

Federal Appellate Court Rules that CERCLA Preempts State Statute of Repose, Allowing Common Law Nuisance Claim to Proceed Against Company

Prepared for the Katten Environmental Advisory Group

July 15, 2013

On July 10, 2013, in a 2-1 decision, the U.S. Court of Appeals for the Fourth Circuit (the "Court") reversed a lower court ruling that had barred a common law nuisance claim by owners of contaminated property based on a "statute of repose"—allowing the nuisance claim to proceed, notwithstanding that the contamination occurred in 1987 and a 10-year statute of repose would otherwise have applied. *Waldburger v. CTS Corp.*, No. 12-1290, 2013 WL 3455775 (4th Cir. July 10, 2013).

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