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California Land Use & Development Law Report

Supreme Court Limits Tort Claims By Homeowners at Superfund Sites

The U.S. Supreme Court has issued a wide-ranging decision regarding the rights of homeowners affected by Superfund response actions, ruling that they are bound by CERCLA's ban on additional remedial actions beyond those authorized by the EPA. The case, [Atlantic Research Company v. Christian et al.](#), 590 U.S. ____ (April 20, 2020), concerned historical releases from the former Anaconda smelter site in Butte, Montana, which had impacted surface soils at nearby residences. Unhappy with the response action selected by the EPA -- which allowed soil impacted below risk-based goals to be left in place and capped -- the homeowners filed suit in state court under a variety of common law theories. The Supreme Court's decision includes significant limitations on the ability of homeowners to force additional cleanup actions without agency approval, and reduces the toxic tort risk faced by clients working to remediate Superfund sites with residential impacts. Our full update on the case and its implications, by [Christopher D. Thomas](#), [P. Derek Petersen](#) and [Katherine E. May](#), is available [here](#).

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