

Cross Border Business Law Blog

Resources for Doing Business in the U.S. - Installment #11 - Environmental Protection

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Foreign clients investing in the U.S. know there are risks of litigation and conflict that they might not anticipate when conducting business at home. One area, however, that is usually a particularly rude surprise are the U.S. laws relating to environmental matters, particularly relating to environmental contamination of land. One might think that a party not at fault for creating contamination would be safe, but that's not always the way U.S. law works when it comes to Superfund sites. These are sites around the U.S. where hazardous substances in the environment threaten human health or the environment, and clean-up is required.

Thanks to a system of “joint and several” liability, each potentially responsible party may be responsible for the entire cleanup of a site absent contributions from others. Potentially responsible parties in Michigan alone, were reported by the Michigan government to have contributed over \$599 million to Superfund clean-up before 2016. Paying even a small percentage of such figures can be costly.

Our [next installment](#) in our Doing Business in the U.S. series explains the essential structure of U.S. laws governing such environmental risks. It tells you who can be held liable, and what defenses to liability are possible. It tells you how to avoid assuming liability inadvertently when investing in real estate. There is an old adage: ***An ounce of prevention is worth a pound of cure.*** These words of wisdom are particularly apt in describing how a bit of caution before investing in real estate can significantly reduce the risk of substantial liability under environmental laws. Enjoy!

Tags: bona fide prospective purchaser, environmental claim, environmental implications, environmental protection, environmental risk, hazardous substance, innocent purchaser, real estate, Superfund