

FOR IMMEDIATE RELEASE

DATE: Tuesday, July 20 1993 at 11:30 AM
PLACE: U.S. Federal Court, 200 West Second Street, Dayton, Ohio
EVENT: News Conference
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Environmentalists File Suit in Federal Court against Southwestern Portland Cement Co.

Group chides Ohio EPA for non-performance

On Tuesday, July 20, 1993 the Greene Environmental Coalition will hold a press conference outside US Federal Court in Dayton, OH, after filing a Clean Water Suit against Southdown Corporation's Southwestern Portland Cement Co. The suit invokes provisions of the twenty-year old Clean Water Act of 1972 and petitions the cleanup of Southwestern's landfill #1, the company's largest dump site. The site, which is in an abandoned limestone quarry, straddles the Greene and Clark County border just north of Fairborn. Government records indicate that there are ponds on the site which are leaching toxic metals including antimony, arsenic, barium, chromium, lead, mercury, nickel, selenium, and zinc in an open rivulet which flows above ground several hundred yards and empties into Mud Run Creek. The site sits near well fields for Fairborn, and Clark County, and is also near the reserve well fields for the city of Dayton. Mud Run Creek flows into the Mad River, Ohio's only native trout stream.

GEC maintains that the Ohio EPA has failed to make Southwestern abide by existing laws enacted to protect human health and the environment. "We took pictures and told the Ohio EPA about this landfill two years ago, and they've taken no action against the company," said GEC member Tracy Slayton. Slayton cites a similar situation surrounding Southwestern's Landfill #6, which is also releasing toxins into groundwater. "We told the OEPA about #6 over two years ago and insisted they do something. Nothing happened until last fall when they finally gave the company specific instructions. And now the company has appealed," said Slayton. "We believe the company has no intention of being a good neighbor and the OEPA has no idea how to make them behave. The company has owned both sites for over 15 years and has still not one shovel has been turned."

"It has been said that the citizenry gets the kind of government it deserves. Thousands of Greene County citizens have protested the way Southdown does business, to no avail. Greene County's small communities are the recipients of Southdown's landfill contamination and the OEPA turned its back. This agency must begin to listen to the citizens. They deserve better than they are getting. The OEPA must force Southdown to clean up their landfills." said Dawn Falleur of Fairborn.

Said GEC member Christopher Andersen, "We've tried to get the company to do the right thing. But, once again, it's a case of us ordinary citizens having to haul them into court to get them to obey the laws of the land. It's disgraceful."

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

GREENE ENVIRONMENTAL COALITION, :
INC., :
112 Xenia Avenue :
Yellow Springs, Ohio 45387 :

Plaintiff, :

vs. :

SOUTHDOWN, INC., Successor by :
Merger of SOUTHWESTERN PORTLAND :
CEMENT CO. :

P.O. Box 191 :
506 East Xenia Drive :
Fairborn, Ohio 45324, :

Defendant. :

Case No. _____

Judge _____

COMPLAINT

STATEMENT OF THE CASE

1. This is a citizen's suit brought under Section 505 of the Clean Water Act (herein referred to as "the Act"), 33 U.S.C. §1365. Plaintiff seeks injunctive relief, the imposition of civil penalties, and an award of litigation costs, including attorney fees and expert witness fees. At issue is the Defendant's ongoing discharge of pollutants from its facility in Greene County, Ohio, and into waters of the United States without a permit in violation of §301(a) (33 U.S.C. §1311(a)) and Section 402 of the Act (33 U.S.C. §1342), the Federal Water Pollution Prevention and Control Act (herein referred to as "the Act").

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JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over the claim set forth in this Complaint under Section 505(a)(1) of the Act, 33 U.S.C. §1365(a)(1).

3. On January 31, 1992, Plaintiff gave notice of the Defendant's violation of the Act and of Plaintiff's intention to bring this lawsuit to the Defendant, the United States Environmental Protection Agency (herein referred to as "USEPA"), and the Ohio Environmental Protection Agency (herein referred to as "OEPA"), as required by Section 505(b)(1)(A) of the Act, 33 U.S.C. §1365(b)(1)(A). A copy of the notice letter is attached hereto as Exhibit A and incorporated herein by reference. More than sixty (60) days have elapsed since the service of the Notice of Intent to Sue and Plaintiff is informed that neither the USEPA or the OEPA have commenced and diligently prosecuted a court action to redress Defendant's violations of the Act.

4. Since the violations set forth in this Complaint have occurred and continue to occur within the judicial district of the United States District Court for the Southern District of Ohio, Western Division, venue is proper in this Court pursuant to Section 505(c)(1) of the Act (33 U.S.C. §1365(c)(1)).

PARTIES

5. Plaintiff, Greene Environmental Coalition, Inc. (Coalition), is a not-for-profit Ohio corporation comprised of citizens who reside, work, and recreate in Greene County, Ohio. Members of the Coalition own property near or recreate on, in, or

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near the Mud Run Creek watershed into which the Defendant is discharging unpermitted pollutants. The interests of the Coalition and its members have been, are being, and will be adversely affected by the Defendant's unpermitted discharge of pollutants into Mud Run Creek and the Defendant's failure to comply with the requirements of the Act. In particular, the Defendant's unpermitted discharge of pollutants into Mud Run Creek and the water system of which it is a part directly affects the health, economic, recreational, aesthetic, and environmental interests of the Coalition and its members. The Coalition maintains its office at 112 Xenia Avenue, Yellow Springs, Ohio 45387.

6. Defendant Southdown, Inc. (herein referred to as "Southdown"), which acquired by merger Southwestern Portland Cement Co., owns and operates a cement manufacturing facility and landfills located on lands in Fairborn, Greene and Clarke Counties, Ohio. Upon information and belief, Southdown is a Texas corporation. Southdown's mailing address is P.O. Box 191, Fairborn, Ohio 45324.

THE VIOLATION

7. Section 301(a) of the Act, 33 U.S.C. §1311(a), prohibits the discharge of any pollutants into navigable waters of the United States, except as authorized by permit issued under the National Pollutant Discharge Elimination System (NPDES Permit).

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