

INSURANCE

A look at environmental liability transfer

Ashley Maurene Hunter, President
HM Risk Group LLC
Austin, TX

For years, environmental liability transfer has allowed developers to reuse or manage contaminated properties. While environmental liability transfer hasn't been a definitive way to protect yourself, it has allowed developers to continue with projects that would have otherwise been sidelined with environmental obligations.

An environmental liability transfer is a contractual agreement where one party, a specialized contractor, assumes a portion of the second party's environmental remediation obligations. The idea is that the specialized contractor would be able to settle any outstanding obligations for less than the amount it received from the transferring party.

The amount of liability is generally left open to negotiation and is primarily driven by the amount of risk that the specialized contractor is willing to assume, in addition to the amount of money the transferring party is willing to pay in order to transfer the risk. Depending on the business needs, the transferring party may be willing to pay the premium in order to free themselves of liabilities. In other cases, the premium outweighs the benefit of transferring the entire amount of liability and in that case the business may elect to retain some of the liability.

Liability transfer often has many layers of environmental insurance, which provides peace of mind needed for both parties. The transferring party is given peace of mind knowing that the transfer is backed by insurance. The contractor is protected in the event that an accident occurs causing serious economic damage to their business.

There are two main types of insurance available to liability transfer: stop-loss insurance and pollution legal liability

(PLL) insurance.

Stop-loss insurance coverage is generally initiated when the cost for remediation exceeds the amount agreed upon at the inspection of the policy. This is often referred to as the attachment point, which is usually higher than the estimated cleanup costs.

Pollution legal liability (PLL) insurance coverage is triggered when preexisting, but currently unknown contamination exists. There is also coverage available for tort claims. Pollution legal liability allows coverage for contamination that existed prior to the inspection of the policy, but is discovered after the policy has taken effect.

Depending on your particular contaminated property, environmental liability transfer may or may not be an economically feasible solution for your business. If this solution fits your needs, then it can allow your business to proceed with transactions that would have otherwise been slowed down or stopped due to responsibility obligations.

Ashley M. Hunter is the president of HM Risk Group, an international brokerage that specializes in development, construction, energy and aviation risks domestically and in the Middle East. For more information, call 214-801-3166 or email ashley@hmriskgroup.com

www.constructionnews.net



Austin

CONSTRUCTION

The Industry's Newspaper

(512) 295-3900 * Home Ofc: P.O. Box 791290 San Antonio, TX 79279 (210) 308-5800 * SEP 2008 * Vol. 8 * No. 9