

Pollution Legal Liability

Current Situation

Today, property owners and managers are exposed to potential lawsuits from tenants for injury and other damages resulting from environmental hazards. This includes but is not limited to mold, asbestos, lead paint and Legionnaire's disease. Unfortunately, most owner's General Liability policies contain broad pollution exclusions relating to these environmental exposures. Pollution Legal Liability (PLL) insurance is available to fill these voids by providing coverage for bodily injury, property damage, legal expenses and environmental cleanup costs resulting from a broad range of pollution conditions. Specific exposures include, but are not limited to:

- Mold
- Legionnaire's disease
- Lead-based paint and asbestos
- Heating oil storage tanks
- Methamphetamine laboratories
- Unknown pre-existing contamination from previous releases or historic fill*
- Vapor intrusion*

**Subject to underwriting review of environmental reports*

Proposed Solution

A PLL solution has been developed exclusively for Drucker & Falk to address these potential environmental risks of its owner clients. Utilizing D&F's buyer power, the insurance is competitively priced and provides the following benefits to our clientele:

- Additional security for the risks of purchasing or acquiring assets when unknown conditions might be present
- Affordable risk transfer of liabilities to an A+ (Superior)* rated insurer
- An alternative to and support for environmental indemnities in M&A transactions
- Engineering support to help reduce potential exposures
- Access to a Specialty Claims Assistance Network (SCAN) and pre-screened crises management expertise
- \$2,000,000 per incident and \$10,000,000 policy aggregate limits
- Business Interruption coverage, including loss of rental income due to a covered claim

An exclusive focus on environmental insurance solutions that enable businesses to effectively and efficiently manage risks that can threaten their financial security.



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Claims Scenarios



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.
- A drywall contractor was hanging new drywall at a construction project when an employee accidentally drilled through a small water pipe, located behind the wall. The drywall contractor did not realize the water leak was occurring and a substantial amount of mold grew between the walls before anyone noticed. The drywall contractor was held responsible for cleanup of the mold, as well as defense of third party bodily injury claims.
- The occupants of a town home in Chicago complained of a musty odor in their apartment. The initial investigation revealed that a pinhole leak had developed in some piping behind a closet. By the time it was discovered, extensive mold growth was present along the walls of two units. This led to substantial clean-up costs, property damage claims for the tenants' non-porous belongings and a bodily injury claim alleged as a result of a minor-tenant's worsening asthma.



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 responsibility for the clean-up. The owner not only had to dispose of the contaminants that had been released into the room, but also had to pay to remove the leftover chemicals that were still in containers. Clean-up and disposal costs totaled in excess of \$100,000.



Apartments – Lead Poisoning

- A child who lived in an apartment building constructed in the 1970s was diagnosed with lead poisoning. The parents of the child filed a bodily injury claim against the landlord. As part of the investigation of the claim, an expert was hired. Other potential causes for the lead poisoning were discovered. As a result, the landlord was held liable for only a portion of the claim.



Apartments – Air Quality

- At an apartment complex in California, the on-site maintenance personnel were applying caulking around the door frame in the entryway during business hours. A tenant on the third floor left her apartment and fell down the stairs. She alleged that the fumes from the caulking entered the building and caused her to become lightheaded and fall down the stairs. The costs for defending the lawsuit were substantial.
- Upon moving into their unit, tenants of an older apartment building complained of a soft area of flooring in their kitchen. Investigation revealed an area of deterioration. The management installed new flooring. The tenant complained of odors from off-gassing following the installation and eventually was hospitalized for chemical bronchitis. In addition to the bodily injury claim, relocation expenses and replacement of the flooring was required.



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 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 in the early 1900s—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 were 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.

Value-Added Services

The experts of Great American's Environmental Division can uncover the hidden risks in your clients' operations and develop custom programs to protect them. Staffed by a motivated group of insurance professionals who are experts in underwriting, risk management and claims resolution, and are committed to service excellence, we provide tailored solutions to fit your clients' specific needs.

Our complimentary value-added policyholder advantages offer protection that extends beyond a policy:

- **Specialized service-oriented underwriting staff** with significant environmental/insurance experience who possesses the ability to offer manuscript policy forms to meet specific client needs
- **Integrated teams** including underwriting, claims handling and engineering
- **24/7/365 Emergency response support** offered through the Response & React Spill Response Program (R&R) through which spill response management is provided in all 50 states and Canada 24 hours a day, 365 days a year. R&R encompasses a network of about 1,000 prequalified environmental professionals who have the knowledge and experience to coordinate and manage a rapid, cost effective response to your emergency spills.
- **Exceptional claims services and handling:** Great American's dedicated environmental claims handling unit and nationwide network of emergency response firms, remediation contractors, and environmental attorneys provide the technical expertise and responsiveness you need to provide your customers with comprehensive risk management.
- **Risk control services:** These services are available through our network of specialty vendors representing diverse capabilities and experience in a variety of environmental areas, including a review of current mold management plans. Applicable services include:
 - Mold and Microbial Matter
 - Asbestos and Lead Paint
 - Spill Control and Countermeasure Plans



Environmental



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For More Information

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A Company You Can Count On

Great American's financial strength and stability support a long-term commitment to the environmental sector. In 2018, Great American celebrated its 10th anniversary as a dedicated Environmental Division at Great American. We recognized the need for an exclusive focus on effective management of environmental risks that could threaten the financial security of the businesses we serve.

Our division follows the same business model that structures every division at Great American: deep expertise within a specific niche of the insurance industry. This 'strength of specialization' has enabled our company to grow into an industry leader from roots that date back to the founding of our lead carrier - Great American Insurance Company - in 1872.

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TEN YEAR ANNIVERSARY • 2008-2018