

Jeff Civins, Mary Mendoza, Ann Al-Bahish and Andrew Van Osselaer in Law360: Superfund Ruling May Increase Landowners' Cleanup Liability

May 21, 2020 Jeff Civins, Mary Mendoza, Andrew Van Osselaer

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In *Atlantic Richfield v. Christian*, the U.S. Supreme Court held that: (1) The jurisdiction-stripping provisions of the Comprehensive Environmental Compensation and Liability Act, or CERCLA — also known as the Superfund law — do not bar plaintiffs from bringing state-law tort claims in state courts; and (2) landowners are potentially responsible parties, or PRPs, under CERCLA when hazardous substances come to be located on their land.

While both revelations are certainly noteworthy, the court's expansive interpretation of landowner PRP liability should have especially far-reaching implications for those whose property has been contaminated by offsite sources.

The Anaconda Copper Smelter in Butte, Montana, along with the surrounding area impacted by the lead and arsenic emissions from its stacks (some 300 square miles), has been on Superfund's National Priorities List for well over three decades. In recent years, the U.S. Environmental Protection Agency has worked with the current owner of the closed smelter, Atlantic Richfield Company, to address the contamination.

Through a series of orders, over 3 million cubic yards of waste have been removed from the community, the smelter property has been capped and vegetated, streams have been restored, and new wetlands have been constructed. Nearly 1,000 offsite properties have been remediated, and another 1,000 properties are scheduled to be remediated.

Excerpted from *Law360*. To read the full article, click [here](#).