

Project Name

Expert Report and Testimony

Client

Riker, Danzig, Scherer, Hyland and Perretti

Services Provided

- Extensive Reviews of Research, Literature, and File Documents
- Prepared a Comprehensive Report in Preparation for Expert Testimony by Marwan Sadat, Ph.D., P.E.

Project Description

During 1976, a waste hauler dumped approximately 150 drums of toxic and hazardous waste at a site which became known as the Tabernacle Drum Dump. The site was located near the Wharton State Forest in the New Jersey Pinelands and became included on the National Priorities List. Remediation was funded through the federal Superfund program. After being found liable for the cost of the cleanup, the waste hauler sued its insurance carriers for reimbursement, claiming in part that dumping toxic waste at unauthorized facilities was a legally accepted practice at the time in question.

Approach

SAI focused on the issues raised by the New Jersey State Supreme Court decision Morton International vs. General Accident Insurance, et al. in challenging the activities and claims of the waste hauler. The Morton decision established several tests whereby the validity of New Jersey environmental insurance claims are judged. Factors to be considered included whether the polluter should have expected damage to occur, the amount of time available to correct the situation voluntarily, and whether government authorities attempted to discourage or prevent the actions of the waste hauler.

SAI assessed the quality of accepted practices within the waste management industry through analysis of government and corporate records, applicable laws and regulations, and related references and texts available during the time in question. The backgrounds of the individuals responsible also were examined in an effort to determine their level of expertise. SAI concluded that there was sufficient information regarding safe disposal practices available to the hauler to allow compliance with environmental regulations. It was demonstrated that the hazardous waste hauler knowingly violated regulations and was therefore not entitled to reimbursement from its insurance carriers.

