



Think Before You Dig – Why Environmental Insurance?

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Environmental Insurance

The Basics

Focus:

- What are the Environmental Insurance Options
- The great UNKNOWN
- Effects on Owners/Developers
- Effects on Contractors



Types of Environmental Insurance Coverage

Fixed Site:

- Location Specific
- Address historical and/or operational exposures
- Single or Multi Year terms

Contractors Pollution:

- Applies to operational exposures – Job Site coverage
- Practice or Project capacity
- No coverage for owned, leased, occupied locations



Key Industries

Fixed Site:

- Real Estate Owners / Developers/Managers
- Utilities, Petroleum, Chemical, All Manufacturing

Contractors:

- Construction (General contractors and trades)
- Environmental (contractors and consultants)
- Utilities



Several Common Names for Environmental Coverage:

Fixed Site:

- **Environmental Impairment Liability (EIL)**
- **Pollution Legal Liability (PLL)**
- **Pollution and Remediation Legal Liability (PARLL)**

Contractors:

- **Contractors Pollution Liability (CPL)**
- **Combined Errors & Omissions Coverage (E&O) and Contractors Pollution (CPL)**

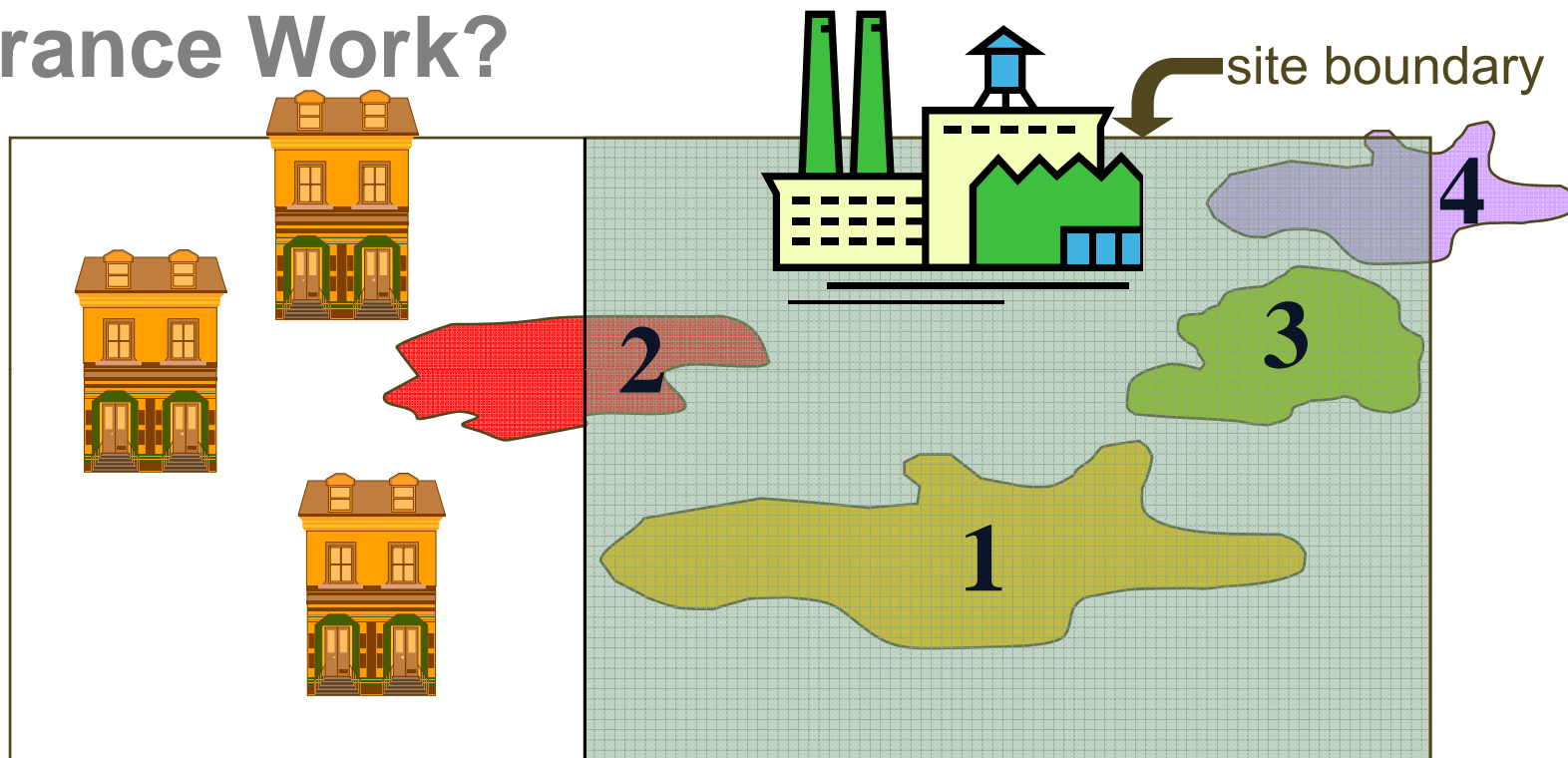


How Does Environmental Insurance Work?

- The Great Unknown Condition
- The Known Condition



How Does Fixed Site Environmental Insurance Work?



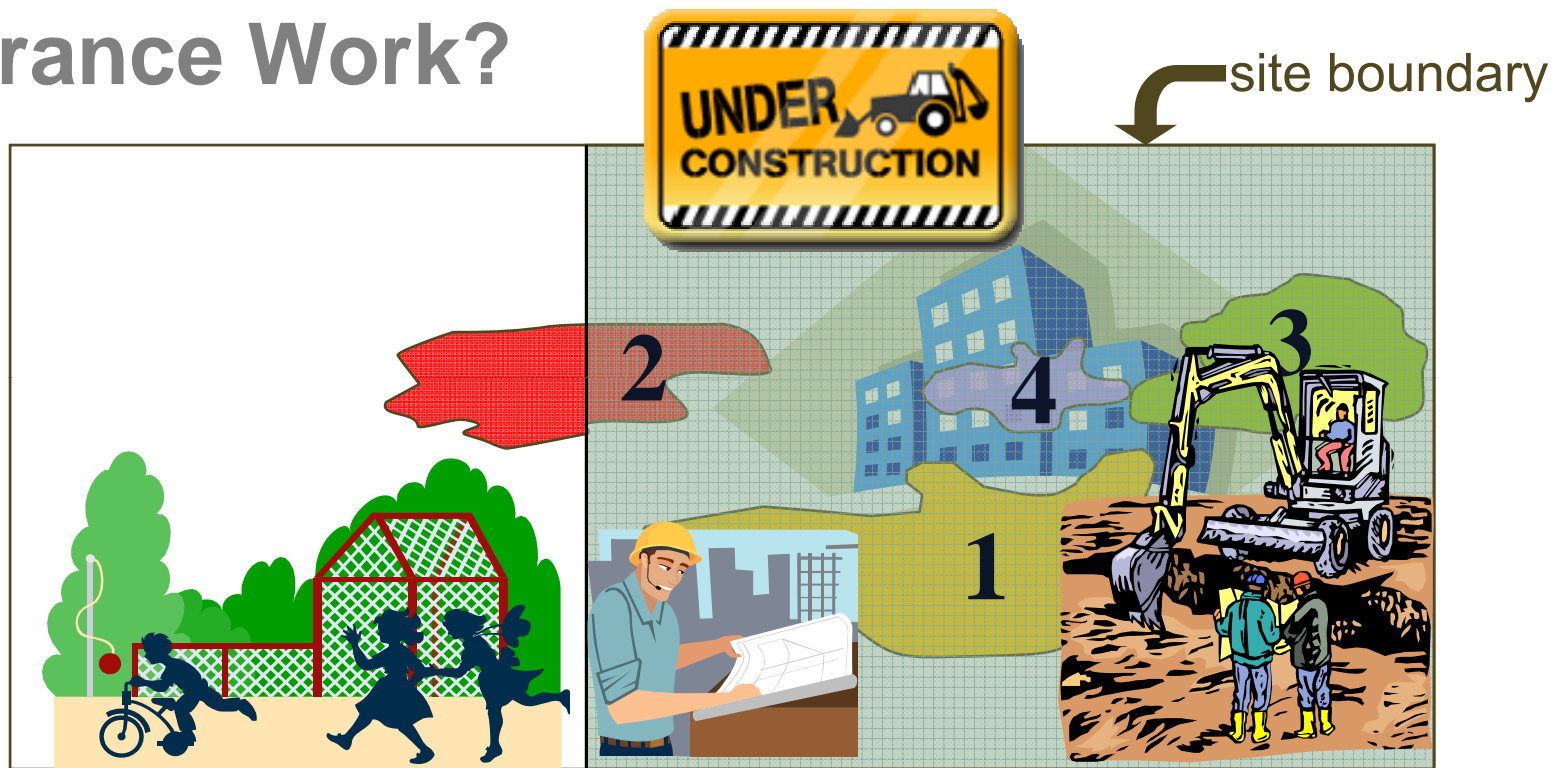
- 1 - Known contamination in soil from solvent use
- 2 - Unknown contamination
- 3 - Re-Opener of previously remediated contamination
- 4 - Migration of contamination from unknown off-site source

Known and Unknown Environmental Exposures:

Risk	Insurance Product
Known Contamination	<ul style="list-style-type: none">- Pollution and Remediation Liability (PARL) – bodily injury, property damage and legal defense for post – remediation “re-openers” or exacerbation.- PARL– Indemnification Trigger
Unknown Contamination	<ul style="list-style-type: none">- Pollution and Remediation Liability (PARL) – bodily injury, property damage, remediation and legal expense.



How Does Contractors Environmental Insurance Work?



- 1 – Exacerbation of known and unknown contamination in soil
- 2 – Pollution Spill from Site Materials
- 3 – Pollution Spill from Striking Unknown Underground Objects
- 4 – Air release



Known and Unknown Environmental Exposures:

Risk	Insurance Product
Unknown Contamination	- Contractors Pollution Liability (CPL) – bodily injury, property damage and remediation expense from new releases or the exacerbation of existing contamination as a result of the performance of work.



SOURCE
OF
POLLUTANTS



Source of Environmental Impacts

Sudden Impacts:

Man-Made: fire, explosion, terrorism, truck overturn, leaks and spills, releases caused in the course of construction or covered operations



Source of Environmental Impacts:

Historical Impacts:

- Undiscovered contamination,
- Slow undetected leaks,
- Regulatory re-openers,
- Midnight dumping

Discovery of Historical Pollution



TYPES OF Environmental Claims



Types of Environmental Losses and the Bottom Line Impact

- Bodily Injury
- Property Damage
- Cleanup Costs
- Defense Costs
- Business Interruption
- Natural Resource Damages
- Re-Opener
- Loss of Rental Value



Bodily Injury: General Contractor

- \$3.2MM renovation of a municipal building
- Contractor did not adequately control seepage of fumes and emissions from building materials and gas-powered generators during their operations
- Ten separate bodily injury claims
- \$100,000 in Bodily Injury claims that were excluded by the General Liability policy.
- Contractor lost 2/3 of their profit on this small job



Cleanup Costs: Real Estate Developer

- A real estate development firm acquired “green” property to build a shopping mall
- The firm hired a consultant to conduct a Phase I Environmental Assessment
- The property was determined to be clean
- During excavation for the mall, 100 drums of buried pesticides and herbicides were unearthed
- Damages including remediation and disposal costs exceeding \$750,000



Property Damage: Excavation Contractor

- Contractor was hired by a developer to hook-up new property to the city's sewer line.
- Claimant's rental property next door was vacant for 3 months during and after construction.
- Claimant's new tenant complained of a noxious odor after moving into the building.
- Lateral sewage pipe was shattered during the excavation and caused sewage to leak into the property undiscovered for 3 months
- Insurer paid \$75,000 in property damage and clean-up costs.



Cleanup Costs Incurred Indirectly: General Contractor

- Five hundred gallon aboveground fuel tank for fueling on-site equipment was accidentally backed into and was breached.
- Raining at the time of the accident
- Diesel fuel was released and entered a storm drain which discharged to a creek
- Site remediation included the gross excavation of ~175 tons of soil and a year of site monitoring cost \$550,000



Cleanup Costs: Real Estate Owner

- During due diligence by the perspective buyer of the insured property contamination was discovered
- Investigation determined contamination migrating from neighboring industrial property
- Neighbor in poor financial condition and slow to remediate which is delaying sale of property
- \$150,000 spent to date. Proposed solution is the installation of a barrier wall and legal action against neighbor.



Exacerbation: General Contractor

- Site identified with minor contamination and reportedly addressed prior to construction
- Contractor began rough grading of site
- Unknown contaminated soil was encountered but not identified and moved throughout site during grading
- When identified soil required off-site disposal
- Cost to contractor in excess of \$250,000



Cleanup Costs: Real Estate Owner

- Geotechnical Investigation conducted prior to development
- Investigation identified “black” fill material
- Follow-up environmental investigation identified metals and PAH contamination
- Expected cost to remediate site=\$1M
- Risk Based vs Generic Standard Remediation??



Conclusion

- Think “Insurance” before you dig to handle the UNKNOWN





Questions?

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