

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

IN RE: :  
SOUTHDOWN, INC., LITIGATION. : Case No. c-3-93-270  
: Judge Rice

SOUTHDOWN'S RESPONSE TO  
GREENE ENVIRONMENTAL COALITION'S  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Now comes Southdown, Inc., by and through counsel, and for its responses to Plaintiff Greene Environmental Coalition's First Request for Production of Documents states the following:

General Objections

1. Southdown objects to GEC's First Request for Production of Documents to the extent that they seek privileged attorney-client information, attorney work product, material prepared in anticipation of litigation or trial, or information otherwise within F.R.C.P. 26(b) (3). Such information has not been provided in the following responses. Without waiving this objection, Southdown responds as follows:

REQUEST NO. 1:

Produce all documents sent to or received from any county health department, or generated as a result of a conversation or meeting between you and any county health department relating to Landfill No. 1.

RESPONSE:

Any such documents in the possession or control of Southdown shall be produced at a mutually agreeable time and place.

REQUEST NO. 2:

Produce all documents sent to or received from the Ohio Environmental Protection Agency, or generated as a result of a conversation or meeting between you and the Ohio Environmental Protection Agency relating to Landfill No. 1.

RESPONSE:

Any such documents in the possession or control of Southdown shall be produced at a mutually agreeable time and place.

REQUEST NO. 3:

Produce all documents sent to or received from the United States Environmental Protection Agency, or generated as a result of a conversation or meeting between you and the United States Environmental Protection Agency relating to Landfill No. 1.

RESPONSE:

Southdown has performed a diligent search for the requested documents, but no documents responsive to this request have been discovered. If such documents are subsequently uncovered, they will be provided to GEC.

REQUEST NO. 4:

Produce all documents sent to or received from any governmental entity not referred to in Request Nos. 1-3 above, or generated as a result of a conversation or meeting between you and any governmental entity not referred to in Request Nos. 1-3 above relating to Landfill No. 1.

RESPONSE:

Objection: This request is vague, overly broad and ambiguous in that it requests all documents from "any governmental entity" relating to Landfill No. 1, some of which are irrelevant to the pending proceeding (e.g., tax documents). Without waiving this objection, any documents relating to health and the environment and Landfill No. 1 in the possession or control of Southdown shall be produced at a mutually agreeable time and place.

REQUEST NO. 5:

Produce all interrogatories, answers to interrogatories, requests for production of documents, responses to requests for production of documents, and answers or responses to requests for admissions produced or received by you in Southdown, Inc. v. USX Corporation, Case No. C 3-93 253.

RESPONSE:

Any such documents in the possession or control of Southdown shall be produced at a mutually agreeable time and place.

REQUEST NO. 6:

Produce all documents in any way relating to the substances that, to your knowledge, were stored or disposed of in Landfill No. 1.

RESPONSE:

Any such documents in the possession or control of Southdown shall be produced at a mutually agreeable time and place.

REQUEST NO. 7:

Produce all documents relating to the physical or chemical composition of Landfill No. 1.

**RESPONSE:**

Any such documents in the possession or control of Southdown shall be produced at a mutually agreeable time and place.

**REQUEST NO. 8:**

Produce all documents relating to the release or potential release of leachate from Landfill No. 1.

**RESPONSE:**

Any such documents in the possession or control of Southdown shall be produced at a mutually agreeable time and place.

**REQUEST NO. 9:**

Produce all documents relating to the water quality of Mud Run Creek.

**RESPONSE:**

Southdown has performed a diligent search for the requested documents, but no documents responsive to this request have been discovered. If such documents are subsequently uncovered, they will be provided to GEC.

**REQUEST NO. 10:**

Produce all documents which discuss, in any way, the hydrological connection, or potential hydrological connection, between Landfill No. 1 and Mud Run Creek.

**RESPONSE:**

Any such documents in the possession or control of Southdown shall be produced at a mutually agreeable time and place.

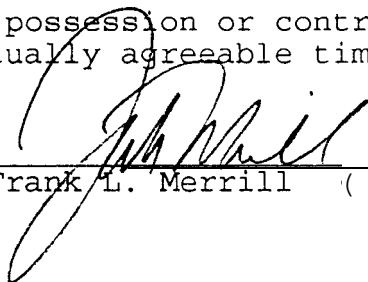
**REQUEST NO. 11:**

Produce all other documents identified, referred to, or used by you in responding to Plaintiff's First Set of Interrogatories in the instant action.

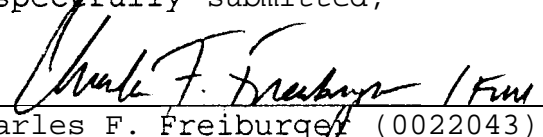
**RESPONSE:**

Any such documents in the possession or control of Southdown shall be produced at a mutually agreeable time and place.

As to all objections.

  
\_\_\_\_\_  
Frank L. Merrill (0039381)

Respectfully submitted,

  
\_\_\_\_\_  
Charles F. Freiburger (0022043)  
Trial Attorney  
BRICKER & ECKLER  
100 South Third Street  
Columbus, Ohio 43215-4291  
(614) 227-2300

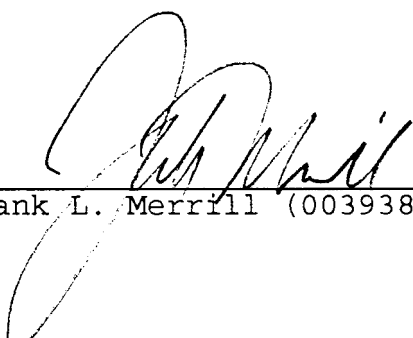
Counsel for Defendant and Third-Party Plaintiff Southdown, Inc.

Of Counsel:

Frank L. Merrill (0039381)  
Quintin F. Lindsmith (00183273)  
Martha E. Horvitz (0018484)  
BRICKER & ECKLER  
100 South Third Street  
Columbus, Ohio 43215-4291  
(614) 227-2300

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Southdown's Response to Greene Environmental Coalition's First Request for Production of Documents has been served upon Robert J. Shostak, Sowash, Carson & Shostak, 39 North College Street, P. O. Box 2629, Athens, Ohio 45701 and C. Craig Woods, Esq., Squire, Sanders & Dempsey, 1300 Huntington Center, 41 South High Street Columbus, Ohio 43215 by regular U.S. mail, postage prepaid this 12 day of August, 1994.

  
\_\_\_\_\_  
Frank L. Merrill (0039381)