

THE NATIONAL LAW REVIEW

How to Avoid Being the Only Deep Pocket on the Block

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Picture this: you are running a family-owned business manufacturing widgets. You are, and always have been, in compliance with all pertinent federal, state, and local environmental regulations. You have always considered your company to be an environmentally ethical operation. Then a letter shows up. A letter from the Indiana Department of Environmental Management (IDEM) or the Environmental Protection Agency (EPA) or from an attorney representing a plaintiff who claims that environmental contamination originated from your property because of your historical manufacturing operations.

“But this is an industrial area and has been for decades,” you respond. “Surely we are not the only source of the alleged contamination that you refer to...”

Invariably, the response you receive will be (even if hidden by more diplomatic language) that all of those other Potentially Responsible Parties (PRPs) are long out of business and you are, in effect, “the cheese that stands alone.” This is when you call in a professional.

The good news in this scenario is that, in this day and age, there are many sources of information available if you know where to look. Some of those tools include:

1. **Government records:** This includes environmental records from state and federal governmental agencies such as IDEM and the EPA. Most agencies maintain multiple databases. By researching in the right databases, you can pull information on the historic operations of the neighboring properties and find out what types of contamination they may have caused.
2. **Title records:** If you suspect that one of the neighboring properties may have contributed to the contamination, and the factory has been shut down for years, a title search may help. Properly requested title searches will reveal not only the current owners of said properties, but also prior owners.
3. **Fire insurance maps, city directories, and aerial photographs:** There are clearinghouses that maintain these helpful tools. You can learn a great deal about who was operating what, where, and when by researching these records.
4. **Live witnesses:** Nothing is more telling and accurate than locating someone who worked at the PRP or owned a PRP's property. Many of the records will have been long-deleted, especially if they were never provided to the government. A good witness can attest to a property's history and operations on that property and potentially even submit a statement or affidavit that can be used to mediate your situation.
5. **Media reports:** Local newspapers are a surprising source of information on manufacturing operations in a given area. There are numerous sources for such information, including your public library, which contains many local newspapers and publications on microfiche.

So if you receive that call or letter, don't panic. Allegations are often made with only the smallest shred of surface evidence and you and your company have options to not only prove them wrong, but also lighten the burden and pass some of the responsibility on others.

Finally, if you believe that the allegations are unfounded, you can use these same tools to build your defense. In the proper hands, the information gleaned from these sources can be quite effective in either mediating contribution allegations or in proving that the allegations are simply in error.



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