

Contractor Pollution Liability

Presented by:

**Environmental Risk
Resources Association**

Speaker:

Barbara W. Deas
Managing Vice President, Environmental
Gulf Insurance Group



Topics:

- I. Need for CPL Coverage**
- II. Types of CPL Losses Contractors May Experience**
- III. Underwriting Contractor Risks**
- IV. Market**
- V. Coverage Issues**
- VI. Closing Remarks/Questions**



Need for CPL Coverage

- **Contractors have exposures that overlap GL, CPL, and Professional Liability coverages**
- **GL covers standard losses – jobsite accidents resulting in damage to others, trip & falls, contractual liability, etc.**
- **GL excludes liability for pollution incidents involving contractors if:**
 - The contractor brings pollutants onto the jobsite themselves
 - The contractor is in the business of remediating contamination
- **CPL fills the gap left by GL policies, giving additional financial protection**



Types of CPL Losses

- **Environmental losses at a jobsite result from the disturbance of the soil**
- or**
- **Remediation work on structures involving mold, asbestos or lead exposures**



Types of CPL Losses

- **Common Examples:**
 - **Puncturing of underground tanks or pipelines**
 - **Uncovering previously unknown pockets of contaminants and not handling that discovery properly**
 - **Spilling their own fuel source or working fluids on the property**
 - **Tracking contamination via equipment from one site to another or one part of jobsite to another**
 - **Failure to properly remediate mold, asbestos or lead**
 - **Failure to properly secure work area while remediating mold, asbestos or lead**



Underwriting Contractor Risks

- **Can anyone be an “environmental contractor”?**
- **John Doe – scooping and hauling “dirty dirt” to**
- **Jane Doe – full staff of degreed professionals providing turn-key service**
- **Can have wide variety of qualifications and exposures**



Underwriting Contractor Risks

Analyze entirety of exposures:

- **What services do they actually perform?**
- **What risks are inherent to that type of work?**
- **What treatment (coverage line) will adequately address each identified risk?**



Underwriting Contractor Risks

Analyze qualifications/experience:

- **What is the educational background of key personnel? If professionals on staff, what services might they perform that are not immediately apparent?**
- **What is their job experience? How do the jobs performed in the past compare to the type of work now being performed?**
- **Does staffing appear adequate compared to revenue level being reported? Does it appear excessive?**
- **Does advertising media promote their services in accordance with the submission?**



Underwriting Contractor Risks

Loss History:

- Frequency
- Severity
- Past Claims that could still be active going forward

Past forms of coverage:

- Claims-Made
- Occurrence
- Retroactive dates
- Legacy Issues
- Past or dormant corporations



Underwriting Contractor Risks

Other items to consider:

- Financial Status – Solvency
- Sectors from which jobs originate
- Awards, Designations and Industry Recognitions
- Contractual Language
- Use of Subcontractors
- Standard Operating Procedures
- Overall Management Philosophy



Underwriting Contractor Risks

Determine Coverage Needed, Limits and Deductibles that match the risk:

- **Is GL/CPL adequate?**
- **Any professional liability exposure?**
- **Any site exposure?**
- **Any transportation exposure?**



Market

- **Environmental Market has undergone extensive changes since the last ERRA meeting in Atlanta**
- **Capacity is down ↓**
- **Pricing is up ↑↑**
- **Lower limits being chosen by insureds due to price of entire insurance program ↓**



Market

- **Carriers have failed or left the market**
- **New carriers have emerged, many with different focus**
 - **Vital for brokers to know carriers and area of expertise for each, including their focus and financial strength**



Coverage Issues

Dominant Coverage Issues Since Last Meeting:

- **Affect entire insurance market – not just environmental market**
- **Mold – various carriers handling in different manner**
- **Asbestos – new wave of asbestos claims have potential to cripple long-standing carriers and reinsurers**



Coverage Issues

- **Lead – attorneys choosing to focus on long-term lead exposure cases**
- **Overall strength of reinsurance market**
- **More accent on environmental issues in a worldwide market**



Closing Remarks/Questions

- **CPL only one of the coverages available to address environmental issues**
- **Many insurance professionals still choose not to learn about gaps created by environmental exposures**
- **Opportunity still abounds to grow this and other lines of environmental coverage**



Thank You!

On behalf of

**Environmental Risk
Resources Association**

