



**Environmental Strategist™**

## **Environmental Insurance Play Book For Agricultural Operations**

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**AGRICULTURAL ENVIRONMENTAL PLAY BOOK  
TABLE OF CONTENTS**

Agricultural Environmental Play Book Overview ..... 3  
Agricultural Financial Assurance Strategy & Benefits ..... 4  
What Is a Pollutant? ..... 5  
Environmental Liability Insurance: General Discussion ..... 6  
Environmental Liability Insurance: Coverage Overview ..... 7  
Environmental Exposures Impacting Agricultural Operations ..... 12  
ERMI environmental Risk Assessment (eRA) ..... 16  
Competitive Environmental Intelligence ..... 64  
Agricultural Pollution Insurance Application ..... 76



## Agricultural Environmental Play Book Overview

**Fact:** Every agricultural business is impacted by environmental exposures.

**Fact:** Environmental liabilities tend to be a severity versus frequency issue.

In today's transparent business environment, part of "Best Practices" for agricultural operations, involves a financial assurance strategy to address the environmental exposures impacting their operations.

Environmental Risk Managers (ERMI) success in the environmental insurance niche has been the integration of environmental education and risk management. An environmentally educated insured can make an informed decision if investing in pollution insurance will add value to their business model.

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

The ERMI Environmental Play Book is an electronic, in the field resource you can share with clients and prospects.

Coaching, not selling, insureds on managing and transferring their environmental exposures positions you as a strategic partner and trusted advisor. The ERMI Environmental Play Book will position you as the team's coach.



## **Agricultural Financial Assurance Strategy & Benefits**

The ERMI Environmental Play Book assists agricultural operations in taking a voluntary, proactive approach to reducing agricultural pollution while keeping their business operations sustainable. Part of a proactive, “Best Practices” strategy in today’s business environment is to have an environmental financial assurance strategy.

There are various types of financial assurance such as a bond, letter of credit, self-funding/monies in escrow, captives/risk retention groups, environmental insurance....

Environmental financial assurance has been around for decades, i.e., Under Federal law, regulated underground storage tank (UST) owners must evidence financial assurance before they can put any petroleum into a UST. Asbestos and lead abatement contractors, as well as Industrial and hazardous waste haulers, disposal/recycling facilities are all required by law to have environmental financial assurance in place in order to operate their business model.

Only agricultural operations that feel pollution insurance will add value to their business model need invest their monies in pollution insurance. Agricultural operations can use alternative financial assurance products but to date, pollution insurance has proven to be more economical while offering coverage benefits such as:

Legal Fees

First-Party Onsite Cleanup

Onsite Third-Party Bodily Injury, Property Damage & Business Interruption

Offsite Third-Party Bodily Injury, Property Damage & Business Interruption

Transportation Pollution Liability

Above Ground Storage Tanks

Contractors Pollution Liability

Environmental Claims Specialists and much more.



## **What is a Pollutant?**

A material, substance, liquid, product, and so on, which is introduced into an environment for other than its intended use/purpose. In other words, something that ends up where it does not belong, can be classified as a pollutant.

Fresh water, cheese, fruit juice, and milk have all been classified as pollutants by insurance carriers and courts under various circumstances.



## **Environmental Liability Insurance: General Discussion**

### **Transferring Environmental Exposures**

- Some policies are written on a claims-made basis
- Auditable vs. Non-auditable
- Defense inside or outside the limits
- Deductible/SIR should be affordable for your client. Pay deductible within 30 days.
- Minimum premiums
- Sudden and gradual versus sudden and accidental (Limited Pollution Policies)
- Project specific vs. Blanket coverage vs. Owner controlled vs. Multi-year contracts
- First-Party Coverage
- Make sure to read and understand the policy's insuring agreement and definition sections.
- With contracts, make sure to clarify the insurance coverages being requested
- Reporting a claim or potential claim
- Warranty application, review with your client prior to binding
- Complete submissions are very important (include your client/prospect web site address)
- Authorization to Bind letter
- Change is the only constant in the environmental market. There are no environmental experts. eS are environmental specialists.



## **Environmental Liability Insurance: Coverage Overview for Agricultural Operations**

Environmental Strategist, Inc. (ESI), understands that environmental liability insurance is a very specialized field. To assist you in better understanding the environmental insurance coverages, we have developed the following list. Since each insurance company that offers environmental insurance has their own policies and endorsements, we feel it is better to give you a general overview of the coverages. We like to call this document, Environmental 101, the layperson's version of environmental liability insurance coverages. For specific contract language, you should refer to each carrier's policy forms and endorsements.

Most businesses lack the financial strength to self-insure their environmental exposures. Since every business is impacted by 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.

### **Overlooked Benefits of Environmental Liability Insurance**

#### **Defense Costs**

- Environmental liabilities are relatively new and very litigious. Even if you do nothing wrong, you can still be named in a lawsuit and must pay defense costs i.e., legal fees, environmental investigations.

#### **Claim Management**

- All policies come with specialists to assist in handling a claim. The specialist will oversee communications, public relations, emergency responses, government compliance, financial management, third-party claims for bodily injury, property damage, natural resource damages....

#### **Third-Party Liabilities**

- Most of the time the cost to cleanup an environmental problem 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 clients and neighbors that can be impacted if you or a sub-contractor/vendor cause an environmental loss.

# **Environmental Liability Insurance Coverages**

## **Environmental Impairment Liability (EIL)/ Pollution Legal Liability (PLL)**

This coverage applies to agricultural operations which own, operate, lease, or have any other insurable interest in real property and their operations. Coverage can be written in a variety of ways addressing unknown pre-existing conditions (typically need environmental due diligence) or new conditions that may happen in the future. EIL benefits agricultural operations which are susceptible to economic loss caused by pollution that actually or allegedly originated from the property(s) they own or operate.

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, transportation pollution liability, off-site disposal, first-party business income, loss of rent, image restoration, products pollution and much more. Coverage often times is used to meet financial assurance requirements of regulated facilities.

## **Property Transfer Coverage**

When buying or selling property there can be unknown pre-existing environmental conditions. Since a Phase I or Phase II assessment 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.

Another coverage feature is change in government regulations. Basically, if a new purchaser is knowingly buying property that is contaminated but below government regulations to cleanup, this will protect the insured, if during the policy period governmental regulations change so it now becomes necessary to cleanup the insured premise(s).

This coverage not only helps to keep the property at its maximum value, but it will also assist the purchaser in being able to secure the necessary financing to complete their transaction. With this coverage in place there is an extra layer of environmental financial assurance and warrants a more favorable loan package than other properties that do not utilize this strategy.

## **Transportation Pollution Liability (TPL)**

Generally, commercial transportation policies will exclude pollution losses arising from spills or other releases of their cargo. They will, however, typically cover pollution incidents arising from spills of the fuel and lubricants necessary for the vehicle's operations.



Transportation pollution liability affords coverage during the loading, unloading and transportation, for a spill, release or sudden upset and overturn of transported cargo over road, rail, air or water. Transportation Pollution Liability coverage has proven to be a valuable coverage for policies that are or are not endorsed with the MCS-90 form. The MCS-90 form is only endorsed when required to satisfy Interstate Commerce Commission filings. It is very possible the insured's auto policy may not require the MCS-90 endorsement but they can still have a transportation pollution exposure.

The MCS-90 form has often been confused as "pollution liability insurance." The Motor Carriers Act of 1980 established financial responsibility requirements for certain classes of transporters. The MCS-90 form is attached to the Business Auto or Truckers policy to satisfy these requirements for the benefit of the public at large, not the insured. The MCS-90 includes a provision that states: "The insured agrees to reimburse the (insurance) company for any payment made by the company on account of any accident, claim or suit involving a breach of the terms of the policy, and for any payment the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement."

## **Underground and Aboveground Storage Tanks**

In 1984, Subtitle I of the Resource Conservation and Recovery Act (RCRA) imposed stringent technical and financial requirements on owners and operators of underground storage tank systems storing petroleum. In 1986, Subtitle I was amended by the Superfund Amendments and Reauthorization Act (SARA) setting financial responsibility requirements for tank owners.

Financial responsibility requirements ensure that owners and operators of underground storage tank systems have the ability to financially handle a release from an underground storage tank. Financial responsibility is determined based upon the type of tank owner, the monthly throughput and the number of tanks owned. The minimum requirement is \$500,000 per occurrence, with a minimum aggregate of \$1 million and a maximum aggregate of \$2 million.

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 of petroleum from an underground tank system. If insurance is utilized, the policy must provide defense cost coverage outside the limit of liability.

Self-insurance, letters of credit and bonds are all RCRA approved ways to meet financial requirements. However, to self-insure, the corporation must show a net worth 10 times the required amount of coverage. Letters of credit and bonds require tank owners and operators to set aside assets as collateral against possible environmental incidents – funds that could be used instead to increase profits. Some states now require financial assurance for aboveground storage tanks.

## **Products Pollution**

Products pollution coverage protects the insured for product failure that may cause a pollution liability and includes coverage for bodily injury, property damage and cleanup for third-party claims. Products pollution coverage for consumable items (vegetables, meat, eggs...) is expensive and difficult to find.

## **Product Recall**

Product recall insurance protects the insured for expenses in recalling a product once it has been sent to consumers and determined it can pose a health and/or death risk to consumers. Expenses such as notifying consumers, shipping, warehousing, disposal costs and more are covered.

## **Umbrella/Excess Coverage**

Umbrella/excess coverage will not only be excess of the standard liability insurance coverages, but will also be excess of the environmental coverages.

### **Vendor Services**

***Note:** Agricultural operations have potential pollution exposures from the vendors they hire to perform services i.e., co-op services, mechanical, plumbing, HVAC, electrical, refrigeration, animal waste land application, herbicide/pesticide application, harvesting.... Should your vendors cause a pollution problem or exacerbate an existing environmental issue, their general liability insurance policy typically will have either an absolute or total pollution exclusion. In order to be protected you should make sure your vendors have this insurance coverage before they begin doing work.*

## **Contractors Pollution Liability (CPL)**

CPL coverage can be purchased to meet two specific exposures. First, for contractors that perform remedial activities for agricultural operations, there is the standard Contractors Pollution Liability (CPL) insurance coverage. This protects the insured for pollution conditions they may cause while performing remedial services or if they exacerbate an existing situation. This is for covered operations performed by or on behalf of the insured. The loss must occur away from any premises the insured owns, rents, leases or occupies.

Secondly, agricultural operations can often take place on third-party property i.e., herbicide and pesticide application, crop planting/harvesting, equipment repairs.... In performing their off-site services, agricultural operations have exposures to environmental losses that are excluded from their general liability coverage. For these agricultural operations, there is Contingent Contractors Pollution Liability (CCPL) coverage. Basically, they are afforded the same coverage as remedial contractors but the cost to purchase this coverage is substantially less.

Typically, coverage for both types of insurance are rated based upon the insured's gross receipts; a few carriers use payroll. You can purchase coverage on a claims-made or occurrence basis. Coverage can be broadened by combining General Liability (for contractors doing more than 40% environmental work) with the CPL. By combining CPL with the GL, you are eliminating potential gaps in coverage that may occur if you write them separately.

Coverage applies specifically to services/operations identified under the policy declaration page or warranty application, that occur at the job-site, not at premises the agricultural operation owns or occupies. Coverage can be purchased on a job-specific basis, or to cover all work performed on an annual or blanket basis. Coverage can also be purchased on an owner-controlled basis. It can also be endorsed to cover transportation pollution liability, off-site disposal cost, emergency response, incidental E&O, completed operations (Statue of Repose), products pollution....

## **Transportation Pollution Liability (TPL)**

It is very common for agricultural operations to hire/utilize third-party transporters. Be sure the transporters hired have transportation pollution liability insurance. How are raw materials purchased? FOB Point of Shipment or FOB Point of Delivery? Refer to the above for description of coverage.

## **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.

Coverage applies specifically to services/operations identified under the policy's declaration page and/or warranty application.



## **Environmental Exposures Impacting Agricultural Operations**

### **Assessments and Glossary**

#### **Environmental Due Diligence/Site Assessments**

- **ASTM:** American Society for Testing and Materials developed site assessments and subsequent updates such as AAI (All Appropriate Inquiry).

#### **Phase I Environmental Site Assessments**

- Phase I Site Assessments consist of a historical records search of the property in question and surrounding property (minimum 2-mile radius) to discover what their past uses were and to see if there is reason to feel environmental conditions could exist. The party conducting the Phase I will also perform a physical site visit to see if they can spot any obvious environmental conditions (i.e., a vent pipe from a UST, stained ground, new conditions not detected in the historical search). All site assessments should always be performed to ASTM standards, at a minimum, including All Appropriate Inquiry (AAI). This will assure you have met inquiry and due diligence requirements under CERCLA.

#### **Phase II Environmental Site Assessment**

- If the Phase I finds there is reason to suspect an environmental problem, referred to as a Recognized Environmental Condition (REC) then a Phase II will be ordered. The easy way to differentiate a Phase I from a Phase II is that in a Phase I there are no holes drilled or laboratory test performed. In a Phase II the focus is to determine if there is contamination, and if so to what extent and what contaminants are involved. A Phase II only identifies problems and does not recommend any solutions.

#### **PHASE III Environmental Site Assessment**

- After the Phase II has determined the environmental condition by quantifying and mapping the site; a cleanup plan (remediation) must be designed. This plan will outline the specific work to be performed, the cost of the cleanup, level of cleanup to be achieved, and the time it will take.

## **Baseline Environmental Assessment (BEA)**

- This gives the landowner or purchaser an understanding of what level of contamination exists on a piece of property. Even though the government is using this instrument, it still does not protect landowners or purchasers from impacted third-parties, i.e., neighbors. The advantages of a BEA are: it gives you a starting point; allows you to determine future use; prepares you for future transactions; allows you to use property for collateral; identify potential problems; improves community relations; Increases employee productivity.
- Filing an improper BEA is a felony and can cost up to \$25,000 per violation. Who are you doing business with?
- BEA Categories: D = Different S = Same N = No Hazardous

## **Glossary**

### **Aboveground Storage Tank (AST)/Underground Storage Tank (UST)**

- A tank is considered an underground storage tank (UST) if 10% or more of its volume, including associated piping, is underground. Regulated UST's must evidence environmental financial assurance.

### **Clean Water Act (CWA)**

- Same as the Federal Water Pollution Control Act
- The Great Lakes make up 20% of the world's liquid fresh surface water supply. A study by the EPA of the Great Lakes shoreline revealed 96% of the shoreline's miles failed to meet water quality standards for human health.
- In the United States, 40% of our waterways remain un-swimmable or fishable.
- 80% of the world's freshwater usage is for agriculture and the demand is growing.
- Agricultural runoff accounts for 72% of the pollution in our rivers and 56% of all pollution in lakes.

### **CERCLA**

Comprehensive Environmental Response, Compensation and Liability Act (Of 1980, 1986)

- Commonly known as Superfund
- Cradle-to-Grave Manifest System: A procedure in which manifested wastes are identified as they are produced and are followed through further treatment, transportation, and disposal by a series of permanent, linkable, descriptive documents. The generator of a manifested waste owns and is liable for that waste from cradle to grave.
- For clarification, a landfill is not a grave. A landfill is just like a storage unit, and it is holding and managing the generator's waste, which the generator still owns and is liable for.

## **Covenant Not to Sue (CNS); No Further Action Letter (NFA)...(MTBE)**

### **Endangered Species Act (ESA)**

- There are approximately 1,300 endangered species.
- A typical Environmental Site Assessment (ESA) does not investigate for Endangered Species. Must review if an endangered species exposure is not just on the property being reviewed, but must ask, does it exist next door, and will the future use of the property have an impact upon one of these issues on the property or next door being reviewed?
- The key issue here is. could it have an impact and could is what must be looked at. Not that it will have an impact, but could it.

### **Glyphosate**

Herbicide found in a variety of products used by agricultural operations.

### **Hazardous Waste Operations and Emergency Response (HAZWOPER)**

#### **Illegal Disposal of Waste**

On vacant land

### **Language Barrier**

### **Leaking Underground Storage Tank (LUST)**

### **PFAS/PFOA/PFOS Chemicals**

- **Forever chemicals – or bio-accumulates**
- **Food** packaged in PFAS-containing materials, processed with equipment that used PFAS, or grown in PFAS-contaminated soil or water.
- **Commercial/household products** including: stain and water-repellent fabrics, carpets, upholstery, soap, shampoo, clothing, leather, nonstick products (e.g., Teflon), pizza boxes, fast food wrappers, microwave popcorn bags, polishes, waxes, cleaning supplies, paints, textiles, paper & packaging materials, cleaning products, and fire-fighting foams (a major source of groundwater contamination at airports and military bases where firefighting training occurs).
- **Workplace** including production facilities or industries (e.g., chrome plating, electronics manufacturing or oil recovery) that use PFAS.
- **Drinking water** typically localized and associated with a specific facility (e.g., manufacturer, landfill, wastewater treatment plant, firefighter training facility).

- **Living organisms** including fish, animals, and humans, where PFAS can build up and persist over time.

## Potentially Responsible Party (PRP)

### Resource Conservation and Recovery Act (RCRA) (of 1976, 1984)

- Gives the EPA the authority to control hazardous waste. This control includes the generation, transportation, treatment, storage and disposal of hazardous waste.
- The 1986 amendments to this act gave the EPA the authority to address environmental problems that could result from underground tanks storing petroleum and other hazardous substances. (Permit to hold hazardous waste up to 90 days)

### Storm Water Runoff

- Occurs when precipitation from rain or snowmelt flows over the ground. Storm water can pick up debris, chemicals, dirt, household hazardous waste, pathogens and other pollutants and flow into a storm sewer system or directly into a lake, stream, river, wetland, coastal water or neighboring property. (Home Depot/Wal-Mart)

### Supplemental Environmental Project (SEP)

- This is a way for companies that are facing environmental fines & penalties to get their fines and penalties reduced by investing in programs that benefit human health and the environment. Companies can write-off the investment, which they can't do, if they pay the fine. The companies can profit and have ownership in the investment they get into.

### Vandalism

- As a property owner, under federal law, you are ultimately responsible for the environmental condition of the property regardless of who caused the environmental liability.

### Vapor Intrusion (ASTM 2600)

- Third-party(s) causing environmental contamination on your property. Phase I; Minimum 2-mile radius.
- You may not have any environmental problems but who are your neighbors? What if they contaminate your land and they do not have the financial ability to pay for the cleanup, third-party bodily injury, business interruption.... You are now the owner of a piece of contaminated property, what is your strategy?
- **EnviroMapper:** <https://enviro.epa.gov/> information about environmental activities that may affect air, water, and land anywhere in the United States.
- The parties getting sued are contractors that can impact the building envelope that allows vapor intrusion to take place; like plumbers, electricians, excavators, HVAC, etc.



## **ERMI environmental Risk Assessment (eRA)**

We've developed the ERMI environmental Risk Assessment (eRA) to get you and your agricultural insured on the same page about the environmental exposures impacting their operations. The eRA will educate your insured, so they can make an informed decision if investing in pollution insurance will add value to their business model.

Our partner agencies find utilizing the eRA 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 bottom line and strategic financial planning.

The eRA comes in four parts:

1. Review of environmental exposure impacting your insured
2. Environmental loss examples
3. Environmental insurance coverages for agricultural operations to consider
4. Overlooked benefits of Environmental Liability Insurance





## ENVIRONMENTAL RISK ASSESSMENT (eRA)

### Commercial Farming

#### What is a Pollutant?

Any material, substance, liquid, product, etc., which is introduced into the environment for other than its intended use/purpose. Fresh water, cheese, and milk have all been classified as pollutants by insurance carriers under various circumstances.

Commercial farmers should be aware that pollutants (such as pesticides, herbicides, fertilizer, etc.) are excluded from coverage on most GL policies. And GL policies that do provide pollution coverage typically do so on a limited basis, with inadequate limits and/or strict discovery and reporting requirements for there to be coverage. In the event of a pollution loss at one of your properties, does your insurance provide adequate coverage?

#### Environmental Exposures Impacting Commercial Farmers

**Include, but are not limited to:** storage, use and disposal of fertilizers, pesticides, and herbicides; animal waste management; disposal of liquid wastes in septic or leach systems; storage of fuels, antifreeze, oil and hydraulic fluids; leaking above and/or underground storage tanks; air emissions from chemical applications and animal waste; storm water runoff; vapor intrusion; spills from loading and unloading of farm equipment and supplies; faulty refrigeration units; overuse of irrigation; on-site disposal of trash, garbage and other waste materials; old equipment storage yards; on-site compost piles, wastewater lagoons or injection wells; historical contamination; natural resource damages; old or abandoned wells not properly closed allowing contamination into the soil and ground water; improper management of protected or sensitive areas like wetlands; vandalism; easements on the property (rail/roadways, pipelines, power lines, waterways) with potential environmental implications; uncontained floor drains; in-ground sumps and pits; inadequate or no auditing of hazardous and non-hazardous waste handlers; spills and air emissions from emergency power generator systems; adverse reactions and interactions of chemical compounds that accidentally commingle during a fire; siltation of nearby streams from improper erosion control management; and more....

## Environmental Claim Scenarios

1. During an unusually heavy rainstorm, the wall of a farm's on-site lagoon used to treat pig waste collapsed. More than 150,000 gallons of fecal waste flowed offsite, onto neighbouring properties and into a river. Waste cleanup costs exceeded \$350,000, while third-party damage claims exceeded \$75,000.
2. Sudden wind gusts occurred while a farmer was applying concentrated glyphosate to one of his fields. The wind carried the glyphosate onto a neighboring property, killing a large portion of their NON-RoundUp Ready "organic" crop. Claims for third-party damages were in excess of \$75,000.
3. A commercial farm regularly worked on equipment in one of their barns, which had a graded floor and drain. The drain was connected to a storm sewer drain that led directly to a nearby stream. A fish kill occurred as a result of high biological oxygen demand in the stream. A local environmental group filed suit for loss of the stream under the Clean Water Act (CWA). The farm spent \$750,000 remediating the problem.
4. A farmer was using treated wastewater as a fertilizer in a land application process. He did not comply with permitting regulations, nor did he have the wastewater tested prior to application. After several months of application, heavy metals and high counts of e-coli were found in the soils. The farmer was required to pay remediation costs in excess of \$265,000.
5. 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.
6. While transporting a large quantity of fertilizer to one of their crop fields, a farmer got into an accident, causing the load to spill into a nearby stream. Costs for investigation, remediation, and natural resource damages was in excess of \$150,000.
7. A property owner had his drinking water well tested prior to selling his land. Testing revealed that the well contained an alarmingly high concentration of total petroleum hydrocarbons. Further investigation revealed that the source of the contamination was several dozen drums of waste oil and maintenance fluids buried on a neighboring farm. Though the drums were buried by the previous farm owner, the current owner was nevertheless responsible for disposal of the drums, soil and groundwater cleanup, and bodily injury and property damage claims submitted by the neighboring property owner. Total cost exceeded \$1,000,000.
8. The concrete secondary containment of a 10,000-gallon diesel aboveground storage tank was cracked. A release from the tank spilled 8,000 gallons into the containment. The diesel seeped into the underlying soil and required costly excavation and removal. Total cost for investigation & remediation exceeded \$320,000.

9. Over the weekend vandals climbed the fence at a chemical/fertilizer distribution facility. Besides breaking a few windows, they also damaged a valve on a 10,000-gallon tank of chemicals. The damaged valve leaked until Monday morning when it was discovered by facility employees. While most of the contents of the tank just needed to be removed and disposed of from the containment area, local environmental officials required subsurface testing of soil and groundwater. Total costs reached \$90,000.

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Financial responsibility requirements ensure that owners and operators of underground storage tank systems have the ability to financially handle a release from an underground storage tank. Financial responsibility is determined based upon the type of tank owner, the monthly throughput and the number of tanks owned. The minimum requirement is \$500,000 per occurrence, with a minimum aggregate of \$1 million and a maximum aggregate of \$2 million.

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 of petroleum from an underground tank system. If insurance is utilized, the policy must provide defense cost coverage outside the limit of liability.

Self-insurance, letters of credit and bonds are all RCRA approved ways to meet financial requirements. However, to self-insure, the corporation must show a net worth 10 times the required amount of coverage. Letters of credit and bonds require tank owners and operators to set aside assets as collateral against possible environmental incidents – funds that could be used instead to increase profits. Some states now require financial assurance for aboveground storage tanks.

## **Products Pollution**

Products pollution coverage protects the insured for product failure that may cause a pollution liability and includes coverage for bodily injury, property damage and cleanup for third-party claims.

## **Product Recall**

Product recall insurance protects the insured for expenses in recalling a product once it has been sent to consumers and determined it can pose a health and/or death risk to consumers. Expenses such as notifying consumers, shipping, warehousing, disposal costs and more are covered.

## **Umbrella/Excess Coverage**

Umbrella/excess coverage will not only be excess of the standard liability insurance coverage, but will also be excess of the environmental coverage.

## **Vendor Services**

**Note:** *Agricultural operations have potential pollution exposures from the vendors they hire to perform services i.e., co-op services, mechanical, plumbing, HVAC, electrical, refrigeration, animal waste land application, herbicide/pesticide application, harvesting.... Should your vendors cause a pollution problem or exacerbate an existing environmental issue, their general liability insurance policy typically will have either an absolute or total pollution exclusion. In order to be protected you should make sure your vendors have this insurance coverage before they begin doing work.*

## **Contractors Pollution Liability (CPL)**

CPL coverage can be purchased to meet two specific exposures. First, for contractors that perform remedial activities for agricultural operations there is the standard Contractors Pollution Liability (CPL) insurance coverage. This protects the insured for pollution conditions they may cause while performing remedial services or if they exacerbate an existing situation. This is for covered operations performed by or on behalf of the insured. The loss must occur away from any premises the insured owns, rents, leases or occupies.

Secondly, agricultural operations can often take place on third-party property i.e., herbicide and pesticide application, crop planting/harvesting, equipment repairs.... In performing their off-site services, agricultural operations have exposures to environmental losses that are excluded from their general liability coverage. For these agricultural operations, there is Contingent Contractors Pollution Liability (CCPL) coverage. Basically, they are afforded the same coverage as remedial contractors but the cost to purchase this coverage is substantially less.

Typically, coverage for both types of insurance are rated based upon the insured's gross receipts; a few carriers use payroll. You can purchase coverage on a claims-made or occurrence basis. Coverage can be broadened by combining General Liability (for contractors doing more than 40% environmental work) with the CPL. By combining CPL with the GL, you are eliminating potential gaps in coverage that may occur if you write them separately.

Coverage applies specifically to services/operations identified under the policy declaration page or warranty application, that occur at the job-site, not at premises the agricultural operation owns or occupies. Coverage can be purchased on a job-specific basis, or to cover all work performed on an annual or blanket basis. Coverage can also be purchased on an owner-controlled basis. It can also be endorsed to cover transportation pollution liability, off-site disposal cost, emergency response, incidental E&O, completed operations (Statue of Repose), products pollution....

## **Transportation Pollution Liability (TPL)**

It is very common for agricultural operations to hire/utilize third-party transporters. Be sure the transporters hired have transportation pollution liability insurance. How are raw materials purchased? FOB Point of Shipment or FOB Point of Delivery? Refer to the above for description of coverage.

## **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.

Coverage applies specifically to services/operations identified under the policy's declaration page and/or warranty application.

## **Marketing Strategy**

Once a client is educated on their environmental exposures they can make an informed decision, which comes down to answering one question: Does it make fiscal sense to transfer your environmental exposures for fractions of a cent on the dollar or wait until an environmental loss occurs and spend 100 cents on the dollar out of our own pocket for legal fees, cleanup costs, third-party bodily injury, third-party property damage, third-party business interruption?





## ENVIRONMENTAL RISK ASSESSMENT (eRA)

### Livestock Operations

#### What is a Pollutant?

Any material, substance, liquid, product...which is introduced into an environment for other than its intended use/purpose. Fresh water, cheese, and milk have all been classified as pollutants by insurance carriers under various circumstances.

Commercial livestock operations should be aware that pollutants (such as manure, herbicides, fertilizer, etc.) are excluded from coverage on most GL policies. And GL policies that do provide pollution coverage typically do so on a limited basis, with inadequate limits and/or strict discovery and reporting requirements for there to be coverage. In the event of a pollution loss at one of your properties, does your insurance provide adequate coverage?

#### Environmental Exposures Impacting Commercial Livestock Operations

**Include, but are not limited to:** storage, use and disposal of fertilizers, pesticides (Glyphosate), and herbicides; animal waste management; disposal of liquid wastes in septic or leach systems; storage of fuels, antifreeze, oil and hydraulic fluids; leaking above and/or underground storage tanks; air emissions from chemical applications and animal waste; storm water runoff; vapor intrusion; spills from loading and unloading of farm equipment and supplies; faulty refrigeration units; overuse of irrigation; on-site disposal of trash, garbage and other waste materials; old equipment storage yards; on-site compost piles, wastewater lagoons or injection wells; historical contamination; natural resource damages; old or abandoned wells not properly closed allowing contamination into the soil and ground water; improper management of protected or sensitive areas like wetlands; vandalism; easements on the property (rail/roadways, pipelines, power lines, waterways) with potential environmental implications; uncontained floor drains; in-ground sumps and pits; inadequate or no auditing of hazardous and non-hazardous waste handlers; spills and/or air emissions from emergency power generator systems; adverse reactions and interactions of chemical compounds that accidentally commingle during a fire; siltation of nearby streams from improper erosion control management; silica; pollution cleanup and liabilities that occur after a fire is put out....

## Environmental Claim Scenarios

1. During an unusually heavy rainstorm, the wall of a farm's on-site lagoon used to treat animal waste collapsed. More than 150,000 gallons of fecal waste flowed offsite, onto neighboring properties and into a river. Waste cleanup costs exceeded \$350,000, while third-party damage claims exceeded \$75,000.
2. A property owner had his drinking water well tested prior to selling his land. Testing revealed that the well contained an alarmingly high concentration of total petroleum hydrocarbons. Further investigation revealed that the source of the contamination was several dozen drums of waste oil and maintenance fluids buried on a neighboring farm. Though the drums were buried by the previous farm owner, the current owner was nevertheless responsible for disposal of the drums, soil and groundwater cleanup, and bodily injury and property damage claims submitted by the neighboring property owner. Total cost exceeded \$1,000,000 and caused the farmer's bankruptcy.
3. A slaughterhouse disposed of all its waste down a floor drain. The drain was connected to a storm sewer drain that led directly to a nearby stream. A fish kill occurred as a result of high biological oxygen demand in the stream. Under the Clean Water Act (CWA), a local environmental group filed suit for loss of the stream. The slaughterhouse spent \$750,000 remediating the problem.
4. A dairy farmer was using treated wastewater as a fertilizer in a land application process. He did not comply with permitting regulations nor did he have the wastewater tested prior to application. After several months of application, heavy metals and high counts of e-coli were found in the soils. The farmer was required to pay remediation costs in excess of \$265,000.
5. Over a period of several years, storm water from a livestock operation entered a nearby stream and lake. Due to excessive algae and bacteria in the lake, nearby residents and businesses filed claims that exceeded \$3,000,000 for property damage, loss of enjoyment and perceived bodily injury.
6. Pilgrim's Pride Corp., and three business associates were fined \$500,000 by the Texas Natural Resource Conservation Commission for alleged violations of the state's air, water and waste standards. TNRCC found at least four alleged instances of unauthorized wastewater discharges and three alleged nuisance orders instances at two processing plants owned by the Pittsburgh, Texas based Food Company.
7. Phase I and Phase II environmental assessments involve limited sampling of a property and cannot guarantee that the property is clean. For example, a real estate limited partnership, acquired property previously used for farming on which they planned to build a mall. The firm hired a 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.

8. The concrete secondary containment of a 10,000-gallon diesel aboveground storage tank was cracked. A release from the tank spilled 8,000 gallons into the containment. The diesel seeped into the underlying soil and required costly excavation and removal. The total cost for investigation, removal and disposal exceeded \$320,000.
9. While transporting manure over the road, the driver got into an accident, causing the load spill into a nearby stream. Costs for investigation, remediation, and natural resource damages were in excess of \$150,000.

## **Environmental Liability Insurance: Coverage Overview**

Environmental Strategist, Inc. (ESI), understands that environmental liability insurance is a very specialized field. To assist you in better understanding the environmental insurance coverages, we have developed the following list. Since each insurance company that offers environmental insurance has their own contracts, we feel it's better to give you a general overview of the coverages. We like to call this document, Environmental 101, the layperson's version of environmental liability insurance coverages. For specific contract language, you should refer to each carrier's policy forms and endorsements.

Most agricultural operations lack the financial strength to self-insure their environmental exposures. Since every business is impacted by environmental exposures, consideration needs to be given to the economies of scale afforded with environmental liability insurance as part of your environmental financial assurance strategy versus self-insurance.

## **Overlooked Benefits of Environmental Liability Insurance**

### **Defense Costs**

- Environmental liabilities are relatively new and very litigious. Even if you do nothing wrong you can still be named in a lawsuit and must expense defense costs i.e., legal fees, environmental investigations.

### **Claim Management**

- All policies come with specialists to assist in handling a claim. The specialist will oversee communications, public relations, emergency responses, government compliance, financial management, third-party claims for bodily injury, property damage, natural resource damages....

### **Third-Party Liabilities**

- Most of the time the cost to cleanup an environmental problem 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 clients and neighbors that can be impacted if you or a sub-contractor/vendor cause an environmental loss.

# **Environmental Liability Insurance Coverages**

## **Environmental Impairment Liability (EIL)/ Pollution Legal Liability (PLL)**

This coverage applies to agricultural operations which own, operate, lease, or have any other insurable interest in real property and their operations. Coverage can be written in a variety of ways addressing unknown pre-existing conditions (typically need environmental due diligence) or new conditions that may happen in the future. EIL benefits agricultural operations which are susceptible to economic loss caused by pollution that actually or allegedly originated from the property(s) they own or operate.

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, transportation pollution liability, off-site disposal, first-party business income, loss of rent, image restoration, products pollution and much more. Coverage often times is used to meet financial assurance requirements of regulated facilities.

## **Property Transfer Coverage**

When buying or selling property there can be unknown pre-existing environmental conditions. Since a Phase I or Phase II survey 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.

Another coverage feature is change in government regulations. Basically, if a new purchaser is knowingly buying property that is contaminated but below government regulations to cleanup, this will protect the insured, if during the policy period governmental regulations change so it now becomes necessary to cleanup the insured premise(s). This coverage not only helps to keep the property at its maximum value, but it will also assist the purchaser in being able to secure the necessary financing to complete their transaction. With this coverage in place there is an extra layer of financial assurance and warrants a more favorable loan package than other properties that do not utilize this strategy.

## **Transportation Pollution Liability (TPL)**

Generally, commercial transportation policies will exclude pollution losses arising from spills or other releases of their cargo. They will, however, typically cover pollution incidents arising from spills of the fuel and lubricants necessary for the vehicle's operations.

Transportation pollution liability affords coverage during the loading, unloading and transportation, for a spill, release or sudden upset and overturn of transported cargo over road, rail, air or water. Transportation Pollution Liability coverage has proven to be a valuable coverage for policies that are or are not endorsed with the MCS-90 form. The MCS-90 form is only endorsed when required to satisfy Interstate Commerce Commission filings. It is very possible that the auto policy may not require the MCS-90 endorsement but still have a transportation pollution exposure.

The MCS-90 form has often been confused as “pollution liability insurance.” The Motor Carriers Act of 1980 established financial responsibility requirements for certain classes of transporters. The MCS-90 form is attached to the Business Auto or Truckers policy to satisfy these requirements for the benefit of the public at large, not the insured. The MCS-90 includes a provision that states: “The insured agrees to reimburse the (insurance) company for any payment made by the company on account of any accident, claim or suit involving a breach of the terms of the policy, and for any payment the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.”

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Once a client is educated on their environmental exposures they can make an informed decision which comes down to answering one question: Does it make fiscal sense to transfer your environmental exposures for fractions of a cent on the dollar or wait until an environmental loss occurs and spend 100 cents on the dollar out of our own pocket for legal fees, cleanup costs, third-party bodily injury, third-party property damage, third-party business interruption?





## **ENVIRONMENTAL RISK ASSESSMENT (eRA)**

### **Dairy & Cattle Operations**

#### **What is a Pollutant?**

Any material, substance, liquid, product...which is introduced into an environment for other than its intended use/purpose. Fresh water, cheese, and milk have all been classified as pollutants by insurance carriers and courts under various circumstances.

Commercial dairy & cattle operations should be aware that pollutants (such as manure, herbicides, fertilizer, etc.) are excluded from coverage on most GL policies. And GL policies that do provide pollution coverage typically do so on a limited basis, with inadequate limits and/or strict discovery and reporting requirements for there to be coverage. In the event of a pollution loss at one of your properties, does your insurance provide adequate coverage?

This Environmental Risk Assessment (eRA) offers a partial list of environmental exposures livestock operations may face.

#### **Environmental Exposures Impacting Dairy & Cattle Operations**

Include, but are not limited to: storage, use and disposal of fertilizers, pesticides (Glyphosate), and herbicides; animal waste management; disposal of liquid wastes in septic or leach systems; storage of fuels, antifreeze, oil and hydraulic fluids; leaking above and/or underground storage tanks; air emissions from chemical applications and animal waste; storm water runoff; vapor intrusion; spills from loading and unloading of farm equipment and supplies; faulty refrigeration units; overuse of irrigation; on-site disposal of trash, garbage and other waste materials; old equipment storage yards; on-site compost piles, wastewater lagoons or injection wells; historical contamination; natural resource damages; old or abandoned wells not properly closed allowing contamination into the soil and ground water; improper management of protected or sensitive areas like wetlands; vandalism; easements on the property (rail/roadways, pipelines, power lines, waterways) with potential environmental implications; uncontained floor drains; in-ground sumps and pits; inadequate or no auditing of hazardous and non-hazardous waste handlers; spills and/or air emissions from emergency power generator systems; adverse reactions and interactions of chemical compounds that accidentally commingle during a fire; siltation of nearby streams from improper erosion control management; silica; pollution cleanup and liabilities that occur after a fire is put out....

## **Environmental Loss Examples**

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Coverage applies specifically to services/operations identified under the policy declaration page or warranty application, that occur at the job-site, not at premises the agricultural operation owns or occupies. Coverage can be purchased on a job-specific basis, or to cover all work performed on an annual or blanket basis. Coverage can also be purchased on an owner-controlled basis. It can also be endorsed to cover transportation pollution liability, off-site disposal cost, emergency response, incidental E&O, completed operations (Statue of Repose), products pollution....

## **Transportation Pollution Liability (TPL)**

It is very common for agricultural operations to hire/utilize third-party transporters. Be sure the transporters hired have transportation pollution liability insurance. How are raw materials purchased? FOB Point of Shipment or FOB Point of Delivery? Refer to the above for description of coverage.

## **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.

Coverage applies specifically to services/operations identified under the policy's declaration page and/or warranty application.

## **Marketing Strategy**

Once a client is educated on their environmental exposures they can make an informed decision which comes down to answering one question: Does it make fiscal sense to transfer your environmental exposures for fractions of a cent on the dollar or wait until an environmental loss occurs and spend 100 cents on the dollar out of our own pocket for legal fees, cleanup costs, third-party bodily injury, third-party property damage, third-party business interruption?





## **ENVIRONMENTAL RISK ASSESSMENT (eRA)**

### **Vineyards & Wineries**

#### **What is a Pollutant?**

Any material, substance, liquid, product...which is introduced into an environment for other than its intended use/purpose. Fresh water, cheese, and milk have all been classified as pollutants by insurance carriers and courts under various circumstances.

Vineyard and Winery operations should be aware that pollutants (such as grape juice/wine, herbicides, fertilizer, etc.) are excluded from coverage on most GL policies. And GL policies that do provide pollution coverage typically do so on a limited basis, with inadequate limits and/or strict discovery and reporting requirements for there to be coverage. In the event of a pollution loss at one of your properties, does your insurance provide adequate coverage?

This Environmental Risk Assessment (eRA) offers a partial list of environmental exposures vineyard and winery operations may face.

Due to their operations, Vineyards and Wineries (V&W) face a wide array of environmental exposures. The following offers a partial list of environmental exposures V&W may face: storage, use, disposal of fertilizers, pesticides, herbicides (Glyphosate)...; disposal of wastes in lagoons, septic or leach systems; leaking aboveground and/or underground storage tanks; air emissions from chemical applications; storm water runoff; storage of fuels, antifreeze, oil and hydraulic fluids; spills from loading and unloading of farm equipment and supplies; old equipment storage yards; on-site compost piles; historical contamination; overuse of irrigation; natural resource damages; vandalism; uncontained floor drains; inadequate or no auditing of waste handlers; wastewater lagoons; old or abandoned wells not properly closed allowing contamination into the soil and groundwater; easements on the property (rail/roadways, pipelines, power lines, waterways) with potential environmental implications; uncontained floor drains; spills and air emissions from emergency power generator systems; adverse reactions and interactions of chemical compounds that accidentally commingle during a fire; siltation of nearby streams from improper erosion control management; air emissions from refrigerants....

## **Environmental Loss Examples for V&W**

1. Over the years, a winery's 40-year-old wastewater treatment plant had been upgraded several times. Improper closure of an on-site surface impoundment allowed gradual seepage into groundwater. Constituents contaminated the underlying groundwater, which was a potable water supply for the neighboring community. Groundwater cleanup and emergency water supplies for residents exceeded \$350,000.
2. Several years after a vineyard was planted, excessive algae and bacteria developed in a nearby stream and lake. Riparian owners filed claims in excess of \$1,000,000 against the vineyard for property and natural resource damages, perceived bodily injury and loss of enjoyment caused by excessive fertilizer runoff.
3. A broken seal in the refrigeration line allowed refrigerants to sicken several guests while touring the winery plant. Injured guests and workers were taken to the local hospital for treatment. Third-party bodily injury claims were filed against the winery.
4. A new V&W acquired property previously used for farming. An environmental site assessment determined the property to be "clean." When excavation for the winery began, the excavation contractor ruptured several drums of pesticides and herbicides that were illegally buried on the property. Soil and groundwater remediation along with drum disposal costs exceeded \$750,000.
5. The concrete secondary containment of a 5,000-gallon diesel aboveground storage tank failed when 4,000 gallons spilled into the containment. The diesel caused soil and ground water contamination. Total costs for investigation, removal/disposal and legal fees exceeded \$400,000.

## **Environmental Liability Insurance**

V&W generally lack the financial strength to self-insure their environmental liabilities. Since every V&W is impacted by environmental liabilities 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.

### **Environmental Liability Insurance: Coverage Overview**

Environmental Strategist, Inc. (ESI), understands that environmental liability insurance is a very specialized field. To assist you in better understanding the environmental insurance coverages, we have developed the following list. Since each insurance company that offers environmental insurance has their own contracts, we feel it's better to give you a general overview of the coverages. We like to call this document, Environmental 101, the layperson's version of environmental liability insurance coverages. For specific contract language, you should refer to each carrier's policy forms and endorsements.

Most V&W operations lack the financial strength to self-insure their environmental exposures. Since every V&W is impacted by environmental exposures, consideration needs to be given to the economies of scale afforded with environmental liability insurance as part of your environmental financial assurance strategy versus self-insurance.

## **Overlooked Benefits of Environmental Liability Insurance**

### **Defense Costs**

- Environmental liabilities are relatively new and very litigious. Even if you do nothing wrong you can still be named in a lawsuit and must expense defense costs i.e., legal fees, environmental investigations.

### **Claim Management**

- All policies come with specialists to assist in handling a claim. The specialist will oversee communications, public relations, emergency responses, government compliance, financial management, third-party claims for bodily injury, property damage, natural resource damages....

### **Third-Party Liabilities**

- Most of the time the cost to cleanup an environmental problem 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 clients and neighbors that can be impacted if you or a sub-contractor/vendor cause an environmental loss.

# **Environmental Liability Insurance Coverages**

## **Environmental Impairment Liability (EIL)/ Pollution Legal Liability (PLL)**

This coverage applies to agricultural operations which own, operate, lease, or have any other insurable interest in real property and their operations. Coverage can be written in a variety of ways addressing unknown pre-existing conditions (typically need environmental due diligence) or new conditions that may happen in the future. EIL benefits agricultural operations which are susceptible to economic loss caused by pollution that actually or allegedly originated from the property(s) they own or operate.

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, transportation pollution liability, off-site disposal, first-party business income, loss of rent, image restoration, products pollution and much more. Coverage often times is used to meet financial assurance requirements of regulated facilities.

## **Property Transfer Coverage**

When buying or selling property there can be unknown pre-existing environmental conditions. Since a Phase I or Phase II survey 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.

Another coverage feature is change in government regulations. Basically, if a new purchaser is knowingly buying property that is contaminated but below government regulations to cleanup, this will protect the insured, if during the policy period governmental regulations change so it now becomes necessary to cleanup the insured premise(s).

This coverage not only helps to keep the property at its maximum value, but it will also assist the purchaser in being able to secure the necessary financing to complete their transaction. With this coverage in place there is an extra layer of financial assurance and warrants a more favorable loan package than other properties that do not utilize this strategy.

## **Transportation Pollution Liability (TPL)**

Generally, commercial transportation policies will exclude pollution losses arising from spills or other releases of their cargo. They will, however, typically cover pollution incidents arising from spills of the fuel and lubricants necessary for the vehicle's operations.

Transportation pollution liability affords coverage during the loading, unloading and transportation, for a spill, release or sudden upset and overturn of transported cargo over road, rail, air or water. Transportation Pollution Liability coverage has proven to be a valuable coverage for policies that are or are not endorsed with the MCS-90 form. The MCS-90 form is only endorsed when required to satisfy Interstate Commerce Commission filings. It is very possible that the auto policy may not require the MCS-90 endorsement but still have a transportation pollution exposure.

The MCS-90 form has often been confused as “pollution liability insurance.” The Motor Carriers Act of 1980 established financial responsibility requirements for certain classes of transporters. The MCS-90 form is attached to the Business Auto or Truckers policy to satisfy these requirements for the benefit of the public at large, not the insured. The MCS-90 includes a provision that states: “The insured agrees to reimburse the (insurance) company for any payment made by the company on account of any accident, claim or suit involving a breach of the terms of the policy, and for any payment the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.”

## **Underground and Aboveground Storage Tanks**

In 1984, Subtitle I of the Resource Conservation and Recovery Act (RCRA) imposed stringent technical and financial requirements on owners and operators of underground storage tank systems storing petroleum. In 1986, Subtitle I was amended by the Superfund Amendments and Reauthorization Act (SARA) setting financial responsibility requirements for tank owners.

Financial responsibility requirements ensure that owners and operators of underground storage tank systems can financially handle a release from an underground storage tank. Financial responsibility is determined based upon the type of tank owner, the monthly throughput and the number of tanks owned. The minimum requirement is \$500,000 per occurrence, with a minimum aggregate of \$1 million and a maximum aggregate of \$2 million.

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 of petroleum from an underground tank system. If insurance is utilized, the policy must provide defense cost coverage outside the limit of liability.

Self-insurance, letters of credit and bonds are all RCRA approved ways to meet financial requirements. However, to self-insure, the corporation must show a net worth 10 times the required amount of coverage. Letters of credit and bonds require tank owners and operators to set aside assets as collateral against possible environmental incidents – funds that could be used instead to increase profits. Some states now require financial assurance for aboveground storage tanks.

## **Products Pollution**

Products pollution coverage protects the insured for product failure that may cause a pollution liability and includes coverage for bodily injury, property damage and cleanup for third-party claims.

## **Product Recall**

Product recall insurance protects the insured for expenses in recalling a product once it has been sent to consumers and determined it can pose a health and/or death risk to consumers. Covers expenses such as notifying consumers, shipping, warehousing, disposal costs and more are covered.

## **Umbrella/Excess Coverage**

Umbrella/excess coverage will not only be excess of the standard liability insurance coverages, but will also be excess of the environmental coverages.

### **Vendor Services**

*Note: V&W have potential pollution exposures from the vendors they hire to perform services i.e., co-op services, mechanical, plumbing, HVAC, electrical, refrigeration, herbicide/pesticide application, harvesting.... Should your vendors cause a pollution problem or exacerbate an existing environmental issue their general liability insurance policy typically will have either an absolute or total pollution exclusion. In order to be protected you should make sure your vendors have this insurance coverage before they begin doing work.*

## **Contractors Pollution Liability (CPL)**

CPL coverage can be purchased to meet two specific exposures. First, for contractors that perform remedial activities for agricultural operations there is the standard Contractors Pollution Liability (CPL) insurance coverage. This protects the insured for pollution conditions they may cause while performing remedial services or if they exacerbate an existing situation. This is for covered operations performed by or on behalf of the insured. The loss must occur away from any premises the insured owns, rents, leases or occupies.

Secondly, agricultural operations can often take place on third-party property i.e., herbicide and pesticide application, crop planting/harvesting, equipment repairs.... In performing their off-site services, agricultural operations have exposures to environmental losses that are excluded from their general liability coverage. For these agricultural operations, there is Contingent Contractors Pollution Liability (CCPL) coverage. Basically, they are afforded the same coverage as remedial contractors but the cost to purchase this coverage is substantially less.

Typically, coverage for both types of insurance are rated based upon the insured's gross receipts; a few carriers use payroll. You can purchase coverage on a claims-made or occurrence basis. Coverage can be broadened by combining General Liability (for contractors doing more than 40% environmental work) with the CPL. By combining CPL with the GL, you are eliminating potential gaps in coverage that may occur if you write them separately.

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## **Transportation Pollution Liability (TPL)**

It is very common for V&W operations to hire/utilize third-party transporters. Be sure the transporters hired have transportation pollution liability insurance. How are raw materials purchased? FOB Point of Shipment or FOB Point of Delivery? Refer to the above for description of coverage.

## **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.

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## **Marketing Strategy**

Once a client is educated on their environmental exposures they can make an informed decision which comes down to answering one question: Does it make fiscal sense to transfer your environmental exposures for fractions of a cent on the dollar or wait until an environmental loss occurs and spend 100 cents on the dollar out of our own pocket for legal fees, cleanup costs, third-party bodily injury, third-party property damage, third-party business interruption?





## **Environmental Risk Assessment Commercial/Botanical Gardens**

### **What is a Pollutant?**

Any material, substance, liquid, product... which is introduced into an environment for other than its intended use/purpose. Fresh water, cheese, and milk have all been classified as pollutants by insurance carriers and courts under various circumstances.

Commercial/Botanical Garden operations should be aware that pollutants (such as herbicides, fertilizer, etc.) are excluded from coverage on most GL policies. And GL policies that do provide pollution coverage typically do so on a limited basis, with inadequate limits and/or strict discovery and reporting requirements for there to be coverage. In the event of a pollution loss at one of your properties, does your insurance provide adequate coverage?

This Environmental Risk Assessment (eRA) offers a partial list of environmental exposures Commercial/Botanical Garden operations may face.

### **A Partial List of Environmental Exposures Impacting Commercial and Botanical Gardens**

Storage, use and disposal of fertilizers, pesticides, and herbicides; storage of fuels, antifreeze, oil and hydraulic fluids; above and/or underground storage tanks; air emissions from chemical applications; storm water runoff; vapor intrusion; spills from loading and unloading of chemicals and supplies; overuse of irrigation; compost piles; natural resource damages; vandalism; language barrier; easements on the property (pipelines, power lines, waterways) with potential environmental implications; waste handlers; adverse reactions and interactions of chemical compounds that accidentally commingle during a fire; siltation of nearby streams from erosion and runoff....

## Environmental Loss Examples for Commercial/Botanical Gardens

1. Prior to selling his land, a property owner had their water well tested. Testing revealed that the well water contained petroleum hydrocarbons. The source of the contamination was determined to be an unknown underground storage tank that used to be used for heating the neighboring commercial garden's greenhouses. Other neighbors had their well water tested and contamination was discovered. Disposal of the tank, contaminated soil and groundwater cleanup, along with bodily injury and property damage claims submitted by the neighboring property owners exceeded \$3,000,000.
2. A commercial garden used treated wastewater as a fertilizer in a land application process. The wastewater tested prior to application. After several months of application, heavy metals and high counts of e-coli were found in the soils. The garden was required to pay remediation costs in excess of \$265,000.
3. Over a period of years, storm water from a commercial garden entered a nearby stream. Excessive algae and bacteria in the stream and in the lake the stream emptied, caused riparian property owners to file claims that exceeded \$3,000,000 for property damage, loss of enjoyment, natural resource damages and perceived bodily injury.
4. A garden hired a third-party to apply chemicals to their plants. The chemical applicator used a cheaper but unapproved chemical. Testing revealed that a stream bank that ran through the garden was contaminated with the unapproved chemical. Downstream from the garden more contamination was found on third-party properties. Cost to remediate the stream site was in excess of \$300,000. The chemical applicator did not have a pollution policy and so under federal law, the garden owns the land that was the source of the contamination is responsible for cleanup, third-party bodily injury, third-party property damage....
5. A municipality acquired property previously used for farming on which they planned to develop a community garden. A committee was formed which hired an environmental engineer to perform environmental due diligence. The Phase I site assessment determined the property was "clean." However, when development of the garden began, drums of buried used oil, pesticides and herbicides used by the previous owner were discovered. The chemicals contaminated the soil and had to be removed at the municipality's expense, which exceeded \$75,000. The municipality took legal action seeking reimbursement from the previous landowner and the environmental engineer's professional liability policy.
6. The concrete secondary containment of a 10,000-gallon diesel aboveground storage tank was cracked. A release from the tank spilled 8,000 gallons into the containment. The diesel seeped into the underlying soil and required costly excavation and removal. The total cost for investigation, removal and disposal exceeded \$320,000.

## **Environmental Liability Insurance: Coverage Overview**

Environmental Strategist, Inc. (ESI), understands that environmental liability insurance is a very specialized field. To assist you in better understanding the environmental insurance coverages, we have developed the following list. Since each insurance company that offers environmental insurance has their own contracts, we feel it's better to give you a general overview of the coverages. We like to call this document, Environmental 101, the layperson's version of environmental liability insurance coverages. For specific contract language, you should refer to each carrier's policy forms and endorsements.

Most Commercial/Botanical Garden operations lack the financial strength to self-insure their environmental exposures. Since every business is impacted by environmental exposures, consideration needs to be given to the economies of scale afforded with environmental liability insurance as part of your environmental financial assurance strategy versus self-insurance.

## **Overlooked Benefits of Environmental Liability Insurance**

### **Defense Costs**

- Environmental liabilities are relatively new and very litigious. Even if you do nothing wrong you can still be named in a lawsuit and must expense defense costs i.e., legal fees, environmental investigations.

### **Claim Management**

- All policies come with specialists to assist in handling a claim. The specialist will oversee communications, public relations, emergency responses, government compliance, financial management, third-party claims for bodily injury, property damage, natural resource damages....

### **Third-Party Liabilities**

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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, transportation pollution liability, off-site disposal, first-party business income, loss of rent, image restoration, products pollution and much more. Coverage often times is used to meet financial assurance requirements of regulated facilities.

## **Property Transfer Coverage**

When buying or selling property there can be unknown pre-existing environmental conditions. Since a Phase I or Phase II survey 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.

Another coverage feature is change in government regulations. Basically, if a new purchaser is knowingly buying property that is contaminated but below government regulations to cleanup, this will protect the insured, if during the policy period governmental regulations change so it now becomes necessary to cleanup the insured premise(s).

This coverage not only helps to keep the property at its maximum value, but it will also assist the purchaser in being able to secure the necessary financing to complete their transaction. With this coverage in place there is an extra layer of financial assurance and warrants a more favorable loan package than other properties that do not utilize this strategy.

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Generally, commercial transportation policies will exclude pollution losses arising from spills or other releases of their cargo. They will, however, typically cover pollution incidents arising from spills of the fuel and lubricants necessary for the vehicle's operations.

Transportation pollution liability affords coverage during the loading, unloading and

transportation, for a spill, release or sudden upset and overturn of transported cargo over road, rail, air or water. Transportation Pollution Liability coverage has proven to be a valuable coverage for policies that are or are not endorsed with the MCS-90 form. The MCS-90 form is only endorsed when required to satisfy Interstate Commerce Commission filings. It is very possible that the auto policy may not require the MCS-90 endorsement but still have a transportation pollution exposure.

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## **Products Pollution**

Products pollution coverage protects the insured for product failure that may cause a pollution liability and includes coverage for bodily injury, property damage and cleanup for third-party claims.

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Product recall insurance protects the insured for expenses in recalling a product once it has been sent to consumers and determined it can pose a health and/or death risk to consumers. Expenses such as notifying consumers, shipping, warehousing, disposal costs and more are covered.

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Umbrella/excess coverage will not only be excess of the standard liability insurance coverages, but will also be excess of the environmental coverages.

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It is very common for agricultural operations to hire/utilize third-party transporters. Be sure the transporters hired have transportation pollution liability insurance. How are raw materials purchased? FOB Point of Shipment or FOB Point of Delivery? Refer to the above for description of coverage.

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## **Marketing Strategy**

Once a client is educated on their environmental exposures they can make an informed decision which comes down to answering one question: Does it make fiscal sense to transfer your environmental exposures for fractions of a cent on the dollar or wait until an environmental loss occurs and spend 100 cents on the dollar out of our own pocket for legal fees, cleanup costs, third-party bodily injury, third-party property damage, third-party business interruption?



## ENVIRONMENTAL RISK ASSESSMENT (eRA)

### Fruit Farmers

#### What is a Pollutant?

Any material, substance, liquid, product, etc., which is introduced into an environment for other than its intended use/purpose. Fresh water, cheese, and milk have all been classified as pollutants by insurance carriers under various circumstances.

Every agricultural business is impacted by a variety of environmental issues/liabilities. This Competitive environmental Intelligence (CeI) offers a partial list of environmental exposures agricultural business may face.

#### Environmental Exposures Impacting Fruit Farmers

**Include, but are not limited to:** storage, use and disposal of fertilizers, pesticides, and herbicides; disposal of liquid wastes in septic or leach systems; storage of fuels, antifreeze, oil and hydraulic fluids; leaking above and/or underground storage tanks; air emissions from chemical applications; storm water runoff; vapor intrusion; spills from loading and unloading of farm equipment and supplies; faulty refrigeration units; overuse of irrigation; on-site disposal of trash, garbage and other waste materials; old equipment storage yards; on-site compost piles, wastewater lagoons or injection wells; historical contamination; natural resource damages; old or abandoned wells not properly closed allowing contamination into the soil and ground water; improper management of protected or sensitive areas like wetlands; vandalism; easements on the property (rail/roadways, pipelines, power lines, waterways) with potential environmental implications; uncontained floor drains; in-ground sumps and pits; inadequate or no auditing of hazardous and non-hazardous waste handlers; spills and air emissions from emergency power generator systems; adverse reactions and interactions of chemical compounds that accidentally commingle during a fire; siltation of nearby streams from improper erosion control management....

#### Environmental Loss Examples

1. Over a period of several years, water used to cool fruit down prior to shipping on the cooling pads at a cherry farm seeped into the surrounding ground causing ground water



contamination impacting local residents' water wells. Total costs for investigation, third-party property damage claims, remediation, and legal fees exceeded \$400,000.

2. A property owner had his drinking water well tested prior to selling his land. Testing revealed that the well contained an alarmingly high concentration of total petroleum hydrocarbons. Further investigation revealed that the source of the contamination was several dozen drums of waste oil and maintenance fluids buried on a neighboring farm. Though the drums were buried by the previous farm owner, the current owner was nevertheless responsible for disposal of the drums, soil and groundwater cleanup, and bodily injury and property damage claims submitted by the neighboring property owner. Total cost exceeded \$1,000,000 and caused the farmer's bankruptcy.
3. Shortly after spraying, a fruit farmer received a third-party claim from a neighboring farmer accusing them of over application resulting in a chemical drift which impacted the neighboring farmer's crop, contaminating it. The cost to cleanup and settle the claim totaled \$550,000.
4. Phase I and Phase II environmental assessments involve limited sampling of a property and cannot guarantee that the property is clean. For example, a real estate limited partnership, acquired property previously used for farming on which they planned to build a mall. The firm hired a 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
5. The concrete secondary containment of a 10,000-gallon diesel aboveground storage tank was cracked. A release from the tank spilled 8,000 gallons into the containment. The diesel seeped into the underlying soil and required costly excavation and removal. The total cost for investigation, removal and disposal exceeded \$320,000.

## **Environmental Liability Insurance: Coverage Overview**

Environmental Strategist, Inc. (ESI), understands that environmental liability insurance is a very specialized field. To assist you in better understanding the environmental insurance coverages, we have developed the following list. Since each insurance company that offers environmental insurance has their own contracts, we feel it's better to give you a general overview of the coverages. We like to call this document, Environmental 101, the layperson's version of environmental liability insurance coverages. For specific contract language, you should refer to each carrier's policy forms and endorsements.

Most fruit operations lack the financial strength to self-insure their environmental exposures. Since every business is impacted by environmental exposures, consideration needs to be given to the economies of scale afforded with environmental liability insurance as part of your environmental financial assurance strategy versus self-insurance.

# **Overlooked Benefits of Environmental Liability Insurance**

## **Defense Costs**

- Environmental liabilities are relatively new and very litigious. Even if you do nothing wrong you can still be named in a lawsuit and must expense defense costs i.e., legal fees, environmental investigations.

## **Claim Management**

- All policies come with specialists to assist in handling a claim. The specialist will oversee communications, public relations, emergency responses, government compliance, financial management, third-party claims for bodily injury, property damage, natural resource damages....

## **Third-Party Liabilities**

- Most of the time the cost to cleanup an environmental problem 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 clients and neighbors that can be impacted if you or a sub-contractor/vendor cause an environmental loss.

# **Environmental Liability Insurance Coverages**

## **Environmental Impairment Liability (EIL)/ Pollution Legal Liability (PLL)**

This coverage applies to fruit operations which own, operate, lease, or have any other insurable interest in real property and their operations. Coverage can be written in a variety of ways addressing unknown pre-existing conditions (typically need environmental due diligence) or new conditions that may happen in the future. EIL benefits agricultural operations which are susceptible to economic loss caused by pollution that actually or allegedly originated from the property(s) they own or operate.

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, transportation pollution liability, off-site disposal, first-party business income, loss of rent, image restoration, products pollution and much more. Coverage often times is used to meet financial assurance requirements of regulated facilities.

## **Property Transfer Coverage**

When buying or selling property there can be unknown pre-existing environmental conditions. Since a Phase I or Phase II survey 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.

Another coverage feature is change in government regulations. Basically, if a new purchaser is knowingly buying property that is contaminated but below government regulations to cleanup, this will protect the insured, if during the policy period governmental regulations change so it now becomes necessary to cleanup the insured premise(s).

This coverage not only helps to keep the property at its maximum value, but it will also assist the purchaser in being able to secure the necessary financing to complete their transaction. With this coverage in place there is an extra layer of financial assurance and warrants a more favorable loan package than other properties that do not utilize this strategy.

## **Transportation Pollution Liability (TPL)**

Generally, commercial transportation policies will exclude pollution losses arising from spills or other releases of their cargo. They will, however, typically cover pollution incidents arising from spills of the fuel and lubricants necessary for the vehicle's operations.

Transportation pollution liability affords coverage during the loading, unloading and transportation, for a spill, release or sudden upset and overturn of transported cargo over road, rail, air or water. Transportation Pollution Liability coverage has proven to be a valuable coverage for policies that are or are not endorsed with the MCS-90 form. The MCS-90 form is only endorsed when required to satisfy Interstate Commerce Commission filings. It is very possible that the auto policy may not require the MCS-90 endorsement but still have a transportation pollution exposure.

The MCS-90 form has often been confused as “pollution liability insurance.” The Motor Carriers Act of 1980 established financial responsibility requirements for certain classes of transporters. The MCS-90 form is attached to the Business Auto or Truckers policy to satisfy these requirements for the benefit of the public at large, not the insured. The MCS-90 includes a provision that states: “The insured agrees to reimburse the (insurance) company for any payment made by the company on account of any accident, claim or suit involving a breach of the terms of the policy, and for any payment the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.”

## **Underground and Aboveground Storage Tanks**

In 1984, Subtitle I of the Resource Conservation and Recovery Act (RCRA) imposed stringent technical and financial requirements on owners and operators of underground storage tank systems storing petroleum. In 1986, Subtitle I was amended by the Superfund Amendments and Reauthorization Act (SARA) setting financial responsibility requirements for tank owners.

Financial responsibility requirements ensure that owners and operators of underground storage tank systems can financially handle a release from an underground storage tank. Financial responsibility is determined based upon the type of tank owner, the monthly throughput and the number of tanks owned. The minimum requirement is \$500,000 per occurrence, with a minimum aggregate of \$1 million and a maximum aggregate of \$2 million.

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 of petroleum from an underground tank system. If insurance is utilized, the policy must provide defense cost coverage outside the limit of liability.

Self-insurance, letters of credit and bonds are all RCRA approved ways to meet financial requirements. However, to self-insure, the corporation must show a net worth 10 times the required amount of coverage. Letters of credit and bonds require tank owners and operators to set aside assets as collateral against possible environmental incidents – funds that could be used instead to increase profits. Some states now require financial assurance for aboveground storage tanks.

## Products Pollution

Products pollution coverage protects the insured for product failure that may cause a pollution liability and includes coverage for bodily injury, property damage and cleanup for third-party claims.

## Product Recall

Product recall insurance protects the insured for expenses in recalling a product once it has been sent to consumers and determined it can pose a health and/or death risk to consumers. Expenses such as notifying consumers, shipping, warehousing, disposal costs and more are covered.

## Umbrella/Excess Coverage

Umbrella/excess coverage will not only be excess of the standard liability insurance coverages, but will also be excess of the environmental coverages.

### **Vendor Services**

**Note:** *Fruit operations have potential pollution exposures from the vendors they hire to perform services i.e., co-op services, mechanical, plumbing, HVAC, electrical, refrigeration, herbicide/pesticide application, harvesting.... Should your vendors cause a pollution problem or exacerbate an existing environmental issue their general liability insurance policy typically will have either an absolute or total pollution exclusion. In order to be protected you should make sure your vendors have this insurance coverage before they begin doing work.*

## Contractors Pollution Liability (CPL)

CPL coverage can be purchased to meet two specific exposures. First, for contractors that perform remedial activities for agricultural operations there is the standard Contractors Pollution Liability (CPL) insurance coverage. This protects the insured for pollution conditions they may cause while performing remedial services or if they exacerbate an existing situation. This is for covered operations performed by or on behalf of the insured. The loss must occur away from any premises the insured owns, rents, leases or occupies.

Secondly, fruit operations can often take place on third-party property i.e., herbicide and pesticide application, crop planting/harvesting, equipment repairs.... In performing their off-site services, agricultural operations have exposures to environmental losses that are excluded from their general liability coverage. For these agricultural operations, there is Contingent Contractors Pollution Liability (CCPL) coverage. Basically, they are afforded the same coverage as remedial contractors but the cost to purchase this coverage is substantially less.

Typically, coverage for both types of insurance are rated based upon the insured's gross receipts; a few carriers use payroll. You can purchase coverage on a claims-made or occurrence basis. Coverage can be broadened by combining General Liability (for contractors doing more than 40% environmental work) with the CPL. By combining CPL with the GL, you are eliminating potential gaps in coverage that may occur if you write them separately.

Coverage applies specifically to services/operations identified under the policy declaration page or warranty application, that occur at the job-site, not at premises the agricultural operation owns or occupies. Coverage can be purchased on a job-specific basis, or to cover all work performed on an annual or blanket basis. Coverage can also be purchased on an owner-controlled basis. It can also be endorsed to cover transportation pollution liability, off-site disposal cost, emergency response, incidental E&O, completed operations (Statue of Repose), products pollution....

## **Transportation Pollution Liability (TPL)**

It is very common for fruit operations to hire/utilize third-party transporters. Be sure the transporters hired have transportation pollution liability insurance. How are raw materials purchased? FOB Point of Shipment or FOB Point of Delivery? Refer to the above for description of coverage.

## **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.

Coverage applies specifically to services/operations identified under the policy's declaration page and/or warranty application.

## **Marketing Strategy**

Once a client is educated on their environmental exposures they can make an informed decision which comes down to answering one question: Does it make fiscal sense to transfer your environmental exposures for fractions of a cent on the dollar or wait until an environmental loss occurs and spend 100 cents on the dollar out of our own pocket for legal fees, cleanup costs, third-party bodily injury, third-party property damage, third-party business interruption?

# COMPETITIVE ENVIRONMENTAL INTELLIGENCE

Competitive environmental Intelligence (CeI) is designed to give you additional educational resources to better understand some of the environmental exposures impacting agricultural operations.



## MUST READ FOR INSURANCE PROFESSIONALS THAT SELL COMMERCIAL FIRE INSURANCE POLICIES

*By: Chris Bunbury, eS*

Why has environmental risk management and insurance become part of “Best Practices” for commercial insurance professionals? The simple answer, every business 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 insureds.

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

- 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 that experiences a fire, has an excellent chance of being impacted by environmental liabilities, even if they have a property policy.

The reason we have pollution insurance is to fill in coverage gaps in standard property and casualty insurance policies. It's critical for insurance professionals to fill in the huge coverage gap created by fire policies to address the resulting pollution.

**Example:** An auto parts 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. For example, take sprinklers systems in buildings. While the sprinklers suppress fires they also spread pollutants.

Let me give you another example: Aboveground Storage Tanks (AST) as a means to reduce risk versus Underground Storage Tanks (UST). 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.

I 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 be 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.



**Environmental Risk Managers, between the lines:** Studies have stated agriculture accounts for 80% of the worldwide fresh water consumption and contaminates 70% of our waterways. However, each and every one of us depend upon agriculture. Understanding that just by their very existence agricultural operations are polluters, the question becomes how can agricultural operations pollute in a way that has the least amount of impact upon human health and the environment?

The article below highlights a growing trend in the livestock industry. As you read through the article, I have highlighted in **red** the pollution insurance coverage appropriate for the various environmental exposures.

## Dairy Farm Produces Electricity from Manure

FENNVILLE, MI – Brian Geerlings estimates his 2,000 cows produce enough milk (**milk has been classified as a pollutant; Environmental Impairment Liability (EIL) provide pollution coverage for the dairy farm and transportation pollution insurance to get the milk to the producer/consumer**) each day to supply each resident of Grand Rapids with an 8-ounce glass of milk.

But that's not all his cows produce. Thanks to three “anaerobic digesters” that process the manure on the “back end” of the farm, the Scenic View Dairy also generates enough electricity to power more than 700 homes.

"We're able to produce our milk with a negative carbon footprint," says Geerlings, a 36-year-old farmer who moved his Scenic View Dairy to Allegan County from the Zeeland area in 2000 to escape the urban sprawl that inhibited expansion.

The cows are milked three times a day, (**Before a cow can be milked, they must be washed, which produces contaminated wastewater. Washing consumes approximately 40 gallons of water per cow per day. Wastewater from washing cows accounts for the majority of waste in manure lagoons. EIL coverage addresses these exposures.**) eating from a carefully blended mix of silage designed to give them the optimal amount of protein, fiber and nutrients. “It's calculated to produce milk,” says Geerlings, who estimates each cow eats about 110 pounds each day.

Housed in open-air barns (**Air emissions from cows' methane, makes up 10 – 15% of global methane emissions. There is EIL coverage for this exposure.**) designed to keep them comfortable and out of the weather, each cow's milk output is individually weighed and recorded.

"We have records from the day she's born until the day she dies," said Geerlings, who said the herd produces about 18,000 gallons of milk each day – about 75 pounds per cow.

After it leaves the cow, the milk is piped into a chiller (**Many agricultural products, like milk, need to be kept cold, which involves refrigerant chemicals that can release air emissions or spill fluids. EIL coverage.**) and transported within 24 hours by truck to a milk processing plant in Reed City, where it is converted into Yoplait yogurt, or Coopersville, where it dried and used in the food processing industry or sent overseas. (**Products pollution exposure. Generally, the environmental liability insurance market does not like to offer this coverage on consumable products.**)

That's on the front end. What makes Geerlings' farm unusual is his handling of the cows' manure, which has historically been treated as a smelly nuisance (**EIL coverage**).

At Scenic View Dairy, the manure is treated like gold. While the cows are in the milking parlor, their manure is scraped into holding tanks and sent to one of three large green silos (**EIL coverage for the storage**), where it is heated over a 22-day period.

The heating process causes the slurry to emit methane gases that are captured by the large cones. As a bonus, capturing the methane gas also eliminates much of the smell associated with the farm. (**EIL coverage for air emissions**)

The captured methane is used to fuel two 12-cylinder Caterpillar motors that run round-the-clock (**EIL coverage for air emissions**) to drive electrical co-generators that supply electricity for the farm and are fed back into the grid operated by Consumers Energy.

Besides eliminating an electrical bill that could reach up to \$15,000 a month, Geerlings estimates he sells about two-thirds of the electricity generated by the farm back to Consumers Energy. "We just renewed our 20-year contract with Consumers," he said.

The farm's negative carbon footprint also allows Geerlings to sell "carbon credits" to companies who need to offset their carbon consumption. While the market price of carbon credits fluctuates, Geerlings estimated he pockets about \$50,000 a year from their sale.

After the methane is extracted, liquid is expelled from the manure and returned to the barns for bedding. Some of the "bio-mulch" also is sold to landscape companies for mulch or soil conditioners. (**Depending upon how the bio-mulch is stored, you can have a storm water runoff exposure along with the transportation pollution liability exposure to get mulch to landscape companies and consumers. EIL and transportation pollution liability coverage. Potential products pollution exposure.**)

The liquid from the manure is stored in lagoons (**EIL coverage**) and injected back into the 3,200 acres (**EIL coverage**) which Geerlings owns or rents (**Depending upon the rental agreement this could be site pollution coverage or Contractors Pollution Liability (CPL).**) in the area to raise corn, soybeans, wheat and rye (**EIL coverage for the storage and**

**application of other agricultural chemicals used in order to grow these crops.**). Much of those crops are fed back to the herd.

The digesters not only add cash to Geerlings' bottom line, but also stabilizes his balance sheet when dairy prices fluctuate.

“There are times in the past year when the digester has made more than the cows,” says Geerlings, who employs 35 full-time workers. “It takes dedication and it takes focus to make it pay.”

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[http://www.mlive.com/business/west-michigan/index.ssf/2016/04/michigan\\_dairy\\_farm\\_produces\\_m.html#incart\\_river\\_index](http://www.mlive.com/business/west-michigan/index.ssf/2016/04/michigan_dairy_farm_produces_m.html#incart_river_index)



**environmental Strategist, between the lines:** Not through any nefarious act but simply to put food on our tables, the agricultural industry has created a profusion of environmental liabilities.

If you have and/or had agricultural operations in your community, chances a very good you have third-party new and legacy environmental exposures impacting you.

Liabilities created by third-parties is a huge environmental exposure. What is your strategy to address the third-party environmental liabilities impacting your client? Pollution insurance is one consideration as part of financial assurance strategy versus self-insurance. Pollution insurance can protect your client from the costs of legal fees, investigation, cleanup, business interruption, disposal...created by third-party liabilities.

Here is another third-party environmental liability example. In the United States we have in excess of 200,000 known leaking underground storage tanks that we have no money to pay for cleanup, third-party bodily injury.... My question is, how many leaking underground storage tanks don't we know about that are impacting third-parties?

## **Communities Pay the Price for Decades of Fertilizer Use**

A pollutant that has leached into California aquifers since farmers first began using synthetic fertilizer continues to accumulate and would not be removed from groundwater even if the state's agriculture businesses abruptly quit using nitrogen-based materials to boost the productivity of their crops.

That's one of the themes of a new study from the UC Davis Agriculture Sustainability Institute that assesses the scale and sources of a kind of pollution that can harm infants if it seeps into groundwater and contributes to respiratory problems if it drifts into the air as a gas.

The report is the widest look yet at pollution from nitrogen, a common contaminant that the State Water Quality Control Board has tried in fits and starts to remove from Central Valley agricultural communities over the past decade.

The report's authors offer a range of solutions – from creating a cap-and-trade-style market for nitrogen emissions to encouraging better waste-management practices on farms – but they concede that it could take decades to clean up groundwater that has collected fertilizer runoff since the 1940s.

“We don't have enough technology on the shelf to be able to address the issue now,” said sustainability institute director Tom Tomich, who led the study. “There's a need for collaboration with farmers and ranchers to develop solutions to these challenges.”

His team took seven years to weave together a broad picture of nitrogen pollution up and down the state. Past efforts have focused on specific regions, such as a 2012 study that showed up to 250,000 people are highly vulnerable to nitrogen contamination in the Salinas and southern San Joaquin valleys.

Tomich's study found that California generates about 1.8 million tons of nitrogen every year. More than half of it comes from agricultural sources, which rely on nitrogen as a key component in fertilizers.

Of that, about 419,000 tons leach into groundwater, where it becomes a salt known as nitrate. Overexposure to nitrates in drinking water can hurt an infant's ability to move oxygen in the bloodstream. It's a condition known as "blue baby syndrome."

## **1.8 Million Tons Amount of Nitrogen Released in California Every Year.**

In western Stanislaus County, the city of Modesto in 2005 built a special treatment plant to supply water to the small community of Grayson because of nitrate pollution in its wells. Delano in Kern County and Ripon in San Joaquin County also are testing new nitrate-removal processes. McFarland, also in Kern County, has had a nitrate-removal system in its water treatment plant since the 1980s.

"Communities right now are living with nitrogen water. Kids go to school and they're told not to drink from the taps, and they're told to buy bottled water," said Debi Ores, an attorney for the advocacy group Community Water Center. "The problem is the communities are the ones paying the price, not the dischargers."

Farmers and dairymen had been anticipating the release of the nitrogen assessment for some time. Many are reducing nitrogen pollution by taking steps to prevent fertilizer from going to waste or reforming their manure-management practices. Some effectively reuse nitrogen-polluted groundwater on their crops.

"This is legacy stuff," said Danny Merkley, director of water resources at the California Farm Bureau. "It's an issue that is really by no means a product of any nefarious act. It's literally people doing what they were told and thought was the best practice at the time."

The report was commissioned in part to determine whether the state should regulate nitrogen emissions as a greenhouse gas. Tomich's team found that those emissions from agriculture are so small that they likely do not warrant new regulations.

Instead, the team determined that groundwater pollution presented the greatest potential harm to communities. Solving that problem seemed especially difficult because low-income farm communities that are under the most risk also depend on agriculture to support their economies.

“How do we provide safe groundwater for everybody?” Tomich asked. “This is an environmental justice issue. We’re talking about little kids in the Central Valley.”

He’s scheduled to brief legislative staffers on the assessment this fall.

How do we provide safe groundwater for everybody? This is an environmental justice issue. We’re talking about little kids in the Central Valley.

*Tom Tomich, director, UC Davis Agriculture Sustainability Institute*

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The State Water Resources Control Board, meanwhile, is considering new rules for agricultural discharges in the San Joaquin River watershed. A proposal to update the state’s irrigated lands regulatory program is moving forward with provisions for stepped-up monitoring and reporting requirements for farmers.

One controversial item would enable the state to more easily identify which farms are responsible for nitrate pollution.

An early draft of the rules elicited dozens of letters from environmental groups, farmers and farm lobbyists earlier this summer.

Some environmental groups demanded a more rigorous rule, with more penalties for farms with discharge violations. Others asked the board to refine recommendations for fertilizer management, giving farmers goals to hit in reducing nitrate pollution.

“Best practices right now might not help someone this second, but five, 10, 20 years down the road, hopefully we’ll be seeing some benefit,” said Ores, from the Community Water Center.

The majority of the letters came from farmers, who called the proposal a “duplicative” order that would ruin the agency’s hard-earned goodwill with agricultural producers. They asked for more time and more flexibility in managing vital resources for their businesses.

“Water is the lifeblood of all life. Why would we in agriculture not be responsible stewards for water and land in our care?” wrote Stockton rancher Marie Rossi.

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**Environmental Strategist™**

## **Farms to Subsidize Cost of Safe Drinking Water for Those with Tainted Wells**

The Emerald Town Board denied a citizen-led resolution asking them to support a one-year moratorium and Environmental Impact Study prior to expanding Emerald Sky Dairy to over 6,000 cows. There are 90 families within a 2-mile radius of Emerald Sky Dairy concerned about this expansion because of the proposed 80 million gallons of sewage stored on-site, equal to a city of 1.4 million people per EPA estimates.

Recent history in other parts of Wisconsin (Kewaunee County) reveal our state government's inability to protect water quality when 1/3 of the tested private wells in the vicinity of these industrial dairies were contaminated with bacteria and nitrates. Our state government gave itself an "F" for protecting our water quality in their Legislative Audit Bureau report last month. The DNR Secretary agreed with the findings of the report.

### **These are significant facts – not to be ignored.**

When some say, "I don't care what happened in Kewaunee County," they miss the point how our state government failed to protect our water quality. When no one is "watching the store" businesses have opportunity and incentive to "cut corners" and others (we) pay the price. The cost of drilling a new well can exceed \$20,000 for a homeowner and is not covered by insurance.

This affects you because a compromised lagoon or over application of manure in fields can spread this contamination throughout the County quickly. Dry Run Creek runs behind Emerald Sky Dairy, into the Willow River through New Richmond, Willow River State Park, Lake Mallalieu, and into the St. Croix River.





## **Farmer Using Excavator Ruptures Fuel Line**

By – *Associated Press* – *Tuesday, June 7, 2016*

GENEVA TOWNSHIP, Mich. (AP) – Officials say repairs have been completed to a diesel fuel line in southwestern Michigan that was accidentally ruptured by a farmer using an excavating machine to clear trees.

Mark DuCharme, incident management specialist for the Michigan Department of Environmental Quality, tells the Kalamazoo Gazette that Wolverine Pipe Line Co. moved quickly to contain the spill to part of a farm field. Cleanup is continuing.

DuCharme says there were no reports of injuries or impacts to wildlife.

WOOD-TV reports Portage-based Wolverine says a section of the 8-inch diameter pipeline was damaged and has been replaced. The company says fuel was released Friday in Van Buren County's Geneva Township. Crews have recovered about 8,900 gallons and worked and deal with contaminated soil.

The U.S. Environmental Protection Agency also is involved.



**environmental Strategist®, between the lines:** As an environmental Strategist®, the number one pushback we hear from a business with regard to strategizing on managing and transferring their environmental exposures is, “We do not have any environmental exposures in our business.”

We know every business is impacted by environmental exposures, but instead of getting confrontational, I have found the best comeback to anyone who believes they do not have any environmental exposures impacting their business is to agree with them and then ask, “do you have any neighbors that have environmental exposures associated with their business? What if a neighboring business had an environmental loss and it impacted you? When they do a Phase I site assessment they do a minimum of a 2-mile radius search to determine if there are any properties within a 2-mile radius that could cause an environmental loss and impact neighboring properties.”

#### **eS Risk Management Strategies:**

1. When meeting with a business that does not believe they have any environmental exposures, explain to them that in a Phase I site assessment they do a minimum of a 2-mile radius search to see if any neighbors could contaminate their property. Ask them to pull up Google map’s satellite and type in their address. Next, ask them scan back to a 2-mile radius from their property. Lastly, ask them how confident they feel that no neighbors within that two-mile radius will contaminate their property? What is their strategy should a third-party contaminate their property? Pollution liability insurance can protect property owners should neighboring third-parties contaminate their property.
2. In preparation for a meeting to strategize on managing and transferring environmental exposures, go to the EPA website: [echo.epa.gov](https://echo.epa.gov). At the EPA ECHO website, you can type in a street address, a city, a county/perish... and it will provide a list of businesses/property owners that have or currently are involved in cleanup or environmental violations. Sharing a list of the neighboring properties is a great way to show that a credible source, the government, has identified contaminating neighbors and if the government knows about it, shouldn’t it be of concern to them. What is their strategy?



## Environmental Exposures Created by Loading Docks

Environmental liabilities generally take place over long periods of time. A perfect example of this is loading docks. Some of the contaminants that come off trucks using loading docks are: lead; cadmium; asbestos; anti-freeze; petroleum products; hydraulic fluids; release of fluids from loading dock levelers; loading & unloading of cargo.... Loading docks that are not maintained allow these contaminants to seep into the ground and spread via ground water, vapor intrusion or storm water runoff and can create environmental liabilities for the property owners.

Companies with loading docks need to have a loading dock management program that maintains the integrity of the dock, while capturing contaminants, so that over time they do not create an environmental liability.

Real estate owners that lease out facilities with loading docks should include in their lease that the tenant is responsible for maintaining the integrity of loading docks, including an overview of what is expected in maintaining the integrity. Tenants should also be responsible to provide timely notification of environmental concerns related not only to the loading docks but the leased premises to the real estate owner(s).

environmental Strategist™ (eS) go one step further and feel the tenant should at a minimum, annually send to the property owner a signed document they have maintained the leased premises free of environmental liabilities. The reason for doing this is because the property owner is ultimately responsible for the environmental condition of the property regardless of who caused the environmental liability. With the tenant environmental sign-off report, the property owner is, at a minimum, building a defense, should the tenant cause an environmental liability and the property owner gets dragged in as the real estate owner.



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# SITE POLLUTION LIABILITY SECTION

PROPERTY DESCRIPTION			
Please complete the following for all locations to be covered.			
Location	Acreage	Description of Operations	Length of Operations
Describe current operations:			
List all structures at the site:			
Please provide a list of any additional occupants of the property (owned or leased).			
Provide a description of adjacent properties:			
<b>North:</b>			
<b>South:</b>			
<b>East:</b>			
<b>West:</b>			
Identify any nearby surface water bodies, including approximate distance from site:			

<p>Identify any protected or sensitive environments within one mile of the site (parks, schools, wetlands, etc.):</p> <p>_____</p> <p>_____</p>
<p>Is public water and sewer available at the site?      _____ <b>YES</b>      _____ <b>NO</b></p>
<p>Provide information regarding any mandatory or voluntary monitoring performed at the site:</p> <p>_____</p> <p>_____</p>
<p>Identify any past storage (i.e., refrigeration, silos...) or disposal practices at the site, including any on-site disposal:</p> <p>_____</p> <p>_____</p>
<p>Provide a site history, including all past land use and the period of each use:</p> <p>_____</p> <p>_____</p>
<p>Does your facility treat, store, process or separate any type of liquid or solid wastes?          _____ <b>YES</b>      _____ <b>NO</b>          If <b>YES</b>, please complete the <b>Waste Treatment Addendum</b>.</p>
<p> </p>
<p>Does your property presently have any storage tanks?      _____ <b>YES</b>      _____ <b>NO</b>          If <b>YES</b>, please complete the <b>Storage Tank Addendum</b>.</p>

Have you, during the last five years, received any violation regarding any environmental standard or law relating to the release of any substance from the site into sewers, rivers, lakes, air or land? \_\_\_\_\_ **YES** \_\_\_\_\_ **NO**

If **Yes**, please attach complete details of the incident and outcome.

Please describe any pollution claims that have occurred during the last five years. If none, please state so:

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At the time of signing this application, are you aware of any circumstances that may reasonably be expected to give rise to claim under this policy? \_\_\_\_\_ **YES** \_\_\_\_\_ **NO**

If **YES**, please explain:

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**WARRANTY STATEMENT**

The undersigned authorized officer of the applicant declares that the statements set forth herein are true. The undersigned authorized officer agrees that if the information supplied on the application changes between the date of the application and the effective date of the insurance, he/she (undersigned) will immediately notify the insurer of such changes, and the insurer may withdraw or modify any outstanding quotations and/or authorization or agreement to bind the insurance. Signing of this application does not bind the applicant or the insurer to complete the insurance.

**NOTICE TO APPLICANTS:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any false information, or conceals for the purpose of misleading, information concerning fact material thereto, commits a fraudulent act, which is a crime.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

# SITE-SPECIFIC POLLUTION LIABILITY APPLICATION

## WASTE TREATMENT FACILITY ADDENDUM

SITE NAME:				
PHYSICAL ADDRESS:				
CITY:		STATE:	ZIP:	
EPA I.D. #:				
What type of facility is this? (Circle one)		Municipal Waste Water Treatment		
		Commercial Waste Water Treatment		
		Hazardous Waste Treatment		
		Contaminated Soil/Water Treatment		
When was this facility designed and built?				
When was this facility first permitted?				
What is the maximum daily amount of waste treated at this site?				
What is the average daily amount of waste treated at this site?				
Are all treatment operations permitted? <b>YES NO</b> (Please include copy of current permit to operate)				
If <b>NO</b> , please explain: _____				
_____				
Please complete the following for each permitted effluent discharge:				
POLLUTANT	PERMITTED MAXIMUM AMOUNT	DAILY AVERAGE AMOUNT		
Do you sell any product or by-product to others? <b>YES NO</b>				
If <b>YES</b> , please explain: _____				
Is this site completely fenced and access restricted? <b>YES NO</b>				
Where is your effluent discharged?				
Provide the following information for each treatment, storage or containment tank at this site:				
INFORMATION	TANK	TANK	TANK	TANK
Tank I.D. (1, 2, A, B, etc.)				
Date Constructed				
Date of First Use				
Active or Closed				
Capacity (in gallons)				
Tank Construction (steel, concrete, etc.)				
Secondary Containment Capacity (in gallons)				
Secondary Containment Type (concrete, asphalt, etc.)				



# SITE SPECIFIC POLLUTION APPLICATION

Storage Tank Data Sheet  
(Copy this sheet for additional tanks)

INSURED'S NAME:		
SITE NAME:		
CITY:	STATE:	ZIP:

TOTAL NUMBER OF UNDERGROUND TANKS: \_\_\_\_\_

TOTAL NUMBER OF ABOVEGROUND TANKS: \_\_\_\_\_

**ALL INFORMATION MUST BE COMPLETED - REFER TO CODES LISTED BELOW.**

TANK INFORMATION	TANK No. 1	TANK No. 2	TANK No. 3	TANK No. 4	TANK No. 5
Tank ID					
AST or UST					
Year Constructed					
Capacity (gallons)					
Product Code					
Construction Code					
Protection Code					
Leak Detection Code					
Spill Containment (Y/N)					
Last Test Date					
Test – Pass or Fail					
Upgrade Date					
SPCC/FRP Required?					
SPCC/FRP Approved?					

**ASSOCIATED PIPING:**

Year Installed					
Construction Code					
Protection Code					
Dispenser Code					
Leak Detection (Y/N)					
Oil/Water Separator (Y/N)					

**Tank Codes:**

Product	Construction	Protection	Leak Detection
1 - Diesel	1 - Double Wall Steel	1 - Cathodic	1 - Electronic
2 - Unleaded Gas	2 - Double Wall Fiberglass	2 - Painted	2 - Dip Stick
3 - Leaded Gas	3 - Double Wall STIP3	3 - Epoxy Coated	3 - Monitoring Well
4 - Aviation	4 - STIP3	4 - Vault	4 - Integrity Test
5 - Perchloroethene	5 - Bare Steel	5 - Pit Liner	5 - Statistical Inventory
6 - Organic Chemicals	6 - Fiberglass	6 - None	6 - None
7 - Inorganic Chemicals	7 - Lined Steel	7 - Unknown	
8 - Other	8 - Unknown		

**Piping Codes:**

Construction	Protection	Dispensing
1 - Double Wall Flexible	1 - Cathodic	1 - Suction
2 - Double Wall Fiberglass	2 - Painted	2 - Pressure
3 - Double Wall Steel	3 - Epoxy Coated	
4 - Bare Steel	4 - Other	
5 - Fiberglass		

## Contractors Pollution Liability section

Describe the type of work, revenue generated from each operation that the insured performs on third-party property such as application of chemicals, manure application, crop or livestock operations....

Type of Work	Receipts
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____