Environmental Insurance

Environmental risks, whether from historical contamination, ongoing operations, or unforeseen incidents, represent significant financial exposures for businesses. Greenbaum has broad-based experience in reviewing, analyzing, negotiating and consummating environmental insurance policies that were developed by insurers specifically to address environmental risks in both transactional and operational settings by providing certain types of insurance for pollution legal liability and, in some circumstances, cleanup cost overruns. These specialized policies are designed to cover risks that are typically excluded from standard commercial general liability (CGL) policies, which often contain broad pollution exclusions. Our extensive experience in the nuanced field of environmental insurance on behalf of developers, manufacturers, contractors and other clients encompasses policies written in connection with multi-million-dollar environmental cleanups, brownfield and other high-stakes development and redevelopment projects, as well as long-term groundwater remediations and other complex cleanups.

We provide guidance related to the complex array of environmental insurance products available in the market, which includes pollution and/or remediation legal liability insurance, integrated commercial general liability with pollution liability insurance, cleanup cost cap (or stop loss or cost containment) insurance, lender environmental protection insurance, and contractor's pollution liability insurance. Specific endorsements or standalone policies are available to address common indoor environmental contaminants such as mold, lead and asbestos. Miscellaneous specialized environmental risk coverage, such as products liability, financial assurances for underground storage tanks and landfills, coverage for specific transactional risks, environmental infrastructure projects and coverage for specific types of industries, such as automobile dealers, marinas, agricultural, healthcare, renewable energy, power generation, higher education, hospitality, municipalities and cities, may also be available.

We work closely with clients and brokers to negotiate policy terms, conditions, exclusions, and endorsements that are specifically tailored to the client's unique risk profile and transactional needs. Should an environmental incident occur, or a claim be made, we support clients throughout the negotiation and settlement of claims. We have also spearheaded many successful claims against insurers for environmental remediation cost liability under the older general liability policies. Our emphasis on resolution of these claims through negotiated settlements has resulted in numerous settlements through which our clients have recouped millions of dollars in cleanup and associated costs.

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Experience

Representative Matters

- Representing a multinational climate-control manufacturer in long-running regulatory proceedings with the NJDEP, including negotiating settlements, overseeing ISRA compliance, and pursuing insurance coverage for environmental liabilities.
- Represented the seller of a former trucking terminal sold for redevelopment into a self-storage facility, allocating liability for underground storage tank removal, securing environmental insurance, coordinating redevelopment approvals, and mitigating legacy environmental risk.

- Represented a manufacturing client in the sale of an industrial property involving ISRA-triggered environmental liabilities, negotiating an agreement shifting remediation obligations to the buyer, requiring environmental insurance, post-closing access rights, recorded institutional controls, and collateral securing ongoing obligations.
- Represented sellers in structuring a $98 million option-based sale of a multi-property industrial portfolio, addressing extensive title and environmental issues, allocation of remediation obligations, negotiation of environmental insurance, and recording of post-closing obligations binding future owners and lenders.

Insights & More

Publications

The Emerging Role of Environmental Insurance in Commercial Real Estate Transactions: Issues and Answers
2000

Seminars & Events

Environmental Insurance: Emerging Issues and Latest Developments on the New Coverage and Insurance Cost Recovery
2000 – forward