

Oklahoma Court Pierces Corporate Veil in CERCLA Case

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On February 5, 2015, an Oklahoma federal court pierced the corporate veil in *Cyprus Amax Minerals Co. v. TCI Pacific Communications, Inc.* The decision underscores the importance of observing corporate separateness requirements between parent corporations and subsidiaries, as well as other related entities. The case also reiterates the importance of evaluating corporate history during acquisition due diligence to identify potential legacy environmental liability.

The court found New Jersey Zinc Company (NJZ) responsible for the CERCLA liabilities of its alleged subsidiary, Tulsa Fuel and Management Company (TFMC), which was dissolved in 1926. Because TCI Pacific Communications, Inc. (TCI) had assumed the liabilities of NJZ, the court held that TCI may be responsible for TFMC's liabilities in a CERCLA contribution action related to the cleanup of two former smelting facilities near Collinsville, Oklahoma.

In reaching its decision, the court considered documents that were nearly 100 years old, including annual reports filed with the state, statements made in a 1926 Interstate Commerce Commission hearing, and statements made in magazine articles. Although TCI argued that NJZ was not the parent company of TFMC because NJZ did not own TFMC's stock, the court held that TFMC was the alter ego of NJZ due to common stockholders, common officers, payment of a dividend to NJZ upon dissolution of TFMC, undercapitalization of TFMC, and other factors evidencing disregard of TFMC's corporate form.

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[Eleni Kouimelis](#)

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