

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

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

RESPONSE OF SOUTHDOWN, INC. TO  
USX CORPORATION'S FIRST SET OF COMBINED  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Now comes Southdown, Inc., by and through counsel, and for its responses to USX Corporation's First Set of Combined Interrogatories and Requests for Production of Documents states the following:

Interrogatories

General Objections

1. Several of the interrogatories propounded by USX reference a time **frame** "from 1975 to the present." Southdown objects to this reference of time, and any responses to these interrogatories concern the time period from December 22, 1976 to the present, which is the period of Southdown's ownership of the Site.

2. Several of the interrogatories propounded by USX reference the "**Site**", which USX has defined as the "entire property purchased by Southwestern Portland Cement Company from USX including the A Tract Quarry and the **Fairborn** Cement Facility." The amended complaint against USX and the third-party complaint only involve the A Tract Quarry and do not involve the entire site purchased from USX. As such, questions relating to

the "Site", as defined by USX, and without limiting it to the A Tract Quarry, seek information which is beyond any issues raised in the pleadings, and such information is neither admissible nor would it lead to the discovery of admissible evidence in the trial of this matter. Nevertheless, without waiving this objection, Southdown will respond to these questions as they relate to the A Tract Quarry.

3. Southdown objects to USX Corporation's First Set of Combined Interrogatories and Requests 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:

INTERROGATORY NO. 1.

Please describe all activities Southdown has conducted or allowed others to conduct on the A Tract Quarry from 1975 to the present, including without limitation the persons principally responsible for conducting or overseeing such activities and the dates of such activities.

Answer:

Objection: This interrogatory is vague, overly broad, and requests information that does not appear reasonably calculated to lead to the discovery of admissible evidence in that it requests a description of "all activities", most of which are irrelevant to the pending proceeding. Without waiving this objection, Southdown states that it has conducted or has allowed others to conduct the following activities on the A Tract Quarry from 1976 to the present:

1. installation of ten (10) groundwater monitoring wells in and near the A Tract Quarry;

2. various sampling activities including monthly sampling of the groundwater monitoring wells and surface water in and near the A Tract Quarry;
3. security activities to secure the area against trespassers;
4. annual inspections by the Ohio Department of Natural Resources (ODNR) in accordance with Southdown's mining permit for the A Tract Quarry;
5. various tours of the area by interested parties, including representatives of USX;
6. investigation by Ronald G. Schmidt, Wright State University, Department of Geology, to evaluate land use alternatives for the A Tract Quarry in 1977; and
7. disposal of various scrap material associated with the dismantling of one of the kilns located at the former Universal Atlas Cement Company plant site (a.k.a. North Annex) in the late 1970's.

INTERROGATORY NO. 2.

Please identify all current and former employees, agents or contractors of Southdown who may have knowledge of the activities conducted by Southdown or others on the A Tract Quarry from 1975 to the present.

Answer: Objection: This interrogatory is overly broad as it is possible that anyone in the Southdown organization since 1976 **"may"** have knowledge of these activities. Without waiving objection, Southdown believes that the following individuals' have such knowledge:

- |                          |                                 |
|--------------------------|---------------------------------|
| 1. Roger <b>Turvey</b>   | 17. Bernadette Johnson          |
| 2. Scott Lamb            | 18. Daniel W. Heintz            |
| 3. Theodore E. Stute     | 19. Henry Winders               |
| 4. James Turner          | 20. John Goeddertz              |
| 5. Robert Bauer          | 21. Dave Johnson                |
| 6. William H. Strautman  | 22. Ronald G. Schmidt           |
| 7. Clifford Smith        | 23. Joseph J. Herbert           |
| 8. David Lower           | 24. Frederick L. <b>Paillet</b> |
| 9. William Glenn Lee     | 25. Benjamin H. Richard         |
| 10. William R. McCormick | 26. Roy Dodson                  |

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<sup>1</sup> Information relating to business address, employer, home address, and job title is set forth in attached Exhibit A for all individuals identified in these interrogatory responses.

- |                      |                                                        |
|----------------------|--------------------------------------------------------|
| 11. Alan Rowley      | 27. Duane Barrett                                      |
| 12. Bradley Phillips | 28. Barry Davis                                        |
| 13. Jerry Papania    | 29. Jeff Schick                                        |
| 14. Diane Schenke    | 30. Brad Gamble                                        |
| 15. Ernest C. Neal   | 31. Tim Holdeman                                       |
| 16. Janet Krolczyk   | 32. Matthew Reed                                       |
|                      | 33. Various security<br>personnel too numerous to list |

INTERROGATORY NO. 3.

Please describe Southdown's waste generation, storage, treatment, transportation and disposal practices at the Site, specifically identifying the disposition of all solid, hazardous, industrial or other wastes generated at the Site from 1975 to the present. In your response, please identify Southdown's waste-generating activities, types of waste generated, on-site waste storage and storage conditions, waste haulers and transporters, waste treatment methods and treatment sites, and disposal sites for all waste generated at the site.

Answer:

Southdown had no waste generation, storage, treatment, transportation and disposal practices at the A Tract Quarry from December 1976 to the present, except as described in response to Interrogatory No. 1.

INTERROGATORY NO. 4.

Please identify each Person who may have knowledge of Southdown's waste generation, storage, treatment, transportation and disposal practices at the Site from 1975 to the present.

Answer:

Objection: See response to Interrogatory No. 2. Without waiving this objection, Southdown believes the following individuals have knowledge of Southdown's waste generation, storage, treatment, transportation and disposal practices at the A Tract Quarry from 1976 to the present:

- |                         |                          |
|-------------------------|--------------------------|
| 1. Roger <b>Turvey</b>  | 7. Clifford Smith        |
| 2. Scott Lamb           | 8. David Lower           |
| 3. Theodore E. Stute    | 9. William Glenn Lee     |
| 4. James Turner         | 10. William R. McCormick |
| 5. Robert Bauer         | 11. Alan Rowley          |
| 6. William H. Strautman | 12. Bradley Phillips     |

INTERROGATORY NO. 5.

Please identify all materials transported to and/or disposed of at the A Tract Quarry from 1975 to the present.

Answer:

See response to Interrogatory No. 1.

INTERROGATORY NO. 6.

Please identify all Persons who transported materials to and/or disposed of materials at the A Tract Quarry from 1975 to the present.

Answer:

Unknown.

INTERROGATORY NO. 7.

Please identify all Persons who may have information concerning materials transported to and/or disposed of at the A Tract Quarry from 1975 to the present.

Answer: See response to Interrogatory No. 4.

INTERROGATORY NO. 8.

Please identify all communications relating or referring to the Site between Southdown and any health or environmental regulatory agency whether federal, state or local.

Answer:

Objection: This interrogatory is duplicative and overly burdensome as this information is being provided by virtue of Southdown's response to **USX's** documents request.

INTERROGATORY NO. 9.

Please identify all current or former employees, agents or contractors of Southdown who may have information concerning any communication relating or referring to the Site between Southdown and any health or environmental regulatory agency whether federal, state or local.

Answer: Objection: This interrogatory is overly broad, burdensome, and ambiguous as it is possible that anyone in the Southdown organization since 1976 "may" have knowledge of the requested communications. Without waiving this objection, Southdown believes that the following individuals have such knowledge:

- |                         |                        |
|-------------------------|------------------------|
| 1. Robert F. Bauer      | 12. Henry Winders      |
| 2. Phillip W. Sadowski  | 13. Janet Krolczyk     |
| 3. Alan Rowley          | 14. Bernadette Johnson |
| 4. Bradley Phillips     | 15. Jerry Papania      |
| 5. William Voshell      | 16. Jeff Schick        |
| 6. Carl Staszak         | 18. Brad Gamble        |
| 8. Daniel W. Heintz     | 17. Tim Holdeman       |
| 7. Leslie Cook          | 19. Matthew Reed       |
| 9. Edgar J. Marston III | 20. James H. Kyles     |
| 10. Ernest C. Neal      | 21. John Goeddertz     |
| 11. Diane Schenke       | 22. Dave Johnson       |

INTERROGATORY 10.

Please identify all Persons who may have information concerning any study, test, analysis, report, inspection or environmental audit of or relating to the A Tract Quarry.

Answer: Objection: This interrogatory is overly broad as it is possible that persons too numerous to name "may" have information concerning the information requested. Without waiving this objection, Southdown believes that the following individuals have such knowledge:

- |                       |                          |
|-----------------------|--------------------------|
| 1. Carl Staszak       | 10. Tim Holdeman         |
| 2. Daniel W. Heintz   | 11. Matthew Reed         |
| 3. Leslie Cook        | 12. Ronald Schmidt       |
| 4. Janet Krolczyk     | 13. Joseph J. Herbert    |
| 5. Bernadette Johnson | 14. Frederick L. Paillet |
| 6. Bradley Phillips   | 15. Benjamin H. Richard  |
| 7. Jerry Papania      | 16. James H. Kyles       |
| 8. Jeff Schick        | 17. John Goeddertz       |
| 9. Brad Gamble        | 18. Dave Johnson         |

INTERROGATORY NO. 11.

Please identify all Persons who have conducted any type of study, test, analysis, report, inspection or investigation in any way related to: (1) groundwater, surface water, soil, or other environmental media at or in the vicinity of the A Tract Quarry; or (2) any environmental impact from waste disposal at or in the vicinity of the A Tract Quarry.

**INTERROGATORY NO. 14.**

Please describe any measures Southdown has taken to mitigate, control or otherwise manage leachate and/or surface water runoff or to prevent the release of hazardous substances or other contaminants from the A Tract Quarry.

Answer:

Objection: See objection to Interrogatory No. 13 above. Without waiving this objection, see Ground Water Associates, Inc.'s "Subarea 1 Surface Water and Ground Water Assessment, Southwestern Portland Cement Company, Fairborn, Ohio" (May 1994) and references therein; Panterra's report dated December 21, 1993 regarding waste types at the A Tract Quarry; and Southdown's stormwater discharge permit application revised February 7, 1994.

**INTERROGATORY NO. 15.**

Please identify all Persons who may have knowledge of any measures Southdown has taken to mitigate, control or otherwise manage leachate and/or surface water runoff or to prevent the release of hazardous substances or other contaminants from the A Tract Quarry.

Answer:

Objection: See objection to Interrogatory No. 13 above. Without waiving this objection, see response to Interrogatory No. 13.

**INTERROGATORY NO. 16.**

Describe in detail the environmental compliance history of the Site including, but not limited to: permits, licenses and variances applied for, acquired or denied; enforcement actions; claims; suits; directives; and governmental requests related to the Site.

Answer:

Objection: This interrogatory is overly broad and vague in that it does not provide a time frame for the question. Without waiving this objection, Southdown states as follows:

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<sup>2</sup> A copy of this report was previously provided to USX and GEC.