High New Worth Environmental Playbook

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Environmental Risk Managers High Net Worth Playbook

High Net Worth (HNW) Environmental Playbook Strategy

The HNW Environmental Playbook is designed to leverage your insurance sales while better protecting your E&O exposure, by educating your HNW insureds on the fiscal realities of pollution protection. It genuinely *does* have a measurable impact to their bottom line and strategic financial planning.

Simply due to their resources, the one percenters with a HNW, are impacted by a variety of environmental exposures. From aircraft, yachts and autos to real estate and business holdings…, part of "Best Practices" for those of HNW involves a financial assurance strategy to address the environmental exposures created by their resources.

Environmental Risk Managers, Inc. (ERMI) High Net Worth Environmental Playbook is designed to coach you and your HNW insureds so they can make an informed decision if the ERMI HNW pollution insurance program will add value in protecting their resources vs. self-insuring.

Currently, the clear majority of HNW insureds are not aware they are self-insuring their environmental liabilities. Coaching HNW insured's on managing and transferring their environmental exposures positions you as a strategic partner and trusted advisor while better protecting your E&O exposure.

Environmental Risk Managers' Process to Effectively Sell Environmental Insurance

Fact: Every High Net Worth insured is impacted by environmental exposures and environmental insurance is a financial assurance strategy that reduces or eliminates the negative impact of uncertain future environmental liabilities.

Step #1: Education

Education is the solution to pollution, not dilution. If an insurance professional is not environmentally educated they are not going to discuss environmental exposures and insurance. Likewise, a HNW insured that is not environmentally educated does not understand the value pollution liability insurance adds so why invest their monies? With the ERMI environmental educational resources, HNW insureds can focus on the most relevant risks in addressing future outcomes. An environmentally educated insured can make informed decisions on the structure of their financial assurance strategy and if investing in the ERMI HNW pollution program will add value. www.ermi.us or www.estrategist.com for additional environmental educational resources.

Step #2: Environmental Risk Tolerance

Environmental Risk Tolerance is the amount of environmental risk a HNW insured can fiscally tolerate. What are acceptable and unacceptable environmental liabilities such as defense, environmental investigations, clean up, third party bodily injury, third party property damage, third party business income, reputational risk, first party business income…? Since every HNW insured is impacted by environmental exposures, as part of "Best Practices", they must have a financial assurance strategy.

Step #3: Risk Appetite

Risk Appetite is how much a HNW insured wants to internally self-insure based upon their risk return goals and objectives. Understand, environmental liabilities tend to be a severity versus frequency issue. Knowing a HNW insureds risk appetite helps to guide their resource allocation.

Step #4: Merge Competitive Environmental Intelligence from Steps 1, 2 & 3

To answer the following question: "As part of the HNW insured's environmental financial assurance strategy, does it make fiscal sense for the insured to transfer their environmental exposures for fractions of a cent on the dollar via the ERMI HNW pollution program, or wait until an uncertain environmental liability occurs and spend 100 cents on the dollar out of their own pocket for legal defense, investigations, clean up, third party bodily injury, third party property damage, third party business income, reputational risk…?"

Step #5: Fill out an Environmental Risk Managers HNW Insured Application

If you answered "Yes" to transferring the HNW insured's environmental exposures, fill out an Environmental Risk Managers HNW insured application and send the submission to your Environmental Risk Managers team member.

Step #6: Educate – Review, Compare & Get Deals Closed

Once Environmental Risk Managers marketing effort has been completed, educating the insured on the benefits, coverages, and differences between the various proposals is the final step in identifying the insured's best investment option. Often times, a conference call with the agent, insured, and your ERMI team member, assists to further educate the insured and ultimately get deals closed! It's not about market access, it's about customer service and writing business effectively, and ERMI has pioneered the process.

environmental Risk Assessment (eRA) High Net Worth

Purpose: *This eRA will educate those of High Net Worth so they can make informed decisions on how they want to manage and / or transfer the environmental exposures impacting their resources based upon their risk tolerance.*

The High Net Worth eRA comes in three parts:

1. Review of environmental exposures impacting your resources.
2. Environmental loss examples
3. Environmental insurance coverages to consider as part of your risk transfer strategy.

Summary: Simply due to their resources, the one percenters with a High Net Worth (HNW), are impacted by a variety of environmental exposures. As with commercial businesses, the clear majority of HNW insureds are not aware they are self-insuring their environmental liabilities.
Since environmental liabilities tend to be a severity versus frequency issue they can have a negative financial impact on HNW insureds. That is why part of "Best Practices" for those of HNW involves a financial assurance strategy to address the environmental exposures created by their resources.

What is a Pollutant?

A material, substance, product… introduced into an environment for other than its intended use / purpose. In other words, something that ends up where it does not belong. Fresh water, cheese, and milk have all been classified as pollutants by insurance carriers under various circumstances. What pollutants are impacting your resources?

Part #1: Environmental Exposures Impacting Those Of HNW

Common environmental exposures impacting those of High Net Worth include: Pollution from neighboring properties migrating onto yours; Real estate tenants using or storing environmentally sensitive materials, chemicals, waste….; Mold; Real estate with historical environmental problems; New Construction and remodeling; Air craft, auto, water craft storage / use / maintenance; Privately owned businesses with environmental exposures due to operations or products produced (i.e. golf courses, agricultural / ranching, manufacturing, hotels / resorts, auto dealer and repair facilities, marinas…); Vendors such as contractors (i.e. HVAC, electrical, plumbing, painting, septic), domestic help, landscapers / maintenance, pool cleaning / maintenance, caterers, boat captains, aircraft pilots…); Storm water runoff; Leaks from elevator hydraulic fluid storage tanks; Impacting sensitive areas such as wetlands or endangered species; Natural resource damages; Sick building syndrome; Above ground or underground storage tanks; Adverse reactions and interactions of chemical compounds that accidentally commingle during a fire; Farm/garden/lawn fertilizers, herbicides, pesticides…; Easements (utilities, oil, gas…) that cross your property which may leak or spill hazardous materials; Fuel for backup power generators; Asbestos; Lead; Vandalism; Vapor intrusion….

Part #2: Environmental Loss Examples

•Priscilla Presley and Joel Weinshanker along with the Presley Family and Authentic Grands Group own the right to Graceland Operations. 9 people staying at the Guest House at Graceland Hotel were sickened from Legionnaires. The Hotels swimming poll and hot tub both tested positive for the Legionnaires bacteria. Legionnaire disease is a severe form of pneumonia caused by Legionella Bacteria sometimes found in waste systems. It is typically contracted by breathing mist from the waster that contains it.

•Paul Allen who co-founded Microsoft, super yacht had a disastrous run in with a coral reef. The Tatoosh, Allen's 300-foot yacht, damaged a chunk of protected coral reef with its anchor chain in the Cayman Islands, according to the islands' Department of Environment. Ironically, Allen now works to "save endangered species," and "improve ocean health" through his charitable foundation and research projects. Allen was not aboard the yacht during the incident, per Scott Slaybaugh, the Department of Environment's deputy director. An investigation is ongoing, but the initial estimate is that about 11,000 square feet (a quarter of an acre) of underwater terrain was destroyed. The maximum fine for the damage is about $600,000, excluding civil damages, Slaybaugh said.

•The EPA reached settlement with privately held real estate developer Lightstone Group to spend approximately $20 million to clean up 3.4 acres of land in their planned 700 residential unit development. The land has a historical past having housed a manufactured gas plant, mills, tanneries and chemical plants. The settlement agreement, known as the Bona Fide Prospective Purchaser (BFPP) performing removal work agreement, provide liability relief for the prospective purchasers under CERCLA in exchange for cleanup work which may otherwise fall upon EPA to perform.

•A remodeling contractor was reconditioning a tile floor in a home undergoing extensive renovations. The workers inhaled toxic vapors from the sealants used in the reconditioning process. Several subcontracted workers in the home filed bodily injury claims totaling $125,000 against the contractor who did not have a contractor’s pollution liability insurance policy and pollution was excluded from their commercial general liability policy. The homeowner paid for part of the claims.

•An English speaking but not English reading employee accidentally mixed non-compatible chemicals for cleaning. The fumes from the chemicals forced the evacuation of all the building tenants while decontamination took place. Third party bodily injury, property damage and business interruption claims against the building owner exceeded $1,000,000.

•A restaurant was subject to cleanup costs and business interruption expenses when a contractor they hired for an addition ruptured an unmarked petroleum pipeline. The contractor did not have Contractors Pollution Liability insurance. Total costs exceeded $300,000. Lawsuits filed against the contractor caused for the contractor’s bankruptcy so the property owner with the deep pockets paid the costs.

•An automobile dealership had a wash bay’s piping system that released a substantial amount of cleaning solvents into soil and ground water. Overtime this caused ground water contamination and the cost to remediate the cleaning solvents, soil and ground water was $250,000.

•During the installation of a geothermal heat pump system, the contractor punctured an unmarked natural gas line causing gas to release from the pipe. Emergency response costs exceeded $125,000 for the home owner since the contractor did not have a financial assurance mechanism in place to meet the environmental indemnification agreed to in the construction contract.

•A real estate limited partnership, acquired property previously used for farming on which they planned to build a mall. The firm hired an environmental consultant to conduct a Phase I Environmental Assessment. The property was determined to be "clean." However, when excavation for the mall began, 100 drums of buried pesticides and herbicides were unearthed. The chemicals contaminated the soil and had to be removed at the firm's expense. Remediation and drum disposal costs exceeded $750,000.

•A dry cleaner leased commercial space from a property owner. PCE, a dry-cleaning chemical was detected in soil and groundwater. The dry cleaner was forced out of business and the property owner paid $1,500,000 for investigation, remediation, defense and third party bodily injury, third party property damage and business interruption claims.

•It was never determined how a yacht at a marina caught on fire. Because of the fire, neighboring boats also caught on fire. Fire departments responded to the fires and after the fires were put out the resulting environmental damage cost the yacht owner more than $2,000,000 in fines, penalties, cleanup, business interruption….

•A resort was hosting a convention. Several attendees got sick and were rushed to the hospital. It was determined the resort HVAC system had an outbreak of legionnaires disease. Claims for third party bodily injury, clean up… has exceeded $10,000,000.

•A horse racing track was subject to Clean Water Act Violations for disposing of process waste water into storm drains which contaminated a nearby bay. They will pay a $150,00 fine and spend more than $2,000,000 correcting the problem.

•Upon arriving to their summer residence, the homeowners discovered a water pipe burst during the winter and the basement was flooded. When the homeowners contacted their caretaker, they learned he had been sick during the winter an unable to check on the cottage. The mold remediation took several weeks and since the homeowners had a mold exclusion on their homeowner’s policy and the former caretaker did not have any money, the homeowner paid more than $100,000.

•Over a period of several years, storm water runoff flowed down grade over a farmer’s outdoor storage area and into a nearby stream and lake. Due to excessive algae and bacteria in the lake, residents and businesses filed claims that exceeded $2,000,000 for property damage, loss of enjoyment, and perceived bodily injury.

Benefits of the ERMI HNW Pollution Insurance Program

The one question for those of HNW to answer regarding self-insuring or transferring their environmental exposures via the ERMI HNW Pollution Insurance Program is quite simple.

Question: Based upon your risk appetite / tolerance, does it make fiscal sense to transfer your environmental liabilities for fractions of a cent on the dollar to the ERMI HNW Pollution Insurance

Program or wait until an environmental loss occurs and spend 100 cents on the dollar out of your own pocket for legal fees, third party bodily injury, cleanup costs, third party property damage, third party business income, emergency response / investigation / disposal costs, claims management…?"

The Three Main Benefits environmental liability insurance offers:

1. Defense Costs: Environmental liabilities are relatively new and very litigious. Even if you do nothing wrong you can still get named in a suit and must expense defense costs i.e. legal fees, environmental investigations, etc.

2. Claim Management: All policies come with specialists to assist in handling a claim. Who oversees communications, public relations, emergency response, government compliance, financial management, third party claims for bodily injury, property damage, natural resource damages….?

3. Third Party Liability: Most the time the cost to clean up the environmental problem/s is far less than the associated claims that come in from third parties for bodily injury, property damage and business interruption.

Part #3: Environmental Liability Insurance For HNW Insured's To Consider

ENVIRONMENTAL IMPAIRMENT LIABILITY (EIL): EIL, sometimes referred to as pollution legal liability, this coverage is for those who own, operate, lease, or have any other insurable interest in real property and the operations. Coverage can be written in a variety of ways addressing unknown preexisting conditions or new conditions. Coverage can include third party bodily injury and property damage along with business interruption and extra expense, on and off site cleanup costs, legal defense expenses, non-owned disposal sites, transportation, emergency response and more. EIL can be offered on multiyear terms. Most EIL policies cover above ground storage tanks. Underground storage tanks can be covered with EIL.

Property Transfer Coverage

When buying or selling property there can be unknown preexisting environmental conditions. Since environmental due diligence (Phase I, Phase II…), cannot guarantee uncovering all potential environmental liabilities there is property transfer insurance. Property Transfer coverage protects the new owner or any party with an insurable interest, against unknown environmental conditions that may be discovered during the policy period, that were not caused by the new owner. Property Transfer coverage can also protect the insured should a third party have contamination that migrates onto an insured site. You can cover multiple locations on a single policy and the policy is generally written on a multi-year term.

Note: *For real estate owners it's critical to understand that under Federal law, the property owner is ultimately responsible for the environmental condition of their property, regardless of who / what created the environmental liability.*

Contractors Pollution Liability (CPL): For those of HNW to protect themselves from vendors they hire there is Contractors Pollution Liability (CPL) insurance. CPL protects the insured contractor should they cause or exacerbate an environmental condition while performing their contractor services. CPL protects the insured for covered operations performed by or on behalf of the insured, while operating away from any premises they own, rent, lease or occupy.

CPL can be offered on a claims made or occurrence basis. Coverage can be written on a job specific basis, or on a blanket basis to cover all the work performed by the insured. Most policies can be endorsed to cover transportation pollution liability, mold, lead, asbestos, defense outside the limits, off-site disposal coverage, emergency response costs….

A major environmental liability exposure faced by all contactors lies in the subcontractors they hire to do work for them. If there is an environmental loss at a job site, innocent contractors can and do get named in lawsuits. Do your subs/vendors have CPL insurance if they cause an environmental loss?

Note: *In the commercial business environment, contractors carrying contractor's pollution liability insurance is typically acceptable. For those of HNW, Environmental Risk Managers, Inc. (ERMI) feels your strategy should be to take out an Owner Controlled Contractors Pollution Liability (OCCPL) to cover the variety of vendors you have performing services for you from domestic help, landscapers, contractors, boat and aircraft pilots / crew…. This will not only be more cost effective but as the first named insured you are the only one who can make changes to the policy. Also, by filling out the warranty application you are assured the appropriate coverage is in force for the vendors performing services for you.*

TRANSPORTATION POLLUTION LIABILITY (TPL): Generally, transportation policies exclude pollution losses arising from spills or other releases from transported cargo. Broadened transportation pollution liability affords coverage during the loading, unloading and transportation, for a spill, release or sudden upset and over turn of transported cargo in a conveyance for road, rail, water or air.

UNDERGROUND STORAGE TANKS (UST): Financial responsibility requirements ensure that owners and operators of underground storage tank systems can financially handle a release from an underground storage tank. The responsibility encompasses the ability to pay funds for corrective action and third party bodily injury and property damage from non-sudden and sudden and accidental releases from a regulated underground system.

AVIATION POLLUTION LIABILITY: Typically, aviation insurance policies will cover pollution liabilities for an aircraft while in motion / operation but not while idled / parked. It's not uncommon for hanger leases to contain an environmental indemnification clause where the aircraft owner is indemnifying the hanger owner for environmental liabilities. The ERMI HNW pollution program can protect aircraft owners from this exposure.

MARINE POLLUTION LIABILITY: Marine policies often cover for pollution losses for fluids necessary for the operation of the watercraft for a covered cause of loss. Typically, other environmental exposures are excluded. The ERMI HNW pollution program can protect you from pollution losses not typically covered on your marine / yacht insurance policy.

EMERGENCY RESPONSE COSTS: Should an environmental release occur you must immediately notify environmental regulators and take action to address clean up, investigation, transportation, disposal, third party property damage, third party bodily injury costs and much more. These are often referred to as emergency response cost and the ERMI HNW pollution program can protect you from this exposure.

For more information on HNW pollution protection, contact Chris Bunbury, eS of Environmental Risk Managers. Phone 231-256-2122, email: chris@ermi.us, website www.ERMI.us.

Michael Jordan Owned Golf Course Pollutes St. Lucie River In Violation Of Florida Rule

NICE HEADLINE!!

Besides the obvious reputational risk associated with environmental liabilities, the deeper story for your High Net Worth Insureds is making sure they have a financial assurance strategy in place to protect themselves from environmental liabilities created by the vendors they hire.

A few years ago, both Home Depot and Wal-Mart paid multimillion dollar fines for storm water runoff from their construction sites. Home Depot and Wal-Mart do not own construction companies, so the liabilities came to them from the vendors they hired to perform the construction. This is the same scenario now impacting Michael Jordan.

After paying their multimillion dollar fines, Home Depot and Wal-Mart implemented a financial assurance strategy were as contractors must evidence proof of Contractors Pollution Liability insurance in force before they can begin work for either company. Wal-Mart has since taken it one step further where contractors can't bid jobs without first evidencing Contractors Pollution Liability insurance being in place.

If Home Depot and Wal-Mart feel a need to have a financial assurance strategy in place to protect their assets from the vendors they hire, why should it be any different for your High Net Worth insureds.

Environmental Risk Manager, Inc. (ERMI) pollution liability insurance program for your High Net Worth insureds can protect them from pollution liabilities like Michel Jordan is facing and considerably more.

Attached is an environmental Risk Assessment (eRA) for High Net Worth insureds. The eRA is designed to get you and your High Net Worth Insureds on the same page about the environmental exposures impacting their resources. We send our eRA's in a Word format, so you can cut and paste it into a marketing presentation that compliments your agencies marketing program.

ERMI partner agencies find utilizing the eRA's is an excellent way to leverage their insurance sales through educating the client about the fiscal realities of pollution protection. It genuinely *does* have a measurable impact to their strategic financial planning.

The eRA comes in three parts:

1. Review of environmental exposure impacting your insured.
2. Environmental loss examples
3. Environmental insurance coverage's that are appropriate for the insured to consider.

The goal is to educate your High Net Worth insured's, so they can make an informed decision if investing in the ERMI High Net Worth Pollution Insurance product will add value in protecting their resources.

If your High Net Worth insured sees value and elects to further pursue environmental insurance coverage, ERMI's TEAM of environmental Strategist® are here to assist you.

Insurance professionals not discussing pollution exposures with their High Net Worth insured's, may find their E&O insurance is the only coverage their insured may have when they experience an environmental liability.

https://www.tcpalm.com/story/news/local/indian-river-lagoon/health/2018/02/02/construction-michael-jordan-owned-golf-course-polluting-south-fork-st-lucie-river/301580002/

Environmental RISK MANAGERS

Fire Insurance & Environmental Exposures

Why has environmental risk management and insurance become part of "Best Practices" for insurance professionals? The simple answer, every HNW Insured is impacted by environmental exposures.

The reality, in today's transparent business environment, managing and transferring environmental exposures has become a critical risk management component that can drive a business's growth and profits. In the process, those insurance professionals making environmental risk management and insurance part of "Best Practices" become a trusted advisor and team member with insured's.

So how do fire insurance policies fit in? First, we need to ask, why do commercial insurance professionals sell fire insurance policies to client's?

- The financial institution holding the note on their property requires it?

- The property owner can't afford to self-insure against the peril of fire so the economies of scale make business sense to purchase a fire policy?

- It's included in their BOP?

- It's what you have always done as an insurance professional?...

Does the fire policy help the insured? Yes, but what happens when a fire occurs? A fire occurs and the fire department puts out the fire. Now in the aftermath the water and chemicals used by the fire department and the burned contents of the building mix together and creates a pollution liability. The fire department is immune from prosecution but under Federal law the property owner is ultimately responsible for the environmental condition of their property. So, any business with a fire policy, that experiences a fire, has an excellent chance of being impacted by environmental liabilities.

Example: Auto parts dealers store caught on fire. After the fire was extinguished the basement of the building contained tens of thousands of gallons of a hazardous goo. It cost the owner of the store in excess of $80,000 to dispose of the goo which was not covered by insurance. The store owner sued their insurance professionals E&O policy for coverage.

With risk management, you walk a fine line between being proactive and creating unexpected consequences such as increased exposure to a new risk. Take sprinklers systems in buildings. While sprinklers suppress fires they also spread pollutants.

Let me give you another example: Aboveground Storage Tanks (AST's) as a means to reduce risk versus Underground Storage Tanks (UST's)? Initial reactions generally are AST's make sense versus UST's. However,

- Are the AST's equipped with secondary containment? If not, then a leak can spread contamination faster and further than a UST.

- Is the integrity of the secondary containment tested on a regular basis? This is what happened in a West Virginia chemical spill. The secondary containment failed causing a pollution event that deprived over 300,000 residents in nine counties access to fresh drinking water for days along with businesses, schools, municipalities…. I read one report that said local hotels were losing $1,000,000 a day. Freedom Industries the business that caused the spill in West Virginia filed for bankruptcy days after the spill.

- Are the AST's located where natural disasters (tornados, floods, hurricanes, earthquakes…) occur? Natural disasters can destroy the integrity of the tank releasing its contents?

We could go on and on but hopefully you now have a better understanding why environmental risk management and insurance are part of "Best Practices" for commercial insurance professionals.

Environmental Risk Management Tip: Don't get fooled by the "limited" pollution policies offered by standard property and casualty insurance carriers. The reason insurance carriers offer "limited" pollution coverage is because it "limits" the insurance carriers exposure to environmental liabilities. **"Limited" pollution policies offer "limited" benefits to the insured**.

Natural Disaster Seasons = Great Time to Talk Pollution Insurance

Natural Disaster Seasons (NDS, i.e. Flooding, Tornados, Forest Fires, Hurricanes…) are a great time to talk pollution. Did you know most pollution policies do not exclude Acts of God?

During NDS, national and local media are lighting up the airways / internet highway with all the pollution problems caused by a natural disaster. You hear about storage tanks releasing their contents as debris crashes into them during flood season. Pollutants spread out over miles from tornados or hurricanes. Forest Fires engulfing communities and causing explosions that release pollutants in the air and the list goes on.

Note: Pollution losses tend to be a severity versus frequency issue.

Businesses to strategize on the value pollution insurance adds to their business model during NDS are those that feel they do not have a pollution exposure. For this example, let's use real estate owners. For sake of avoiding an argument, agree with the real estate owners they do not have a pollution exposure, but then ask, what if a natural disaster deposits pollutants on your real estate? As we move into spring the thoughts of melting snow carrying contaminants to nearby waterways to be deposited downstream during flood season to unsuspecting real estate owners in one simple example.

Note: Under federal law, the real estate owner is ultimately responsible for the environmental condition of their property.

It may not be until years later when the real estate owner goes to sell their property and an environmental site assessment unveils an environmental problem from pollutants deposited during NDS. Whose responsible?

Since every business is impacted by environmental exposures, it's now part of "Best Practices" for businesses to have a financial assurance strategy in place to address their exposure to environmental liabilities caused by Natural Disasters.

NDS and pollution insurance go together like April showers that bring May flowers.

Category 3 water

According the IICRC (Institute of Inspection Cleaning and Restoration Certification), which sets the standards for the cleaning industry and water damage restoration training, there are different levels and classes involved in liquid destruction. From the IICRC's S-500 standards, **there are three categories describing the type of liquid involved**.

- **Category 1**. This is liquid from a clean and sanitary source, such as faucets, toilet tanks, drinking fountains, etc. But, category one can quickly degrade into category two.

- **Category 2**. This category of liquid used to be called grey water, and is described as having a level of contaminates that may cause illness or discomfort if ingested. Sources include dishwasher or washing machine overflows, flush from sink drains, and toilet overflow with some urine but not feces.

- **Category 3**. This is the worst classification and is grossly unsanitary. It could cause severe illness or death if ingested. It used to be called black water, and sources include sewer backup, flooding from rivers or streams, toilet overflow with feces, and stagnant liquid that has begun to support bacterial growth. Category 3 water may carry other pollutants such as organic matter, pesticides, heavy metals, regulated materials, silt….

Contamination from Bacteria (mold) is one of the main differentials between Category 2 and Category 3 water. Mold growth, or colonies can start to grow on a damp surface with in 24 to 48 hours.

Property and liability insurance policies generally exclude coverage for losses "related to" fungus/bacteria (mold) which would apply to Category 3 water losses. Pollution liability insurance policies are designed fill this coverage gap.

Legionnaires Disease

eS between the lines: Legionnaires Disease is a bacteria that can create an environmental liability for those using central air conditioning systems, fountains, room-air humidifiers, ice-making machines, whirlpool spas, water heating systems, showers, misting systems typically found in grocery-store produce sections, cooling towers used in industrial cooling systems, evaporative coolers, nebulizers, humidifiers, windshield washers….

A little background: Legionnaires is bacteria that got its name after a 1976 outbreak at an American Legion Convention in Philadelphia. 221 people contracted the bacteria and 34 died. Below is information on a recent Legionnaires outbreak in New York City.

What risk management strategy are you implementing to address exposure to Legionnaires Disease for your client's? Pollution liability insurance can protect property owners or those with an insurable interest for their exposure to Legionnaires.

Legionnaires' Death Toll Climbs With 4 Dead in NYC

By Tyler Pager, USA TODAY

The Legionnaires' outbreak in New York City continues to spread, as another person has died and eight more people were reported to be affected by the disease. New figures released by New York City's Department of Health and Mental Hygiene on Saturday show four people have now died from the disease and 65 people have contracted it.

The data also says 20 individuals have been successfully treated, and all the people who died were "older adults" and had other underlying medical problems. If it is caught early, Legionnaires' can be treated. Symptoms include coughing, fatigue and confusion, but the disease cannot spread from person-to-person. Instead, people contract the disease when they breathe in mist or vapor from a contaminated plumbing system.

Five buildings tested positive for the deadly bacteria, including Lincoln Hospital, Concourse Plaza and Opera House Hotel. The latest buildings to test positive are a Verizon office building and Streamline Plastic Co. Remediation has been completed at four of the buildings, and officials said "Streamline Plastic Co." is expected to complete the process by Saturday afternoon. All sites will be required to submit plans outlining how they will maintain cooling towers to guard against future outbreaks.

Bronx Borough President Ruben Diaz said that right now, the city has no mechanism for enforcing inspection of coolant systems, rooftop water tanks and standing water infrastructure that can be a "breeding ground" for Legionnaires'. Diaz said Friday he is working with members of the New York City Council and agencies affected by the outbreak to craft legislation to correct this."The city must create a new inspection system for these systems, just as we inspect other critical systems such as elevators," Diaz said. Officials said New York City's drinking water supply is unaffected by the disease outbreak.

Source of Deadly NYC Legionnaires' Outbreak Identified

Health officials have identified a cooling tower at the Opera House Hotel as the source of the Legionnaires' spike that has sickened more than 120 people in the Bronx, killing 12 of them, since July, marking the largest outbreak of the disease in New York City history.

The tower at the Opera House Hotel was disinfected Aug. 1, authorities said. The last case reported in connection with the outbreak was reported two days later. Local, state and federal officials tested samples from 25 patients linked to the outbreak, including some who died, and in each case found a match to the strain of Legionella found in the cooling tower at the Opera House Hotel.

Health Commissioner Mary Bassett made the announcement at an afternoon news briefing Thursday as she declared the outbreak was "over." Since July 10, 128 cases of Legionnaires' have been reported. No new cases have been reported in nearly three weeks. "We have not seen anyone become sick in the area of the outbreak since Aug. 3 and we are now well past the incubation period of the disease," Bassett said.

City, state and federal officials canvassed more than 700 sites in the south Bronx, where the outbreak was focused, in their search for the source. In total, 14 of 39 buildings with the type of cooling towers that lend themselves to Legionella growth were found to be contaminated. The Opera House Hotel said in a statement that it was disappointed to learn its cooling tower was the source of the outbreak.

"It's particularly disappointing because our system is 2 years old, has the most up-to-date technology available and our maintenance plan has been consistent with the regulations that both the city and the state are putting in place," the statement said. "We have worked closely with both the city and the state since this issue first arose and have done everything requested to address the situation."

Concerns about prevention and safety prompted the city to develop and pass new legislation to regulate cooling towers, one of the locations where Legionella, the bacteria that causes the potentially severe pneumonia-like disease in people who are exposed to it, is likely to grow. Under the new legislation, cooling towers across the city must be tested regularly for Legionella bacteria; any found to be contaminated must be disinfected immediately. The regulations specify penalties for violations, and the legislation makes New York City the first major city in the United States to regulate cooling towers.

Prior to the recent outbreak, no city records were kept as to which buildings had cooling towers. The Opera House Hotel said it fully supports the new regulations. "We believe they are appropriate and will enhance the protection of public health. That said, we intend to go beyond the requirement to test our cooling tower every 90 days by testing every 30 days when the tower is in operation," the statement said. "Given recent events, we have decided to be especially cautious going forward."

Legionnaires' disease usually sets in two to 10 days after exposure to the bacteria and has symptoms similar to pneumonia, including shortness of breath, high fever, chills and chest pains. People with Legionnaires' also experience appetite loss, confusion, fatigue and muscle aches. It cannot be spread person-to-person and those at highest risk for contracting the illness include the elderly, cigarette smokers, people with chronic lung or immune system disease and those receiving immunosuppressive drugs. Most cases can be treated successfully with antibiotics.

An outbreak last hit the Bronx in December. Between then and January, 12 people in Co-op City contracted the potentially deadly disease. Officials said a contaminated cooling tower was likely linked to at least 75 percent of those cases. No one died in that outbreak.

Legionnaires at Graceland

Priscilla Presley and Joel Weinshanker along with the Presley Family and Authentic Grands Group own the right to Graceland Operations. 9 people staying at the Guest House at Graceland Hotel were sickened from Legionnaires. The Hotels swimming poll and hot tub both tested positive for the Legionnaires bacteria. Legionnaire disease is a severe form of pneumonia caused by Legionella Bacteria sometimes found in waste systems. It is typically contracted by breathing mist from the waster that contains it.

Yacht Fire

The fact is, simply do to their resources, High Net Worth (HNW) insureds are impacted by a wealth of environmental exposures. Until Environmental Risk Managers, Inc. (ERMI) introduced their HNW pollution program, self-insurance was basically the only option for HNW insureds in addressing their environmental exposures.

As the links below point out, a yacht owner is now paying legal fees to try to be made whole from a fire loss to his $24,000,000 yacht while it was in dry dock for repairs. While the insurance carrier is denying coverage, had this insured had an ERMI HNW insurance pollution policy they could have been covered for the pollution caused by the fire along with legal fees, clean up, third party bodily injury, third party property damage, third party business income, natural resource damages and much more.

While the shipyard where the work was being performed settled with the yacht owner for $9,200,000, the company that caused the loss has closed and its owners have fled the country.

Do you know if your HNW insureds like self-insuring their environmental exposures or would they prefer to transfer their environmental exposures for fractions of a cent on the dollar to the ERMI HNW pollution program? Have you asked?

http://riskandinsurance.com/24-million-yacht-burns-owner-ignores-key-policy-terms-and-conditions/

https://www.bloomberg.com/news/articles/2016-04-11/why-are-all-these-superyachts-catching-on-fire

https://www.youtube.com/watch?v=8v_wptmnS-k

https://yachtharbour.com/news/31m-superyacht-ordisi-catches-fire-in-alicante-2338

Meth Labs

eS between the lines: Meth labs are a huge environmental hazard that can impact each and every one of us. Meth labs can be found in places such as homes, trailer parks, apartments, automobiles, hotel rooms, commercial buildings, or as the link below points out, mother nature.

From the US Forest Service website on meth labs:

As an environmental hazard, the byproducts of meth labs contaminate their surroundings with harmful fumes and highly explosive chemical compounds. Abandoned meth labs are basically time bombs, waiting for the single spark that can ignite the contents of the lab. In the hands of the untrained chemists simultaneously using meth and working with the flammable chemical components, a working meth lab is just as unsafe.

Simply put, meth kills. The drug stimulates the central nervous system, producing excess levels of neurotoxins the brain cannot handle. As a health concern, meth eliminates brain functions and leads to psychosis and, in some cases, deadly strokes. Other long-term effects of meth use include respiratory problems, irregular heartbeat, extreme anorexia, tooth decay and loss, and cardiovascular collapse and death.

How to recognize a Methamphetamine lab?

- Unusual, strong odors like cat urine, ether, ammonia, acetone or other chemicals.
- Coffee filters containing a white pasty substance, a dark red paste, or small amounts of shiny white crystals.
- Glass cookware or stove pans containing a powdery residue.
- Shacks or cabins with windows blacked out.
- Open windows vented with fans during the winter.
- Excessive trash including large amounts of items such as antifreeze containers, lantern fuel cans, engine starting fluid cans, HEET cans, lithium batteries and empty battery packages, wrappers, red chemically stained coffee filters, drain cleaner and duct tape.
- Unusual amounts of clear glass containers.

Getting rid of a Meth Lab?

Getting rid of a meth lab is dangerous and expensive. Meth cookers dump battery acid, solvents and other toxic materials into rivers or the ground. Much of the waste is highly flammable and explosive.

- One pound of meth produces six pounds of toxic waste.
- Even months after meth labs have been closed, chemical residue still remains.
- The chemicals used in the manufacturing process can be corrosive, explosive, flammable, toxic, and possibly radioactive.
- Solvent chemicals may be dumped into the ground, sewers, or septic systems. This contaminates the surface water, ground water, and wells.
- Traces of chemicals can pervade the walls, drapes, carpets, and furniture of a laboratory site.
- Pollution liability insurance can protect you against the environmental exposure to meth labs. Contact your environmental team member at Environmental Risk Managers to strategize in more detail.

Illicit Abandonment

environmental Strategist®, between the lines: Illicit Abandonment is an environmental exposure, which most commercial real estate lessors don't think about.

Let me digress, back in 2008 when the economy tanked, we received a call from an insurance agent who explained his client had a leased facility and the tenants went out of business. When the client went to inspect their property, they found raw materials stored in 55 gallon drums, totes and other storage containers, which were left behind by the bankrupt tenant. None of the containers were leaking or causing an environmental liability, but to rent the building out the owner had to get rid of the raw materials and it cost more than $80,000. That is a simple example of illicit abandonment and this exposure can be covered with pollution liability insurance.

The article below talks about refurbishing of containers, such as 55 gallon drums, and the environmental exposures it creates for workers and neighbors to business those refurbish containers. The article also talks about how most containers they receive have some residual product left in the containers.

When you see a facility like the one in this picture, which stores old containers outside over an unsealed surface, over time residuals will leak out and contaminate the ground and ground water. Under federal law the owner of the property is ultimately responsible for the environmental condition of their property. What if the contamination migrates onto a neighboring property?

What the article does not talk about is the huge environmental exposure storage and use of 55 gallon drums, totes, buckets… creates for businesses that use them. How does the business buy the raw materials; FOB point of shipment, or FOB point of delivery? Do they store them in a secure area with secondary containment?

As your client's professional risk manager, do you go out and inspect their rental properties to make sure a tenant is not creating an environmental exposure for your insured? What is the tenant's strategy to meet the environmental indemnification contained in the lease agreement they signed?

Is the tenant's financial assurance strategy to go out of business if they create an environmental liability, and leave the property owner with an illicit abandonment exposure?

Working with *Environmental Risk Managers* we can coach you and your client's on better managing and transferring their environmental exposures.

ERMI Sales Strategy: Every time you go out and inspect a client's tenant, it creates a potential new sales opportunity for you with the tenant. While serving your client's better, you are also creating a great opportunity to increase your sales. Win /Win!!!!!

https://projects.jsonline.com/news/2017/2/15/chemicals-left-in-barrels-leave-many-at-risk.html

Natural Disaster Seasons Are A Great Time to Talk Pollution Insurance

2017 Set Record for Losses from Natural Disasters: Insurers are set to pay out a record $135 billion to cover losses from natural disasters.

As ERMI has coached in the past, Natural Disaster Seasons (NDS, i.e. Flooding, Tornados, Forest Fires, Hurricanes, earthquakes…) are a great time to talk pollution. Did you know most pollution policies do not exclude Acts of God.

During NDS, national and local media are lighting up the airways / internet highway with all the pollution problems caused by natural disasters. You hear about storage tanks releasing their contents as debris crashes into them during flood season. Pollutants spread out over miles from tornados or hurricanes. Forest Fires engulfing communities and causing explosions that release pollutants in the air and the list goes on.

Note: Pollution losses tend to be a severity versus frequency issue.

The Prospects you want to strategize with on the value pollution insurance adds to their business model during NDS are those that feel they do not have a pollution exposure. For this example, let's use real estate owners. For sake of avoiding an argument, agree with the real estate owners they do not have a pollution exposure, but then ask, what if a natural disaster deposits pollutants onto your real estate?

Note: Under federal law, the real estate owner is ultimately responsible for the environmental condition of their property.

It may not be until years later when the real estate owner goes to sell their property and an environmental site assessment unveils an environmental problem from pollutants deposited during NDS. Whose responsible?

Since every business is impacted by environmental exposures, it's now part of "Best Practices" for businesses to have a financial assurance strategy in place to address their exposure to environmental liabilities caused by Natural Disasters.

As your team member for all things environmental, let ERMI know how we can assist you to drive your sales during NDS.

http://www.advisen.com/tools/fpnproc/news_detail3.php?list_id=1&email=chris@ermi.us&tpl=news_detail3.tpl&dp=P&ad_scale=1&rid=300316308&adp=P&hkg=v17ZNLMWEU

TEAMing With “Business Professionals” To Generate Insurance Sales

To assist you to grow your insurance sales, environmental Strategist® has developed this competitive environmental intelligence series on executing a **TEAM SPORT** strategy.

After more than 25 years of operating a specialty environmental insurance wholesale operation, I have observed one common denominator successful insurance professionals share, they are continually looking for new opportunities.

Since every business is impacted by environmental exposures and fewer than 15% of licensed insurance professionals are actively selling environmental insurance products there is huge upside for insurance professionals looking for opportunities.

environmental Strategist® has developed this five-part educational resource specifically for you to coach up “business professionals” (i.e. attorney’s, accountant’s, banker’s, realtor’s, environmental engineers) on the value you can add to their business model. Through this process “business professionals” will bring you insurance sales opportunities to make sure they are better protecting their E&O exposure while executing environmental “Best Practices” with their client’s.

As a simple example let’s look at attorney’s that draw up contracts for real estate buy / sell agreements. It’s hard to find a buy sell agreement that does not contain an environmental indemnification. However, if a financial assurance mechanism (letter of credit, monies in escrow, insurance, bond…) is not put into place to back stop the environmental indemnification and there is a default, the contract may not be worth the paper it is written on. This can create and E&O exposure for the attorney since the attorney put the environmental indemnification in the contract, billed their client, but did not back stop it by making sure a financial assurance mechanism was in place to support their contract. Attorney’s clients have been coming back to their attorneys for the financial solution since the indemnifying party defaulted on the “attorney’s” contract.

In Series One of our five part series, we are going to review why “business professionals” will bring you sales opportunities utilizing a TEAM SPORT strategy.

eS TEAM SPORT Strategy:
Every insurance professional knows referral business is an excellent source for new business sales. An insurance professional can either ask for referral business or they can produce referral business while assisting “business professionals” to leverage their business model. A Win / Win strategy and much more professional than asking for referrals to generate new business.

Producing referral business creates a higher success rate than asking, while at the same time positioning the insurance professional as a trusted advisor and strategic partner.

Let me digress, the only constant we have is change (opportunity). The environmental industry has created change (opportunity) in the way businesses operate. This also creates change (opportunity) for the way business professionals leverage their products or services to proactively address environmental exposures impacting their client's / prospects. By following the environmental Strategist® (eS) www.estrategist.com holistic **TEAM SPORT** strategy you move beyond asking for referral business to "business professionals" asking you to assist them in helping their clients.

Fortunately, the complexities of addressing environmental issues means there is no one stop shop to be able to get all your answers. Therefore, the success a business professional has in addressing environmental exposures impacting their client's, depends upon the TEAM that business professional surrounds themselves with.

environmental Strategist has branded this a **TEAM SPORT** strategy. **TEAM SPORT** stands for **T**ogether **E**veryone **A**ccomplishes **M**ore because **S**trategic **P**artners **O**ptimize **R**esources and **T**ime.

Who are your TEAM members?
To answer that, let's look at what a typical environmentally reactive business does when they find out they have an environmental problem. Keep in mind, since the business is reactive they are managing the environmental problem after it occurs.

Probably the first business professional an environmentally reactive business will call is their **attorney**. After they call their attorney, they will contact their **insurance agent** to see if they have any environmental insurance coverage. When their insurance agent informs them, they do not have any coverage, the reactive business generally will call their attorney back to sue the insurance agent's E&O.

Since the environmentally reactive business is unknowingly self-insuring their environmental liabilities, they will need financial resources to correct the problem and pay legal fees, cleanup cost, third party bodily injury, third party property damage…, so they need to involve their **financial institution**. However, most financial institutions, once they find out they have a client with an environmental problem, their strategy is to call all obligations due and sever the relationship.

Since the reactive business has an environmental liability, they need to involve their **accountant** to accurately express their current financial position.

If the business owns, buys, sells or manages property they will want an environmentally knowledgeable realtor as part of their **TEAM**.

You include the businesses **environmental services providers** (environmental engineers, remediation contractors, waste haulers, etc.), and some of the **businesses employees**. This rounds out your typical **eMS TEAM.**

In Series Two we will review TEAM SPORT strategies for working with attorney's to generate insurance sales.

environmental Strategist (eS) business leverage strategy: In achieving your environmental Strategist (eS) certification @ www.estrategist.com **you position yourself as the TEAM leader the other TEAM members report to. The** www.estrategist.com **Collaboration Portal is designed to position the eS as the TEAM leader. Each time you develop a TEAM to assist a client to leverage their business model, other TEAM members will ask you for assistance in helping them with some of their client's. The eS producing referral business strategy is a win / win/ win / win for your clients, your TEAM members client's, TEAM members and you.** www.estrategist.com educates business professionals how to leverage their business model by moving beyond asking for referral business.

Environmental Risk Managers "Business Professionals" Series, TEAMing with Attorney's To Drive Insurance Sales

Of all the "business professionals" (i.e. attorney's, accountant's, banker's, realtor's, environmental engineers) we are highlighting in the ERMI TEAMing with "Business Professionals" series, attorneys represent the lowest hanging fruit for insurance professionals to TEAM with.

There are several reasons for this which we will cover in this competitive environmental intelligence but mainly, attorneys tend to specialize in specific areas of law, i.e. general business, estate planning, bankruptcy, patent / trademark, environmental, criminal, international, employee, civil… This means an attorney is well versed in their specific area of law but possess very little knowledge about assisting their clients to manage and transfer their environmental exposures. Note: As highlighted in Series #1, TEAMing With "Business Professionals", every business and individual is impacted by environmental exposures.

Historically, once an environmentally reactive business / individual calls their attorney to assist them with an environmental liability, the attorney brings in their firm's environmental specialist to address the issue. This business model will generally lead to some form of litigation and what attorney's clients have learned over the years about environmental litigation is its very time consuming, stresses resources and desired results are generally not achieved

Insurance professionals are not going to fix a broken business model overnight, but you can fill a huge gap in most attorney's work, lack of financial assurance to backstop their legal documents. In today's business environment, the name of the game for attorney's is avoid litigation to grow their client base and business. Insurance professionals are armed with an arsenal of products to assist attorneys to grow their business model.

The bottom line, today's transparent business environment has changed the way Attorney's must address environmental exposures impacting their client's which means opportunity for insurance professionals.

Note: Education is a vital component to building a TEAM relationship with "Business Professionals". Throughout the ERMI "Business Professionals" series we will offer coaching tips to assist you in building your relationships with "Business Professionals".

ERMI TEAM Relationship Coaching Tip: In some *contracts, attorney's will require financial assurance to backstop indemnifications contained in the contract. They will generally achieve this utilizing standard property and casualty and environmental insurances with coverage being evidenced by a certificate of insurance. The problem this strategy presents in relation to environmental insurance is, an environmental insurance policy will not be issued without the insurance carrier first receiving a completed and signed* *"warranty" insurance application. In general terms the application will state that the environmental insurance policy is being issued based upon the signed "warranty" application and that the application will become part of the policy. The application goes on to say at the time of a loss if it's discovered the application is not accurate, the insurance carrier can deny coverage. Without first confirming the "warranty" application is accurately filled out the certificate of insurance may not be worth the paper it is written on and the same is true for the attorney's financial assurances contained in the contract. Coaching attorneys to understand warranty applications will fill a gap in their financial assurance strategy in contracts and a gigantic hole in their E&O exposure.*

To support the above statements let's look at another example. For years, attorneys have utilized environmental indemnifications in real estate Buy / Sell Agreements, mergers and acquisitions and many other legal instruments. Generally speaking, attorneys feel content with addressing potential environmental exposures by simply utilizing environmental indemnifications in legal instruments and not backing them up with a financial assurance mechanism (i.e. bond, letter of credit, monies on deposit, insurance).

Today we know the problems created by this mindset and the fact that environmental indemnifications are a very cursory way of addressing environmental exposures in legal transactions.

ERMI TEAM Relationship Coaching Tip: *Environmental insurance policies pay for defense costs. Do you think an attorney would rather collect their fees from a financially solvent insurance carrier or a client that just found out they have contaminated half their towns drinking water?*

For decades, our Federal Government has utilized financial assurance requirements for asbestos and lead abatement contractors, regulated underground storage tanks, hazardous & industrial waste haulers, Landfills…, so why not more attorney's?

Insurance professionals have a variety of financial assurance products to assist attorneys to reduce their E&O exposure, one of which is pollution liability insurance. TEAMing with ERMI will allow you access to the full menu of the environmental insurance products offered by the major environmental insurance carriers.

ERMI TEAM Coaching Tip: Talking points with attorney's.

To understand why "Best Practices" for attorneys means moving beyond their current litigious business model to possessing a working knowledge of managing and transferring environmental exposures, we first must be on the same page about a few environmental facts.

1. What is a "Pollutant"? If you look at an environmental indemnification in a contract, it generally describes a Pollutant as smoke, vapors, soot, fumes, acids….. However, due to the way courts and insurance companies have responded to lawsuits and insurance claims, environmental Strategist™ (eS) has developed a definition that is easier to understand. eS define a "Pollutant" as a material, substance or product that gets introduced to an environment for other than its intended use or purpose." In other words, something that ends up where it does not belong can be a pollutant. eS

have examples where fresh water, milk, cheese, fruit, beer and more have all been defined as a "Pollutant".

2. Law firms generally utilize specially trained environmental attorney's to address their client's environmental exposures when in reality their biggest environmental exposures are with their other legal specialist's i.e. general business, health, international, labor, estate planning, merger & acquisition, real estate…. In short, nearly every attorney must possess a working knowledge of proactively addressing their client's environmental exposures. TEAMing with ERMI insurance professionals can do this. In short, you become the law firms backroom environmental risk manager on managing and transferring their client's environmental exposures.
3. Historically, attorneys have made their money by addressing past environmental problems such as asbestos, lead, mold and so much more. This reactive approach has cost attorneys time, resources, client relationships and much more. TEAMing with ERMI we can coach attorney's on proactively managing and transferring their client's environmental exposures to increase productivity and profits while reducing their E&O exposure.
4. The inability of at fault parties to meet environmental indemnifications in contracts is a reputational and liability risk for attorney's. Attorneys not practicing environmental "Best Practices" may find their E&O insurance at risk of claims from disgruntled client's.

ERMI TEAM Coaching Tip: *You would be amazed how many contracts Environmental Risk Managers (ERMI) reviews that an attorney constructed requiring the wrong pollution insurance. On almost a weekly basis ERMI will assist an attorney with correcting their contract to make sure the proper pollution insurance is being requested and put into place. TEAMing with ERMI we can make sure your legal TEAM members are not opening themselves up to an E&O exposure by requesting the improper environmental insurance.*

Today's business environment is demanding attorneys know if their work is preserving an asset or creating an environmental liability for their client and themselves. Insurance professionals TEAMing with attorney's to manage and transfer the attorney's clients environmental exposures will position themselves as a trusted advisor and strategic partner while driving the sales of their insurance products.

In Environmental Risk Managers "Business Professionals" Series #3 we will strategize on TEAM building with Bankers / Financial Institutions.

TEAMing with Bankers to Drive Insurance Sales

For decades, Bankers have utilized environmental indemnifications in their loan documents as protection from environmental liabilities. Then in the mid 1990's Phase I / II… environmental site assessments were added as another layer of defense for a Bankers lender liability exposure on real estate transactions.

In basic terms, environmental indemnifications and Phase I's have been used as a way for all concerned parties to feel content with addressing potential environmental exposures on financial transactions.

Today, we know the problems created by this mindset and the fact that environmental indemnifications and Phase I's are a very cursory way of addressing environmental exposures. Especially when you consider that environmental liabilities tend to be a severity vs frequency issue.

As countless Banks have experienced, when it comes to environmental liabilities, a client's environmental problem can become the Banks problem. That's why it's crucial for banks to have a financial assurance mechanism (Bond, Letter of Credit, Environmental Insurance, Monies in Escrow…) in place to backstop the inability of a borrower to meet environmental indemnifications.

Environmental financial assurance mechanisms also help to reduce the reputational risk associated with environmental liabilities for Banks.

When it comes to environmental liability insurance as a financial assurance mechanism, three often overlooked benefits offered in environmental liability insurance policies are:

1. **Defense Costs**: Environmental liabilities are relatively new and very litigious. Even if you do nothing wrong, you can still get named in a suit and must expense legal fees. Environmental insurance policies cover defense costs.

2. **Claim Management**: All policies come with specialists to assist you in handling a claim. Who is in charge of communications, public relations, emergency response, government compliance, financial management, third party claims for bodily injury, property damage, natural resource damages….?

3. **Third Party Liabilities**: The majority of the time the cost to clean up the environmental problem/s is far less than the associated claims that come in from third parties for bodily injury, property damage and business interruption.

Environmental Coaching Guide for Bank Professionals

1. Bankers must first understand what a "Pollutant" is? If you look at a loan document, they generally describe a Pollutant as smoke, vapors, soot, fumes, acids…. However, due to the way our courts and insurance companies have responded to lawsuits and insurance claims, environmental Strategist® (eS) has developed the following simplified definition: a "Pollutant" is a material, substance or product that gets introduced to an environment for other than its intended use or purpose." In other words, something that ends up where it does not belong can be a Pollutant. eS have examples where fresh water, milk, cheese, fruit, beer and more have all been defined as a "Pollutant".

2. Every commercial client a Bank works with is impacted by environmental exposures. What is their financial assurance mechanism?

3. eS research has determined that fewer than 50% of Phase I Site Assessments are accurate. Also, environmental due diligence (Phase I, Phase II…) as part of meeting the innocent landowner or lender liability defense only protects the real estate owner or bank from the government. Impacted non-governmental third parties can still file suit.

4. Banks, besides being cognizant of the environmental exposures impacting their collateralized properties, need to consider neighbors of collateralized properties. When a Phase I Site Assessment is conducted to investigate who neighbors are that could have contamination going onto a subject property, environmental engineers do a minimum of a 2-mile radius search. Third party contamination coming onto a bank collateralized property could impede the property owner's ability to service their loan. Under Federal law the property owner is ultimately responsible for the environmental condition of their property regardless of who caused the contamination. Environmental insurance policies can protect property owners if third party contamination comes onto their property.

5. What about bank loans for client's that lease / rent their facility to third parties? Lease / rental agreements contain "environmental indemnifications". What if a tenant experiences an environmental liability in the facility or a third-party vendor (HVAC contractor, Repairman, Landscapers…) contaminates the facility? Without a financial assurance mechanism in place, contracts that contain environmental indemnifications may not be worth the paper there written on.

6. Additional environmental exposures impacting bank loans may include but are not limited to: Vapor intrusion, Storm water runoff, Natural resource damages, Easements that cross collateralized property, New construction & remodeling on collateralized properties, Sick building syndrome, Mold, Legionella….

Bankers not proactively addressing environmental exposures may find their profits at risk when a borrower discovers they have an environmental liability. Coaching up Bankers how pollution insurance can protect them from the gaps created by environmental indemnifications in contracts and site assessments will drive the sales of your insurance products.

Environmental Liability Insurance Coverages for Banks to Consider

Simply due to their business model, every Bank is impacted by environmental exposures. Therefore, consideration needs to be given to the economies of scale afforded with environmental liability insurance versus self-insuring.

Environmental Impairment Liability (EIL)

EIL is for Banks susceptible to economic loss caused by pollution that actually or allegedly originated from owned or collateralized properties. Sometimes referred to as Pollution Legal Liability (PLL), this coverage is for those who own, operate, lease, or have any other insurable interest in real property and/or the operations. Coverage can be written in a variety of ways addressing unknown preexisting conditions or new conditions. Coverage can include third party bodily injury and property damage along with business interruption and extra expense, on and off-site cleanup costs, legal defense expenses, non-owned disposal sites, transportation and more. EIL can be offered on multiyear terms. Most EIL policies cover above ground storage tanks up to a certain size. You can cover multiple locations on a single policy.

Lender Liability Coverage (LLC) / Secured Creditor Coverage

As so many Banks have learned, when it comes to environmental liabilities, a client's environmental problem can become the Banks problem.

To address the potential environmental liabilities faced by a Bank's operations, there is a risk transfer product called Lender Liability Coverage (LLC). LLC enables Banks to shield assets by protecting collateral and insuring for environmental liabilities arising from collateral properties. LLC fills gaps created by traditional environmental indemnifications, due diligence….

LLC provides collateral value protection in the event of a loan default and a newly discovered pollution event at the covered location/s. When this occurs, LLC can pay the lesser of the outstanding loan balance and extra expenses or the estimated cleanup costs. LLC can be used on a single transaction or on a portfolio basis. Coverage is offered on multiyear policies that can run up to the term to maturity of the insured loan. LLC offers the ability to assign interest to a successor lien holder. LLC allows Banks to be more competitive on loans they would once be forced to pass-up due to environmental uncertainties.

Property Transfer Coverage

When buying or selling property there can be unknown preexisting environmental conditions. Since environmental due diligence (Phase I, Phase II…), cannot guarantee uncovering all potential environmental liabilities, insurance companies have created property transfer insurance. This coverage protects the new owner or any party with an insurable interest, against unknown environmental conditions that may be discovered during the policy period, that were not caused by the new owner.

This coverage not only helps to keep the property at its maximum value, it will assist the purchaser in being able to secure the necessary financing to complete their transaction. You can cover multiple locations on a single policy.

Mergers, Acquisitions & Pollution Protection (MAPP)

Key to any acquisition is the correct valuation and effective due diligence and MAPP operates as a backstop against issues due diligence or valuation processes may not be able to identify.

As a financial assurance mechanism for M&A's, pollution liability insurance has become part of "Best Practices". Representation & Warranties (R&W) insurance is proving its value for M&A's much the same as pollution liability insurance has.

R&W insurance is designed expressly to provide insurance coverage for the breach of a representation or a warranty contained in a Buy / Sell Agreement, in addition to or as a replacement for all or most of the seller's contractual representations and warranties.

MAPP delivers a cost-effective way to transfer R&W and pollution liabilities to a financially stable third party.

Brownfield Redevelopment Insurance

Today, more than ever, Federal, State and local governments are creating incentives for redevelopment of Brownfield sites. These are properties that due to actual or perceived contamination are sitting idle or underutilized. Through Brownfield redevelopment these properties can be cleaned up and put back on the tax rolls.

The basic purpose of this insurance is to protect the owners, purchaser or investors against known or unknown environmental conditions. Brownfield redevelopment insurance can be structured in a variety of ways. Besides the financial assurance mechanism, contractor's pollution liability, transportation, off-site disposal, cost cap insurance, post remediation coverage and much more can be addressed. The important thing to remember about Brownfield redevelopment coverage is that it is customized for each project.

eS Financial Assurance Strategy for Banks: Fire Insurance policies are required by Banks that hold mortgages on properties to protect their collateral from a loss due to fire. What happens after a fire? The water and chemicals used by the fire department along with charred, toxic remnants of real and personal property can create environmental liabilities. The fire department is immune from prosecution. Under Federal law the property owner is ultimately responsible for the environmental condition of their property and fire insurance policies offer negligible limits to address cleanup. Insureds that purchase fire insurance policies need a financial assurance mechanism to address the environmental liabilities created by a fire and pollution insurance is designed to fill this critical gap.

TEAMing with Accountants to Drive Insurance Sales

Offering assurance on a client's financial position is the foundation of an Accounts business model. The Accounting profession offers various levels of assurance from an Audited financial statement, Reviewed or Compilation.

After going through their defined process, Accounts offer an opinion whether the financial statements are accurate and free of material misstatements. The Accountants work is designed to enhance the degree of confidence regarding a client's financial position.

Government regulation has and continues to have, a huge impact upon the Accounting profession. Environmental government regulations such as SOX, SAB 92 Ruling, FIN 47, GASB 49…, can have major impacts on an Accountant's work. Make a mistake and an Accountants E&O can take a hit.

Not only must accountants attest to the fairness and accuracy of recorded environmental exposures, but they must be aware of possible unknown environmental liabilities. As environmental exposures and related costs grow in dollar size and public awareness, Accounting Professionals must be prepared, in some cases required, to incorporate environmental impacts into financial reports and decisions.

In today's transparent business environment, the problem created by a traditional Accountant's work, is not making sure there is a financial assurance mechanism in place to backstop potential environmental liabilities. One environmental liability can render an Account's work not worth the paper it's written on unless there is an environmental financial assurance mechanism.

As more accountants understand the environmental financial assurance gap not addressed in their work, I am sure most will make environmental financial assurance part of every Audit, Review or Compilation.

The correlation to this is the transformation banks made to their business model in the 1990's, once they understood how environmental due diligence granted them the Lender Liability Defense for collateralized properties. It took numerous times where a client's environmental problem became a banks environmental problem, before banks woke up to the reality of the environmental gap created by their lending practices.

Just to make sure we are on the same page, Environmental Financial Assurance is nothing new, it's been around for decades. Under Federal law, regulated Underground Storage Tanks Owners must evidence financial assurance to put fuel in their tanks. Industrial and hazardous waste haulers must evidence financial assurance before they can move one load of waste. Asbestos and lead abatement contractors must evidence financial assurance before they can remediate asbestos or lead. Landfills must evidence financial assurance before they can accept any waste….

There are various forms of environmental financial assurance, i.e. Bond, Letter of Credit, Insurance, Monies in Escrow, Captive, Risk Retention Group….

As with banks, Accountants have learned, when it comes to environmental liabilities, a client's environmental problem can become the Accountants problem. As part of "Best Practices", Accountants must incorporate coaching their clients on the value an environmental financial assurance mechanism (Bond, Letter of Credit, Environmental Insurance, Monies in Escrow…) adds to their business model.

Environmental financial assurance mechanisms also help to reduce the reputational risk associated with environmental liabilities while protecting the Accountants bottom line.

In today's transparent business environment, Accountants must have a working knowledge of managing and transferring their client's environmental exposures as part of "Best Practices" or face prosecution, reputational risks and / or extinction. I can remember when there were the "Big 8" Accounting firms.

Environmental Coaching Tips For Adding Accountants To Your TEAM

1. What is a "Pollutant"? You need to make sure Accountants have a clear understanding of what a "Pollutant" is. If you look at an environmental indemnification in a contract, it generally describes a Pollutant as smoke, vapors, soot, fumes, acids…. However, due to the way courts and insurance companies have responded to lawsuits and insurance claims, environmental Strategist™ (eS) has developed a definition that is easier to understand. eS define a "Pollutant" as a material, substance or product that gets introduced to an environment for other than its intended use or purpose." In other words, something that ends up where it does not belong can be a Pollutant. eS have examples where fresh water, milk, cheese, fruit, beer and more have all been defined as a "Pollutant".
2. Every business is impacted by environmental exposures.
3. Environmental liabilities tend to be a severity versus frequency issue.
4. Environmental Accounting is one of the fastest growing fields in the Accounting profession. This is partly due to Government regulations. Environmental accounting attempts to assure that current accounting methods are not contributing to or offering misleading signals. i.e. Is a business's success achieved at the expense of the environment or does the success of a business make a net contribution to the betterment of our environment? Environmental accounting looks to balance or at least upgrade the dangers caused by current accounting methods and reduce misleading signals in their Accounting profession.

   A correlation to this is the Federal Government coming out with "All Appropriate Inquiry", to upgrade the ASTM Phase I, II… site assessments. We must remember; environmental issues are relatively new to business and society, so we must expect as we grow and learn more, that change is inevitable. As I like to say, "Change is the only constant, in the environmental industry".

ERMI TEAM building strategy: Start by working with Environmental Accountants or Accounting firms that incorporate environmental accounting because they are coached up on the value environmental financial assurance offers their client's. Like most business professionals, Accountants like to work with client's that can pay their accounting bill. My experience is, most Accounts are not aware of the various environmental insurance products available and the financial assurances they afford.

5. When it comes to environmental liability insurance as a financial assurance mechanism, three often overlooked benefits offered in policies are:

1. **<u>Defense Costs</u>**: Environmental liabilities are relatively new and very litigious. Even if you do nothing wrong, you can still get named in a suit and must expense legal fees. Environmental insurance policies cover defense costs.

2. **<u>Claim Management</u>**: All policies come with specialists to assist you in handling a claim. Who's in charge of communications, public relations, emergency response, government compliance, financial management, third party claims for bodily injury, property damage, natural resource damages….?

3. **<u>Third Party Liabilities</u>**: The majority of the time the cost to clean up the environmental problem/s is far less than the associated claims that come in from third parties for bodily injury, property damage and business interruption.

Environmental Liability Insurance For Accountants To Coach Their Client's

Since every business is impacted by environmental exposures, consideration needs to be given to the economies of scale afforded with environmental liability insurance, versus other financial assurance instruments or self-insuring.

Environmental Impairment Liability (EIL)

EIL is site pollution coverage for property owners susceptible to economic loss caused by pollution that actually or allegedly originated from scheduled properties of the insured. Sometimes referred to as Pollution Legal Liability (PLL), this coverage is for those who own, operate, lease, or have any other insurable interest in real property and/or the operations. Coverage can be written in a variety of ways addressing unknown preexisting conditions or new conditions. Coverage can include third party bodily injury and property damage along with business interruption and extra expense, on and off-site cleanup costs, legal defense expenses, non-owned disposal sites, transportation and more. EIL can be offered on multiyear terms. Most EIL policies cover above ground storage tanks up to a certain size. Scheduled Underground Storage Tanks can be covered on EIL policies. You can cover multiple locations on a single policy.

Property Transfer Coverage

When buying or selling property there can be unknown preexisting environmental conditions. Since environmental due diligence (Phase I, Phase II…), cannot guarantee uncovering all potential environmental liabilities, insurance companies have created property transfer insurance. This coverage protects the new owner or any party with an insurable interest, against unknown environmental conditions that may be discovered during the policy period, that were not caused by the new owner.

This coverage not only helps to keep the property at its maximum value, it will assist the purchaser in being able to secure the necessary financing to complete their transaction. You can cover multiple locations on a single policy. Coverage is generally written on a multi-year term (i.e. 3, 5, 7… years).

Mergers, Acquisitions & Pollution Protection (MAPP)

Key to any acquisition is the correct valuation and effective due diligence and MAPP operates as a backstop against issues due diligence or valuation processes may not be able to identify.

As a financial assurance mechanism for M&A's, pollution liability insurance has become part of "Best Practices". Representation & Warranties (R&W) insurance is proving its value for M&A's much the same as pollution liability insurance has.

R&W insurance is designed expressly to provide insurance coverage for the breach of a representation or a warranty contained in a Buy / Sell Agreement, in addition to or as a replacement for all or most of the seller's contractual representations and warranties.

MAPP delivers a cost-effective way to transfer R&W and pollution liabilities to a financially stable third party.

Brownfield Redevelopment Insurance

Today, more than ever, Federal, State and local governments are creating incentives for redevelopment of Brownfield sites. These are properties that due to actual or <u>perceived</u> contamination are sitting idle or underutilized. Through Brownfield redevelopment these properties can be cleaned up and put back on the tax rolls. The basic purpose of this insurance is to protect the owners, purchaser or investors against known or unknown environmental conditions. Brownfield redevelopment insurance can be structured in a variety of ways. Besides the financial assurance mechanism, contractor's pollution liability, transportation, off-site disposal, cost cap insurance, post remediation coverage and much more can be addressed. The important thing to remember about Brownfield redevelopment coverage is that it is customized for each project.

Contractors Pollution Liability (CPL)

Contractors Pollution Liability (CPL) insurance protects the insured should they cause or exacerbate an environmental condition while performing their contractor services. CPL protects the insured for covered operations performed by or on behalf of the insured, while operating away from any premises they own, rent, lease or occupy.

CPL can be offered on claims made or occurrence basis. Coverage can be written on a job specific basis, blanket basis to cover all the work performed by the insured or Owner Controlled. Most policies can be endorsed to cover transportation pollution liability, mold, lead, and asbestos, defense outside the limits, off-site disposal coverage, and more. Contractors incorporating CPL coverage as part of their risk transfer strategy, drive their growth and profits by marketing the benefits CPL coverage affords in reducing job interruption due to environmental issues. A major environmental liability exposure faced by all contactors lies in who they are doing business with. If there is an environmental loss at a job site, innocent contractors can and do get named in lawsuits. Do your subs/vendors have CPL insurance if they cause an environmental loss?

Home Depot, Wal-Mart and many more, have paid multimillion dollar fines for contractors they hired that caused environmental liabilities. They now require CPL for contractors doing work for them to avoid paying on liabilities created by their vendor contractors.

Professional Liability

The absolute pollution exclusion in a standard commercial general liability policy excludes sudden and accidental, and gradual pollution losses due to the release of "solid, liquid, gaseous, or thermal irritants or contaminants, including smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste"…. Engineering firms who work in solving environmental exposures faced by their clients need to have coverage for negligent acts, errors or omissions that may result in damages caused by pollution conditions.

There are various ways coverage can be written to protect the engineering firm and their clients. Professional liability on a standalone basis or professional liability including general liability (GL) is available. For engineering firms that may also get involved in doing hands on work at the job site, they can add to the coverage contractors pollution liability (CPL) insurance, (refer to contractors pollution liability insurance for more details). Coverage for the professional liability is done on a claims made basis. For the GL and CPL, coverage can be on a claims made or occurrence form basis.
You have to also keep in mind there are contractors that in the performance of their work may act in a consultants or engineers capacity. You need to make sure you offer your client the broadest program available to meet their business model.

Transportation Pollution Liability (TPL)

Generally, Business Auto or Truckers policies will exclude pollution losses arising from spills or other releases of their cargo. Broadened auto pollution liability (typically Form CA 9948) affords coverage during the loading, unloading and transportation, for a spill, release or sudden upset and over turn of transported cargo. Make sure you do not confuse the MCS-90 endorsement as being TPL coverage, it is not and the insurance carrier reserves the right to subrogate back against the insured for cost to clean up a release of the transported cargo.

Coaching up Accountants how pollution insurance can protect their client's, while better protecting their E&O and bottom line, will drive the sales of your insurance products.

TEAMing with Professional Realtors To Drive Insurance Sales

Licensed Real Estate Professionals have a duty to perform their services with a level of care which is established by contract and prevailing standards of conduct in their field. The fact is, Realtors have professional duties to disclose material facts of which encompass environmental exposures / liabilities.

Today's, transparent business environment, means real estate professionals must be aware of the evolution of their E&O liability loss exposures. Claims under E&O often include allegation of failure to disclose or misrepresentation on a transaction.

Historically, Realtors have relied upon "Environmental Indemnifications" in buy sell agreements. The vast majority in the private sector have been slow to implement financial assurance requirements because they have been falsely content that contracts utilized are iron clad. What we have learned is "Environmental Indemnifications" in buy / sell agreements may not be worth the paper they are written on if not backed by a financial assurance strategy.

Governmental financial assurance requirements have been around for decades. For example, when I began working with pollution insurance in the 1980's we were selling primarily to asbestos / lead abatement / remediation contractors because the government required them to have Contractors Pollution Liability insurance to perform their remedial services. Industrial and hazardous waste haulers must evidence transportation pollution liability insurance coverage in force before they can move any waste. Owners of regulated underground storage tanks must evidence financial assurance before they can put any product into a storage tank and the list goes on.

You may ask, why has the real estate profession been so slow to react? Answer: Lack of environmental education. That is where Insurance Professionals add their value in teaming with Professional Realtors. By coaching Realtors on better protect their E&O exposure while assuring they are dealing with cleaner and greener real estate, backed by a financial assurance strategy.

To understand why "Best Practices" for realtors means moving beyond traditional environmental indemnifications / site assessments to possessing a working knowledge of managing and transferring environmental exposures, we first must be on the same page about a few environmental facts.

7. What is a "Pollutant"? If you look at a Buy / Sell Agreement they generally describe a Pollutant as smoke, vapors, soot, fumes, acids…. However, due to the way courts and insurance companies have responded to lawsuits and insurance claims, environmental Strategist™ (eS) has developed a definition that is easier to understand. eS define a "Pollutant" as a material, substance or product, introduced to an environment for other than its intended use or purpose." In other words, something that ends up where it does not belong can be a Pollutant. eS have examples where fresh water, milk, cheese, fruit, beer and more have all been defined as a "Pollutant".

8. A leading source of E&O claims against real estate professionals is failure to disclose potential environmental liabilities. From Sick building Syndrome, (i.e. mold, Legionella, vapor intrusion, asbestos, lead paint, category 3 water…), storm water runoff, natural resource damages, leaking aboveground or underground storage tanks, Renovation Repair & Painting Rule, meth labs… the list goes on. Pollution insurance can protect against these environmental exposures and much more.
9. Every real estate transaction presents its unique set of environmental exposures and has changed the way Realtor's must address environmental financial assurance for their client's.
10. eS research has determined that fewer than 50% of Phase I Site Assessments are accurate. eS has heard from environmental professionals who feel in excess of 80% of Phase I site Assessments are inaccurate. Also, environmental due diligence (Phase I, Phase II…) as part of meeting the innocent landowner defense only protects the real estate owner from the government. Impacted non-governmental third parties can still file suit. Note: In Phase I Site Assessments when investigating who neighbors are that could have contamination going onto a subject property, environmental engineers do a minimum of a 2-mile radius search. Pollution insurance can protect against third party liabilities.
11. Illegal disposal of waste in the United States is a tens of billions of dollars a year industry and real estate, especially vacant real estate, is a popular place to illegally dispose of waste. Pollution insurance can protect against illegal disposal of waste.
12. In the United States there are more than 250,000 known leaking underground storage tanks. How many don't we know about? Leaking underground tanks can and do cause Pollutants to go onto neighboring properties. Pollution insurance can protect property owners if third parties contaminate their property.

Professional realtors need to know if they are selling / purchasing an asset or environmental liability.

Educating realtors on managing and transferring environmental exposures will better protect their E&O exposure while driving the sales of pollution liability insurance. Why is this critical? Environmental exposures can be a deal killer and realtors not proactively addressing environmental exposures may find their professional liability insurance at risk of a claim when a client discovers an environmental liability on property the realtor sold.

Environmental Insurance Products to Meet Financial Assurance on Real Estate Transactions

Overlooked Benefits of Environmental Liability Insurance

Unlike other liability exposures impacting commercial real estate owners, pollution losses are not a frequency risk, but rather a severity risk. Because all commercial real estate owners have environmental exposures, consideration needs to be given to the economies of scale afforded with environmental liability insurance as part of your risk transfer strategy, versus self-insurance.

Furthermore, most commercial real estate owners only consider the remediation costs associated with a pollution event. However, often the clean-up costs are far less than other costs that can arise from an environmental loss.

Overlooked Benefits of Environmental Liability Insurance:

1. **<u>Defense Costs</u>:** Environmental liabilities are relatively new and very litigious. Even if you do nothing wrong you can still get named in a suit and must expense defense costs i.e. legal fees, environmental investigations, etc.

2. **<u>Claim Management</u>:** All policies come with specialists to assist you in handling a claim. Who oversees communications, public relations, emergency response, government compliance, financial management, third party claims for bodily injury, property damage, natural resource damages….?

3. **<u>Third Party Liability</u>:** Most the time the cost to clean up the environmental problem/s is far less than the associated claims that come in from third parties for bodily injury, property damage and business interruption. You need to look at your client's and neighbors that can be impacted if you or a sub-contractor/vendor cause an environmental loss.

Environmental Liability Insurance Coverages

Property Transfer Coverage: When buying or selling property there can be unknown preexisting environmental conditions. Since environmental due diligence (All Appropriate Inquiry (AAI), a Phase I or Phase II survey, Baseline Environmental Assessment (BEA)….), cannot guarantee uncovering all potential environmental liabilities, insurance companies have created property transfer insurance. This coverage protects the new owner or any party with an insurable interest, against unknown environmental conditions that may be discovered during the policy period, that were not caused by the new owner.

This coverage not only helps to keep the property at its maximum value, it will assist the purchaser in being able to secure the necessary financing to complete their transaction. Real estate owners and developers who use this product as part of their risk transfer strategy often find they can negotiate with the seller to share the cost and negotiate a better mortgage rate than if they did not have property transfer coverage. You can cover multiple locations on a single policy.

Mergers, Acquisitions & Pollution Protection (MAPP): Combining Representations & Warranties Insurance w/ Pollution Liability Insurance to keep your company's growth & value on course.

Key to any acquisition is the correct valuation and effective due diligence and MAPP operates as a backstop against issues that the diligence or valuation processes may not be able to identify.

As a financial assurance mechanism for M&A's, pollution liability insurance has become part of "Best Practices". Representation & Warranties (R&W) insurance is proving its value for M&A's much the same as pollution liability insurance has.

R&W insurance is designed expressly to provide insurance coverage for the breach of a representation or a warranty contained in a Buy / Sell Agreement, in addition to or as a replacement for all or most of the seller's contractual representations and warranties.

As we have learned from environmental indemnifications in transactional documents, if there is not a pre-determined financial assurance mechanism in place, the environmental indemnification the seller agrees to may not be worth the paper the agreement is written on. With MAPP, Environmental Risk Managers, Inc. (ERMI) has raised the bar on financial assurance for M&A deals.

The insurance industry has learned that one out of every four M&A deals has at least one claim of a breach of the reps and warranties. In the past, the response has been let's try to negotiate around the problem. Unfortunately, negotiating often is expensive, time consuming and rarely brings about the most desirable outcomes for the parties involved.

MAPP delivers a cost-effective way to transfer R&W and pollution liabilities to a financially stable third party.

Environmental Impairment Liability (EIL): EIL is for commercial real estate owners susceptible to economic loss caused by pollution that actually, or allegedly originated from their property. Sometimes referred to as pollution legal liability, this coverage is for those who own, operate, lease, or have any other insurable interest in real property and/or the operations. Coverage can be written to cover preexisting conditions and/or new conditions.

Coverage can include third party bodily injury and property damage along with business interruption and extra expense, on and off site clean-up costs, legal defense expenses, non-owned disposal sites, transportation and more. EIL can be offered on multiyear terms. Sewer lines and pump/lift stations can be covered by EIL. Most EIL policies cover above ground storage tanks up to a certain size. You can also cover multiple locations on a single policy.

Transportation Pollution Liability: Generally, Business Auto or Truckers policies will exclude pollution losses arising from spills or releases of transported cargo. Broadened auto pollution liability (typically Form CA 9948) affords coverage during the loading, unloading and transportation, for a spill, release or sudden upset and over turn of transported cargo. Whether it's building materials or business supplies, you need to strategize on your exposure to transportation. How are goods received? FOB point of Shipment or FOB point of delivery? Do not be confused by thinking the MCS-90 endorsement is auto pollution liability coverage.

Underground Storage Tanks

Storage tank financial responsibility requirements ensure that owners/operators of underground storage tank systems have the ability to financially handle a release from the tank system. The responsibility encompasses the ability to pay funds for corrective action and third party bodily injury and property damage from non-sudden and sudden and accidental releases from a regulated underground tank system.

Real estate owners with a financial responsibility strategy dependent upon state UST funds need to regularly confirm fund solvency and length of time it will take to get reimbursed. If part of your business strategy depends upon the state tank fund, you are putting the future success of your business in the hands of the state. You need to strategize on "just how strong is your business" if you are putting its future in the hands of your state government.

Press Release:

High Net Worth Pollution Insurance

Simply due to their resources, the one percenters with a High Net Worth (HNW), are impacted by a variety of environmental exposures. From aircraft, yachts and autos to real estate and business holdings…, part of "Best Practices" for those of HNW involves a financial assurance strategy to address the environmental exposures created by their resources.

Environmental Risk Managers, Inc. (ERMI) is pleased to introduce a pollution insurance program designed specifically for HNW insured's. "Until now, self-insurance was pretty much the only option for the one percenters to address the environmental exposures created by their resources", Chris Bunbury President of ERMI stated.

Bunbury went on to say "the reason an environmental financial assurance mechanism has become part of "Best Practices" is because environmental liabilities tend to be a severity versus frequency issue that have had negative financial impacts for those of HNW."

Common environmental exposures impacting HNW Insured's include: Mold; Vandalism; Air craft, auto, water craft storage / use / maintenance; Real estate holdings; New Construction and remodeling; Pollution from neighboring properties migrating onto yours; Privately owned businesses with environmental exposures due to operations or products produced; Vendors such as contractors (HVAC, electrical, plumbing, painting, septic), domestic help, landscapers / maintenance, pool cleaning / maintenance, caterers, boat captains, aircraft pilots…; Storm water runoff; Vapor intrusion; Natural resource damages; Real estate tenants using or storing environmentally sensitive materials, chemicals, waste….; Illicit abandonment; Sick building syndrome; Above ground or underground storage tanks; Farm/garden/lawn fertilizers, herbicides, pesticides…; Easements (utility, oil, gas…) that cross your property which may leak or spill hazardous materials; fuel tanks used for backup power generators; Asbestos; Lead….

Bunbury said "the question for those of HNW to answer regarding self-insuring or transferring their environmental exposures via the ERMI HNW pollution insurance program is quite simple.

Question: Based upon your risk appetite / tolerance, does it make fiscal sense to transfer your environmental liabilities for fractions of a cent on the dollar to the ERMI HNW pollution program or wait until an environmental loss occurs and spend 100 cents on the dollar out of your own pocket for legal fees, cleanup costs, third party bodily injury, third party property damage, third party business income, emergency response / investigation / disposal costs, claims management…?"

For more information on protecting a HNW insured from environmental liabilities, contact Chris Bunbury of Environmental Risk Managers. Phone 231-256-2122, email: chris@ermi.us, website www.ERMI.us.

ERM WEBINAR / SEMINAR COURSE OFFERINGS

Environmental Hot Topics Presentation

Our pollution liability insurance “crash course” (30 minutes), designed to get your team thinking environmental. Being our initial introduction, the presentation briefly covers key topics to help your team to identify potential opportunities to grow sales with pollution liability insurance products. Some of the topics covered include;

- Basic information on pollution risks and coverages
- Trends and opportunities in the market
- Tips for leveraging environmental insurance to grow your book of business
- Resources & services we offer complimentary to our partner agencies, including our current marketing capabilities

Managing Environmental Exposures

The first step in quality environmental risk management is identifying the risks impacting a specific insured. In this course, we cover common environmental exposures impacting a wide range of commercial operations.

Transferring Environmental Exposures

Once environmental exposures have been identified, you are now ready to determine the best course of action for covering the exposures. In this course, we review environmental liability insurance products, and other alternative risk transfer strategies.

Creating a Quality Submission

When marketing environmental liability insurance, the quality of the submission has the greatest impact on the to obtain the best coverage terms for an insured.

Environmental Strategist – Between the Lines

In this course, we take practical environmental examples of news and risk management strategies and blend them together, providing real world application of environmental risk management strategies.

Brownfields

Where ever you live and work there are Brownfields. Brownfields sites are abandoned, idled or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination. The purpose of Brownfields is to create jobs and increase property value / taxes while better protecting human health and the environment.

This webinar will identify where the opportunities are in Brownfields for business professionals. We will also go through a typical brownfield project and review the various environmental insurance coverages to consider.

Pollution Liability Insurance for High Net Worth Insureds

Simply due to their resources (i.e. yachts, aircraft, real estate holdings (i.e. ranches, golf courses, private residences, investment properties…) owned businesses, domestic employees…, those of High Net Worth (HNW) are impacted by a diversity of environmental exposures. ERM is offering this first of its kind pollution product designed for HNW insured's.

Environmental liabilities tend to be a severity versus frequency issue which means even HNW insured's need to make sure they have a financial assurance strategy in place. The problem, most HNW insureds do not realize they are self-insuring their environmental liabilities. In the HNW webinar we will identify the environmental exposures impacting HNW insureds along with the environmental insurance products available to better protect their assets and your E&O.

Merger, Acquisition and Pollution Protection (MAPP)

Key to any acquisition is the correct valuation and effective due diligence and MAPP operates as a financial backstop against issues the diligence or valuation processes may not be able to identify. As a financial assurance mechanism for M&A's, pollution liability insurance has become part of "Best Practices". Representation & Warranties (R&W) insurance is proving its value for M&A's much the same as pollution liability insurance has.

R&W insurance is designed expressly to provide insurance coverage for the breach of a representation or a warranty contained in a Buy / Sell Agreement, in addition to or as a replacement for all or most of the seller's contractual representations and warranties. As we have learned from environmental indemnifications in transactional documents, if there is not a pre-determined financial assurance mechanism in place, the environmental indemnification the seller agrees to may not be worth the paper the agreement is written on.

With MAPP, Environmental Risk Managers, Inc. has raised the bar on financial assurance for M&A deals. The insurance industry has learned that one out of every four M&A deals has at least one claim of a breach of the reps and warranties. In the past, the response has been let's try to negotiate around the problem. Unfortunately, negotiating is often expensive, time consuming and rarely brings about the most desirable outcomes for the parties involved. MAPP delivers a cost-effective way to transfer R&W and pollution liabilities to a financially stable third party.

ERM Marketing & Coverage Capabilities

ERM accesses 30+ of the most elite E&S environmental insurance markets. Through our market access, we can provide coverages for every class of commercial business as outlined in the sampling below.

Real Estate Owners & Operators

- Premise Pollution Liability
- Business Interruption
- Transportation Pollution
- Owner Controlled CPL
- Non-Owned Disposal Sites
- Mold

General Contractors / Trade Contractors

- Contractors Pollution Liability
- Transportation Pollution
- Contractors Pollution / Professional
- Non-Owned Disposal Sites

Design Build Contractors / Construction Management

- Contractors Pollution Liability
- Contractors Protective
- Transportation Pollution
- Contractors Pollution / Professional
- Non-Owned Disposal Sites

Manufacturers, Blenders, Distributors, and Environmental Facilities

- General Liability
- Excess / Umbrella
- Transportation Pollution
- Premise Pollution Liability
- Non-Owned Disposal Sites
- Business Interruption
- Products Pollution Liability

Real Estate Developers & Brownfields

- Premise Pollution Liability
- Property Transfer Coverage
- Owner Controlled CPL

Real Estate Transactions / Business Mergers & Acquisitions

- Property Transfer Coverage
- Contractors Pollution Liability

Environmental Engineers, Contractors, Consultants, and Restoration Contractors

- General Liability
- Excess / Umbrella
- Inland Marine / Property
- Contractors Pollution Liability
- Transportation Pollution
- Commercial Auto
- Professional Liability
- Non-Owned Disposal Sites
- Workers Compensation

Hazardous Material / Waste Haulers

- Contractors Pollution Liability
- Transportation Pollution
- Commercial Auto
- General Liability
- Non-Owned Disposal Sites