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Environmental

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# Oregon's Statute of Repose May Block Common Law Environmental Claims

## Lane Powell White Paper

Mike Nesteroff authored an article titled "Oregon's Statute of Repose May Block Common Law Environmental Claims." In the article, Nesteroff discussed the U.S. Supreme Court's ruling in *CTS Corp. v. Waldburger* and how Oregon's 10-year statute of repose may now play a bigger role in environmental lawsuits. The court ruled that the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) does not supersede a North Carolina statute of repose for bringing trespass, nuisance or negligence claims.

*The Court ruled in CTS Corp. v. Waldburger that a provision in CERCLA preempting statutes of limitations in some situations does not apply to a statute of repose that bars bringing a tort suit more than 10 years after the last culpable act of the defendant. The Court's 7-2 decision distinguished between statutes of limitations, which create a time limit for bringing a lawsuit based on the date when the damage becomes apparent or reasonably ought to have become apparent, and statutes of repose, which set an absolute bar on the right to bring a civil action and are not dependent upon any discovery of the injury. Oregon is one of the few states to have a similar generally-applicable statute of repose that could be used to bar state law claims for trespass, nuisance or negligence in an environmental lawsuit.*