

Twenty-eight premises environmental claim scenarios you may not have thought about.

Premises Environmental Liability Insurance Policy



Great American Insurance Group's Premises Environmental Liability Insurance Policy provides coverage for bodily injury, property damage, legal expenses and clean-up costs resulting from pollution conditions arising from Covered Locations. The policy also provides coverage for the Insured's pollution liability associated with non-owned disposal sites, transportation of products or wastes and Contracting Services.

As you are reviewing the attached claim scenarios think of the types of facilities your clients own or operate. Do you have clients performing similar operations who are not protected for their environmental exposures? Please contact us to talk about these claims scenarios or others types of exposures that can impact your customers.

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Airport – Fuel and De-icing Fluid

An environmental study performed as part of a regional airport expansion project uncovered two areas of contamination. Leakage was discovered at an airport fueling system. In addition, containment areas for de-icing fluid were found to be inadequate, thereby allowing contaminants to enter a lake adjacent to the airport property. Costly remediation of soils and groundwater was required. Also, the state environmental agency fined the airport for natural resource damages due to the impact on several pairs of bald eagles nesting at the lake.

Apartments - Mold

Widespread mold caused multiple problems for tenants and the property owner. A few years after construction of an upscale apartment community, tenants complained about mold in bathrooms. Multiple buildings and units within the complex experienced similar problems over the next few months. Some tenants moved out and filed claims for alleged bodily injury and property damage. An extensive investigation revealed that construction defects associated with HVAC systems and showers caused severe water intrusion and moisture build-up leading to widespread mold growth. Damages to the property owner included loss of rents, clean-up costs, and settlements with injured tenants totaled over two million dollars.

Apartments - Meth Lab

The owner of an apartment building entered a unit that had been vacated and discovered that the renter had left behind an illegal meth lab and related chemicals. The renter could not be located and the landlord was left with the responsibility for the clean-up. Not only did the owner have to clean-up the contaminants that had been released into the room, but had to pay to remove the leftover chemicals that were still in containers. Clean-up and disposal costs were in excess of \$100,000.

Car Service Center - Oil

An oil water separator for a car service center developed a fracture in one of its underground pipes. Over time, oil seeped from the system into the surrounding soil and groundwater, contaminating both the car dealer's land and a neighboring property. The extent of the contamination was not realized until an oil sheen was noticed on a nearby stream. An investigation was undertaken and resulted in a contaminated soil and groundwater treatment program. The need to quickly mitigate impacts to the stream required an expedited remediation schedule, further increasing the clean-up costs.

College - Mold

A local college received several complaints from faculty and students about musty odors coming from the basement of a classroom building. Upon investigating and interviewing staff members, it was determined that a downward sloped walkway into the basement caused rainwater to leak into a service entrance. While the rainwater intrusion was reported to the maintenance department from time to time, no action was taken. Results of the investigation also showed that ventilation in the basement of the building was poor. The combination of rainwater intrusion and poor ventilation over the years caused extensive mold contamination which needed to be remediated.

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Developer – Contaminated Soil

New construction commenced on a previously undeveloped parcel of land. During excavation and dewatering activities, contaminated groundwater was discovered. The developer was required by State regulatory authorities to collect, test and treat groundwater pumped out during the excavation process. Contaminated soils were also discovered at the site. Construction delays and additional expenses totaling over \$1,000,000 were incurred by the developer. It was eventually determined that the contamination had migrated from a nearby manufacturing facility that had gone into bankruptcy several years prior to the development project.

Distribution Facility – Chemical Release

Over the weekend vandals climbed the fence at a chemical 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 soils and groundwater so that total costs reached \$90,000.

Financial Institution/Foreclosed Property - PCBs

A financial institution was preparing a foreclosed site for re-sale. While the facility was unoccupied thieves broke into the structure in an attempt to steal wiring and copper piping. In the process the thieves damaged a transformer releasing PCB containing oil to the floor. The financial institution was responsible for the clean-up of the contaminated concrete and soils.

Hospital - Fumes

A street and road contractor was hired to apply a sealing coat to a new concrete parking garage next to a hospital. During the application of the sealant, fumes migrated into the hospital's air intake system. Several patients and hospital staff were overcome by the fumes and became ill. Lawsuits were filed alleging bodily injury and asserting damages in excess of \$1,000,000.

Hospital - Legionella

Legionella was discovered in the water supply of a major metropolitan hospital. An entire wing of the hospital needed to be vacated and patients removed while the water system went through treatment for the legionella. In addition to the remediation costs, several patients sued the hospital claiming bodily injury from exposure to the legionella.

Hospital - Mold

A mechanical contractor was hired to perform HVAC repairs at a hospital. No medical procedures were performed during the actual renovation activities and proper measures were taken to ensure proper encapsulation. Despite the controls, one year after completion of the project, the contractor was notified that several aspergillus (a type of mold species) infections had occurred several months after valve replacement surgeries. Internal and government investigations identified the source as the hospital operating room shortly after the renovations. The hospital was sued by several of the patients sustaining secondary infections. The hospital and the contractor contributed to settle the claims.

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Hotel – Dry Cleaner

A hotel constructed in the early 1980s had a dry cleaning operation in the basement of the building as a service for their guests. Prior to sale of the property in the late 2000s, an environmental investigation was performed on behalf of the buyer. This investigation found staining around the base of the dry cleaning machine, triggering intrusive investigations. The soil and groundwater investigation found contamination at levels requiring clean-up beneath the property. Additionally, indoor air sampling found actionable levels of dry cleaning chemicals extending up several floors in the building. As a result of the discovery of contamination, the property sale fell through and the hotel owner is being held responsible for the clean-up costs.

Laboratory - Hazardous Materials

A drum of spent solvent waste located in a storage shed on the property of a laboratory was knocked over as employees were attempting to move several drums. Before the spill was contained, the solvent waste ran across the laboratory's parking lot and on to the ground of an adjacent property. The Laboratory was responsible for the associated emergency clean-up costs.

Landfill – Odor and Dust

A residential community located one half of a mile from a landfill sued the landfill owner and operator for odor issues and devaluation of the property. The suit also alleged that truck traffic related to the site operations resulted in the release of contaminated dust to adjacent properties.

Landfill – Contamination

Operators of a construction and demolition (C&D) waste landfill were sued by an adjacent property owner who alleged that contamination had migrated from the C&D landfill onto their property. The complaint alleged that the C&D operators accepted asbestos and various liquid wastes which subsequently contaminated the groundwater. The complaint also alleged that residents of the adjacent property had developed unspecified health problems as a result of the contamination.

Manufacturing Facility – Hazardous Liquid Waste

An unknown party illegally placed a container of hazardous liquid waste into a dumpster at a small manufacturing facility. The container leaked and contaminated the contents of the load which in turn contaminated the waste on the tipping floor of the transfer station. Clean-up costs and legal fees exceeded \$150,000.

Manufacturing Facility - Solvent Laced Wash Water

A small paint manufacturing company performed routine drum washing operations over a severely compromised concrete containment pad. Over time, solvent laced wash water migrated through cracks in the concrete and into the subsurface soils and groundwater. The plume of solvents traveled off site and contaminated a nearby municipal water supply well. The municipality filed suit for clean-up and property damage claims as the well had to be fitted with costly remedial technologies to provide safe drinking water for its customers.

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Municipality – Petroleum Soil Contamination

A municipality purchased a former manufacturing facility as part of a larger Brownfield re-development project. After taking control of the property and beginning the project, the municipality discovered an old tank was missed during due diligence. Soil samples taken from the tank pit were impacted with petroleum. The area had to be over excavated and additional costs were incurred to properly dispose of the soils.

Nursing Home - Mold

City inspectors received notice of possible building violations at a nursing home facility. Inspection of the facility found the building's roof and interior were in violation of city codes. The violations were serious in nature including signs of water damage on ceilings, light fixtures, and electrical switches. Additionally, several employees reported a mold/mildew odor. A further investigation discovered black mold within ceiling tiles, under layers of peeling paint, and in areas of noticeable water leakage. Residents of the facility were showing symptoms of rashes, headaches, asthma, and difficulty breathing. The facility had to be temporarily shut down and the residents relocated before clean-up of the extensive mold could begin. Families of several of the residents filed suits for bodily injury against the facility.

Property Owner/Dental – Metal Contamination

A dental practice operating within a large commercial/residential condo building illegally dumped metals, including mercury, down various drains within their rented office unit for several years. The dumping was discovered during a routine state inspection and an environmental assessment company was hired by the building owner to assess the extent of the contamination.

An extensive remediation program was undertaken for two years which required the removal and replacement of a substantial amount of the buildings 1st floor plumbing. Additionally, indoor air quality sampling and testing was performed over this time period to assess the potential for mercury contamination within the entire habitational and non-habitational areas of the building. Since mercury was found throughout the building, many of the tenants filed suit against the dental practice and the building owner for 3rd party bodily injury due to exposure to volatilized mercury.

Property Owner/ Industrial Unit - Chlorinated Solvents

A small powder coating company which leased an industrial unit from a large property owner went into liquidation. Contractors employed to refurbish the unit discovered large, poorly maintained process tanks leaking chlorinated solvents. Furthermore, chemicals escaped through cracks in the concrete floor, causing extensive soil and groundwater contamination to the surrounding property. The contamination had the potential to impact sensitive water resources. As a result of the former tenant going into liquidation, the property owner became liable for the resulting environmental exposures. Investigations were undertaken and extensive risk modeling prepared to determine the potential impacts on local water resources. Significant expense was incurred to remove the source area, impacted soils and to install a groundwater treatment system.

Property Owner/ Residential - Historic Issue

A housing stock transfer was undertaken between a Local Authority and a private management company involving approximately 7,000 residential units. A problem

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emerged when unusually high levels of lead, arsenic and zinc were discovered on surrounding properties. When tests were conducted, it became apparent that the residential units had been built on land used as a chemical dump from the early 1900s to 1960s by a company still operating in the area. A class action was brought against the Local Authority by residents, alleging health risks and diminishing property values. Residents perceived to be at risk from the presence of contamination were relocated. Significant investigations were undertaken to assess the extent of the problem. A combination of remediation, compensation, and relocation of residents was eventually achieved and paid for by the original polluter. Although liability was not deemed to ultimately lie with the Local Authority, significant costs were incurred to demonstrate the absence of liability. The Local Authority was eventually able to recover the costs incurred through a claim against the responsible parties, including the previous landowner and the developer.

Recycling Center – Toxic Smoke

A fire at a plastic recycling center broke out after hours causing the release of a large plume of toxic, black smoke into the air. This release caused a health advisory to be issued to residents, eventually leading to the evacuation of several homeowners. Residents of a neighboring community sued for bodily injury, property damage, and their relocation expenses.

School – Soil and Groundwater Contamination

A school district demolished a middle school built in the 1940's in order to build a new school. During excavation activities, an unknown underground storage tank was discovered. Findings from an environmental study noted soil contamination. Localized groundwater contamination was found on the school property and at two adjacent residential locations that use wells. The adjacent residents filed bodily injury and property damage claims against the school district. Contaminated soils were excavated and properly disposed. The two adjacent residents were provided bottled water. Groundwater remediation and monitoring continued until the State provided clean closure of the site.

Self Storage – Illicit Abandonment

A self storage facility repossessed a locker from a renter who had missed several payments. Upon gaining control of the rental space they found 12 drums of hazardous material. The renter could not be found, so the owner of the storage facility was required to pay for the cost of disposal of the drums. In addition, soil and groundwater investigations were required due to staining on the floor of the unit which resulted in the need to excavate several tons of impacted soils.

Shopping Center – Dry Cleaner

A dry cleaner tenant located in a upscale shopping center was found to have been illegally operating by failing to maintain adequate containment of spent perchloroethylene (PCE) solvent canisters. The canisters were stored in an exterior trash container and over time the PCE leaked onto the cracked macadam surface and eventually migrated off-site. The plume traveled with the flow of groundwater and contaminated several adjacent residential properties requiring clean-up. The residents filed bodily injury and property damage claims against the dry cleaner and the owner of the shopping center.

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Warehouse – Contaminated Fire

A fire occurred in the middle of the night at a warehouse facility. Responders to the fire discovered heavy smoke settling over a nearby residential community. It was determined that various hazardous materials were stored in the warehouse and that vapors from the fire could present a health hazard. Residents were advised to stay in their homes. Hazmat responders set up containment to capture runoff from the fire suppression water and to conduct air monitoring. After the fire was extinguished, testing revealed that contamination was present in the soils beneath and around the warehouse as a result of the contaminated fire suppression water. Further investigation and subsequent clean-up activities were required. Several claims alleging bodily injury due to inhalation of toxic fumes from the fire were also filed by nearby residents. The warehouse owner also incurred additional expenses associated with the defense and settlement.

Wastewater Treatment Plant – Untreated Wastewater

A process tank at a wastewater treatment plant malfunctioned, discharging a large volume of untreated wastewater into a nearby stream. This discharge caused a fish kill as well as damage to many aquatic plants. The local regulatory authority issued fines to the operator of the wastewater treatment plant for the unauthorized discharge. In addition several local residents as well as an environmental group filed suits for loss of enjoyment of the creek.

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The claim scenarios in this newsletter are provided to illustrate the variety of environmental exposures faced by your clients. The facts of any situation which may actually arise and the terms, conditions, exclusions, and limitations in any policy in effect at that time are unique. Thus, no representation is made that any specific insurance coverage applies to the above claim scenarios.

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