



## Environmental Risk & Environmental Impairment Liability Insurance

Manchester Liability Society  
13<sup>th</sup> April 2016

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# Agenda

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- Growth of EIL
- Environmental Legal Regime
- Gaps in Cover
- EIL Concepts & Products
- Information Requirements
- AIG's Offering
- Claims Examples
- Questions

# Environmental risks – Are you covered?

- “...Very unlikely I will cause a pollution event...”
- “...If I do, it won’t cost much to fix”
- “...If it does, my PL or GL will pay”



# EIL in the headlines...

## **Insurancetimes**

**'Check your cover' warning over environmental directive**

*New European directive means that polluters must pay to put right any damage they cause.*

## **Insurance Age**

**Brokers warned: enforce EL or risk legal action**

*Brokers that fail to advise clients about environmental liability risks could face legal action following a government crackdown.*

## **INSURANCE DAY**

**Hungary disaster highlights need for ELD provisions**

## **Commercial Risk Europe**

EUROPEAN INSURANCE & RISK MANAGEMENT NEWS

**As environmental liabilities grow regulators look set to get busy**

*... authorities are set to increasingly use the new tools at their disposal to enforce clean up at contaminated sites, according to experts.*



**Policyholders could sue brokers for inadequate cover provision**



**Environmental insurance comes of age**

*Environmental insurance, once labeled as difficult to obtain, data intensive and expensive, has come of age.*

# Growth of EIL



- Increased awareness of pollution - Increased social pressures
- Legislative changes
- Threat to reputation and balance sheet
- Public concern
- Gaps in traditional covers

## UK/Ireland Market:

- History
- Increase in carriers
- Market growth
- Few specialist EIL brokers
- Irish EPA

# Environmental Legal Regime

- Polluter Pays Principal
- Strict Liability
- Environmental Liability Directive
- Contaminated Land Regime



# Why Buy Environmental Insurance?



# Gaps in Cover

Why do I need environmental insurance if I'm already covered?

Cover	EIL	Liability Policy	Property Policy
Biodiversity damage	YES	NO	NO
<b>Historical pollution</b>	YES	NO	NO
<b>Statutory Clean Up Costs</b>	YES	NO	NO
Onsite Clean Up Costs	YES	NO	NO
<b>Gradual Pollution</b>	YES	NO	NO
Loss Mitigation Costs	YES	NO	NO

The International Underwriting Association of London produced an overview of the differences in coverage between Public Liability (PL); Public Liability with endorsement arising out of the Bartoline case (PL+), Environmental Impairment Liability (EIL) and Property (PROP). Click [here](#) for the full overview.

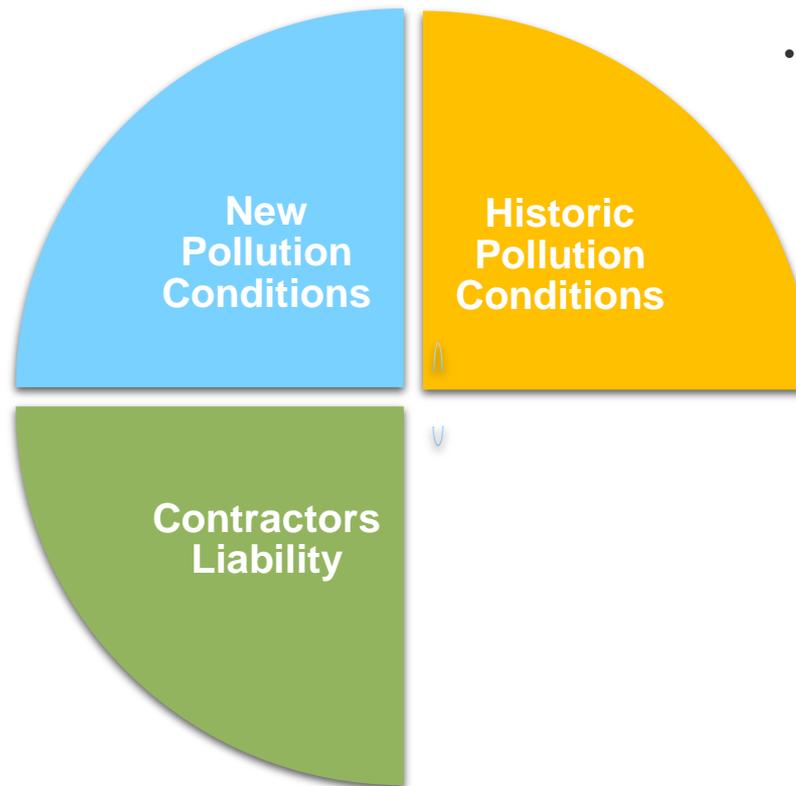
# Available EIL Coverages

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- New Conditions Cover
- Pre-Existing Conditions Cover
- On Site / Offsite Clean-up
- Bodily Injury
- Property Damage
- Mitigation Expense
- Biodiversity Damage (Natural Resource Damage)
- Business Interruption (Extra Expense OR Full Profit Loss)
- Transportation
- Assessment Costs
- Legal Defence
- Exacerbation of Pre-Existing Conditions

# Key Concepts

- Pollution or Environmental Damage which occurs **after** Policy Inception.
- Impacts to air, water, land, habitats & protected species.



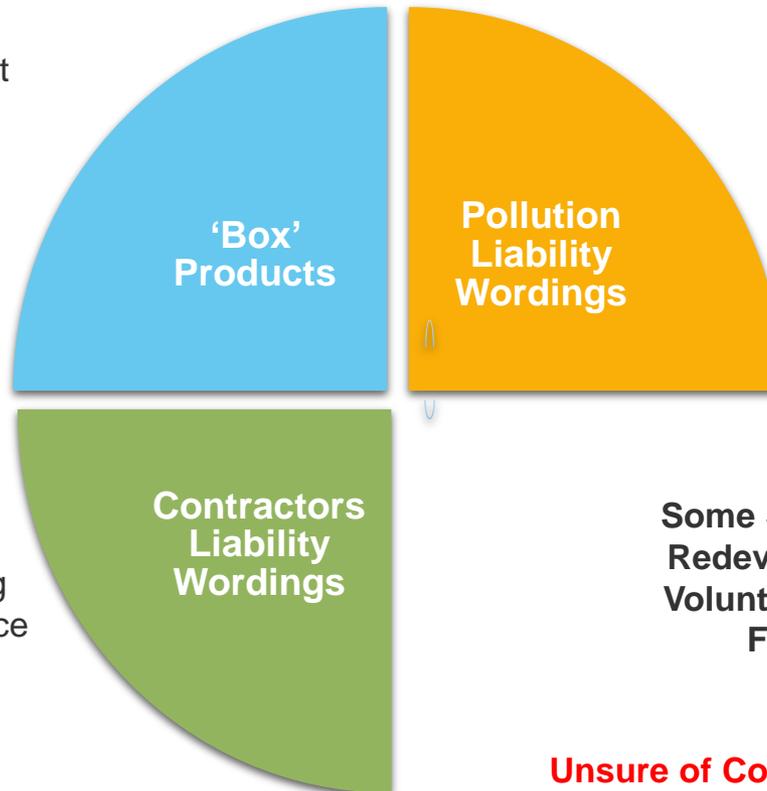
- Pollution conditions which existed **prior** to Inception.
- Polluter pays?

- Exacerbation of Pre-Existing Conditions & New Conditions Cover
- Contractors, subcontractors, lenders, land owners.

# Products Available (UK/EMEA)

- Designed for Operational Risks.
- New Conditions Only – Comprehensive Cover
- Coverages ‘Built-In’ – cannot remove.
- Business Description Based
- Up to 3 year terms.

## • **AIG’s ‘EnviroPro’**



- Designed for fixed or operational risks.
- Insured Property Based with ability to add business descriptions.
- Coverages are Selected and Endorsed Onto Policy
- New & Pre-Existing Available
- Up to 5/10 Year Terms

## • **AIG’s Pollution Legal Liability (PLL)**

- Designed for Contractors
- New Conditions & Exacerbation of Pre-Existing
- Claims Made and Occurrence Wordings.
- Project Based or Annual Group Coverage
- Up to 8 year terms

## • **AIG’s ‘Contractors Pollution Liability’ (CPL)**

**Some Standard Exclusions:  
Redevelopment (Epro/PLL)  
Voluntary Site Investigation  
Fines & Penalties**

**Unsure of Coverage/Need Further Coverage?  
Ask**

# Required Underwriting Information

## Proposal Form plus...

### New Pollution Conditions

- Schedule of site addresses (incl. occupation)
- Projected Turnover
- Risk dependent:
  - Details of environmental management
  - Details on bulk storage
  - Details on Underground Storage Tanks (standard excluded unless scheduled)

### Contractors Liability

- Method statements
- Risk assessments
- Breakdown in Turnover/ contract value

### Historic Pollution Conditions

- Pre-existing cover required:
  - Environmental investigation reports
  - Regulatory sign-off documents (if applicable)
- Property Portfolios:
  - Schedule of site addresses (incl. occupation)
  - Environmental Due Diligence Policies
  - Representative sample of Environmental reports

### VRI Essentials

- Business description / Covered Operations
- No. of sites
- Turnover / Contract Value

Information requirement often risk specific



# AIG's Environmental Offering

PIER Europe – AIG's unmatched pollution incident and environmental response network delivering reliable and specialised support when businesses need it most.

Incidents of **ANY SIZE** are supported by the service, no matter how large or small

Dedicated hotline available **24h/365**

**SPECIALISED** response network across Europe including crisis communication consultants

Services provided in over **40 LANGUAGES**

Available in **32 COUNTRIES**



Helping clients resume normal operations whilst minimising the costs associated with remediation and potential liabilities, PIER Europe can aid the dispatch of professional responders and coordinate a comprehensive response – from major and catastrophic to minor pollution and environmental incidents.

Available in 32 countries, PIER Europe network can mobilise local specialised consultants and contractors to support businesses develop remediation plans, mitigate damage, manage public impact of the incident and begin the clean-up.

PIER Europe is accessible to AIG Environmental policyholders and the network puts clients in direct contact with the recommended responders. Our clients enter into a contract with the service providers, ensuring they remain in control of the response. If the pollution incident is not covered by the policy, businesses can still benefit from AIG's discounted rates.

## Powerful, Customised Response

PIER Europe includes specialists in:

- ✓ Environmental spill response and clean-up
- ✓ Disaster recovery and restoration
- ✓ Environmental and ecological consulting
- ✓ Waste management & disposal
- ✓ Investigative services including cause and origin

## Crisis Communication and Public Relations

PIER Europe also provides access to professional communication support which can help minimise reputational damage when sensitive incidents hit the headlines. Delivered by highly skilled and experienced professionals, this service is available on request, and must form part of your AIG Environmental Impairment Liability policy.

## Specialised Claims Expertise

Every Environmental Impairment Liability policy issued by AIG is backed by the industry's largest and most experienced in-house Environmental Claims operation – with over 100 Claims professionals worldwide.



**How to report a pollution incident to PIER Europe**

Call the PIER Europe hotline +44 (0) 1273 400965 available 24 hours a day, seven days a week, provide your contact information and a brief description of the incident.

Report your claim as detailed in your policy.

AIG will then contact you, discuss the details of your incident and recommend PIER Europe's most appropriate response team in your area – specific to your incident and needs.

We will remain available to support you and adjust your claim.

 24h/365

**+44 (0)1273 400965**

PIER Europe is available in 32 countries: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Norway, Poland, Portugal, Romania, Russia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the Netherlands and the United Kingdom.

# AIG's Environmental Offering

## Crisis Containment

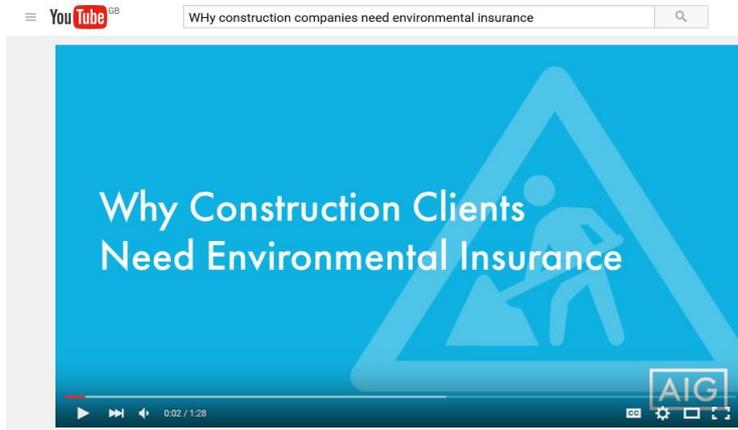
- Complement PIER Offering
- Crisis Management Firm Appointment
- Reputational Risk Management

## Value Added Services

- Environmental Engineering Division:
  - Risk Guidance, Input and Assessment
- Environmental-Specific Loss Adjusters and Claims Handlers
  - Actual Paid Claims Experience
- 35 Underwriting Staff across EMEA
  - 7 Staff in UK & Ireland

### Irish EPA Approved Wording:

- Developed in conjunction with authorities
- Legislatively Compliant



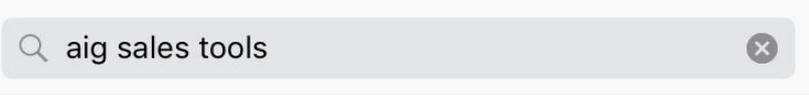
A broker guide to selling EIL insurance



EIL Sales Playbook

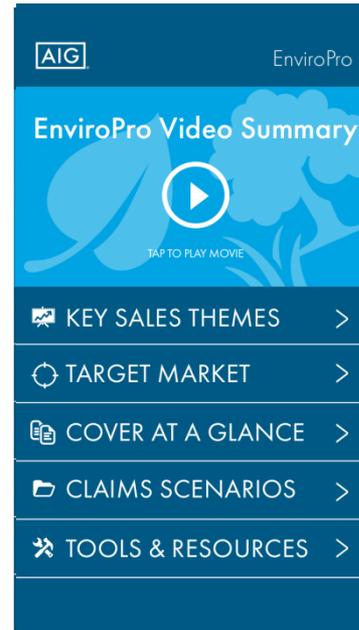
**AIG** Bring on tomorrow

Start



**AIG Sales Tools**  
American International Group,...

**+ OPEN**



<https://www.aig.co.uk/business/products-and-services/environmental-impairment>

# Claims Examples



# Haulage – Environmental & Pollution Liabilities

## Operational Cover

### Road Traffic Accident caused significant contamination

Coverages applicable to the incident:			
<input checked="" type="checkbox"/>	Off Site Clean-Up	<ul style="list-style-type: none"> <li>• Two fuel tankers and a container truck were involved in a road traffic accident when they collided on a major highway.</li> <li>• The incident resulted in the release of 6,000L of fuel from one tanker and 14,000L from the other.</li> <li>• In addition, food/ drink products being transported in the container truck were also released.</li> <li>• The incident resulted in significant contamination and resultant clean-up costs for which one of the three parties involved would be responsible.</li> </ul>	<ul style="list-style-type: none"> <li>• Ongoing legal proceedings will decide which of the three parties involved are responsible for the road traffic accident and thus the clean-up costs associated with the collision.</li> <li>• All parties involved have also suffered hefty defense costs as a result of the above legal proceedings.</li> </ul> <p><b>Total clean-up costs estimated at £175,000.</b></p> <p><b>Total estimated defense costs to date £137,000</b></p>
<input type="checkbox"/>	On Site Clean-Up		
<input checked="" type="checkbox"/>	3rd Party BI/Property		
<input type="checkbox"/>	Biodiversity Damage		
<input type="checkbox"/>	Mitigation Costs		
<input type="checkbox"/>	Business Interruption		
<input checked="" type="checkbox"/>	Transportation		
<input checked="" type="checkbox"/>	Defence Costs		

# Property– Environmental & Pollution Liabilities

## Claims Example – Mitigation and Implication of Assessment



**Oil seeping out of the bank of a brook spurred the Environment Agency (EA) to request the suspected source to limit the extent of the leakage, and investigate the possible cause.**

A pollution incident was reported to the EA, in May 2012, with an oil sheen noted to the brook. The EA visited the site and identified oil coming out of the bank of the brook by the Insureds boundary fence. The EA subsequently requested the Insured to mitigate the leakage and investigate where it was coming from. Absorbent booms were put in the stream to prevent the spread of any spillage and bring the incident under control. Even though, at this point the Insured did not believe they were to blame, the EA looked to them to take action in the first instance. An investigation took place to deduce who the likely polluter was; the oil came from an off-site storm drain that the local water company was responsible for.

Through our expert claims handling team, specialist consultants were sent to attend the insured's site as soon as possible. Aid in investigation support was provided without prejudice to policy liability. This scenario illustrates financial outlay of an innocent party towards mitigation expenses and investigation costs – regardless of fault.

### Coverages applicable to the incident:

- |                                     |  |                                     |                       |
|-------------------------------------|--|-------------------------------------|-----------------------|
| <input checked="" type="checkbox"/> | Off Site Clean-Up                          | <input checked="" type="checkbox"/> | Mitigation Costs      |
| <input type="checkbox"/>            | On Site Clean-Up                           | <input type="checkbox"/>            | Business Interruption |
| <input type="checkbox"/>            | 3rd Party Bodily Injury or Property Damage | <input type="checkbox"/>            | Transportation        |
| <input checked="" type="checkbox"/> | Biodiversity Damage                        | <input checked="" type="checkbox"/> | Defence Costs         |

# Property – Environmental & Pollution Liabilities

## Loss of Use – Office Building

### Coverages applicable to the incident:

- Off Site Clean-Up
- On Site Clean-Up
- 3rd Party Bodily Injury
- 3rd Party Property Damage
- Biodiversity Damage
- Mitigation Costs
- Transportation
- Assessment Costs
- Business Interruption

- A glue containing poly aromatic hydrocarbons (PAH) was used to lay floor tiles in an office building in Sweden. The glue degraded over time allowing PAH vapour to be released into the building.
- Losses were incurred following the loss of use of the office building while the glue and floor tiles were removed in addition to the costs associated with the floor removal.
- **Total loss to date: c €400,000.**

# Hotel Portfolio – Unexplained failure of oil tank

▪ Potential loss: £450,000

▪ A hotel's heating oil tank, which was normally kept full, was found to be empty. The tank failed and 10,000 litres of oil had escaped into the ground.

▪ The hotel adjacent to a college and a site of special scientific interest ("SSSI"). A river runs through the neighbouring area.

## Coverages applicable to the incident:

- Off Site Clean-Up
- On Site Clean-Up
- 3rd Party Bodily Injury
- 3rd Party Property Damage
- Biodiversity Damage
- Mitigation Costs
- Transportation
- Assessment Costs
- Business Interruption



# Construction – Environmental & Pollution Liabilities

## Contractors Pollution Liability Cover

Fuel Pipe Leak

### Facilities Management Provider to blame for damaged roof.

#### Coverages applicable to the incident:

- Off Site Clean-Up
- On Site Clean-Up
- 3rd Party Bodily Injury
- 3rd Party Property Damage
- Biodiversity Damage
- Mitigation Costs
- Transportation
- Assessment Costs
- Defence Costs

- An FM provider was engaged to install a new equipment room and control room in an existing eight storey building. The project required the installation of four 1250 KVA diesel powered generators on the roof of the building. Two weeks passed fitting out the new control room before a sub-contract fitter went up to the roof and noticed liquid. Diesel oil was escaping from a valve connecting two of the generators.
  - There are concerns that the entire roof covering will have to be replaced as the diesel oil damaged the asphalt material and also compromised the 50 year guarantee provided by the original roofing contractors who installed the roof 12 months earlier when the offices were constructed.
  - Furthermore occupants of the building have been complaining of nausea and headaches
- Rectification costs were c. £400,000.**
- All claims submitted to Insurers were repudiated on the basis that the valve leaked over several weeks and did not constitute a sudden and identifiable incident.

## Do you have any environmental liabilities?

- Do you own property?
- Where is this property located?
- What was the prior use of the site?
- Do you store fuel?
- Do you store or handle chemicals?
- Do storage facilities have adequate secondary containment?
- When were your tanks last tested?
- What kind of waste do you generate and how is it disposed?
- Are there environmental provisions in your lease or sale and purchase agreement?
- Are there any plans to redevelop adjacent sites?
- Do you plan to divest or acquire sites?
- What operations do your tenants undertake?
- Are your tenants compliant? If they go bust will your site be left in an adequate state?
- Are you planning any asset upgrades?
- Could you bear the cost of a Pollution Incident?



Questions??

