

# Site Specific Pollution Liability (EIL)

## Claim Examples:

### **Landowners File Soil & Groundwater Contamination Claim**

**The Problem:** An association of landowners claimed bodily injury and diminution in property value as a result of contamination from a nearby landfill, migrating off-site and contaminating their soil and groundwater.

**The Response:** The landowners' association initially claimed damages in excess of \$50,000,000. The insured's EIL carrier retained defense counsel to defend the insured's interests. In addition, the carrier worked with defense counsel to retain experts in the areas of hydrogeology and causation. The insured's EIL Carrier managed the litigation and worked with defense counsel to strategize regarding discovery. Over the course of several months, the carrier attended numerous settlement conferences. The claim eventually was resolved for less than \$2,000,000.

The landfill's EIL pollution policy responded to the costs of the defense counsel, experts and the settlement in excess of the retention.

### **Tank Release Impacts Wetlands**

**The Problem:** At an environmental facility insured by an EIL policy, an aboveground storage tank collapsed, releasing waste oil and sludge on to the insured's site and an adjoining wetlands.

**The Response:** The insured's EIL carrier immediately dispatched an environmental consultant to the site. The insurance carrier worked with the insured to retain the appropriate remediation contractors to clean up the site. The carrier also interfaced with the local regulatory agency to ensure proper remediation of the wetlands and negotiated a cost-effective disposal of the contaminated soils.

The insured's EIL policy responded to the costs of the remediation, which totaled \$800,000, in excess of the retention.

### **Mold Discovered In Building Leased To University**

**The Problem:** A real estate investment trust insured by an EIL policy leased the majority of a building to a university, which used the space for administrative offices. The university claimed the building was contaminated with a species of mold that allegedly causes cancer.

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**The Response:** The carriers proactive response included working with the insured to retain mold and toxicological experts, and to observe air sampling to confirm or dispel mold conditions. The carrier determined the cause of the mold, and whether rights of recovery existed against maintenance and building contractors.

The insured's EIL policy provides coverage for the investigation and remediation of the mold conditions.

## Air Release at Manufacturing Facility Causes Costly Property Damage

**The Problem:** An air release of a caustic substance at a manufacturing facility insured by XL Environmental caused over \$1 million dollars in damages to the property of nearby businesses and residents. In particular, the release damaged the paint finish of over 800 cars. Many of the claimants also worked at the insured's facility.

**The Response:** The Carriers Environmental Claims retained the appropriate, responsible environmental consultant to investigate the cause of the problem and advise as to any cleanup necessary. The consultant determined that the cause of the problem was the failure of the pollution control equipment to function properly. The insurance carrier then worked with the claimants to establish an appropriate claims handling protocol and to ensure that all were fairly compensated for the loss.

The manufacturer's EIL policy, will respond to the costs of property damage and remediation expense, as well as any potential bodily injury claims and defense costs resulting from any subsequent lawsuits.

## Bats in the Walls

**The Problem:** A property owner insured with an EIL policy had a tenant who began to smell a pungent odor and heard noises in the walls. The property owner called an exterminator who discovered that one of the exterior walls of the building housed a colony of thousands of bats. The Health Department determined the property was uninhabitable because of poor indoor air quality resulting from the ammonia in bat guano.

**The Response:** The bats could not be exterminated, as they are a protected species. The carrier worked with the insured and local wildlife officials to explore options for alternative habitats, such as building bat houses for the bats. The office wall had to be torn out and cleaned up, which cost tens of thousands of dollars.

The property owner's EIL policy covered the costs of bodily injury, cleanup of droppings, lost use of property and remediation expense. Total liability was in excess of \$100,000, excluding bodily injury claims

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## Property Owner Faces Contamination Claims Associated With Dry Cleaner Tenant

**The Problem:** A dry cleaning facility leased commercial space from a property owner covered with a EIL policy. PCE was detected in soil and groundwater at the property owner's site, as well as at an adjacent shopping center, which also contained a dry cleaner.

**The Response:** Investigations were initiated to comply with state regulatory requirements. The Carrier recommended and oversaw the installation of an interim remedial system to treat both contaminated soil and groundwater, in order to mitigate the insured's liability with the state and the adjacent property owner, and reduce damages resulting from pollution conditions.

The insured's EIL policy afforded coverage for third-party property damage claims and investigatory and remedial site activities. To date, the carrier has paid \$540,000 for investigatory and remedial activities as well as defense fees and expenses.

## Dangerous Dust

**The Problem:** The tenant of a property owner/manager insured with an EIL Policy complained of dust conditions in their work area. Sampling revealed that the dust was laden with heavy metals (arsenic, cadmium, chromium and lead).

**The Response:** To reduce the insured's liability/damages and to return the tenant to its operations, the Carrier retained an environmental consultant/contractor to clean up the dust.

The insured's EIL policy afforded coverage for investigation and remediation of the dust conditions.

## Agricultural

An explosion occurred at an agricultural chemical plant that produced nitrogen based fertilizer. Shrapnel from the explosion punctured storage tanks. A cloud of ammonia gas was released which forced the evacuation of 2,500 people. The pollution liability expense was extensive.

## Chemical Storage Facility

Lightening struck a 1,000,000-gallon tank at a chemical bulk storage facility. The tank ruptured, spilling the contents into a diked area. Although some of the material was salvaged, cleanup costs exceeded \$300,000.

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## A Foundry finds its Solvency Threatened

A foundry that produced iron forgings on an 87 acre facility discovered that during the early years of the foundry's operations, waste material including wood, metal, oil, paints and solvents had been improperly disposed of and resulted in soil and groundwater contamination. Approximately 40,000 people in the nearby towns use groundwater-fed municipal wells located within 3 miles of the site. Remedial action included on-site cleanup and off-site removal of soil contaminated by PCB's and other hazardous material.

## Disgruntled Line Employee Conducts \$3 Million Environmental Crime via Computer While Employer Pays the Cost

Recently, an oil delivery system, that is used to fill tankers, operated as usual: a valve opened and oil reserves were released to a line that transports oil to a tanker. However, on this particular day, no tanker was present and \$3 million dollars worth of oil surged directly into the ocean causing a pollution release. At first glance the incident appeared to be a mishap because it occurred during a strong storm, but after a thorough investigation the Environmental Protection Agency (EPA) concluded that the incident was an environmental crime. While the EPA says that it was able to clear the company management of any wrongdoing and prove that a disgruntled line employee – not the storm – caused the oil spill, the company still has to pay the clean-up costs.

## Sample Business Classes:

- Vacant Land
- Shopping Centers
- Commercial Buildings
- Golf Courses
- Contaminated Properties
- Warehouse/storage facilities
- Bulk fuel storage terminals
- Waste treatment facilities
- Chemical manufacturers
- General Manufacturing
- Landfills
- Waste transfer stations