has been sacrificed. **The result is that the City of Chattanooga’s MS4 Program which was starting to recover and meet the requirements of the City’s MS4 Permit has relapsed and is exhibiting symptoms of problems that were extensively documented in the Consent Order 05-0171.” (Emphasis added)**
 - c. Findings related to “**Fees Management rating: Unsatisfactory**” were:
 - (1) “The City receives full funding from its revenue to cover water

quality; however, it does not receive enough funding to cover water quantity. Funds received for Stormwater fees are used for other government activities.” (2) On October 24, 2007, the Division received a spreadsheet from the City engineer indicating the financials of the Storm water Fund. After review of the document, the division does not fully agree with the way the allocations are managed. The Division does not agree with the practice of moving Stormwater monies outside the Stormwater Group when not all of the functions are Stormwater related.” And (3) **“It is the position of the division that as long as the City of Chattanooga is not fully complying with their NPDES MS4 Permit and the intent of their Permit there should be no diversion of Stormwater fee monies from the Stormwater program.” (Emphasis added)**

10. April 14, 2009, Letter to Mayor Littlefield from Richard Urban entitled **Notice of Compliance Review Meeting** – City of Chattanooga MS4 – NPDES Permit No. TNS068063 set the date of April 23, 2009 at 1:00 a.m. for the meeting to discuss the findings of the 2008 CEI. EPA Region IV staff was present at this meeting. Items discussed are included in today’s PowerPoint presentation.
11. June 22, 2009, Letter to Mayor Littlefield from Richard Urban entitled **Notice of Violation** – Compliance Evaluation Inspection (CEI) Report – Municipal Separate Storm Sewer system (MS4) – Phase I – NPDES Permit Number TNS068063 – Hamilton County, TN, transmitting the September 22 through 25, 2008, inspection report. This was a joint EPA Region IV and TDEC/WPC inspection.