

## Court Finds Owner of Facility's Equipment Liable in Cost-Recovery Case

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In *United States v. Saporito, Case No. 07 C 3169*, the United States District Court for the Northern District of Illinois recently ruled that the federal government could recover its environmental cleanup costs against the current owner of a facility's equipment.

Beginning in the 1970s, Crescent Plating operated a facility on the northwest side of Chicago that plated steel and brass objects with various metals such as zinc, chromium, and copper. In addition to those metals, the plating process also used, among other potentially hazardous chemicals, sodium cyanide, hexavalent chromium, and trichloroethene. Very simply explained, the electroplating process involved dipping the item to be plated into a series of chemical baths through which electrical current is run.

In December 2003, U.S. EPA began removal activities at the site and in February 2004, the EPA authorized funding for the removal action based on its determination that the conditions at Crescent Plating presented "an imminent and substantial endangerment to the public health, welfare, and the environment." The first EPA site assessment found 58 vats and tanks and 464 containers holding various liquids and sludges as well as a 20-cubic-yard box filled with plating sludge. Some containers had deteriorated and spilled, the building and equipment were coated with plating sludge, and the building had no heat or electricity. During the cleanup, the government found two large areas of concrete floor that had corroded to expose the soil below. In all, the EPA spent more than \$1.5 million to clean up tens of thousands of gallons of hazardous liquids and sludge. After cleaning up the site, the government sued to recover the costs incurred.

The Court agreed with the government's motion for summary judgment, which relied on the theory that Saporito was a facility owner at the time of the cleanup based on his undisputed ownership of equipment used in the plating process. In so doing, the Court held that the government did not need to present evidence showing that any specific piece of equipment he owned was responsible for specific releases of hazardous chemicals or specific cleanup costs.

This is another example of the government, with approval of the courts, going after individuals to recover environmental cleanup costs.

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