

sewage periodically flows up into residents' bathtub and shower drains and even their toilets. Because the raw sewage backs up inside homes and to mitigate their damages, the residents are forced to remove the clean out plugs on their sewage connections and allow the sewage to spill into their yards. Much of the untreated sewage flows into the streets and to the ditch along the north side of town which discharges to Mill Creek.

The residents have to shovel and bury the remaining fecal matter, toilet paper and other noxious debris left in their yards after these overflows, which have taken place every three to four months for decades. In addition, sewage flows out of manholes, broken pipes and lift stations into the ditch along the north side of Rochelle and out to Mill Creek. The raw sewage poses a public health threat to the community, emits foul odors which constitute a public and private nuisance, and contaminates the environment. The City of Rochelle has maintained and improved its sewage conveyance system in the white neighborhoods of the city, south of the railroad tracks, so that this problem is largely isolated on the north side of town.

Mill Creek, which eventually flows to the Suwanee River, is on the receiving end of all these violations. Once a favored fishing stream used by people in the neighborhood, it is now so foul it is no longer used at all.

REQUIREMENT OF THE CLEAN WATER ACT

Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source to waters of the United States except in compliance with a National Pollutant Discharge Elimination System ("NPDES") permit. The Clean Water Act defines a "point source" as "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, [or] container from which pollutants are or may be discharged." 33 U.S.C. § 1362(4).

Section 505 allows citizens to enforce the act to ensure compliance with its provisions. 33 U.S.C. § 1365. In addition to attorney's fees and litigation costs, civil penalties up to \$37,500 per day for each violation may be imposed. 33 U.S.C. § 1319(d) and 40 C.F.R. §19 and §19.4 Table 1 (or as otherwise provided by federal regulations).

FAILURE TO OBTAIN A PERMIT

A. Failure to Obtain Permits for City Structures Constituting Point Sources

The City of Rochelle owns and operates structures associated with its Sanitary Sewer Collection System on the north side of town which continue to illegally discharge raw sewage into Mill Creek. The City has failed to obtain NPDES permits for these structures. The structures include, but are not limited to, the two manholes at the dead end of Jackson Street, the manhole behind the house located at 629 Lee Street, and the broken pipe on Sook Road next to the lift station (near the corner of Gin House Rd.) These structures discharge raw sewage into