

owned subsidiaries within the definition of "owner or operator." The court reasoned that, had Congress intended to alter the common-law principle of limited liability, some indication of this intent would be found in the legislative history. Absent such an express congressional directive, the court decided to leave any rewriting of the statute to Congress.

Further the court decided not to pierce the corporate veil because the plant was not used by T.L. James as a cover to perpetrate a fraud or for individuals to avoid personal liability. The Fifth Circuit, therefore, affirmed the district court's grant of summary judgment to T.L. James.

MELISSA SAWYERS

*North Shore Gas Co. v. EPA*, 930 F.2d 1239 (7th Cir. 1991)

Appellant North Shore Gas Company, a party potentially responsible for the cleanup of a Superfund site in a Lake Michigan harbor, sought to enjoin a portion of an Environmental Protection Agency (EPA) remedial plan directed against a third party. This plan required the third party to construct a boat slip in a second, overlapping Superfund site for which North Shore was responsible. North Shore contended that this construction would increase the costs for cleaning up their own portion of the harbor. North Shore brought suit under the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, and the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901. The district court dismissed the suit. It found that the suit was barred by section 113(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9613(h), which provides that federal courts do not have jurisdiction "to review any challenges to . . . remedial action selected under" the Superfund Amendments. North Shore appealed on the ground that the construction at issue was not a remedial act. EPA argued that the district court's dismissal should be upheld and that North Shore did not have standing to bring suit under NEPA and RCRA.

The Seventh Circuit concurred with EPA and held that North Shore did not have standing to bring a suit under NEPA and RCRA. The reasons were three-fold. First, the court emphasized the common-law rule that not everyone injured by a statute violation can bring suit to redress the violation. Thus,

although North Shore was injured, it could not necessarily bring suit. The "best-placed plaintiff" should be the one to bring suit. Second, only the "principal entity actually hurt" by the action has the requisite standing to challenge the action. Finally, the court found that the "zone of interests" doctrine is applicable to environmental laws. Only those persons for whom a statute is designed to protect can seek relief under it. Environmental laws are designed to protect those harmed by pollution, not polluters. Although North Shore was injured, it was also a polluter, and hence, it did not have standing under the environmental statutes.

Furthermore, the court upheld the district court's dismissal of the suit under section 113(h) of CERCLA. The court addressed the question of whether the construction of a boat slip was a remedial measure. It held that if a measure is part of a remedial plan, and is reasonably related to the plan's objectives so as to be considered an organic element of the plan, then the measure is considered remedial within the meaning of section 113(h). The court determined that the boat slip fit this description and therefore, North Shore's suit was barred. Finally, the court found that because injury to North Shore was probable, EPA's assertion that sanctions should be imposed on North Shore for bringing a frivolous claim should be rejected.

ELAINE RUDEN

*Port Allen Marine Services v. Chotin*, 765 F. Supp. 887 (M.D. La. 1991)

Plaintiffs, Port Allen Marine Services and Chotin Transportation, brought this action against Joseph S. Chotin and his insurer, Morey & Companies, for cleanup costs under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675 (1988), and under various state causes of action. The insurer motioned to dismiss, claiming a lack of jurisdiction and a failure to state a claim upon which relief could be granted. The insurer's motion presented important issues regarding the right to sue an insurer directly, either under CERCLA or under the Louisiana Direct Action Statute, La. R.S. 22:655. The district court found that neither CERCLA nor the Louisiana Direct Action Statute allows direct actions against the insurer of an "owner or operator," and after dismissing the federal claim, the district court declined to exer-