

## American judge rules against Canadian polluter, but will justice flow both ways? | Fox News

Notebook: NAFTA

Created: 1/30/2013 12:00 PM

Updated: 12/15/2013 2:15 AM

URL: <http://www.foxnews.com/politics/2012/12/17/american-judge-rules-against-canadian-...>

---

# American judge rules against Canadian polluter, but will justice flow both ways?

By Dan Springer Published December 17, 2012 FoxNews.com

A court ruling over industrial pollution that was dumped by a Canadian smelter and made its way to the United States aims to hold the cross-border company accountable, though it also could threaten to expose American companies to Canadian justice.

Judge Lonny Suko ruled that Teck Resources is liable for clean-up costs and potential damages as a result of dumping nearly 10 million tons of slag, waste from its large smelting operation, into the Columbia River, which carried the pollution south across the U.S. border.

Environmentalists in Canada are thrilled because they have been trying unsuccessfully for years to punish U.S. polluters.

“The whole idea of applying U.S. law across the border to Canadian companies is precedent setting and leads us to think about doing the same to American companies,” says Dianne Saxe, an environmental attorney in Toronto.

Teck Resources operates one of the world’s largest lead and zinc

smelters in Trail, British Columbia just a few miles north of the U.S.-Canadian border. From 1930 to 1995 the company legally discharged toxic chemicals into the Columbia River, but the current carried the pollution into Washington State.

The Colville Indian tribe sued Teck under CERCLA, the U.S. Superfund law passed in 1980.

“It affects agriculture, it affects salmon, it affects the water we drink,” Colville Tribal Chairman John Sirois said. “But it also affects the air we breathe.”

Studies looking at the health impacts of the pollution are in conflict. Research done by the Harvard Medical School found more cases of illness in Northport, Wash., the small town closest to the smelter. But the Washington State Health Department concluded just the opposite. It found that fish in the area actually had lower levels of metal contamination than fish sampled in distant portions of the Columbia River.

Teck Resources has done some cleanup and has paid for environmental studies, which are ongoing, but company officials argued unsuccessfully that Teck should not be subject to U.S. law and its courts.

“Two countries, if they have an issue, they deal with each other at a country-to-country basis,” Teck spokesman Dave Godlewski said. “And what this does is completely get around that.”

The next phase of the case will determine how much Teck owes. For

environmentalists in Canada, the cost of cleanup and amount of potential damages is less important than the message it sends. They have tried for years to force polluters in the U.S. to pay for damages done to Canada's environment. Now they see their opening, and their first targets will be the 150 coal plants in the Midwest.

Business organizations see major problems for U.S. companies operating anywhere near the border. "I think it will have a chilling effect on cross-border business," Matt Morrison of the Pacific Northwest Economic Region said. "People are going to have to look at whether they'll need to be permitted in both countries."

---

---

#### NEWSLETTER SIGNUP



On the pursuit of politics? Subscribe for daily updates.