



West

THE COUNCIL OF STATE GOVERNMENTS

U.S. Supreme Court – Superfund Case

In a 7-2 decision in [*Atlantic Richfield v. Christian*](#) the U.S. Supreme Court held that landowners located on a Superfund site who wanted additional remedies beyond the Environmental Protection Agency (EPA) plan to clean up the site could not sue in state court.

The Comprehensive Environmental Response, Compensation, and Liability Act, also known as the Superfund statute, seeks “to promote the timely cleanup of hazardous waste sites and to ensure that the costs of such cleanup efforts [are] borne by those responsible for the contamination.”

Before cleaning up a Superfund site EPA conducts a study to evaluate clean up options. Once the study begins “no potentially responsible party may undertake any remedial action” at the site without EPA approval.

For the last 35 years Atlantic Richfield has been working with EPA to clean up a Superfund site in Montana. In 2008 property owners within the Superfund site sued Atlantic Richfield in Montana state court asserting a variety of state law claims and seeking restoration of their land beyond EPA’s plan. The Montana Supreme Court held that the landowner’s claims could go forward.

The U.S. Supreme Court held that the Montana Supreme Court had jurisdiction to hear this case but that it could not go forward because the landowners were potentially responsible parties (PRPs) under the Superfund statute who needed, but did not obtain, EPA approval to pursue their own remedial plan.

Atlantic Richfield argued that the Superfund statute deprives the Montana Supreme Court from having jurisdiction to hear this case. The statute provides



that “the United States district courts shall have exclusive original jurisdiction over all controversies arising under this chapter.” Chief Justice Roberts, writing for the majority, noted that this case “arises under” Montana law and not the Superfund statute, meaning Montana courts retain jurisdiction over the case.

Both parties agreed that if the landowners are PRPs they had to obtain EPA approval for their restoration plan, which they did not do. All the Justices except Gorsuch and Thomas agreed that the landowners in this case were PRPs. PRPs include any “owner” of “a facility.” “Facility” is defined to include “any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.” According to the Court, because hazardous substances have “come to be located” on the landowners’ properties, the landowners are PRPs.

The dissent pushed back on this holding opining “there is simply no way the landowners here are potentially, possibly, or capable of being held liable by the federal government for anything.” According to the dissent the majority’s decision is based on policy and not law: “things would be so much more orderly if the federal government ran everything.”

This case makes it more difficult for landowners located in Superfund sites to pursue state remedies against Superfund site owners. How much more difficult depends on whether the EPA will approve landowner remedial plans, like the one in this case. Also, as the dissent points out “once a Superfund site is ‘delisted,’ the restrictions on potentially responsible parties fade away,” and a suit in state court may be brought.

The impact of this case on states and local governments will vary. States and local governments in some instances are responsible for Superfund sites and in



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other instances own land contained in Superfund sites. If a state or local government owns a Superfund site, it may prefer that state law claims are difficult to bring. But if a state or local government owns land located in a Superfund site, it may welcome the ability to bring state law claims.

Case recap provided by Lisa Soronen, Executive Director, State & Local Legal Center (SLLC)