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**IN THE
COURT OF APPEALS OF INDIANA**

RICHMOND CENTER, LLC,)

Appellant-Plaintiff,)

vs.)

No. 89A01-1109-PL-416

DEUTZ CORPORATION,)

Appellee-Defendant.)

APPEAL FROM THE WAYNE CIRCUIT COURT
The Honorable David A. Kolger, Judge
Cause No. 89C01-0802-PL-4

October 22, 2012

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Deutz Corporation owned a piece of land on which it manufactured and modified diesel engines from 1979 to 1990. Deutz used fuel-oil petroleum for heating purposes, which it stored in underground storage containers. During the time Deutz owned the land, it twice spilled petroleum into a stream that runs to the east of the land, and both spills were remediated to the satisfaction of the Indiana State Board of Health. Deutz eventually sold the land to The Donesco Company, who briefly owned the land. During the time that Donesco owned the land, the water tower on the property was dismantled and the fuel line leading to the water tower was removed. There is disagreement about whether the water tower was an additional source of contamination.

Richmond Center, LLC, then purchased the piece of land in 1993 and sought refinancing for the site in 1998 and 2006. In 2006, the prospective lender commissioned an environmental site assessment report, which found contaminated soil. Richmond Center was informed that it needed to agree to the completion of a site environmental closure plan in order to obtain financing. Richmond Center excavated 2700 tons of soil from the site and incurred \$305,059.28 in remediation costs.

Richmond Center brought suit against Deutz under the Environmental Legal Action statute. A bench trial was held, and the trial court found that Richmond Center failed to prove that Deutz caused or contributed to the contamination, that the site posed a risk to human health and the environment, and that its remediation of the site was reasonable. Richmond Center appeals, arguing that the trial court's findings were clearly erroneous and that Deutz was liable for the contamination so Richmond Center is

therefore entitled to reasonable cleanup costs. Holding that the trial court's findings were correct, we affirm.

Facts and Procedural History

A. Ownership and Use of the Property

Deutz owned the property located at 1050 Industries Road in Richmond, Indiana, from 1979 until June 1989, when it sold the property to Donesco. Donesco assigned its ownership in the property to Richmond One, L.P., and Deutz continued to lease back a part of the property until September 1990. In 1993, Richmond One initially contracted to sell the property to Elder Family Partners, LP, but Elder Family Partners was unable to obtain proper funding for the purchase. Elder Family Partners then formed Richmond Center, LLC, and purchased the property from Richmond One on September 29, 1993. After Elder Family Partners' purchase, Richmond Center, LLC, became the owner of the property.¹

Before Deutz owned the property, the land was used to manufacture motorized lawnmowers, bicycles, and diesel engines, as well as for agricultural purposes. When Deutz owned the property, it used it to assemble and modify diesel engines from June 1980 through the middle of 1982, and as an engine and parts warehouse after that. Deutz used petroleum to test the engines for leaks from 1980 until April or May 1990. Deutz also used fuel-oil petroleum to heat the buildings on the property, and that fuel-oil was stored in underground storage tanks.

B. 1981 Spills

¹ The parties do not agree on this fact, with Deutz arguing that Richmond Center was never transferred ownership of the property. However, both parties base their arguments in this case on the assumption that Richmond Center is the present owner of the property.

In 1981, Deutz twice spilled petroleum into Brown's Ditch, a stream that runs immediately east of the property and through Cardinal Greenway park. The first spill was in September and 55 gallons of engine oil leaked from an air compressor engine. Tr. p. 596. The second spill was in November and 3150 gallons of break-in oil spilled from an overfilled tank. *Id.* Both spills were above-ground and were detected and remediated. The Indiana State Board of Health determined that no further action was required, Ex. p. 816, and Deutz instituted new policies to prevent similar spills in the future. Tr. p. 827.

However, at trial, Richmond Center's expert witness, Paul Troy, noted that the contamination of the property was partly caused by "an overflow event that occurred in 1981." *Id.* at 596. On cross-examination, though, he admitted that he had never previously identified the 1981 spills as having any environmental impact on the property. *Id.* at 805. Also, no report by Troy Risk, Inc., Troy's environmental consulting firm, identified the 1981 spills; they only identified the east underground storage tanks and the water tower as sources of contamination. *Id.*

C. Water Tower

Between approximately 1963 and 1991, there was a 150,000 gallon water tower on the east side of the property that was used for fire suppression. During the late 1970s, a municipal fire suppression system was installed for the property, powered by a municipal water line and a pump hose on the primary road used to access the property. In 1977, a gas-fired burner and natural gas line were installed to keep the water in the tower from freezing. An existing fuel oil line also ran from the facility on the property to the burner under the water tower.

Troy proposed a theory that there was an underground storage tank under the water tower that led to some of the contamination. However, when there proved to be no evidence of an underground storage tank underneath the water tower, Troy's next theory was that the fuel line running from the facility to the water tower leaked. He could not identify when the line was installed or which line specifically it was, but in support of his theory, he noted a pipe protruding from a center pier at the water tower as proof of the leak. But, that pipe faced east, away from the building and the water tower, which is inconsistent with the theory that this pipe ran from the water tower to the facility. Tr. p. 930; Appellant's App. p. 60. An exhibit provided by Richmond Center itself in its own Reply Brief presents a visual depiction of why this theory was not accepted as true. Appellant's Reply Br. p. 9; Ex. p. 1539. Additionally, Troy himself conceded that he had no scientific basis on which to base speculation that the oil contamination even occurred during the time that Deutz owned the property. Tr. p. 1101-02.

In 1991, the fuel line was removed and the water tower was dismantled. When the fuel line was removed, there was no evidence the line was leaking – no one observed or smelled any leaking fuel or saw any contaminated soil. *Id.* at 949-50. Contamination testing and sampling began in the area of the water tower in approximately 1989. No test identified any contamination until 2007. *Id.* at 901.

D. Underground Storage Tanks

Four underground storage tanks were present on the property – two on the east side contained heating oil, and two on the west side contained diesel oil. The west underground storage tanks were installed by Deutz in 1980, removed by Deutz in 1989,

and the area surrounding them was thoroughly cleaned. No environmental investigations were conducted on the west side of the property, so the west underground storage tanks are not at issue in this case.

The two east underground storage tanks were installed sometime between 1966 and 1971, before Deutz owned the property, and they were removed in 1991. Each east underground storage tank held 20,000 gallons and was used to store fuel oil to provide heat to the facility on the property. Before March 1989, the east underground storage tanks were placed on an inventory control program, which meant that the fuel levels in the tanks were checked regularly to ensure that the tanks were not leaking.² Part of that program also involved Deutz employee Bill Stine periodically checking the levels of the east underground storage tanks with a dipstick. However, Stine denied ever checking the east underground storage tank inventory, and according to him, the only person who ever checked the fuel level was fellow Deutz employee Doug Richey, who quit about one year before Deutz sold the property in 1989.

In March 1989, Fred C. Hart & Associates, Inc., an environmental consulting company, conducted an investigation of the property as part of the sale from Deutz to Donesco. Pollution Control Systems took four soil borings around the east underground storage tanks in June 1989, and it was determined that there was no contamination

² The inventory control program was referred to in the report generated by Fred C. Hart & Associates, Inc. At trial, Troy was cross-examined about the Hart report, as it formed part of the basis of his expert testimony. Richmond Center objected to the reference to information contained in the report as hearsay during Deutz's cross-examination of Troy, but had no objection to its admission at the conclusion of the cross-examination. Indiana Rule of Evidence 705 states that an expert can give his opinion without first identifying the underlying facts for his opinion, but "[t]he expert may in any event be required to disclose the underlying facts or data on cross-examination." Since Troy was properly cross-examined on the contents of the Hart report, and Richmond Center did not object to the report's admission into evidence, Tr. p. 872, we find no error in the admission of this report.

present. A follow-up report was issued by Fred C. Hart & Associates, Inc., on May 15, 1990, finding that the “integrity of the tanks appear[ed] to be sound due to the inventory control program.” Ex. p. 779.

Between July 1, 1989 and December 1, 1989, \$11,070 worth of fuel-oil was purchased and put into the east underground storage tanks, and between January 1, 1990 and March 31, 1990, an additional \$10,782 worth of fuel-oil was purchased and also put into the east underground storage tanks. The inventory control program was in place during the time this fuel-oil was put in the east underground storage tanks.

On July 25, 1991, Donesco commissioned Pollution Control Systems to conduct additional soil sampling on the property. The results of the testing identified contamination of backfill material around the east underground storage tanks with fuel oil, which was determined by Pollution Control Systems to likely be “the result of an overfill of one of the tanks.” *Id.* at 510. However, when the east underground storage tanks were removed in September 1991, they were found to be “in good condition with no visible leaks.” *Id.* Pollution Control Systems excavated approximately 800 tons of soil around the east underground storage tanks, but left some of the contaminated soil on the property. The report of the findings indicated that there was contamination present in the sand lens fourteen feet below the surface and noted that “it is probable that the soil contamination extends off the property toward the east.” *Id.* at 518. The contamination levels found exceeded those allowed by the Indiana Department of Environmental Management (“IDEM”), but were left open for “voluntary cleanup by the landowner.” *Id.* at 2039.

At trial, Troy testified that it was his opinion that the east underground storage tanks overflowed sometime between June 1989 and October 1991, but admitted that he had no basis to say when the overflow happened.³ Tr. p. 893. Troy also acknowledged Deutz's inventory control system and admitted that in February 1989, the total amount of fuel in the east underground storage tanks was 12,339 gallons, substantially less than their 40,000 gallon capacity. *Id.* at 876-77. However, Troy testified to Deutz's two large fuel purchases, deducing that Deutz was therefore responsible for the overflow. But, Troy did not know how many other shipments may have been made to the property, how much of the fuel was used, or any details of Richmond One's use of fuel after Deutz vacated the property in 1990. *Id.* at 883-91.

E. Total Petroleum Hydrocarbon Levels

In 1993, when Richmond One sold the property to Elder Family Partners, it commissioned another environmental site assessment through its bank. Environ Audit Services, Inc., performed the assessment and was provided a copy of Pollution Control Systems' 1991 report. Environ Audit Services came to a similar conclusion as Pollution Control Systems – that there was petroleum contamination in both the soil and the groundwater around the east underground storage tanks. Richmond Center's CFO, Mark Harrington, was provided with both the Pollution Control Systems and Environ Audit Services reports, but did not read either of them. Richmond Center was able to obtain the financing needed to purchase the property without remediating any of the environmental

³ Deutz owned the property until September 1990.

issues. The amount of Richmond Center's mortgage was increased to \$3,500,000, and much of that money was used to finance other Elder Family Partner ventures.

In 1998, Richmond Center needed to refinance the property, so its lender commissioned another environmental site assessment that was performed by ATC Associates, Inc. The ATC Associates report again reiterated the same findings as the Pollution Control Systems and Environ Audit Services reports – that the east underground storage tanks had been removed along with the contaminated soil, but that some contaminated soil in excess of the IDEM guidelines remained. ATC Associates also reported that groundwater monitoring wells detected small concentrations of contamination in the groundwater at the site. Further investigation into the contamination was recommended, which would cost between \$5000 and \$10,000. Richmond Center did not authorize any further investigation but did obtain financing.

In 2006, Richmond Center again refinanced the property. AIG, its prospective lender, commissioned a new environmental site assessment report to be completed by LandAmerica Assessment Corporation. The report similarly discussed the contaminated soil that remained on the property after the removal of the east underground storage tanks in 1991, but also referenced a new spill associated with a tenant on the property, Color-Box, in which an unknown substance was discharged into Brown's Ditch. LandAmerica recommended additional investigation into the Color-Box spill.

After LandAmerica's report, AIG informed Richmond Center that it would not extend financing on the property unless Richmond Center agreed to complete a site environmental closure plan. Richmond Center hired Troy Risk, Inc. to provide the

closure plan. On October 16, 2006, Troy Risk prepared the closure plan, identifying a closure approach for total petroleum hydrocarbon hot spots, consistent with the IDEM Risk Integrated System for Closure (“Risk System”) TPH Guidance Policy. In providing requirements for investigating and remediating contaminated sites, IDEM’s Risk System manual provides for two types of closures, default and non-default, and two classes of default closure levels, industrial default closure levels and residential default closure levels. The industrial default closure level for total petroleum hydrocarbon is 1000 milligrams per kilogram (mg/kg) in soil and 1100 micrograms per liter (ug/l) in groundwater. The residential default closure level for total petroleum hydrocarbon is 80 mg/kg in soil and 100 ug/l in groundwater.

On November 14, 2006, Troy Risk took six soil samples from the property to determine total petroleum hydrocarbon levels. Because of time constraints, Troy Risk used some of the soil and groundwater sampling results from Pollution Control Systems’ 1991 testing in his closure plan. Troy Risk noted that “The removal of the [underground storage tank]s and excavation of 800 tons of impacted soil 15 years ago has removed much of the contaminant source.” Ex. p. 1694. However, the results of the soil samples showed total petroleum hydrocarbon levels in the soil of 1041 mg/kg, 678 mg/kg, 732 mg/kg, and 1010 mg/kg, two samples being over the industrial default closure level of 1000 mg/kg. *Id.* at 1048. The groundwater samples showed total petroleum hydrocarbon levels of 701 ug/l, 9933 ug/l, 683 ug/l, and 325 ug/l, one sample being over the industrial default closure level of 1100 ug/l. *Id.* at 1049.

F. Remediation

The closure plan completed by Troy Risk on November 22, 2006 estimated that it would need to excavate and remove 560 tons of soil and that the total cost of the remediation would be approximately \$78,000. *Id.* at 2182.

On November 28, 2006, AIG agreed to the refinancing of the property. As a condition of the refinancing, Richmond Center was to place \$98,300 in an escrow account pending the timely completion of the closure plan. The closure plan was to be completed before May 31, 2007, or Richmond Center would be found to be in default on the mortgage and would forfeit the escrow. In order for the closure plan to be deemed completed, Richmond Center had to complete the soil excavation, conduct post-excavation sampling, prepare an initial closure report, submit that report to LandAmerica to get a certification of completion of the closure plan by May 31, 2008, and obtain a “no further action letter” from IDEM by November 30, 2007.

Excavation began on March 6, 2007, and was completed on April 3, 2007. During the excavation at the former east underground storage tank site, a second source of contamination, separate from the east underground storage tanks, was found. No sampling was conducted to determine the concentration or the substance that was being excavated; instead, Troy Risk’s employees dug out anything that looked and smelled like oil.

When the excavation was completed, approximately 2700 tons of soil were excavated. Troy Risk submitted its report to LandAmerica in May 2007, indicating that the contamination came from two sources – the east underground storage tanks and “another source, unknown at the time we began our work,” but believed to be at the water

tower. The report further stated that all soil exceeding the industrial default closure levels had been removed from the site and that the groundwater samples also met the industrial default closure levels.

Troy Risk submitted its report to IDEM in August 2007, advising that the soil contamination had been remediated and that there was another potential source of contamination under the water tower. IDEM approved Troy Risk's remediation work plan and agreed with its assessment that all residual petroleum soil contamination levels were acceptable. The total cost of remediation incurred by Richmond Center was \$305,059.28, evidenced at trial by photographs, testimony, and invoices.

G. Litigation

On February 28, 2008, Richmond Center filed a complaint against Deutz, Richmond One, and Donesco under Indiana's Environmental Legal Action statute, Indiana Code sections 13-30-9-1 *et seq.*, alleging that it "caused or contributed to releases of hazardous substances or petroleum in the soil and groundwater at the Site [and as] a result of [Deutz's] releases, the soil and groundwater at the Site is contaminated with hazardous substances or groundwater and pose a risk to human health and the environment." Appellant's App. p. 73-74. As a result, Richmond Center claims it is entitled to recover the costs it incurred investigating and remediating the contamination. *Id.* at 74. Richmond One and Donesco settled with Richmond Center in January 2011 and are no longer parties to this litigation.

A bench trial was held in January 2011, and the trial court issued its findings of fact and conclusions of law in August 2011. The trial court found that Richmond Center

had not proven that: (1) the contamination at the property posed a risk to human health and the environment; (2) Deutz caused or contributed to the contamination; and (3) Richmond Center's remediation of the property was reasonable, so Deutz was not liable for any of the costs incurred investigating and cleaning up the site.

Richmond Center now appeals.⁴

Discussion and Decision

The statute at issue in this case is the Environmental Legal Action (ELA) statute.

The portion relevant to the events in this case states:

A person may, regardless of whether the person caused or contributed to the release of a hazardous substance or petroleum into the subsurface soil or groundwater that poses a risk to human health and the environment, bring an environmental legal action against a person that caused or contributed to the release to recover reasonable costs of a removal or remedial action involving the hazardous substances or petroleum.

Ind. Code § 13-30-9-2.

Richmond Center makes three main arguments on appeal: (1) whether the trial court used the wrong legal standard to determine if Richmond Center met its burden in proving that Deutz caused or contributed to the contamination; (2) whether the trial court misinterpreted an element of the ELA to determine whether the site was a risk to human health and the environment; and (3) whether the trial court used an incorrect standard to determine if Richmond Center was entitled to cleanup costs. Because we hold that Richmond Center failed to prove that Deutz caused or contributed to the contamination, we need only address the first argument.

⁴ We held oral argument in this case on September 26, 2012. We thank counsel for both parties for their able advocacy.

In this case, the trial court entered findings of fact and conclusions of law. Richmond Center notes that the trial court adopted Deutz's findings of fact and conclusions of law almost verbatim. While Richmond Center acknowledges that this is not uncommon and not error per se, it argues that this practice warrants a higher standard of review. We do recognize that we must be cautious when one party's findings and conclusions are adopted wholesale, *Carpenter v. Carpenter*, 891 N.E.2d 587, 593 (Ind. Ct. App. 2008), but we also recognize that this is especially the case when a case turns more on "the inferences to be drawn from the facts and the legal effect of essentially unchallenged testimony" than on the credibility of the witnesses. *Prowell v. State*, 741 N.E.2d 704, 709 (Ind. 2001). Since this case appears to turn more on the trial court's assessment of witness credibility, we are aware of the trial court's adoption of Deutz's findings and conclusions, but we find this not to be error.

Because findings of fact and conclusions of law were entered, we apply a two-tiered standard of review. First, we determine whether the evidence supports the findings and second, whether the findings support the judgment. *Carpenter*, 891 N.E.2d at 592. We will set aside the trial court's findings only if they are clearly erroneous – that is, "when a review of the record leaves us firmly convinced that a mistake has been made." *Id.* (quotation omitted). "Although we defer to a trial court's ability to find the facts, we do not defer to conclusions of law, and a judgment is clearly erroneous if it relies on an incorrect legal standard." *Id.* (quotation omitted).

Richmond Center contends that the trial court used the wrong legal standard to determine if Richmond Center met its burden in proving that Deutz caused or contributed

to the contamination. It is undisputed by the parties that the ELA itself does not define “caused or contributed.”

Since the standard is not articulated within the statute, we must apply our rules of statutory interpretation, the primary goal of which is to give effect to the legislative intent behind the statute and to construe the statute in a logical manner that will not bring about absurd or unjust results. *Neal v. Cure*, 937 N.E.2d 1227, 1234 (Ind. Ct. App. 2010), *trans. denied*. *City of Gary v. Shafer* provides an interpretation of “caused or contributed,” and it states that “Under the ELA, ‘caused or contributed’ requires some involvement by the actor which produces a result, or that a party ‘played a significant part’ in the contamination or had ‘some involvement’ with the contaminants at issue.” 683 F. Supp. 2d 836, 855 (N.D. Ind. 2010) (internal citations and quotations omitted). Where the parties differ is on their interpretation of what is sufficient evidence to show that Deutz caused or contributed to the contamination of the property.

Richmond Center argues that it only needs to show that Deutz used petroleum on the property and that it is more likely than not that petroleum was leaked onto the property in order for Deutz to have caused or contributed to the contamination under the ELA. Appellant’s Br. p. 29. It contends that this is the case even if it cannot prove that the remediation it engaged in was for the same petroleum that Deutz leaked during its tenure on the property. As long as it can show that Deutz had “something to do with” the petroleum that Richmond Center cleaned up on the property, even if Deutz did not own the property at the time of the leak, Richmond Center claims that is sufficient. Additionally, Richmond Center contends it need only show this by circumstantial

evidence; direct evidence is not necessary. Requiring specific and direct evidence, Richmond Center argues, would put too heavy of a burden on plaintiffs under the ELA, especially for cases of historical contamination.

Deutz, on the other hand, contends that Richmond Center needs to provide some evidence of a nexus between its conduct and the contamination since the ELA is not a strict-liability statute. It then argues that Richmond Center has failed to provide evidence that shows that the east underground storage tanks overflowed when Deutz owned the property, that Deutz knew about or was responsible for the contamination at the water tower, or that the 1981 spills are relevant to this claim. As a result, Deutz contends, Richmond Center has failed to show any nexus between Deutz's actions and the contamination, so Deutz cannot be held liable.

In deciding this issue, we must look at the evidence and determine if it supports the findings of the trial court. After review, it appears that the trial court weighed the testimony of the witnesses and in the end did not believe Troy's expert testimony, finding that Richmond Center did not sufficiently show that Deutz "caused or contributed" to the contamination.

In order to show that Deutz "caused or contributed" to the contamination, Richmond Center must show some nexus between an act of Deutz and the spilling of the fuel oil. This can be shown by circumstantial evidence and reasonable inferences, but a nexus still must be shown. One way to provide this circumstantial evidence and resulting reasonable inferences is through expert testimony, which Richmond Center attempted to

do with Troy. However, the problem with that in this case was that the trial court appeared not to believe Troy's testimony, and with sound reasons.

The evidence at trial showed that the 1981 spills were detected and remediated before Deutz took ownership of the property. This fact was supported by the reports submitted by Troy Risk, Tr. p. 805, but at trial Troy contrarily testified that the 1981 spills contributed to the contamination on the property. *Id.* at 596. Similarly, at trial, evidence was presented that when the water tower was dismantled and the fuel line was removed by Donesco, there was no sign of any leaking fuel or contaminated soil. *Id.* at 949-50. The only test that identified contamination in that area was not until 2007, well after Deutz had left the property. Troy, however, again tried to put forth two different theories at trial to show that Deutz was responsible for the contamination by the water tower, but were both shown by the evidence to be implausible. The first theory was that there was an underground storage tank under the water tower that leaked, but there was no storage tank found underneath the water tower. The second theory was that the fuel line running to the facility leaked. However, the pipe that Troy noted as being responsible for the leak faced the wrong direction to be involved in the contamination. Troy therefore ended up with no scientific or realistic basis upon which to base his speculation that the contamination occurred at any point in time when Deutz was on the property, *id.* at 1101-02, and Richmond Center was left with no testimony about what caused the contamination around the water tower.

Finally, as for the east underground storage tanks, Troy acknowledged that Deutz had an inventory control system in place, and that the total amount of fuel in the tanks in

February 1989 was almost 28,000 gallons under capacity. While he noted that Deutz made two large purchases of fuel, Troy could not say how many other shipments may have been made, how much of the fuel was used, or any details of Richmond One's use of fuel after Deutz vacated the property. *Id.* at 883-91. Testing in 1989 and 1990 found no contamination present in the soil around the tanks and also sound integrity of the tanks. Ex. p. 779. When the tanks were removed in 1991, they were found to be "in good condition with no visible leaks." *Id.* at 510. However, contamination was found in the soil on July 25, 1991, and was believed to likely be "the result of an overflow of one of the tanks." *Id.* Evidence was presented that Deutz purchased over \$20,000 worth of fuel-oil between the 1990 and 1991 tests, and part of the inventory control program was not executed as planned, namely Stine never checked the levels of the east underground storage tanks with a dipstick.

Despite this evidence, however, Richmond Center was still unable to provide any proof that linked Deutz to the contamination. Troy's testimony was that in his opinion, the east underground storage tanks overflowed sometime between June 1989 and October 1991. During this twenty-nine-month period, Deutz was only on the property and using fuel oil for sixteen of those months – until September 1990. Donesco was on the property for the remaining thirteen months, but settled out of this lawsuit. Richmond Center is unable to show that the contamination more likely than not happened during Deutz's time on the property rather than during Donesco's ownership; Richmond Center can only show that the contamination happened sometime during a period of almost two and a half years. Without any evidence connecting Deutz to the contamination, the trial

court found that Richmond Center failed to meet its burden of showing that Deutz caused or contributed to the contamination via the 1981 spills, the water tower, or the east underground storage tanks. Appellant's App. p. 59.

Richmond Center argues that the ELA is intended to be remedial in nature and that the development of brownfields will be discouraged if parties are unable to recover the costs of remediation without evidence showing that the alleged polluter caused the contamination. While that may be true, some nexus between the use by the alleged polluter and the contamination needs to be shown before a party can be held liable. Therefore, based on the evidence presented, the evidence does support the trial court's findings and those findings support the conclusion that Richmond Center did not prove that Deutz caused or contributed to the contamination on the property. It appears that the trial court simply did not believe Troy's testimony, and we are not in a position to reweigh the evidence. As a result, we affirm the trial court's ruling that Richmond Center failed to show that Deutz caused or contributed to the contamination at issue.

Affirmed.

MATHIAS, J., and BARNES, J., concur.