

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Crescent Mine, LLC v. Bunker Hill Mining Corporation; and Placer Mining Corporation (d/b/a New Bunker Hill Mining Co.)

Crescent Mine · No. 2:21-cv-00310-DCN; consolidated with 2:21-cv-00209-DCN · Decided June 24, 2026

SUMMARY

This memorandum decision and order addresses cross-motions for summary judgment in consolidated litigation involving the Crescent and Bunker Hill mines in Idaho. The court grants summary judgment to Bunker Hill Mining Corporation and Placer Mining Corporation on Crescent Mine’s CERCLA response-cost and declaratory-judgment claims, principally because Crescent did not establish that it incurred qualifying response costs before filing suit. The decision also considers CERCLA restrictions concerning challenges to EPA remedial actions and authorization for mine dewatering.

CASE DETAILS

COURT	United States District Court for the District of Idaho
WRITING FOR THE COURT	David C. Nye
JURISDICTION	United States District Court for the District of Idaho
DECIDED	June 24, 2026
DOCKET	2:21-cv-00310-DCN; consolidated with 2:21-cv-00209-DCN
DISPOSITION	other
PROCEDURAL POSTURE	The court decided three consolidated summary judgment motions concerning CERCLA cost-recovery, contribution, declaratory-relief, and Idaho tort claims arising from acid mine drainage between adjacent mines.
STANDARD OF REVIEW	Summary judgment is appropriate when the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court may not weigh evidence, must view facts in the nonmoving party’s favor, and requires the nonmoving party to identify specific admissible evidence showing a genuine issue for trial.
PRECEDENTIAL VALUE	unpublished district court memorandum decision; precedential status not identified

TOPICS

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QUESTIONS PRESENTED

1. Whether Crescent incurred response costs before filing suit sufficient to establish a CERCLA § 107(a) cost-recovery claim.
2. Whether Crescent could obtain a CERCLA § 113(g)(2)(B) declaratory judgment concerning future response costs without first establishing liability for past response costs.
3. Whether CERCLA §§ 113(h) and 122(e)(6) barred or required a stay or dismissal without prejudice of Crescent's requested dewatering injunction absent EPA authorization.
4. Whether Crescent's Idaho trespass, nuisance, and negligence damages were barred or limited by the applicable statutes of limitations and the permanent-versus-continuing-tort distinction.
5. Whether factual disputes concerning the nature, abatability, ownership, and continuing effects of the mine flooding precluded summary judgment on Crescent's state-law claims.
6. Whether Bunker Hill's common-law indemnity, subrogation, and contribution claims were unavailable because Bunker Hill retained an adequate CERCLA § 113(f) remedy.

HOLDINGS

1. Crescent could not establish the required element that it incurred response costs before filing suit because it presented no evidence that it paid or assumed a definite, noncontingent legal obligation to pay qualifying costs before suit.
2. A CERCLA plaintiff may not obtain a declaratory judgment concerning future liability under § 113(g)(2)(B) unless it first establishes liability for response costs in the initial § 107(a) action.
3. The requested judicial order requiring dewatering of the mine could not be entered without EPA or Presidential authorization under CERCLA § 122(e)(6), and the court granted summary judgment to defendants without prejudice on the requested injunctive relief.
4. Crescent's tort claims could not recover damages occurring before the applicable limitation periods, but factual disputes precluded summary judgment on damages occurring within those periods.
5. Crescent was entitled to summary judgment on Bunker Hill's common-law indemnity, subrogation, and contribution claims because Bunker Hill retained an adequate CERCLA § 113(f) remedy.

KEY QUOTATIONS

“Under CERCLA’s scheme for private action, response costs may not be recovered when there has been no commitment of resources for meeting those costs.”

“The EPA, not this Court, should be determining whether Crescent’s injunctive relief would work in harmony with, or opposed to, the plan adopted by the EPA.”

FACTUAL BACKGROUND

The Crescent and Bunker Hill Mines are adjacent northern Idaho mines connected by a tunnel and formerly owned and operated by the same company. After the original owner entered bankruptcy and pumps were removed in the 1990s, both mines flooded with acid mine drainage; water levels have since been controlled through pumping at the Bunker Hill Mine under EPA-directed cleanup and settlement arrangements. Crescent acquired the Crescent Mine in 2014 with knowledge that it was flooded, while Placer and later Bunker Hill acquired interests in the Bunker Hill Mine. Crescent sought response costs and dewatering-related relief, and Bunker Hill and Placer sought allocation of cleanup costs.

PROCEDURAL HISTORY

Crescent filed suit against Bunker Hill Mining Corporation and Placer Mining Corporation asserting CERCLA and Idaho common-law and statutory claims and seeking injunctive relief requiring dewatering of the Crescent Mine. In a related consolidated action, Bunker Hill asserted CERCLA and common-law indemnity, subrogation, and contribution claims, and Placer asserted a CERCLA contribution counterclaim. The court granted and denied summary judgment in part, including judgment for defendants on Crescent's CERCLA claims, partial judgment on the temporal scope of Crescent's tort damages, and judgment for Crescent on Bunker Hill's common-law equitable claims.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The requested dewatering-related injunctive relief was resolved without prejudice to seeking EPA approval and potentially refiling after authorization.

CASES CITED

- Celotex Corp. v. Catrett, 477 U.S. 317, 323-24 (1986)
- Nissan Fire & Marine Insurance Co. v. Fritz Cos., 210 F.3d 1099, 1102 (9th Cir. 2000)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252, 256 (1986)
- Bhan v. NME Hospitals, Inc., 929 F.2d 1404, 1409 (9th Cir. 1991)
- Orr v. Bank of America, NT & SA, 285 F.3d 764, 783 (9th Cir. 2002)
- Zetwick v. County of Yolo, 850 F.3d 436, 441 (9th Cir. 2017)
- Far Out Productions v. Oskar, 247 F.3d 986, 997 (9th Cir. 2001)
- Pakootas v. Teck Cominco Metals, Ltd., 452 F.3d 1066, 1072 (9th Cir. 2006)
- Carson Harbor Village, Ltd. v. Unocal Corp., 270 F.3d 863, 870-71 (9th Cir. 2001) (en banc)
- 3550 Stevens Creek Associates v. Barclays Bank, 915 F.2d 1355, 1357 (9th Cir. 1990)
- City of Colton v. American Promotional Events, Inc.—West, 614 F.3d 998, 1002-03, 1008 (9th Cir. 2010)
- United States v. Atlantic Research Corp., 551 U.S. 128, 138, 140 (2007)

- Whittaker Corp. v. United States, 825 F.3d 1002, 1006, 1009 (9th Cir. 2016)
- Eagle Star Rock Products LLC v. PCC Structural, Inc., 756 F. Supp. 3d 1062, 1088 (D. Or. 2024)
- McClellan Ecological Seepage Situation v. Perry, 47 F.3d 325, 329 (9th Cir. 1995)
- Pakootas v. Teck Cominco Metals, Ltd., 646 F.3d 1214, 1220, 1222 (9th Cir. 2011)
- New Mexico v. General Electric Co., 467 F.3d 1223, 1250 (10th Cir. 2006)
- Atlantic Richfield Co. v. Christian, 590 U.S. 1, 20, 26 (2020)
- Idaho v. Hanna Mining Co., 699 F. Supp. 827, 834 (D. Idaho 1987)
- State of Idaho v. Bunker Hill Co., 600 F. Supp. 797 (D. Idaho 1985)
- Curtis v. Firth, 850 P.2d 749, 754 (Idaho 1993)
- Farber v. State, 630 P.2d 685 (Idaho 1981)
- Woodland v. Lyon, 298 P.2d 380 (Idaho 1956)
- Streib v. Veigel, 706 P.2d 63 (Idaho 1985)
- Skokomish Indian Tribe v. United States, 410 F.3d 506, 518 (9th Cir. 2005)
- Thomas v. Thomas, 2015 WL 1467207, at *7 (D. Idaho 2015)
- Goldingay v. Progressive Casualty Insurance Co., 306 F. Supp. 3d 1259, 1266 (D. Or. 2018)
- Axelrod v. Reid Limited Partnership, 551 P.3d 777, 790 (Idaho 2024)
- Payne v. Skaar, 900 P.2d 1352, 1357 n.2 (Idaho 1995)
- Brose v. Twin Falls Land & Water Co., 133 P. 673, 676 (Idaho 1913)
- Regional Airport Authority of Louisville v. LFG, 460 F.3d 697, 711 (6th Cir. 2006)
- Worthington v. Crazy Thunder, 541 P.3d 694, 700 (Idaho 2024)
- Hull v. Giesler, 331 P.3d 507, 518 (Idaho 2014)
- United States v. City of San Diego, 2025 WL 2481426 (S.D. Cal. 2025)

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