

CERCLA and Climate Change



Cliff Villa, University of New Mexico School of Law
September 19, 2018

Resource Conservation and Recovery Act (RCRA)

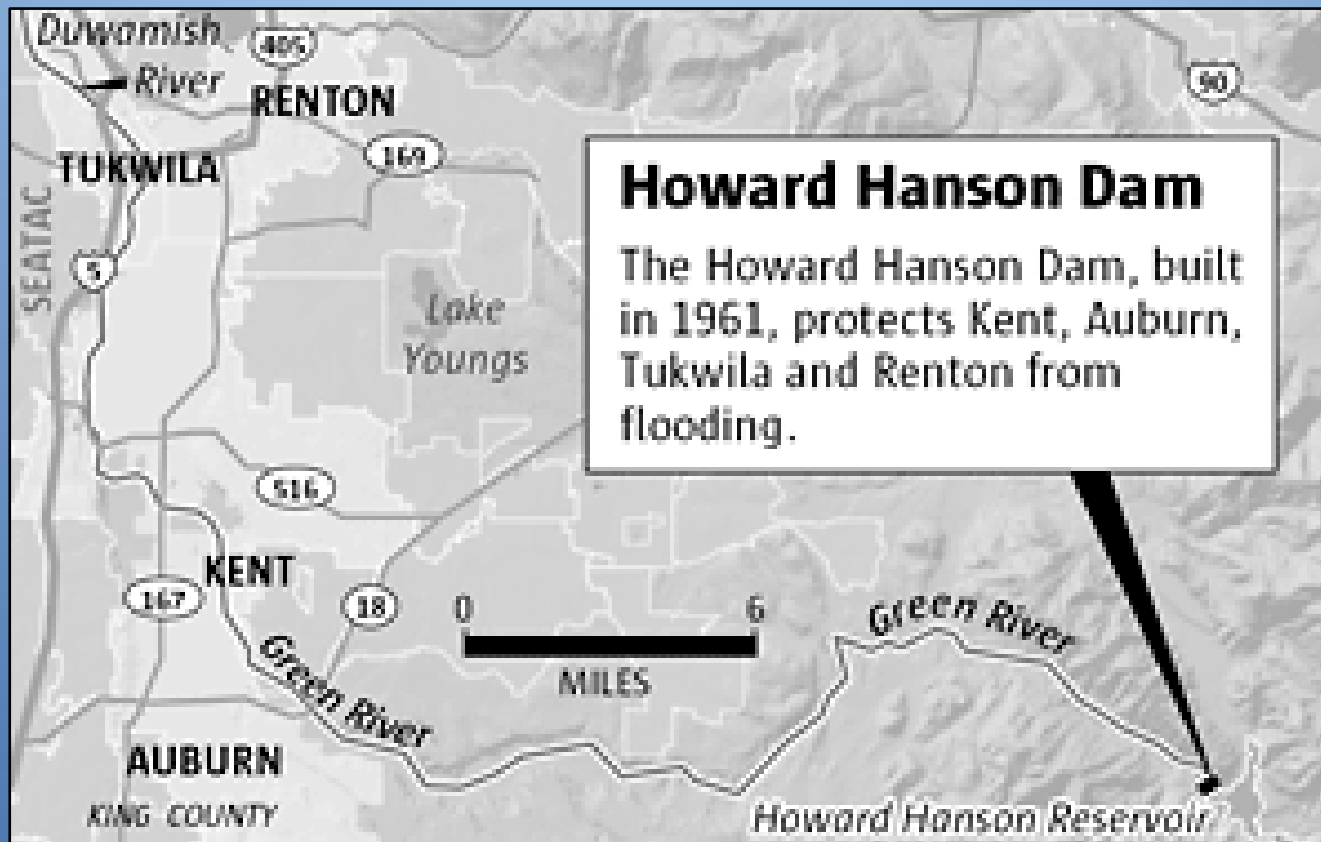
- RCRA Permits
- RCRA Enforcement:
 - § 3008
 - § 7003

Resource Conservation and Recovery Act (RCRA)



Howard Hanson Dam, King County, WA

Resource Conservation and Recovery Act (RCRA)



CERCLA

CERCLA FRAMEWORK

- Release
- Risk
- Response
- Responsibility



“Infinity Room,” Rocky Flats Plant, CO



April 20, 2010: *The Deepwater Horizon*, Gulf of Mexico

Oil Pollution Act of 1990

- Clean Water Act § 311 amendments
- Oil Spill Liability Trust Fund creation

RESPONSE

- REMOVAL ACTION: CERCLA § 101(23)
- REMEDIAL ACTION: CERCLA § 101(24)



Sept. 14, 2017: Houston, TX



Jan. 26, 2018: Santa Rosa, CA



Jan. 26, 2018: Santa Rosa, CA

RI/FS

- Nature & extent of contamination
- Human Health Risk Assessment
- Ecological Risk Assessment
- Detailed Analysis of Alternatives

Remedy Selection

- RI/FS
- Proposed Plan
- Record of Decision (ROD)

Record of Decision

Lower Duwamish Waterway Superfund Site



United States
Environmental Protection Agency
Region 10

November 2014



Terminal 117, Seattle, WA
2013



Terminal 117, Seattle, WA
2014



Pacific Sound Resources, Seattle, WA
2015



Pacific Sound Resources, Seattle, WA
2015

RESPONSIBILITY

- UAOs: CERCLA § 106
- Consent decrees: CERCLA § 122

RESPONSIBILITY

- Reopeners: CERCLA § 122(f)(6)
- Preenforcement review: CERCLA § 113(h)

Act of God



CERCLA Sec. 101(1): The term “act of God” means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

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- (2) an act of war;
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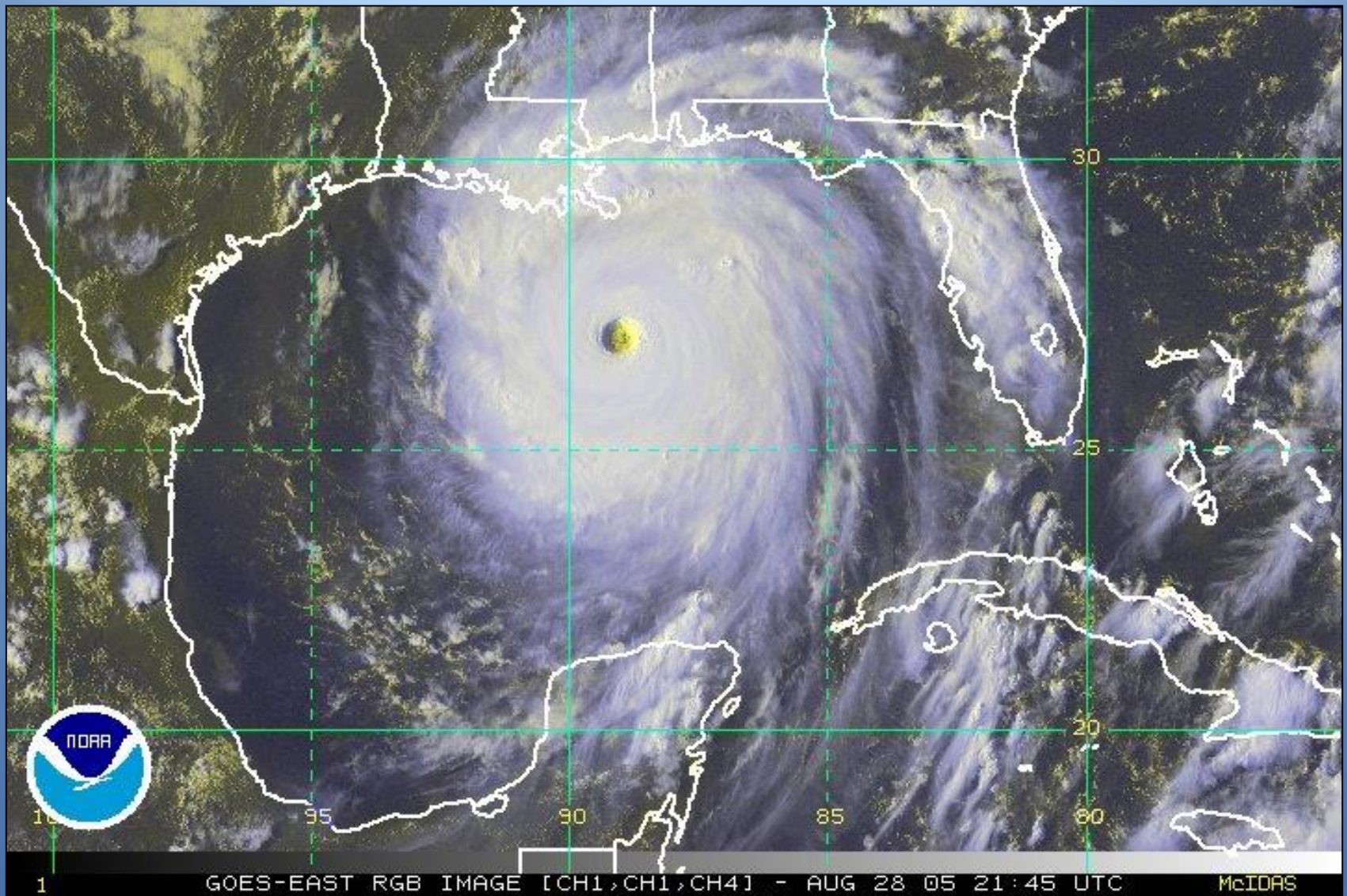
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Hurricane Florence, Sept. 2018



Hurricane Katrina, Aug. 2005





Murphy Oil Spill
St. Bernard Parish, LA, Sept. 2005



“The quality of mercy is not strained....”