

Great American Environmental Insider



LEADERSHIP & SUPPORT

The National Underwriting Department provides environmental insurance products and services delivered with a culture unique to our industry. This allows us to provide an even deeper service for the benefit of our customers. [\(See page 2\)](#)



TECHNICAL INITIATIVES

Achieving a “no further action” (NFA) determination from a regulatory agency for a spill, release or legacy pollution condition is a major milestone, but a re-opener may result in further action. [\(See page 5\)](#)



INDUSTRY TRENDS

Many general and trade contractors rely on subcontracted professionals to perform design work. Must they rely on their insurance too?

[\(See page 3\)](#)



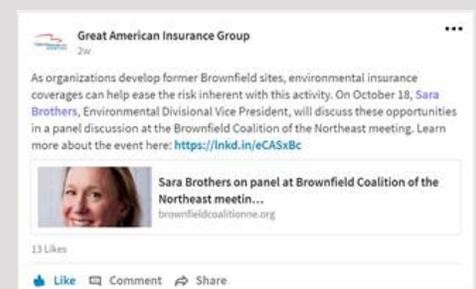
CLAIMS SCENARIOS

Professional Indemnity Coverage. [\(See page 4\)](#)

Re-Openers [\(See page 7\)](#)

Great American's Environmental in the News

1. [Read...](#) “There’s plenty of action and plenty of mold in the market” published in a recent issue of *Rough Notes* featuring our own Barry Geisler, Environmental Divisional Senior Vice President.
2. As organizations develop former Brownfield sites, environmental insurance coverages can help ease the risk inherent with this activity. On October 18, Sara Brothers, Environmental Divisional Vice President and Director of Technical Support, discussed these opportunities in a panel discussion at the Brownfield Coalition of the Northeast meeting. [Read More...](#)



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Operating Philosophy

by Eric McCabe, VP - National Underwriting Director

The National Underwriting Department provides environmental insurance products and services delivered with a culture unique to our industry. This allows us to provide an even deeper service for the benefit of our customers.

But it doesn't stop there. Through our specialized expertise and significant knowledge in the field, we are able to provide products and services which enable businesses to effectively and efficiently manage risk. We also build value by targeting employment candidates and business partners that offer the greatest prospects for long-term growth.

Operating under this philosophy:

- We aim to deliver **comprehensive service** valued by our customers. Whether we are responding to new business opportunities, modifying an existing program, or tailoring coverage with additional Great American divisions, our team organization efficiently leverages our resources for the best result.
- We focus on structuring a consistent product for our business partners. Our **collaborative culture** assures that production encompasses discussions with all team members. We value experience while also recognizing that novel ideas can originate from any team member. This process results in a product based on our cumulative strengths, experience and knowledge.
- We strive to be connected – earning the **trust and respect** of our business partners is our ultimate goal.

- Our non-regionalized structure facilitates this relationship by removing the traditional limitations and providing access to our nationwide pool of diverse personalities, while providing the **flexibility** to our business partners to work with their preferred team member.

“We are able to provide products and services which enable businesses to effectively and efficiently manage risk.”

Approaching our tenth year in the environmental sector, the strength and stability of Great American's Environmental Division is a real strategic advantage and value to our clients. The division is comprised of a highly effective and successful team of professionals who are dedicated to serving our customers' best interest. Our recent expansion into the Boston, Massachusetts area is a prime example of our value building.



Eric is a vice president with Great American's Environmental Division and serves as our director of national underwriting. Along with his extensive experience in the insurance field, Eric holds his J.D. and previously worked as an environmental chemist. He is based out of our New York office.

Hello From Boston

by Eric McCabe

As we continue to develop our national presence, we are proud to announce our recent expansion into Boston.

Located on 225 Franklin Street, the new office will be led by Production Underwriters Heather Boyd and William Houldin III. Boyd and Houldin are two knowledgeable underwriters that we pursued in Boston.

Commenting on the new office, Boyd said:

“After discussing the nationwide opportunities, team organization and collaborative culture, we were anxious to join the group.”

Prior to joining Great American, Boyd and Houldin had both worked extensively in the environmental market. Boyd gained her knowledge through a career in both environmental underwriting and consulting. Houldin has also worked exclusively within the specialty of environmental and holds degrees in both economics and policy studies.

The new office has already launched with a strong team who further complement Great American's industry knowledge and experience. We look forward to its growth and serving the greater New England area!



Professional Indemnity Coverage



Due to the complex process of designing and building various structures, many general and trade contractors do not perform in-house design – relying on subcontracted professionals’ services. While this business model allows for additional potential profit, it also introduces a new set of risks. Contractors are still held responsible to their client for professional acts, errors or omissions on the part of the subcontracted

design professional. Contractors can rely on the design professionals’ insurance and contractual indemnity to protect them from a claim; however, what if the design professional ultimately cannot indemnify the contractor? That’s where Great American comes in as a partner to you in protecting your client.

The professional protective product covers bodily injury, property damage, legal expenses and clean-up costs resulting from pollution conditions associated with contracting services. This policy also provides coverage for liability associated with Acts, Errors and Omissions arising from Professional Services. It can also provide coverage for liability associated with Owned Locations, Non-Owned Disposal Sites, and Transportation of the insured’s products or wastes.

At Great American, we offer an exclusive focus on environmental insurance solutions to a wide variety of commercial customers, including contractors. Our team can uncover the hidden risks in your client’s operations and develop a custom program to protect them.

Our professional indemnity coverage can be tailored to a variety of contractors including but not limited to:



Construction Managers & General Contractors



Design/Build Contractors



Drilling Contractors



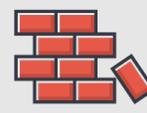
Drywall Contractors



Electrical Contractors



HVAC Contractors



Masonry/Concrete Contractors



Mechanical Contractors



Painting Contractors



Plumbing Contractors



Street and Road Contractors



Steel Erection Contractors



Utility Contractors

Claim Scenarios: Professional Indemnity Coverage

Contracting Services

#1 DRILLING CONTRACTOR - RAW SEWAGE



- 1 A subsurface drilling contractor caused a release of raw sewage into both soil and groundwater after failing to identify a sewer line before drilling.
- 2 The cleanup entailed the excavation of several tons of impacted soil and caused a number of nearby businesses to shut down for a few days when their basements filled with sewage.
- 3 Substantial claims for business interruption and cleanup costs were filed.
- 4 If you have a contractor performing services, let us work together to analyze the environmental risks associated with your contractor.

There is liability coverage for both ongoing contracting services as well as completed operations coverage to provide protection after the job is finished.

#2 DRYWALL CONTRACTOR - MOLD



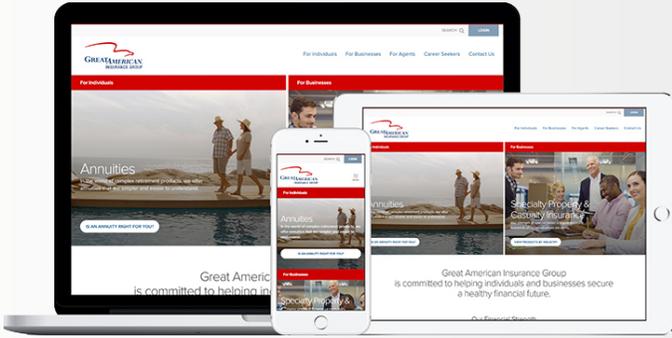
- 1 A drywall contractor was hanging new drywall at a construction project when an employee accidentally drilled through a small water pipe, which was located behind the wall.
- 2 The drywall contractor did not realize the water leak was occurring and a substantial amount of mold grew between the walls before anyone noticed.
- 3 The drywall contractor was held responsible for cleanup of the mold, as well as, defense of third party bodily injury claims.
- 4 If you have a contractor performing services, let us work together to analyze the environmental risks associated with your contractor.

Do you have companies performing similar contracting operations who are not protected for their environmental exposures?

For agent/broker distribution only. 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.

Any insurance product and coverage descriptions in this newsletter are summarized. Please refer to the actual policy for a complete description of all applicable terms, conditions, limits and exclusions. The insurance products described in this newsletter may not be available in all jurisdictions. Products are underwritten by Great American E & S Insurance Company, a DE domiciled surplus lines insurer, eligible to underwrite surplus lines insurance in all 50 states and the DC. We also have the ability, in many states, to offer admitted paper through Great American Insurance Company, an authorized insurer in all 50 states and the DC, following the applicable state's deregulation or exemption guidelines. The information presented herein is not intended as a solicitation or offer to sell any insurance product in any jurisdiction in which such solicitation, offer, sale or purchase thereof would be unlawful.

Welcome to the New, Improved Home of GAIG.com



Recently, Great American unveiled a company-wide digital transformation: the relaunch of GAIG.com. The Great American digital media team has been hard at work this past year creating the new Great American online experience.

Designed with you in mind, the new GAIG.com features a sleek, intuitive design with improved navigation and a mobile-friendly view.

This fresh new look for our website will improve your ability to discover the best of what GAIG.com has to offer – including a product concierge to direct visitors to various specialty P&C divisions – including environmental!

Take a quick tour of the [new site](#) and enjoy!

Regulatory Re-Openers

by Sara Brothers, VP - Technical Support Director



Achieving a “no further action” (NFA) determination from a regulatory agency for a spill, release or legacy pollution condition is a major milestone for many commercial and industrial sites with pollution conditions. The tanks have been pulled, the remediation system has been decommissioned and the wells abandoned. But just how good is that NFA? Was some level of contamination left in place? And what could cause an agency to re-evaluate or re-open a closed regulatory case?

Science is constantly evolving, new chemicals are introduced or phased out, and the impact of these chemicals on human health and the environment is continually being evaluated and updated. As a result, regulations and cleanup levels are also being updated and changed. When new information supports a new screening level or cleanup standard, sites with a “NFA” may appropriately be re-evaluated to determine if a site should be ‘re-opened’ and additional site work is necessary.

Re-openers can be triggered under multiple scenarios; here are a few common ones:

1. **Change in land use** which could allow a more sensitive population to potentially come into contact with residual contamination left in place. For example, a service station may achieve regulatory closure for an underground storage tank release, with the understanding that the site will continue to be used as a service station or commercial. If that site is subsequently sold or redeveloped for residential purposes or for use as a school, additional site work may be required to lower residual levels to a protective level. The previously safe commercial exposure criteria needs to now address potential residential exposure criteria.



2. **Revisions in cleanup levels** which (typically) lower a standard for a known chemical or metal of concern. For example, in 2001, EPA adopted a lower standard for arsenic in drinking water systems, lowering the standard from 50 parts per billion (ppb) to 10 ppb. More recently, several state programs have

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Regulatory Re-Openers *(continued)*

by Sara Brothers, VP - Technical Support Director

revised and lowered cleanup levels in soil gas for trichloroethene (TCE) and tetrachloroethylene (PCE), two common chlorinated solvents. Sites which may have closed under the older, less stringent cleanup levels may be required to do more investigation or potentially more remediation, in order to meet new criteria. Several states are in the process of updating their cleanup levels to reflect the most current science. As an example, the Michigan Department of Environmental Quality has recently published proposed updates to their cleanup rules.

3. **Investigation of a “new” media** (soil, groundwater, surface water, sediment, soil vapor, indoor air) which may not have been evaluated previously. This is not uncommon, especially at sites which achieved NFA more than 10 years ago with residual volatile chemicals remaining in either soil or groundwater. The presence of contaminated vapors in soil vapor generated from the off-gassing of residual volatiles, and their potential to impact indoor air through a winter heat stack effect was not understood or evaluated.
4. **Identification of a ‘new’ chemical of concern, aka ‘emerging contaminant’,** which was not tested for previously. As an example, in the 1990s, many closed underground storage tank cases were re-opened by regulatory agencies in order to evaluate the nature and extent of the fuel additive methyl tert butyl ether (MTBE). Some recent emerging contaminants which are triggering re-openers are 1, 4-dioxane (used as a stabilizer in the manufacture of solvents), perchlorate (as an oxidizer from propellants and explosives or naturally occurring in some fertilizers), 1, 2, 3 – trichloropropane (TCP) (associated with agricultural fumigants), hexavalent chromium (from metals processing and plating), and Per- and Polyfluoroalkyl substances (PFAS) (associated with textiles, fire-fighting foams, and other industrial uses). Increasingly low detection levels in analytical equipment have resulted in increased accuracy and detection of contaminants. As a result, new regulations and cleanup levels have been promulgated, especially at the state level, to address these emerging contaminants.
5. Some state and federal regulatory programs have built-in, **periodic re-evaluations of closed cases**, in order to determine if the closure is still protective. For example, the federal Superfund program (CERCLA), conducts five-year reviews of Superfund sites which have had remedies implemented. If the remedy is deemed inadequate, additional site evaluation and

cleanup may be required. Similarly, the State of Washington is required by rules (WAC 173-340-420) to conduct periodic five-year reviews of post-cleanup conditions and monitoring data to ensure that human health and the environment are being protected. The review may include checking to make sure engineering and institutional controls are still in place, that the site is being used for its intended purpose, and that any potential for emerging contaminants is properly assessed.



“When new information supports a new screening level or cleanup standard, sites with a “NFA” may appropriately be re-evaluated to determine if a site should be ‘re-opened’ and additional site work is necessary.”

These re-openers present only a few of the many ways in which a site with a NFA can find itself re-opened. Regardless of cause, and whether a site has an existing or new owner, environmental insurance can provide risk transfer for protection against financial loss. In many cases, a premises environmental liability policy can be crafted to provide protection from regulatory re-openers which may occur due to the reasons listed above. Coverage for cleanup with a government trigger often is available for sites with prior NFA determinations.

Sara is a vice president with Great American’s Environmental Division. She brings over 28 years of environmental consulting and construction management experience to Great American. Sara’s background is as a senior geologist with extensive consulting and industry experience in the petroleum, industrial, commercial, and government sectors. Sara serves as the director of technical support and training. She is based out of our San Francisco office.

Claim Scenarios: Regulatory Re-Openers

by Sara Brothers, VP - Technical Support Director



NO FURTHER ACTION

RE-OPENER

A former agricultural chemical storage facility conducted site assessment and remediation of nitrate contaminated soil and groundwater, and received no further action for the known conditions.

Several years later, following the discovery of the emerging chemical 1, 2, 3 -TCP in a nearby municipal well, the state regulatory agency required all agricultural facilities with known releases to sample their wells for TCP. The chemical storage facility discovered elevated TCP concentrations at their property, and was required to conduct significant on- and off-site remediation, as well as provide treatment for the impacted municipal well.

In 1999, a dry cleaning tenant at a retail shopping mall experienced a release of PCE dry cleaning solvent. Soil and groundwater samples were collected, and the regulatory agency granted NFA for the release.

In 2017, the shopping mall was sold. During due diligence, a Phase I Environmental Assessment Report recommended evaluating the former space for vapor concerns because the 1999 NFA did not include evaluation of soil vapor or indoor air quality. Soil gas samples collected from beneath the slab of the building indicated elevated PCE and TCE concentrations. Further sampling showed that the indoor air of the tenant space was also impacted, and as a result, the regulatory agency re-opened the case file, and active remediation was required.

In 2005, a UST site with petroleum hydrocarbons in soil and groundwater contamination was closed under a “low threat closure criteria”, which allowed contamination to stay in place as long as the site remained a service station.

In 2017, the site was sold and redeveloped as a learning center for children. During a periodic five-year review, the regulatory agency identified the change in property use. Because site use had changed, the agency re-opened the case and required additional site assessment and remediation of residual petroleum hydrocarbons.

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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.

Great American's Environmental Division

Great American's Environmental Division offers an exclusive focus on environmental insurance solutions to a wide variety of commercial customers. Our core products and services enable businesses to effectively and efficiently manage risks that can threaten their financial security.

The experts of Great American's Environmental Division can uncover the hidden risks in your client's operations and develop a custom program to protect them. We offer a complete portfolio of environmental insurance products, including contractor's and fixed premises pollution liability insurance products:

- Premises
- Indoor Air Quality and Mold
- Contracting Services
- Contracting Services Project Specific
- Professional and Contracting Services
- Closure and Post-Closure
- Excess

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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 August 11, 2017.

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. The Great American Insurance Group eagle logo and the word marks Great American® and Great American Insurance Group® are registered service marks of Great American Insurance Company.
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