

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
PENNSYLVANIA

**Lower Susquehanna Riverkeeper Association v. Republic Services of
Pennsylvania LLC**

Lower Susquehanna Riverkeeper Association · No. 1:23-CV-00044 · Decided February 19, 2026

SUMMARY

The court addressed three motions in limine filed by Republic Services of Pennsylvania LLC and a request for judicial notice filed by Lower Susquehanna Riverkeeper Association in a Clean Water Act citizen suit. The court denied the motion seeking to preclude injunctive relief requiring payment into a remedial fund and denied, without prejudice, the motion concerning the Shefftz expert report. It deferred ruling on evidence concerning TMDL water monitoring and denied, without prejudice, the request for judicial notice.

CASE DETAILS

COURT	United States District Court for the Middle District of Pennsylvania
WRITING FOR THE COURT	Jennifer P. Wilson
JURISDICTION	United States District Court for the Middle District of Pennsylvania
DECIDED	February 19, 2026
DOCKET	1:23-CV-00044
DISPOSITION	other
PROCEDURAL POSTURE	During preparation for a Clean Water Act citizen-suit bench trial, the defendant moved in limine to exclude proposed injunctive relief, portions of an expert report, and TMDL water-monitoring evidence. The plaintiff requested judicial notice of facts concerning the monitoring data. The court denied two motions and the request for judicial notice, and deferred ruling on the remaining evidentiary motion.
STANDARD OF REVIEW	Motions in limine are considered before trial to narrow evidentiary issues and avoid unnecessary trial interruptions. Requests for judicial notice are governed by Federal Rule of Evidence 201(b)(2).
PRECEDENTIAL VALUE	unpublished, nonprecedential district-court memorandum

TOPICS

clean water act

injunctions

judicial notice

evidence

PRACTICE AREAS

environmental law

civil procedure

evidence

remedies

QUESTIONS PRESENTED

1. Whether LSRA could seek injunctive relief requiring Republic to pay money into a remedial fund even though that relief was not specifically demanded in the complaint.
2. Whether LSRA's failure to disclose the proposed equitable remedy earlier required exclusion of that remedy under Federal Rules of Civil Procedure 26(a) and 37(c)(1).
3. Whether the Shefftz Expert Report should be excluded because it allegedly offered legal opinions, policy advocacy, improper probability-adjustment theories, or improper credibility bolstering through citations to prior cases and an earlier expert report.
4. Whether the court should defer ruling on Republic's challenge to TMDL water-monitoring evidence pending questions to counsel at the final pretrial conference.
5. Whether the court should take judicial notice of six facts concerning TMDL water monitoring in Kreutz Creek.

HOLDINGS

1. Rule 54(c) does not preclude LSRA from seeking injunctive relief requiring payment into a remedial fund because the request changes the form of relief rather than asserting a new claim or theory of relief.
2. LSRA was not barred from pursuing the proposed injunctive relief because Rule 26(a)(1)(A)(iii)'s damages-computation disclosure requirement does not apply to the equitable remedy at issue, and any assumed nondisclosure was harmless under Rule 37(c)(1).
3. A civil penalty under the Clean Water Act must be paid to the United States Treasury, but a court may separately fashion injunctive relief requiring payment into a remedial fund when there is a nexus between the harm and the remedy.
4. The challenged portions of the Shefftz Expert Report were not excludable on the ground that they offered legal opinions because the opinions concerning economic benefit, financial deterrence, and probability adjustments were economic opinions rather than legal conclusions.
5. The court would not strike the challenged citations and quotation from the Shefftz Expert Report because Republic identified no authority establishing a per se bar and could respond through contrary authorities and cross-examination.
6. The court denied the request for judicial notice without prejudice because LSRA had not established that the proposed facts were relevant to the case, although information on government websites may qualify for judicial notice under Rule 201(b)(2).

KEY QUOTATIONS

“final judgment,” other than a default judgment, “should grant the relief to which each party is entitled, even if the party has not demanded that relief in its pleadings.” (Rule 54(c) discussion)

“This means that injunctive relief can be awarded even when not specifically demanded.” (Rule 54(c) discussion)

“[A] court may fashion injunctive relief requiring a defendant to pay monies into a remedial fund, if there is a nexus between the harm and the remedy.” (Clean Water Act remedies discussion)

FACTUAL BACKGROUND

LSRA alleged that Republic violated its NPDES permit and Republic stipulated to 419 exceedances occurring between July 2019 and April 2023. After summary judgment established liability, the parties prepared for a bench trial concerning relief, including whether a civil penalty should be imposed. LSRA later disclosed TMDL monitoring data from Kreutz Creek and stated that it might seek injunctive relief requiring payment into a remedial fund, prompting Republic's motions in limine.

PROCEDURAL HISTORY

LSRA brought a Clean Water Act citizen suit alleging that Republic violated its NPDES permit. Republic stipulated at summary judgment to liability for 419 permit exceedances, and the court granted LSRA summary judgment on liability while reserving the issue of civil penalties for trial. Before the scheduled February 23, 2026 bench trial, the parties filed the motions addressed in this memorandum.

DISPOSITION

other

CASES CITED

- Lower Susquehanna Riverkeeper Ass'n v. Republic Servs. of Pa. LLC, 2025 WL 976694, at *6, *9-*11 (M.D. Pa. Mar. 31, 2025)
- Bradley v. Pittsburgh Bd. of Educ., 913 F.2d 1064, 1069 (3d Cir. 1990)
- USX Corp. v. Barnhart, 395 F.3d 161, 165 (3d Cir. 2005)
- Kirby v. U.S. Gov't, Dep't of Hous. & Urban Dev., 745 F.2d 204, 207 (3d Cir. 1984)
- Cooper v. Garman, No. 19-cv-02227, 2024 WL 4043505, at *4-*6 (M.D. Pa. Sept. 4, 2024)
- Marshall v. Abdoun, No. 22-cv-0010, 2023 WL 2588166, at *10-*12 (E.D. Pa. Mar. 20, 2023)
- Gay v. Petsock, 917 F.2d 768, 772 (3d Cir. 1990)
- Berger v. Edgewater Steel Co., 911 F.2d 911, 923-924 (3d Cir. 1990)
- Clark v. Township of Falls, 890 F.2d 611, 624 (3d Cir. 1989)
- Averbach v. Rival Mfg. Co., 879 F.2d 1196, 1202-1203 (3d Cir. 1989)
- City of Huntington v. AmerisourceBergen Drug Corp., No. 3:17-cv-01362, 2020 WL 4589716, at *3 (D. W. Va. Aug. 10, 2020)
- N. Nat. Gas Co. v. L.D. Drilling, Inc., 405 F. Supp. 3d 981, 1002 (D. Kan. 2019)

- United States v. Stinson, No. 6:14-cv-1534, 2016 WL 8488241, at *7 (M.D. Fla. Nov. 22, 2016)
- Scott v. City of Phoenix, No. 09-cv-0875, 2011 WL 1085992, at *4 (D. Ariz. Mar. 24, 2011)
- Pub. Interest Research Grp. of N.J., Inc. v. Powell Duffryn Terminals Inc., 913 F.2d 64, 82 (3d Cir. 1990)
- Nat. Res. Def. Council, Inc. v. Texaco Refining & Mktg., Inc., 2 F.3d 493, 503 (3d Cir. 1993)
- Berckelely Inv. Grp., Ltd. v. Colkitt, 455 F.3d 195, 217 (3d Cir. 2006)
- Lozano v. City of Hazelton, 241 F.R.D. 252, 256 (M.D. Pa. 2007)
- Suter v. Gen. Accident Ins. Co. of Am., 424 F. Supp. 2d 781, 793 (D.N.J. 2006)
- United States v. Mun. Auth. of Union Twp., 150 F.3d 259, 263 (3d Cir. 1998)
- Atl. States Legal Found., Inc. v. Tyson Foods, Inc., 897 F.2d 1128, 1141 (11th Cir. 1990)
- Friends of the Earth, Inc. v. Laidlaw Env'tl. Servs. (TOC), Inc., 890 F. Supp. 470, 491-492 n.16 (D.S.C. 1995)
- Vanderklok v. United States, 868 F.3d 189, 205 n.16 (3d Cir. 2017)
- Smith v. Radian Settlement Servs., Inc., 717 F. Supp. 3d 415, 421 n.36 (M.D. Pa. 2024)
- In re Wellbutrin SR/Zyban Antitrust Litig., 281 F. Supp. 2d 751, 754 n.2 (E.D. Pa. 2003)
- Al-Hasani v. Sec'y U.S. Dep't of Homeland Sec., 81 F.4th 291, 301 (3d Cir. 2023)
- Kamden-Ouaffo v. Hucarro, No. 2:16-cv-8859, 2017 WL 11724428, at *2 (D.N.J. Jan. 13, 2017)