



Greetings! I am excited to introduce you to our newly developed publication, Environmental Insider.

Environmental Insider is a quarterly newsletter that features interesting and educational content related to the environmental exposures facing the market today. Designed to help you expertly conduct your business, the material you will find in *Environmental Insider* comes from sources inside the industry, specifically from within the Environmental Division of Great American Insurance Group.

Here's a quick look inside our first issue:

- **Kasey Jones** explains potential exposures that face businesses involved in the renovation or redevelopment of existing brownfield properties.
- **Patrick Mahoney** simplifies the types of insurance products that are available to help offset some environmental exposures and perils.
- A recap of Great American's long history of financial strength and stability, which allows us to be here for you now, and in the future.
- See how many environmental exposures you can spot in the fictional community of Riskopolis.

Over the past eight years, Great American's Environmental Division has become a premiere provider of insurance products in the marketplace, an honor we attribute in part to our strength of specialization in the industry. It's our hope that you'll find *Environmental Insider* an extension of our expertise that compliments your business by providing information on specific issues facing you and your clientele today.

If you have any questions, comments or suggestions, please reach out to one of our team members. I wish you good health and continued success for the remainder of 2016, and look forward to a very exciting 2017!

Thank you,



Mark Vuono
Senior Vice President & Chief Underwriting Officer



We're moving!

On December 8, our Plymouth Meeting office is relocating to 397 Eagleview Boulevard, Suite 100, Exton, PA 19341. For toll-free calls, please continue to use 888-828-4320.

'Airing' on the Side of Caution

by Kasey Jones



As urban revitalization proceeds at a steady pace and construction prices continue to escalate in cities where vacant parcels are all but nonexistent, many property owners and developers are finding that substantial profits can be made through major renovations of existing buildings.

Renovation starts in some cities are at an all-time high and it has become

commonplace for buildings originally built 100 or more years ago to now house luxury condos, Class-A offices, five-star hotels and even institutions such as universities and hospitals.

Often, these major renovation projects take place in stages; one floor or area of a building at a time, while the rest of the building remains tenanted and profitable. With the renovation and operation of these older buildings, there comes with it an additional and sometimes heavy responsibility to assure clean, healthy indoor air is

provided to tenants and occupants.

The general public, legal community, state and local regulators and healthcare providers have become much more educated and aware of potential indoor air quality exposures, and we have even seen states, such as New York for example, recently pass legislations specific to protecting public health against indoor air exposures. Fortunately, there are ways in which environmental insurance can be used as a tool to help ease a developer's concerns and provide protection for all parties involved.

Savvy developers understand that deals are to be had on existing buildings that although may still be well-tenanted, may not have been updated or improved in decades. Secondly, by renovating these buildings, developers will attract tenants willing to pay a premium for location and luxury.

However, along with the architectural appeal and potential financial profits, the developer also inherits a dilapidated and often ignored infrastructure that is extremely conducive to indoor air quality issues that could prove disastrous not only to the bottom line, but also to people's lives.

There are some relatively straightforward and cost-

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'Airing' on the Side of Caution, *continued*

effective insurance solutions available in the marketplace that can help a developer become comfortable with this risk. However, the majority of property / general liability policies do not provide adequate coverage related to indoor air quality (IAQ) losses.

To fill this coverage gap, standard site pollution liability policies may be placed that could provide substantial coverage for IAQ issues at a relatively small price when compared to the overall development costs involved. A policy term as long as 10 years may be available, and the policy would generally cover cleanup costs, claims for third party property damage or bodily injury, diminished property value and business interruption, resulting from these pollution conditions at the covered site. The policy would respond to pay on behalf of the developer for such coverage grants, in addition to the legal expenses and associated costs resulting from a pollution condition at the covered location.

Some developers desire an element of risk transfer for prospective buyers (and even their lenders) as well. In most instances, policies can be structured such that there is protection for both the developer as well as future purchasers. This approach provides more robust protection for the developer while increasing the allure of the property to prospective investors as well as lenders.

Underwriting these policies requires copies of recent environmental due diligence or assessment reports, details regarding the type of renovations to be undertaken, as well as the general qualifications and financial information relating to the developer. Upon receipt of this information, the deal can usually be underwritten in a very timely fashion and in order to conform to tight project deadlines.

About the author:

Kasey Jones is a Senior Underwriter, Western Region, for Great American Insurance Group, Environmental. He can be reached at 415-477-9408 and mobile at 415-705-9674 or kljones3@gaig.com.

In most instances, policies can be structured such that there is protection for both the developer as well as future purchasers.



Protecting Your Town, Our Economy ... and YOU!

At Great American Insurance Group, we can help open your eyes to the environmental risks hiding in your town, and can keep hometowns safe and secure, so that farmers can farm, builders can build and shops can sell. Take a look at the lurking dangers in **Riskopolis** – are your customers protected from all the exposures?



(1) Farm Co-op

The farm co-op was recently sued by a local citizens' organization when it was discovered that their fertilizer storage tank had leaked and contaminated several local drinking water wells.

(2) Hospital Contamination

Poor construction practices during the expansion project at the Riskopolis hospital have apparently contaminated several of the surgery suites. Operations have been postponed or moved to other regional hospitals as remediation work begins.

(3) Barge Accident

A barge delivering fertilizer broke loose during a recent storm and struck a pier. The collision resulted in the release of its load of urea into the river causing a massive fish-kill. Natural Resource Damages are pending.

(4) Hotel Contaminated Fill

Contractors working on Riskopolis's newest hotel inadvertently brought contaminated fill onto the site during site-grading activities. The fill had been contaminated with PCBs and will need to be removed from the site and properly disposed of before construction can continue.

(5) Health Club Pool

A dropped chlorine canister at the health club pool is being blamed for a scare over the weekend. Several members were sickened and taken to the hospital for treatment.

For more information about Great American, the wide variety of business risks we insure, and the complete list of dangers lurking in Riskopolis, [visit GAIG.com/Environmental](http://GAIG.com/Environmental)



Environmental Liability Insurance for Owners, Developers, Lenders and Contractors

by Patrick Mahoney



Redevelopment of a brownfield property, whether it be for a high-profile stadium or a small apartment complex, requires the coordination of efforts between property owners, developers, lenders, governmental regulators, contractors and the general public.

Each of these parties has its own personal economic and environmental interest in the betterment of the brownfield. At the same time, each of these players brings to the table his or her own concerns, biases and risk tolerance. These factors may be influenced by prior experiences or simply based upon the fear of the unknown; their perception is their reality and negative perceptions can kill redevelopment deals.

Potential roadblocks introduced by the interested parties are many and valid – lenders concerned they may inadvertently absorb a contaminated property

Property owners, developers and contractors can all proceed with projects and engage the process with coverage that pinpoints point of need.

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Environmental Liability Insurance for Owners, Developers, Lenders and Contractors, *continued*

onto their balance sheet; an owner worried about the dreaded regulatory reopener notification; regulators concerned about the idea of families moving onto a site with potential exposure pathways; the general public worried that all the best intentions couldn't foresee that the engineering controls used to mitigate contaminants just weren't good enough to prevent an illness from developing 10 years down the road.

So how can the parties to the brownfield redevelopment help bridge the gap with those necessary participants who are less assured of the project's soundness and ultimate success? One possible solution to help remove roadblocks is the use of an environmental insurance product.

The environmental liability insurance marketplace has created policies to address these development interests and exposures including premises-focused and contractor Environmental insurance is not a panacea, it is important to have realistic expectations of what environmental insurance may or may not be able to do for a given site.

Just as the parties mentioned above have concerns, biases and risk tolerances, so do environmental insurance carriers. Underwriting brownfield properties is a complicated process and coverage afforded under such policies will be dependent upon the availability and satisfactory review of site development plans, environmental site assessments and regulatory correspondence.

Contracting Service Project Specific Policies

Owners and developers of brownfield properties are concerned about the timing and budget of a project. The contractor's exacerbation of an existing environmental condition may result in a delay of the construction and

significantly increase the developmental costs. These costs could include not only remedial efforts, but also regulatory fines, penalties and design changes. A contracting services project-specific policy is a viable insurance product created to address these concerns.

These policies can be structured in many ways but one that is popular with brownfield projects in an Owner Controlled Insurance Program or OCIP. An OCIP structure typically allows project owners the ability to provide a single policy covering pollution liability not only themselves but also all contractors and subcontractors of any tier working on the project. This can help to alleviate concerns subcontractors may have taking jobs on contaminated properties and at the same time provide owners with the comfort of knowing that each contractor has the proper environmental insurance coverage and limits that best suits their specific project's needs.

Contracting services policies usually contain coverage parts, written on an occurrence basis, which include coverage for the following as a result of a pollution condition originating during the construction project: third party bodily injury or property damage, clean-up costs, emergency response costs, non-owned disposal sites, transportation and legal expenses related to a pollution condition caused by or related to the construction project.

Potential claim scenarios that may play out on a brownfield project include:

- Exacerbation by the contractor of known or unknown pollution conditions within soils or groundwater;
- Failure to properly install engineering controls like vapor barriers;
- Mitigation of dust or silt; and
- Release of hazardous materials onto the project site from construction machinery.

Additionally, once the development is completed, contractors and site owners may have to contend with pollution conditions arising out of construction defects that do not result in pollution conditions until after project completion. Some examples of the environmental issues seen during the completed operations period include the development of mold, vapors arising from installed materials and pollution releases from process piping.

Additional coverage enhancements available also include business interruption, diminution in value and public relations expenses.

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Environmental Liability Insurance for Owners, Developers, Lenders and Contractors, *continued*

The duration of the completed operations period recommended for a project varies depending upon the final development's usage, the owner's risk tolerance, and statutes of limitations and repose for the site's jurisdiction. Many insurance carriers are able to offer completed operations period terms of 10 to 15 years.

Premises Policies

As mentioned earlier, brownfield properties involve many parties having an economic and environmental interest in redevelopment. By definition, brownfields are sites known to have real or perceived environmental contamination either former on-site operations or from surrounding properties. One of the avenues available for brownfield property owners to protect themselves and to satisfy lender and regulatory requirements is the premises environmental liability policy.

In contrast to the contracting services policy, the premises policy coverage is not limited to pollution conditions caused or exacerbated by the project's construction. In fact, coverage on premises policies is available, on a claim-made basis for pollution conditions at the site stemming from prior site operations, through the development and onto the final property usage.

Coverage is provided for both gradual and sudden and accidental events.

While most insurance carriers are currently not offering clean-up coverage for those pollution conditions that are known or likely to be discovered during brownfield development, typical policies will usually include third-party bodily injury and property damage, non-owned disposal site and transportation coverage during development.

To address reopener concerns, clean-up coverage usually becomes an available coverage after a specified milestone is reached, such as the issuance of a no further action letter, a certificate of occupancy or upon completion of building demolition and sub-surface construction work.

More often now than in the past, lenders on brownfield properties are requiring their borrowers to purchase pollution liability coverage. Most carriers are able to provide coverage within the premises policy for lenders of the property, thus providing the coverage the lender is seeking while also providing coverage to the borrower.

Additionally, some carriers can offer broader pollution liability coverage specifically tailored for lenders.

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Environmental Liability Insurance for Owners, Developers, Lenders and Contractors, *continued*

Insurance carriers offering such coverage usually underwrite to both the financial condition of the borrower as well as to the environmental exposures of the property. Policies specifically written just for the lender may have policy terms available to match the length of the loan, up to a total of 13 years in some cases.

A few examples of environmental issues typically contemplated by a premises environmental liability policy covering a brownfield property include:

- Indoor vapor intrusion arising from pollutants in groundwater resulting in third-party bodily injury claims;
- Re-openers of previously closed clean-up actions by local, state or federal regulators;
- Third-party bodily injury or property damage stemming from known or unknown pollution conditions;
- Mold and legionella within the new building(s);
- and Illicit abandonment of pollutants.

Mitigating the Concerns

The insurance marketplace has developed environmental liability policies that can be structured to address many of the concerns encountered with the development of a brownfield property. These policies range in coverage for the pre-existing site conditions, through the development period and into the finished operations.

During each step of these phases, the various parties will have interests and concerns with the economic and environmental aspects of the property. Through the policy types mentioned, these parties can work to have their concerns mitigated and their interests protected by an insurance program.

Integral to the successful development of an insurance program is the cooperation of the various parties and the ability for the insurance carrier to underwrite all of the relevant and detailed information available for the brownfield property and planned development.

About the author:

Patrick Mahoney is CPCU, Divisional Vice President and Regional Manager, Midwest Region, for Great American Insurance Group. He can be reached at 610-567-5064 and mobile at 610-220-6752 or phmahoney@gaig.com.





A Company You Can Count On

Great American Insurance Group's roots go back to 1872 with the founding of its flagship company, Great American Insurance Company. Based in Cincinnati, Ohio, the operations of Great American Insurance Group are engaged primarily in property and casualty insurance, focusing on specialty commercial products for businesses, and in the sale of traditional fixed and indexed annuities.

Great American Insurance Company is currently rated "A+" (Superior) by A.M. Best, and has received an "A" (Excellent) or higher rating from the A.M. Best Company for more than 100 years.* The members of Great American Insurance Group are subsidiaries of American Financial Group, Inc. AFG's common stock is listed and traded on the New York Stock Exchange under the symbol AFG.

The Numbers Tell the Story

There are over **3,000** property and casualty insurance companies in the United States.

Only **50** are included on the Ward's 50 List for safety, consistency and performance.

Only **5** have been rated "A" or better by A.M. Best for over 100 years.

Only **2** are on both lists.

Great American Insurance Company is **1** of the two.

We are proud of our "A+" (Superior) A.M. Best rating and thank you for the trust you have placed in us to insure your most important specialty accounts.

*A.M. Best rating affirmed May 12, 2016.

The information presented in this publication is intended to provide guidance and is not intended as a legal interpretation of any federal, state or local laws, rules or regulations applicable to your business. The loss prevention information provided is intended only to assist policyholders in the management of potential loss producing conditions involving their premises and/or operations based on generally accepted safe practices. In providing such information, Great American does not warrant that all potential hazards or conditions have been evaluated or can be controlled. It is not intended as an offer to write insurance for such conditions or exposures. The liability of Great American Insurance Company and its affiliated insurers is limited to the terms, limits and conditions of the insurance policies underwritten by any of them. Coverage description is summarized. Refer to the actual policy for a full description of applicable terms, conditions, limits and exclusions. Policies are underwritten by Great American Insurance Company, an authorized insurer in all 50 states and the DC and Great American Protection Insurance Company, an authorized insurer in CA, IN, KY, MS, OH and WA. © 2016 Great American Insurance Company, 301 E. Fourth St., Cincinnati, OH 45202. All rights reserved. 4889-ENV (10/16)