



## **GREEN ENVIRONMENTAL COALITION**

PO Box 266  
Yellow Springs, Ohio 45387

Phone: (937) 767-2109

Fax: (937) 767-8587

E-mail: [gec@greenlink.org](mailto:gec@greenlink.org)

Web site:

<http://www.greenlink.org/gec>

**Embargo until 11:00 AM EST, Tuesday, March 3, 1998**

**Date:** Tuesday March 3, 1998 - 2:00 PM  
**Place:** U.S. Federal Court, 200 West Second Street, Dayton  
**Contact:** Bruce Cornett at (937) 767.2109 or (937) 767.5000  
[bcornett@greenlink.org](mailto:bcornett@greenlink.org)  
Robert Shostak, Esq. (740) 593.5828  
Michael Jones at (937) 767.1004

### **TEXAS CEMENT COMPANY CHARGED WITH FRAUD IN OHIO - COMPANY FACES FIFTY MILLION DOLLARS IN FINES.**

Today, in an ongoing civil enforcement case that began in Federal Court in 1993 in Dayton, OH, the Greene Environmental Coalition added new charges that Southdown Corporation committed a Fraudulent Conveyance of 500 acres of contaminated land. The company, headquartered in Houston, Texas, has a history of environmental problems at its Fairborn, Ohio plant.

A landfill owned by the company has been leaching heavy metals for at least 5 years into a tributary of the Mad River near the well fields of Fairborn Ohio.

The Coalition petitioned the court for civil penalties totaling \$50,000,000 for chronic violations of the Federal Clean Water Act.

The Coalition also demands that the company's Board of Directors initiate an immediate investigation and discharge the executives found responsible for the deceit.

The Coalition discovered the massive contamination of the Southdown site in early 1993. Verified scientific analysis revealed toxic heavy metals including arsenic flowing downhill into Mud Run Creek, a tributary of the Mad River, Ohio's only remaining native trout stream.

The Coalition sued Southdown in Federal Court in 1993 for violations of the Federal Clean Water Act. The Judge ordered the company to develop a remediation plan to stop the discharge of the pollutants into the creek. The company never developed an acceptable plan to stop the discharge.

(MORE)

Instead, without notice, on September 30, 1997, the company secretly transferred the site to two hastily formed corporations of dubious financial capabilities. Tax records indicate the sale price was only \$30 per acre. According to a recent Securities and Exchange Commission filing by Southdown, "...the company sold the property that is subject of these lawsuits to independent third parties. The property was sold "as is, where is" and the Company assumed no obligations to remediate the property."

The 500 acre site had been used as a dumpsite for cement kiln dust (the ash like waste from the manufacture of cement), chromium laden refractory brick, other debris from plant operations, and waste jet fuel from nearby Wright Patterson Air Force Base. There is evidence that the company was aware of the pollution to the stream in the 1980s.

"This is the first attempt that we know of by anyone in the United States to circumvent the public health and water quality protections of the Clean Water Act by trying to 'secretly sell away' their liability," said Michael Jones, a Greene County businessman.

The Coalition asserts that Southdown has knowingly allowed the discharge of contaminated leachate from the landfill.

"Because of that knowledge and the fact that the company has most recently attempted to pawn off their dirty landfill, it is apparent that Southdown has no intention of ever abiding by the law here. We have now petitioned the court to levy the maximum fine of \$25,000/day, because Southdown's actions represent a pattern of willful disregard for the law and the rights of Ohio's citizens to clean water and the protection of our last remaining native trout stream." said Bruce Cornett, Director of the Greene Environmental Coalition.

"Southdown has known about the problem for years and they have never even attempted to fix it," said Tracy Slayton, a championship bass fisherman who is also president of the Coalition. "We have always dealt with the company in good faith, and believed they were serious about cleaning up the site. Now they have shown that all they care about is avoiding the responsibility to clean up their damage to the environment. Ever since the company was bought by the Texans, they quit cleaning up after themselves.

(MORE)

1) A concurrent press conference is being held in Houston, Texas today at 1:00 PM . Tracy Slayton, the Coalition's president and Mike Nixon, one of the Coalition's attorneys will be present in Houston. Southdown's offices are at 1200 Smith Street, Suite 2400 Houston Texas 77002.+

The Houston event is being coordinated by Texan's United. Contact Jim Baldauf via cellular phone (512) 517.2663 or Rick Abraham at (713) 869.0774

Supporting documents including all citations, complaint, and images are available at <http://www.greenlink.org/gec/southdown>

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SOUTHDOWN LANDFILL #1 , Fairborn, Ohio  
Aerial View (summer, 1993) of app. 500-acre site

Landfill damage site is in the center  
Edge of Wright Patterson AFB is lower left corner  
Northern part of Fairborn, Oh is lower center  
I-675 & I-70 interchange is upper right

For more info call Greene Environmental Coalition (937) 767-2109