



Environmental Law & Bankruptcy

Enforcement Implications

University of Houston Law Center

April 23, 2012

CLASH OF THE TITANS



THE CLASH BEGINS 3.26.2010

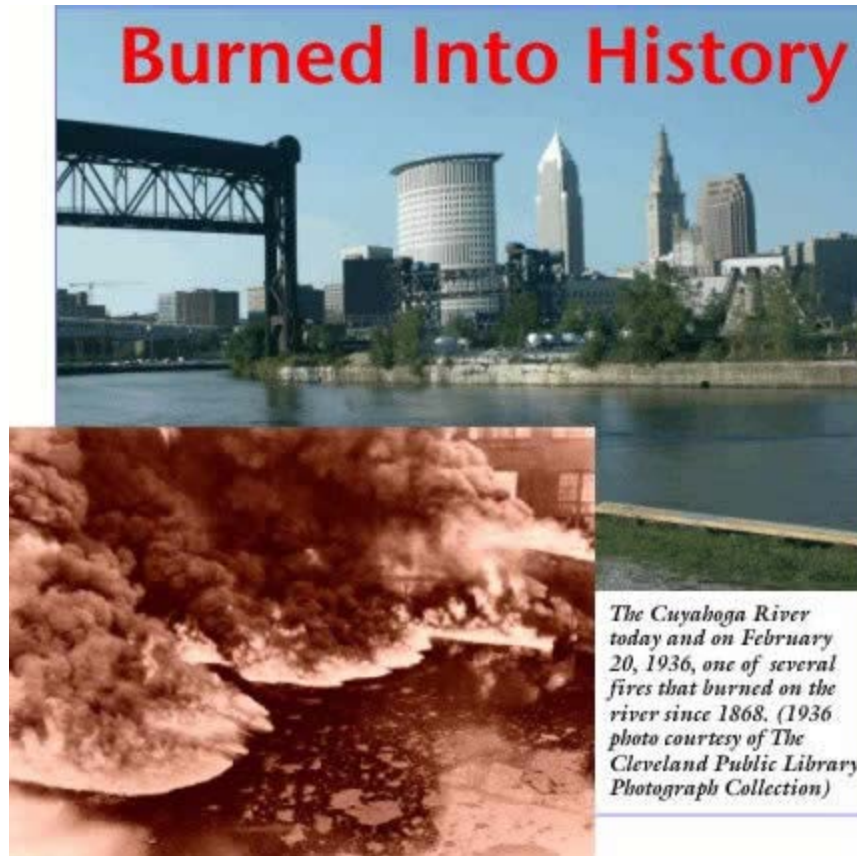
Houston Smog



Love Canal



Cuyahoga River



Burned Into History

The Cuyahoga River today and on February 20, 1936, one of several fires that burned on the river since 1868. (1936 photo courtesy of The Cleveland Public Library Photograph Collection)



Foundational Principles

- Environmental Law

- Prevent/Control Discharges

- Bankruptcy Law

- Obtain a discharge


THIS IS WHAT A DIP LOOKS LIKE



Top 20 Bankruptcies

- We're #18





Lyondell Leaves Kalamazoo Poisoned as Bankruptcies Mar Cleanups (Bloomberg) -- Environmentalist Jeff Spoelstra says an 80-mile stretch of the Kalamazoo River that runs through toxin-laced land in southwestern Michigan was on its way to becoming safe again. The area, once home to Potawatomi Indians and Dutch celery farmers, was finally on the verge of getting cleaned up.

Then, in January 2009, Lyondell Chemical Co. filed for bankruptcy protection. The Houston-based petrochemical giant argued in court that as it reorganized, it could avoid what the U.S. Environmental Protection Agency said were about \$2.5 billion in cleanup costs for the river, which flows into Lake Michigan, and another \$2.5 billion in liabilities at 10 other polluted spots across the country.

The filing threw the EPA's plan into turmoil, Bloomberg Markets magazine reports in its May issue.



Key Concepts

- Pre-petition
- Claim
- Injunctions
 - Alternate right to payment
 - Debtor-owned
- Penalties