

8. Defendant owns hundreds of acres of land upon which it operates several landfills for the disposal of wastes generated by its cement manufacturing facility. One of these landfills, which the Defendant has designated as Landfill No. 1, is located near Haddix Road, in Clarke County, Ohio. Landfill No. 1 is discharging a liquid known as "leachate" into Mud Run Creek. Leachate is produced by water percolating through the waste deposited in the landfill.

9. On June 12, 1991, OEPA and the Clarke County Health Department obtained samples of the leachate discharging from Defendant's Landfill No. 1 into Mud Run Creek and had a chemical analysis conducted on these samples. A copy of a memo from Louise T. Snyder, which contains the results of the analysis, is attached hereto, marked as Exhibit B, and incorporated herein by reference.

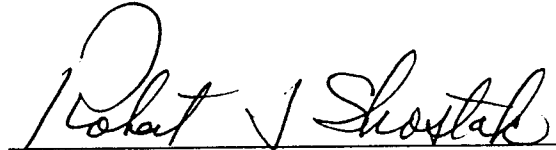
10. Landfill No. 1 is located adjacent to Mud Run Creek and is hydrologically upgradient from Mud Run Creek.

11. Plaintiff believes and, therefore, alleges that Defendant's Landfill No. 1 discharges leachate, which contains toxic pollutants, including copper, lead, zinc, aluminum, and selenium, as well as other pollutants, through a discernible, confined, and discrete rivulet into Mud Run Creek. Photographs and verified affidavit depicting the discharge are attached hereto and incorporated herein as Exhibit C.

E. Grant such other relief as the Court deems just and proper.

Dated this 15 day of July, 1993.

Respectfully submitted:



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12. Plaintiff believes and, therefore, alleges, that Defendant Southdown does not possess a NPDES permit authorizing the discharge of pollutants from Landfill No. 1 into Mud Run Creek.

13. Plaintiff believes and, therefore, alleges that Defendant Southdown is currently and will continue into the foreseeable future to discharge pollutants from its Landfill No. 1 through the discernible, confined, and discrete rivulet and into Mud Run Creek in violation of the Act unless enjoined and restrained by this Court.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the Court to grant the following relief:

A. Declare Defendant Southdown to have violated and to be in violation of the Act;

B. Issue an injunction permanently enjoining Defendant from any and all future violations of the Act;

C. Order Defendant to pay civil penalties pursuant to 33 U.S.C. §1319(d) for each day it has violated the Act;

D. Order Defendant to pay Plaintiff's reasonable attorney fees and costs, including expert witness fees, as authorized by 33 U.S.C. §1365(d); and

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