RECENT SUPERFUND DEVELOPMENTS

Spring 2017 Environmental Law Seminar

Presented by Tim Wilkins
WHAT’S NEW?

• Preemption of Federal Common Law Public Nuisance
• Arranger “Intent to Dispose” Requirement
• Divisibility/Apportionment versus Strict Liability
• Heightened Approval Test for CERCLA Settlements/Consent Decrees
• Parent-Subsidiary Liability Issues
KEY TAKEAWAYS

• Intent to Dispose test getting more clearly defined – characterize recycling/reuse arrangements as valuable product transactions where plausible
• Divisibility/Apportionment factors worth thinking through in different owner/operator scenarios
• Consent decree approval standards create new openings for valuable settlement information
• Continues to be very important not only to avoid veil-piercing factors but to be able to clearly prove parent isn’t “operator” of subsidiary facilities/activities
THANK YOU!

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