

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 SET OF INTERROGATORIES

Now comes Southdown, Inc. ("Southdown"), by and through counsel, and for its responses to Plaintiff Greene Environmental Coalition's First Set of Interrogatories states the following:

General Objection

1. Southdown objects to GEC's First Set of Interrogatories 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:

INTERROGATORY NO. 1:

For each Interrogatory, at the end of the answer thereto, identify each and every person who provided information necessary to formulate the answer or obligation to the Interrogatory and who actually drafted the answer.

ANSWER: Objection: This interrogatory is overly broad, vague and ambiguous in that it requests the identity of any

person who has provided "information" necessary to respond to the interrogatories. Without waiving this objection, Southdown states that Carl Staszak' and Leslie Cook provided the necessary information.

INTERROGATORY NO. 2:

For each Interrogatory, identify each and every document you reviewed in preparing your response to the Interrogatory.

ANSWER: Objection. This interrogatory is duplicative and burdensome as this same information is provided in the documents being produced in response to the document request of Greene Environmental Coalition ("GEC"). Moreover, this request calls for the disclosure of attorney work product.

INTERROGATORY NO. 3:

Identify each and every employee and agent of Southdown who has investigated or is investigating the physical and/or chemical characteristics of Landfill No. 1, and for each person, state the area of inquiry and the substance of their findings.

ANSWER:

1. Carl Staszak, Southdown - area of inquiry was and is the overall physical and chemical characteristics of Landfill No. 1; substance of his findings is set forth in Ground Water Associates, Inc.'s "Subarea 1 Surface Water and Groundwater Assessment, Southwestern Portland Cement Company" (May 1994) (hereinafter "GWA Assessment"), which was previously produced to GEC.
2. Jeff Schick, Ground Water Associates, Inc. - area of inquiry was and is ground and surface water in and around Landfill No. 1; substance of his findings is set forth in GWA Assessment.

¹ Information relating to business address, employer, and job title is set forth in Exhibit A for all individuals identified in Southdown's responses to these interrogatories.

3. Brad F. Gamble, Ground Water Associates, Inc. - area of inquiry was and is ground and surface water in and around Landfill No. 1; substance of his findings is set forth in GWA Assessment.
4. Timothy G. Holdeman, Panterra - area of inquiry was the waste types at Landfill No. 1 and presently includes the ground and surface water and geology and hydrogeology in and around Landfill No. 1; substance of his findings is set forth in GWA Assessment and a report dated December 21, 1993, which will be produced to GEC along with other requested documents.
5. Matthew Reed, Panterra - area of inquiry was the waste types at Landfill No. 1 and presently includes the ground and surface water and geology and hydrogeology in and around Landfill No. 1; substance of his findings is set forth in GWA Assessment and a report dated December 21, 1993, which will be produced to GEC along with other requested documents.
6. Ronald G. Schmidt, Joseph J. Herbert, Frederick L. Paillet, and Benjamin H. Richard, Wright State University, Department of Geology - area of inquiry was to evaluate land use alternatives for Landfill No. 1 (a.k.a. A Tract Quarry); substance of their findings is set forth in a document titled "Land Use Alternatives for 'A' Quarry Site", dated March 25, 1977, which will be produced to GEC along with other requested documents.
7. John Goeddertz and Dave Johnson, Engineering Science - areas of inquiry were stormwater permitting issues; substance of their findings is set forth in Southdown's stormwater permit application, dated February 7, 1994, which will be produced to GEC along with other requested documents.

INTERROGATORY NO. 4:

For each person identified in your answer to the immediately preceding Interrogatory, identify each and every document reviewed in relation to their investigation of the physical and/or chemical characteristics of Landfill No. 1.

ANSWER: Objection. This interrogatory is duplicative and burdensome as this same information is provided in the documents being produced in response to GEC's document request.

INTERROGATORY NO. 5:

Identify each and every employee and agent of Southdown who investigated or is investigating the activities which gave rise to the lawsuit captioned Southdown, Inc. v. USX Corooration, Case No. C-3-93-253, and for each person state the area of inquiry and the substance of their findings.

ANSWER: See response to Interrogatory No. 3.

INTERROGATORY NO. 6:

For each person identified in your answer to the immediately preceding Interrogatory, identify each and every document upon which you have or intend to rely upon to establish your claims in the lawsuit captioned Southdown, Inc. v. USX Corooration, Case No. **C-3-93-253**.

ANSWER: Objection. This interrogatory seeks information which is neither admissible nor would it lead to the discovery of admissible evidence in the trial of this matter and calls for the disclosure of attorney work product. Moreover, Southdown has not decided what exhibits will be used at the trial of this matter, and this response will be supplemented accordingly.

INTERROGATORY NO. 7:

Have any written investigations or other reports been prepared, compiled, submitted, or made by you or on your behalf, or used by you that relate to the release or potential release of

leachate from Landfill No. 1? If yes, as to each investigation report, state in detail:

- a. The identity of said document;
- b. The purpose of said document;
- c. The identity of the person having present custody or control of said document; and
- d. A description of the subject matter covered by or described in said document.

ANSWER: Yes. Objection as to subparts a. through d. on the basis that they are duplicative and burdensome as the same information is provided in the documents being produced in response to GEC's document request.

INTERROGATORY NO. 8:

Identify each and every substance that to your knowledge has been released from Landfill No. 1 into surface waters, and for each substance, identify the body of surface water into which such substance was released.

ANSWER:

See list attached as Exhibit B.

INTERROGATORY NO. 9:

Identify each and every substance that to your knowledge has been released from Landfill No. 1 into ground water.

ANSWER:

See list attached as Exhibit B.

INTERROGATORY NO. 10:

Identify any and all permits from any and all governmental entities that you have obtained relating to Landfill No. 1.

ANSWER:

1. Mining permit No. IM-393 from the Ohio Department of Natural Resources (ODNR); and
2. An application for a NPDES stormwater discharge permit was submitted to Ohio EPA in a timely fashion.

INTERROGATORY NO. 11:

Identify each and every person who conducted any inquiry whatsoever on your behalf regarding whether you were required by any municipal, county, state, or federal law or regulation to obtain any type of environmental/health permit relating to Landfill No. 1.

ANSWER: Objection: This interrogatory is vague, overly broad and ambiguous in that it seeks the identity of any person who has made any "inquiry" regarding the substance of the interrogatory. Without waiving this objection, Southdown states that the following non-attorneys have reviewed Southdown's obligation to obtain environmental/health permits relating to Landfill No. 1:

- | | |
|-----------------------|----------------------|
| 1. Carl Staszak | 7. Dave Johnson |
| 2. Janet Krolczyk | 8. Roy Dodson |
| 3. Bernadette Johnson | 9. Duane Barrett |
| 4. James H. Kyles | 10. Barry Davis |
| 5. John Goeddertz | 11. Timothy Holdeman |
| | 12. Matthew Reed |

The following attorneys have also conducted such a review:

1. Leslie Cook
2. Joshua Bloom
3. Richard Davis

INTERROGATORY NO. 12:

For each and every person identified in the immediately preceding Interrogatory, describe the inquiry conducted and the government entity, if any, contacted.

ANSWER: Objection. This interrogatory requires the disclosure of privileged attorney-client communications and/or attorney work product.

INTERROGATORY NO. 13:

Have any written investigations or other reports been prepared, compiled, submitted, or made available by you or on your behalf, or used by you that relate to the impact or potential impact of Landfill No. 1 on the water quality of Mud Run Creek? If yes, as to each investigation or other report, state in detail:

- a. The identity of said document;
- b. The purpose of said document;
- c. The identity of the person having present custody or control of said document; and
- d. A description of the subject matter covered by or described in said document.

ANSWER:

Yes. Objection as to subparts a. through d. on the basis that they are duplicative and burdensome as the same information provided in the documents being produced in response to GEC's document request.

INTERROGATORY NO. 14:

Have any written investigations or other reports been prepared, compiled, submitted, or made available by you or on your behalf, or used by you that relate to the impact or potential impact of Landfill No. 1 on the ground water in the

vicinity of Mud Run Creek. If yes, as to each investigation or other report, state in detail:

- a. The identity of said document;
- b. The purpose of said document;
- c. The identity of the person having present custody or control of said document; and
- d. A description of the subject matter covered by or described in said document.

ANSWER:

Yes. Objection as to subparts a. through d. on the basis that they are duplicative and burdensome as the same information provided in the documents being produced in response to GEC's document request.

INTERROGATORY NO. 15:

Have any written investigations or other reports been prepared, compiled, submitted, or made available by you or on your behalf, or used by you that relate to a hydrological connection or potential hydrological connection between Landfill No. 1 and Mud Run Creek. If yes, as to each investigation or other report, state in detail:

- a. The identity of said document;
- b. The purpose of said document;
- c. The identity of the person having present custody or control of said document; and
- d. A description of the subject matter covered by or described in said document.

ANSWER:

No.

INTERROGATORY NO. 16:

Have you ever posted any notices or warnings regarding the quality of water in Mud Run Creek?