

THE 2013 CASE LAW AND REGULATORY UPDATE

CERCLA / RCRA / MERLA

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COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA) CASE LAW

- © *United States v. Dico, Inc.*
- © *United States v. NCR*
- © *Pakootas v. Teck Cominco Metals, Ltd.*

CERCLA CASE LAW

- ◎ *Gregory Village Partners LP v. Chevron USA, Inc.*
- ◎ *NuWest Mining, Inc. v. United States*
- ◎ *Carolina Power & Light Co. v. Alcan Aluminum Corp.*



CERCLA CASE LAW

- ⊙ *United States v. General Electric Co.*
- ⊙ *Solutia, Inc. v. McWane, Inc.*

CERCLA CASE LAW

*Alprof
Realty LLC
v. Corp. of
the Presiding
Bishop of
the Church
of Jesus
Christ of
Latter-Day
Saints*



CERCLA CASE LAW

- © *PCS Nitrogen v. Ashley II of Charleston, 2013 U.S. App. Lexis (4th Cir. 4/4/13)*



CERCLA REGULATORY DEVELOPMENTS

- ◎ *Federal Superfund Regulatory Trends*
 - * *66% of NPL sites completed*
 - * *State referral of sites to EPA*
 - * *Vapor Intrusion (VI) Guidance overdue.*
 - * *VI to be part of site scoring process*



CERCLA REGULATORY DEVELOPMENTS

- © *Federal Brownfields Funding Gains
Bipartisan Support*

Economic development benefits recognized.



CERCLA REGULATORY DEVELOPMENTS

- ◎ *Superfund Alternative Approach*

- * *Parties who enter agreement may avoid NPL listing.*

- * *Streamlined approach to process.*



CERCLA REGULATORY DEVELOPMENTS

© *Tenant Liability*

EPA Guidance provides further liability clarification.

CERCLA REGULATORY DEVELOPMENTS

- ◎ *Revised Phase I Environmental Site Assessment Standard Practice*
- * *ASTM E1527-13*
- * *Vapor intrusion pathway, file reviews*
- * *Business Environmental Risk (“BER”)*
- * *Controlled Recognized Environmental Condition (“CREC”)*



RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) CASE LAW

- ◎ *Southern Union Co. v. United States*
- ◎ *Raritan Baykeeper v. NL Industries*

RCRA CASE LAW

*Sisters
of Notre
Dame de
Namur v.
Garnett-
Murray*



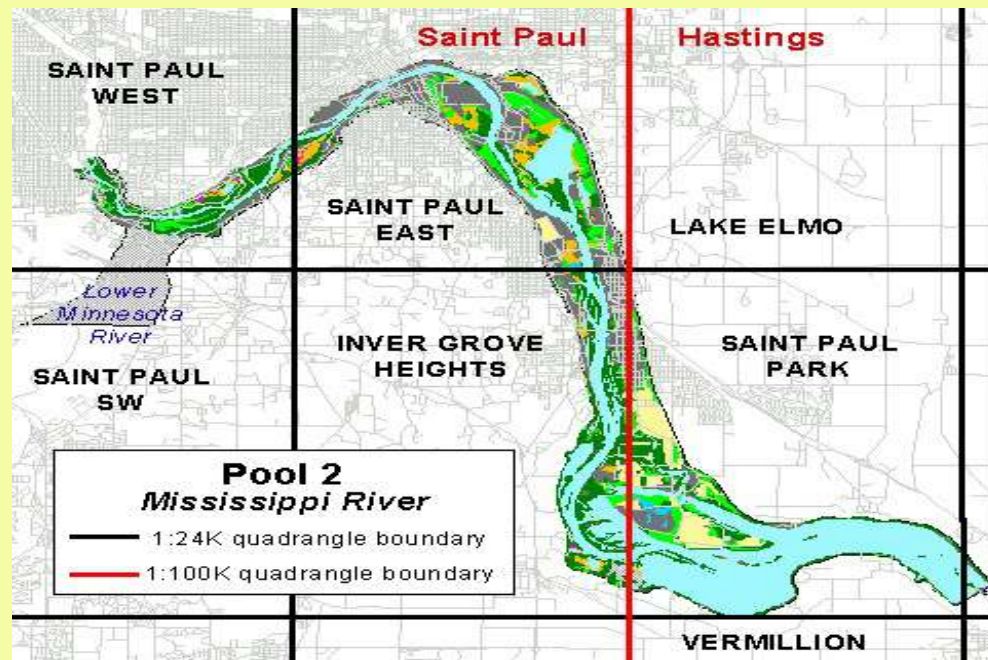
MINNESOTA ENVIRONMENTAL RESPONSE AND LIABILITY ACT (MERLA) CASE LAW

- © *Minnesota ex rel., Northern Pacific Center, Inc. v. BNSF Railway Co.*



MERLA - NATURAL RESOURCE DAMAGES

© *State of Minnesota v. 3M Company*



MERLA REGULATORY UPDATE

- ◎ *State Regulatory Update*
- * *Cooperative Cleanup Memorandum of Agreement (CAA)*
- * *Superfund Referral*
- * *Voluntary Investigation and Cleanup Program and Petroleum Brownfields Program*