Judge: Superfund Law Applies To Canadian Company

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SPOKANE, Wash. (AP) — A federal judge ruled Friday that his court has jurisdiction to apply the U.S. Superfund law to a Canadian company that acknowledges polluting Lake Roosevelt in Washington state.

U.S. District Judge Lonny Suko of Yakima ruled against Teck Metals Ltd. of Vancouver, British Columbia, in a long-running case involving pollution of the lake in northeastern Washington. Cleanup has been estimated to cost up to $1 billion.

Teck Metals operates a giant lead and zinc smelter in Trail, British Columbia, about 10 miles from the U.S. border.

The company has acknowledged that pollution from that smelter traveled down the Columbia River into Lake Roosevelt. But it has said that as a company operating in Canada, it is not subject to U.S. environmental laws and cannot be ordered to pay for cleanup.

Judge Suko ruled in a lawsuit brought against Teck by the state of Washington and the Confederated Tribes of the Colville Reservation.

Teck can appeal the ruling, but state officials are hopeful it will instead apply its energies to cleaning up the pollution.

"Our hope is the company will accept facts and work with us in the context of U.S. law to resolve the contamination they caused," said Jim Pendowski of the state Department of Ecology.

Teck Metals, previously known as Teck Cominco, contends that attempting to hold it liable for the pollution interferes with the sovereign authority of Canada and British Columbia. The Canadian government has repeatedly expressed disapproval over the case, including sending a diplomatic note of protest to the State Department.

Teck has not decided if it will appeal, spokesman Dave Godlewski said.

Preliminary data from the company's study of the lake shows the environmental damage is minimal, he said.

"The water is clean. The fish is safe to eat. The beaches are safe to play on," Godlewski said.

Lake Roosevelt is a 150-mile reservoir created by Grand Coulee Dam on the Columbia River. The popular recreation site is used by more than 1 million people

per year.

In September, Teck Metals said in court for the first time that some of the pollution it dumped into the river between 1896 and 1995 flowed into the United States, and some hazardous substances were released into the U.S. environment.

The statement seemed to eliminate the need for a costly trial on the source of the pollution.

Much of the pollution is a fine black sand known as slag that washed downstream onto beaches at the lake where people camp and swim,

"Teck knew its disposal of hazardous waste into the (river) was likely to cause harm," the judge wrote in his ruling. "It was told by the Canadian government that its slag was toxic to fish and leached hazardous metals."

The Colville tribes petitioned the U.S. Environmental Protection Agency a decade ago to assess contamination in the reservoir. In 2003, the EPA decided Teck was subject to the U.S. Superfund law, demanded the company pay for studies to determine the extent of the pollution, and clean it up.

Teck objected and the tribes filed suit in 2004 to force the company to comply. The state then joined the case.

However, Teck did agree in 2006 to perform a major study of pollution in the lake, under the direction of the EPA. The company has spent more than $55 million on the study, scheduled for completion in 2015.

Godlewski said no decisions can be made on the extent of a cleanup, and its cost, until the study is concluded.

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