

Applying Equitable Principles, New Jersey Appellate Division Expands Spill Act Liability

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The **New Jersey Appellate Division** recently construed the **Spill Compensation and Control Act (the Spill Act)** as permitting a property owner to compel neighboring owners to share in the costs of an investigation into the cause of and responsibility for contamination *without first establishing the neighbors contributed to the contamination*. This decision is significant, as prevailing Spill Act case law requires a plaintiff seeking contribution to first establish a nexus between the defendant and the contamination at issue.

In its published decision, the Appellate Division stated that it does “not interpret the Spill Act as being so narrow or ineffectual as to permit a private action only on proof that another caused contamination in whole or in part.” The Appellate Division upheld the Chancery Division’s authority to issue a judgment compelling the other owners’ cooperation in the further investigation of the property, reasoning that a denial of that equitable remedy would “preclude or render unduly burdensome a greater examination into the situation” and would not be “in the best interest of the health, safety and welfare of the people[.]”

Thus under some circumstances, New Jersey courts may be willing to permit a suit requiring the cooperation and involvement of other alleged contaminators into an investigation where there is not yet any evidence as to the precise source of the contamination.

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