

# Business Insurance

Reporting Weekly on Corporate Risk, Employee Benefit and Managed Health Care News / \$4

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## GOP lawmakers to consider tax treatment of health plans

WASHINGTON—House Speaker Newt Gingrich is asking a GOP congressional task force to reconsider health care issues, including tax treatment of employer-provided plans and patients' rights.

The speaker indicated that he might embrace some regulation of managed care plans, although not regulations as radical as those advocated by Rep. Charles Norwood, R-Ga., the author of the Patient Access to Responsible Care Act, or congressional Democrats, who have called for a "patient's bill of rights."

See Updates on next page

## Viagra suit challenges plans' denial of claims

By ROBERT KAZEL

Employee benefit experts are closely watching a lawsuit filed last week seeking to compel health insurers to cover the controversial and expensive impotence drug Viagra.

Corporate benefit managers to date are cautiously responding in a variety of ways—or not at all—to requests by employees for coverage of the drug.

Some self-insured employers are allowing coverage of Viagra but limiting the number of pills that can be ob-

tained monthly. Others are attempting to tighten controls on utilization by requiring added authorization from doctors, rather than merely allowing employees to use a drug card at a pharmacy to obtain coverage of a prescription of the highly popular pills.

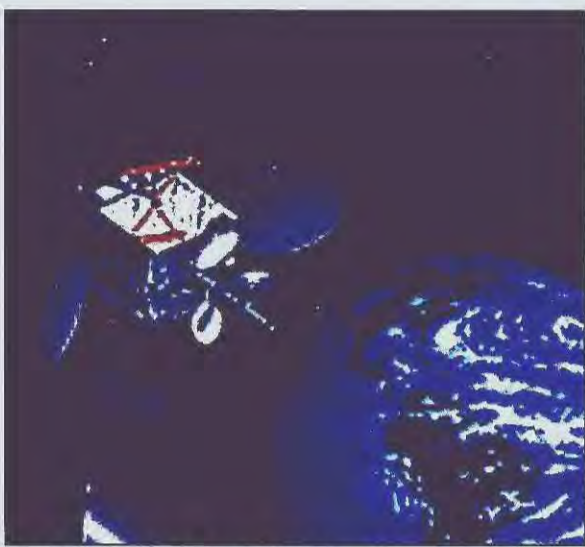
And some are taking a wait-and-see approach. As a result, prescription benefit management firms, which normally refer to their pre-approved formularies to check for covered drugs, still are waiting for guidance from some corporate clients on how to han-

dle Viagra requests.

Many employers whose workers are largely enrolled in health maintenance organizations have not had to confront the issue, because managed care companies typically are making their own decisions on whether and how Viagra is covered.

Viagra, developed by Pfizer Inc. to treat erectile dysfunction, was approved by the Food and Drug Administration on March 27. Since then, sales of the drug have skyrocketed.

See Viagra on page 52



The failure of a Galaxy IV orbiter disrupted up to 90% of pager services in the United States last week.

## Few lawsuits seen in failure of satellite

By MICHAEL PRINCE

Despite disrupting millions of pager users, the failure last week of a communications satellite is not expected to lead to litigation or significant losses for the company.

Greenwich, Conn.-based PanAmSat Corp., the satellite's owner, has declared the satellite a total loss, and the company has filed a \$165 million insurance claim, said Alden Richards, president and chief executive officer of Greenwich-based Space Machine Advisors Inc., the risk management consultant and broker for PanAmSat. The claim is not expected to affect the soft insurance market for satellite risks.

The Galaxy IV satellite computer processor that kept the orbiter's antenna facing Earth failed on the evening of May 19, and a backup processor also failed, the company said. As a result, the satellite cannot keep itself properly oriented, rendering it useless for transmitting signals.

The signal loss disrupted 80% to 90% of pager services in the United States, as well as television transmissions and other communications that used the satellite.

To correct the problem, the company is now helping customers direct their antennas toward two other satellites. One of the satellites, Galaxy VI, is being shifted into the position now occupied by the hobbled Galaxy IV, which is being moved to a higher altitude. The move is scheduled to be completed on May 27. By Friday morning, the company said, it had restored service to all its Galaxy IV customers.

As of Friday, Plano, Texas-based Paging Network Inc., the nation's largest paging company, said it had restored service to 95% of its 10.4 million customers.

The Galaxy IV satellite, launched in 1993, had

See Satellite on page 54

## Texas tax review sparks fear other states will follow

By ROBERTO CENICEROS

### Taxing direct procurement

As of 1996, the most recent year for which data is available, 31 states had taxes that apply to direct procurement of insurance.



Source: NAIC

GRAPHIC BY JOHN HALL

Risk managers and other alternative risk financing market participants fear that one state's renewed effort to collect independent procurement taxes from policyholders will trigger more states to seek these revenues.

Risk managers and other experts are reluctant to openly discuss the issue for fear of drawing the attention of tax collectors in states that do not have independent procurement taxes or have yet to devise adequate collection methods. In fact, several sources familiar with the issue declined to comment, citing such concerns.

Independent procurement taxes, also called direct procurement taxes, are on the books of about 30 states. The tax is levied on buyers who independently procure insurance policies outside the admitted and approved, non-admitted markets. The tax is paid directly by the policyholder.

See Tax on page 53

## Employee privacy suit upheld

Court rejects employer claim that suit blocked by exclusive remedy

By MEG FLETCHER

MILWAUKEE—A recent federal court ruling exposes a new gap in the exclusive remedy provision of Wisconsin's Worker's Compensation Act.

The ruling upholds the privacy rights of a former bindery worker under another Wisconsin law governing privacy. It also allows him to continue suing his former employer, a catalog printing company, for inappropriately revealing information about his chronic liver condition.

The ruling marks the most recent threat to the integrity of the exclusive remedy doctrine, which is the shield built into the workers compensation system to protect employers from being sued for damages by workers who are injured on the job (BI, May 19, 1997).

In addition, the ruling emphasizes for employers their liability for workplace privacy issues under a variety of state and federal laws, including Wisconsin's privacy law as well as the federal Americans with Disabilities

Act.

Workplace privacy issues are a growing concern in this technological era, Judge Lynn Adelman of the U.S. District Court for the Eastern District of Wisconsin in Milwaukee emphasized in a 16-page opinion issued last month. He said the "privacy conundrums" employers and workers face today include monitoring of electronic mail; mandatory drug and alcohol testing; polygraph testing; video surveillance; and medical disclosures.

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Updates

Benefit tax policy scrutinized

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After a closed-door meeting with members of the task force last Wednesday night, Rep. Gingrich, R-Ga., told reporters he wanted the task force to reflect "21st Century thinking" in its approach to reform, and he said he would meet with its members again next month.

The possibility that the GOP task force would consider changing the tax treatment of employer-provided benefits, perhaps by giving tax benefits to individuals, rather than employers, for buying their own health care coverage, is not a total surprise.

Some House Republicans have advocated a shifting of tax benefits, said Libby Terry, research consultant with Hewitt Associates L.P. in Washington.

Ms. Terry added that most "employers see this as extremely radical" and would oppose it, though a minority of employers want to stop providing benefits.

"Gingrich's comments are confusing in a certain way," Ms. Terry said, referring to employer's liability for medical care decisions. "He seems to indicate that he would support changing liability, but he didn't directly say that, and obviously that's of great concern for employers and plans alike," she said.

But rather than throwing out employer protections provided by the Employee Retirement Income Security Act against certain liabilities—as Rep. Norwood had advocated—Ms. Terry said the speaker might mean creating additional internal and external appeals processes for people denied benefits under managed care.

"I think some minimal consumer protection legislation still has a good chance of passing," she said.

The speaker's office did not return calls seeking comment.

Nationwide bids for Allied

DES MOINES, Iowa—Management of Allied Group Inc. says it will decide before June 1 whether to support an unsolicited \$1.6 billion takeover offer from Nationwide Mutual Insurance Co.

Nationwide last week announced a \$47 per share tender offer for Allied, a 69% premium over its \$27.75 per share closing price the Friday before the offer.

At the same time, Nationwide proposed a merger with Allied affiliate Allied Mutual Insurance Co. in which Allied Mutual policies would be converted to Nationwide policies. Nationwide would also pay \$65 million for Allied Group stock held by Allied Mutual and would distribute the proceeds to Allied Mutual policyholders.

In a letter to Allied Chairman John E. Evans and President Douglas L. Anderson, Nationwide Chairman and Chief Executive Officer Dimon Richard McFerson said he had launched the tender offer after being "consistently frustrated" in merger talks with Allied since January.

Mr. Evans wrote to Allied shareholders last week asking them not to respond to the offer until Allied management had decided whether or not to accept it.

The offer is set to expire June 16.

Separately, a state judge has ruled that the Iowa Insurance Department does not have authority to order Allied Mutual to help notify policyholders of a dissident candidate for its board of directors.

The Insurance Department last year ordered Allied Mutual to take one of several possible steps to notify policyholders of the candidacy of David Schiff, publisher of New York-based Schiff's Insurance Observer. Allied Mutual responded by filing in Polk County District Court to block the order (BI, Jan. 5).

Care evaluators to try to unite

WASHINGTON—Three prominent organizations known for their quality measurement programs for managed health plans, hospitals and physicians, respectively, will attempt to unify their evaluation discussions starting this fall.

The Washington-based National Committee for Quality Assurance, the Oakbrook Terrace, Ill.-based Joint Commission on Accreditation of Healthcare Organizations, and the Chicago-based American Medical Assn. physician accreditation program will form a new collaborative body called the Performance Measurement Coordinating Council. The council represents the first time the three groups will have coordinated their accrediting programs in a major way.

"To me, it's a Dennis O'Leary, lot of sense that we should work together," said Dennis O'Leary, president of JCAHO. "It's going to be a lot easier listening with one ear than with three."

For benefit managers, the cost of comparing health plans will decrease as the NCQA works with the other two groups to streamline evaluations, said Cary Sennett, executive vp of the NCQA.

Court to review airline liability

WASHINGTON—The Supreme Court will decide whether airline passengers can sue international airlines in state court for injuries not covered under the Warsaw Convention.

The case, *El Al Israel Airlines Ltd. vs. Tsui Yuan Tseng*, stems from a 1993 incident at New York's John F. Kennedy airport. Ms. Tseng, a resident of New York, was deemed a "high risk" passenger by security personnel and subjected to a body search before being allowed to board her plane to Tel Aviv, Israel. Ms. Tseng later sought and received \$1,034 for damage to her luggage and belongings, but her claim for emotional damage was denied by a federal district court. The court held that such injuries were not covered under the Warsaw Convention, which limits airline liability.

Ms. Tseng appealed to the 2nd U.S. Circuit Court of Appeals, which held that she did have the right to sue under New York state law in a state court. El Al appealed, and the high court last week agreed to hear the case. No date has been set for oral argument.

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Gore seeks cleanup funds

Vice president's proposal could prompt Congress to act

By MARK A. HOFMANN

WASHINGTON—Vice President Albert Gore Jr.'s call on congressional Republicans to release an additional \$650 million for Superfund cleanups without reauthorizing the program is drawing a chilling response from most Superfund reform advocates.

The vice president's remarks, however, could refocus congressional attention on stalled Superfund reauthorization legislation, say some proponents of reforming Superfund's liability system. Three major bills—one in the Sen-

ate and two in the House—are designed to revamp the controversial environmental cleanup program.



Vice President Gore

None, however, includes what had long been the chief aim of reformers: abolition of Superfund's imposition of retroactive liability for cleaning up sites that

had been polluted before the law went into effect in late 1980.

At the center of the current dispute between the administration and Congress is \$650 million in cleanup funds contained in the fiscal 1998 budget bill for the Environmental Protection Agency. Congressional leaders stipulated that the money would not be available unless the Comprehensive Environmental Response, Compensation and Liability Act, which created Superfund, was reauthorized by May 15 of this year. Congress has repeatedly

See Superfund on page 44

Social Security commission promotes reform ideas

By GAVIN SOUTER

WASHINGTON—Employers' reactions will be mixed toward recommendations a bipartisan commission has proposed to reform Social Security, consultants say.

The proposals would keep Social Security solvent as the number of retirees starts to sharply increase early in the next century, the commission says.

Employers will likely oppose features such as the proposed in-

crease in the retirement age to 70, consultants say.

Still, the commission and its prominent members, and its recommendation to establish individual savings accounts moves that formerly controversial suggestion onto the mainstream agenda, they say.

The 21st Century Retirement Security Plan was issued last week by the National Commission on Retirement Policy, which was assembled by the Center for

Strategic and International Studies in 1997.

The leading members of the commission include: Sen. Judd Gregg, R-N.H.; Sen. John Breaux, D-La.; Rep. Jim Kolbe, R-Ariz.; Rep. Charles W. Stenholm, D-Texas; Donald B. Marron, chairman and chief executive officer of Paine Webber Group Inc.; and Charles A. Sanders, retired chairman and CEO of Glaxo Inc.

One of the main proposals is the

See Proposals on page 53

Insurers disappointed in results

Some executives predicting no turn in pricing before 2000

By JUDY GREENWALD

Commercial property/casualty insurers can expect a difficult year ahead as they continue to struggle with intense competition while insurance buyers will enjoy low rates for the foreseeable future, say analysts and others.

For insurers, the longer-term outlook is going to be "towards more disappointments rather than less," said Ronald Frank, an analyst with Salomon Smith Barney in New York.

"You have basically a mature business with scarce opportunities for profitable growth, you have a decreasing ability to mine the balance sheet for earn-



ings, i.e., to realize redundancies from prior years' reserves. . . and last but not least, as the tornado does show us, there is no assurance that Mother Nature will continue to cooperate," said Mr. Frank.

However, change could be on the horizon, says Judy Blawie, president-business insurance for Hartford, Conn.-based Hartford Financial Services Group.

"Certainly through 1998 and perhaps even through most of 1999, we don't expect to see significant

See Results on page 51

Communication can lower risks

Risk, HR and legal staffs urged to talk

By RODD ZOLKOS

CHICAGO—Effective communication among risk management, human resources and legal departments is essential to preventing employment liability "horror stories" and also for dealing most effectively with everyday workplace exposures.

Consequently, it's in the risk manager's best interests to do

what's necessary to help facilitate that communication within their organizations, according to panelists at this year's Harold H. Hines Jr. Memorial Symposium last week in Chicago.

"You don't have a choice," said Steven R. McCown, managing shareholder in the Dallas office of the Littler, Mendelson, Fastiff, Tichy & Mathiason law firm.

Failing to come together to de-

velop a corporate sexual harassment policy, for example, could invalidate the sexual harassment portion of an employment practices liability policy, Mr. McCown said.

"The companies that don't communicate and don't work these issues out internally are going to look foolish and risk wasting the money they spend on employment practices liability insurance," he said.

The theme of this year's Hines

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Business Insurance (ISSN 0007-6864) Vol. 32, No. 21, is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207. \$4 a copy and \$87 a year in U.S. \$105 in Canada and Mexico (includes GST). All other countries \$205 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444. Printed in U.S.A. Copyright 1998 by Crain Communications Inc.

# Specialty Risks: Environmental & Professional

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Mark A. Hofmann

## Insurers key to novel plan to pay for site cleanup

### But proposal on hold pending EPA approval

By JOANNE WOJCIK

**I**ronically, the industry often blamed for holding up Superfund cleanups now may have a way to expedite them.

For a premium, at least two insurers are offering to pay cost overruns and assume the risk for future legal liability in connection with cleanup of a portion of the San Gabriel Valley Basin, one of the largest sites on Superfund's National Priority List (see story, page 19).

The innovative new coverage program is a combination of pure risk transfer products and finite risk insurance that also can be used to finance the cleanup itself. But backers of the concept think they are fighting an uphill battle both because of its novelty and because regulators are skeptical that insurers will make

good on their promise to pay.

To demonstrate their sincerity, some insurers actually have lobbied federal lawmakers to put this new environmental insurance into Superfund reform as an acceptable form of risk transfer. Under Superfund, potentially responsible parties face "cradle to grave" liability and may not transfer the risk. Under joint-and-several liability, they also can be liable for the entire cleanup costs even if other PRPs go bankrupt.

Partisan politics, however, have put Superfund reform efforts on hold.

Meanwhile, it's still possible that the San Gabriel plan will be implemented if participants get acceptance from the U.S. Environmental Protection Agency on at least a demonstration project basis.

"This is cutting edge," said David Bennink, assistant vp-risk management at  
*See Cleanup on page 18*

## D&O coverage reviewed for risk of Y2K claims

By DAVE LENCKUS

**W**ith seven months left until the first wave of millennium bug problems infest corporate America's computer systems, risk managers have some decisions to make about how to protect corporate executives from related directors and officers liability claims.

Many insurers say their existing D&O policies would cover securities claims related to Year 2000, or Y2K, computer problems, and some insurers are offering endorsements to confirm that such coverage exists.

For additional premiums, insurers also are offering to pre-set the percentage of policy limits that would respond to third-party claims.

Other insurers are offering new D&O policies specifically designed to cover Y2K risks, including business interruption losses.

But, policyholder attorneys and insurers disagree over the value of the endorse-

ments and new policies, especially given that both sides generally agree that existing policies would cover Y2K-related securities losses.

Some new twists in the D&O coverage validation process also worry policyholder attorneys. They fear that the information insurers are seeking from risk managers will help insurers later deny coverage for Y2K-related claims.

Insurers say they are seeking information that will help them underwrite the risk.

The scope of the Y2K problem is more extensive than the anticipated computer snafus when the two-digit year fields in the internal calendars of computer systems worldwide roll over to 00 at midnight on Jan. 1, 2000.

Even if some systems interpret that 00 means 2000, questions remain about whether those systems can determine whether 2000 is a leap year. The leap year usually is skipped the last year of a century. But that rule is dropped when the year is evenly divisible by 400. So, while 1900  
*See D&O on next page*

## Mergers can bring new environmental liabilities

### Concern about acquired risks sparks EIL buys

By AMANDA MILLIGAN

**A**n increase in mergers and acquisitions has spurred risk managers to find effective ways to manage environmental liabilities.

Some corporations are opting to purchase environmental insurance in today's more "robust" insurance market, along with more closely evaluating property they might acquire, becoming more aware of liabilities and using insurance to clean up brownfield sites.

David Bennink, assistant vp of the risk management group for Exton, Pa.-based ECS Underwriting Inc., said risk managers are confident about their own sites but are very uncomfortable with the possibility of latent exposures.

"The area most risk managers are con-

cerned with are the liabilities they inherit...either knowingly or unknowingly, through mergers and acquisitions," Mr. Bennink said.

Almost every industry has an environmental exposure, but ECS's Mr. Bennink said lending institutions and real estate developers are among those most concerned with environmental liability.

Linda Lee, vp-regulatory affairs and quality assurance for Deerfield, Ill.-based medical waste management company Stericycle, said audits are crucial to the due diligence that takes place before a merger or acquisition. By doing a minimum "Phase One" audit on all sites, a potential acquirer can be more informed about what exposures it could face if the deal goes through. A Phase One audit, which includes looking at historical doc-  
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## D&amp;O

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was not a leap year, 2000 will be.

Jan. 1, 1999, though, marks the first crucial date for computer systems. That is because many systems use 99 in the year field for data when the systems do not know what date to assign. Of course, 99 also represents a known year for other data. So, many of the same concerns about how computers will respond when dealing with 00 in the year field also apply to the 99 date issue.

Some systems use 9-9-99 as their plug date, so those systems are not expected to crash until early September of 1999.

Corporate shareholders, who file the largest share of D&O claims now, are likely to also be the largest source of Y2K-related D&O claims.

Companies also may face Y2K-related breach-of-warranty and fraud claims from third parties, such as customers.

Policyholder attorneys and most insurers that were contacted agreed that existing D&O policies that do not specifically exclude coverage for Y2K-related securities claims should respond to those claims as they would respond to any other securities-related claim.

The coverage issue is not so cut and dried for all insurers, though.

For example, many restrictions in an older D&O policy offered by National Union Fire Insurance Co. of Pittsburgh, Pa., could exclude coverage for Y2K-related problems, said Kristian P. Moor, chairman and chief executive officer of the subsidiary of American International Group Inc.

CNA Insurance Cos. was evaluating the issue but could not provide infor-

mation on Y2K coverage under its D&O policies.

Corporate policy at Great American Insurance Co. precludes the insurer's officers from discussing such issues, said Gary Grueber, a senior vp.

But even among those insurers that agree their D&O policies would respond to Y2K losses, other defenses are available to deny a claim, said Philip Lian, a senior vp with retail broker Aon Risk Services of New York, a unit of Aon Group Inc. The broker has developed a D&O policy that would respond only to Y2K-related claims.

One defense D&O insurers could argue is that a Y2K loss occurred when policyholders installed their computer systems. Insurers could argue that if the installation did not occur during the period the current policy covers, then neither did the loss, Mr. Lian said.

For risk managers who may want substantial confirmation that their D&O policies would respond to Y2K-related claims, some D&O insurers in recent months have begun offering endorsements for no charge that clarify that their policies would respond.

The endorsements state the insurers will not deny coverage for Y2K-related claims, explained insurer attorney Dan A. Bailey, a partner with Arter & Hadden of Columbus, Ohio.

Although Mr. Bailey said the endorsements just "confirm the obvious" Y2K-related coverage policyholders have, they probably prevent insurers from taking a different coverage stand later. "I think an insurer would be hard-pressed to make that argument if the policy has one of these endorsements on it," he said.

For an additional premium, some insurers also are offering endorsements that set an absolute or a mini-

mum allocation of policy limits that would be available to cover third-party claims.

Case law demonstrates that such claims usually result in the uninsured corporation assuming 85% to 90% of the liability. That means only 10% to 15% of policy limits usually are available to respond to third-party claims, said John Kuhn, vp-product manager for executive protection at Chubb Corp. of Warren, N.J.

For up to an additional 20% of premium, Chubb will include a 30% allocation floor for third-party claims.

Other insurers have taken a slightly different approach to allocating limits for third-party claims.

For a pre-set 25% allocation, Executive Risk Inc. would seek an additional 25% of premium in most cases. Policyholders can negotiate higher allocations for additional premium.

Reliance National Insurance Co. offers an endorsement that can provide a 10% to 50% allocation of limits to policyholders for third-party claims, and in most cases there would be no additional premium, said Chris Duca, managing vp of the insurer's financial products division in New York. Policyholders that would have to pay an additional premium could expect to pay 10% to 25% more for the additional coverage, he said.

Policyholder attorneys advised risk managers to tread carefully in the area of pre-set limits allocations for third-party claims.

"I think policyholders should think twice before they accept anything like that," said Douglas E. Phillips of Covington & Burling in Washington, D.C.

Carolyn Rosenberg, a partner at Sachnoff & Weaver Ltd. in Chicago, agrees.

No one knows how courts may allocate liability for Y2K-related third-party losses between potentially uninsured entities and covered executives, Ms. Rosenberg said.

In addition, policyholders may be able to negotiate at the time of a loss a comparable or higher allocation for no additional premium, she said. Purchasing the allocation endorsement may take away a policyholder's opportunity to negotiate at the time of a claim.

Policyholders also can purchase D&O coverage specifically designed to respond to D&O claims resulting from Y2K-related problems.

The cost of the coverage generally is stiffer than the cost of D&O coverage that is silent on Y2K risks. Premiums for D&O policies generally range between 1% to 2% of the limits purchased.

But compared with other D&O policies, the new coverages offer enhanced protection, particularly business interruption coverage, the insurers say.

For example, J&H Marsh & McLennan Inc. offers 2000 SECURE, a multiyear D&O, errors and omissions and business interruption policy through a slip of London, U.S. and Bermudian insurers. The lead underwriter is the Brockbank Syndicate at Lloyd's of London.

The slip currently writes up to \$200 million of either primary or excess limits on a quota-share basis. Capacity soon may approach \$300 million, though every applicant may not be able to obtain all of the limits, said Scott A. Broome, a senior vp with J&H/M&M in Philadelphia.

Retentions are flexible for rating purposes.

The policy excludes entity coverage and bodily injury claims.

The cost of the coverage ranges from 2% to 10% of limits, Mr. Broome said.

Aon Risk Services and underwriting manager Am-Re Managers Inc., a unit of American Re-Insurance Co. of Princeton, N.J., have teamed up to

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**ZURICH**

# D&O

Continued from page 4

provide up to \$1 billion of D&O, E&O and business interruption limits under their three-year 21st Century policy.

Between \$5 million and \$100 million of limits are available through Am Re Managers, and as much as \$900 million of additional coverage, depending on the risk, is available through the reinsurance market. The coverage usually attaches above at least a \$1 million self-insured retention.

The cost ranges from 5% to 8% of the first \$100 million of limits a policyholder purchases for the three-year period. The cost for additional limits ranges from 3% to 6%.

National Union's Mr. Moor said the insurer's new D&O Gold policy,

which specifically covers Y2K-related losses, contains more than 40 enhancements to its older D&O form.

For example, the insurer will drop the fraud exclusion as long as an AIG securities counsel writes or approves the applicant's Y2K disclosures.

And, the insurer "eliminated the issue of allocation" of limits between covered executives and non-covered personnel if both are named by claimants, according to Mr. Moor.

The insurer offers up to \$50 million of coverage, and it will offer multiyear policy periods.

When evaluating the new policies, Ms. Rosenberg said, risk managers have to ask themselves: Compared to the company's existing D&O coverage, "what am I going to get that's extra, and is it worth the money?"

Risk managers have to pay partic-

ular attention to exclusions and the limitations insurers impose on the types of costs they will cover, Ms. Rosenberg said. "You have to do a comprehensive review and compare that to what another carrier would offer in its basic D&O policy," she advised.

Mr. Phillips observed that "the fact that there's been a lot of attention and concern (over a risk) doesn't mean you no longer cover it under a generic liability coverage that's designed for this specific purpose."

Insurers and brokers say the value of the new policies depends on the risk.

Risk managers who can obtain non-cancelable, multiyear D&O coverage with no Y2K exclusions "are less likely to buy" J&H/Marsh's 2000 SECURE policy, Mr. Broome said.

But, he and Mr. Lian of Aon said the brokers' new coverages are attracting a lot of attention because of the business interruption coverage they provide.

"The property market today is very, very quiet on whether they provide coverage for Y2K losses," Mr. Broome said. "Our opinion is when there's no direct physical damage, there's no coverage today, and nothing suggests the property market is coming to the table to offer this coverage."

Risk managers at companies that either have corrected or shortly will finish correcting their computer systems' millennium bug problems also have to consider whether they even need D&O policies that specifically cover Y2K-related losses, Ms. Rosenberg said.

Insurer representatives and some brokers responded that computer

system fixes often are not foolproof.

Mr. Lian said Aon's experience with clients over several years bears out that assertion. After an information technology project, there is a 30% to 40% chance that an error serious enough to cause a significant business loss will occur if an independent third party has not validated the corrective measures that were implemented, he said.

As part of the underwriting process for the 21st Century policy, Aon uses a vendor to validate whether an applicant is properly implementing its Y2K correction plan.

Applicants for the 2000 SECURE policy must subject their Y2K correction plans to a similar audit.

Even if a company could absolutely eliminate its Y2K risk internally, it still could not be absolutely certain it was free from the Y2K risks posed by vendors and suppliers, Mr. Bailey said.

Regardless of which D&O policy risk managers purchase, a risk manager should be wary of the Y2K questionnaires insurers are asking them to complete, policyholder attorneys warn.

Because of the difficulty of identifying every possible Y2K-related problem with a computer system, applicants in filling out the questionnaires easily could fail to identify the problems, the attorneys said. They are concerned that insurers would use that omission as the basis for denying coverage later if a loss is related to that problem.

Mr. Phillips said policyholders ought to consult their legal advisers when filling out the questionnaires. "You have to be concerned about how insurers will use a questionnaire, and you have to take seriously any representations you make to an insurer."

Ms. Rosenberg advised policyholders to "get an agreement upfront that the information won't be used to rescind coverage."

Many insurers say the information is used as an underwriting tool and is neither part of the formal application nor a warranty. Insurers can use information from the application in assessing whether the policyholder properly identified its loss exposures.

The questionnaire is part of Reliance National's coverage application, but it is not part of the policy, Mr. Duca said. The types of questions the insurer asks are "no different" from those it asks about non-Y2K risks, he said.

The questionnaire is a supplement to the standard application at Executive Risk, which uses the information in making various underwriting decisions, said John F. Kearney, chief underwriting officer.

But, insurers said, short of a fraudulent application, there are very few instances in which they can deny coverage or rescind a policy. Chubb's Mr. Kuhn noted that even a policyholder's restatement of its financial results is not grounds for rescinding coverage.

However, few insurers unequivocally said they would never use the information gleaned from either a questionnaire or an audit of a policyholder's Y2K correction plan to deny coverage. Most insurers said they would use the information when they are concerned that a policyholder knowingly made a material misrepresentation about Y2K exposures.

But, that would be a rare case, they said.

The risk to policyholders is even smaller when underwriters rely on an auditing firm's evaluation of a Y2K correction plan rather than on the answers in a policyholder questionnaire, J&H/M&M's Mr. Broome said.

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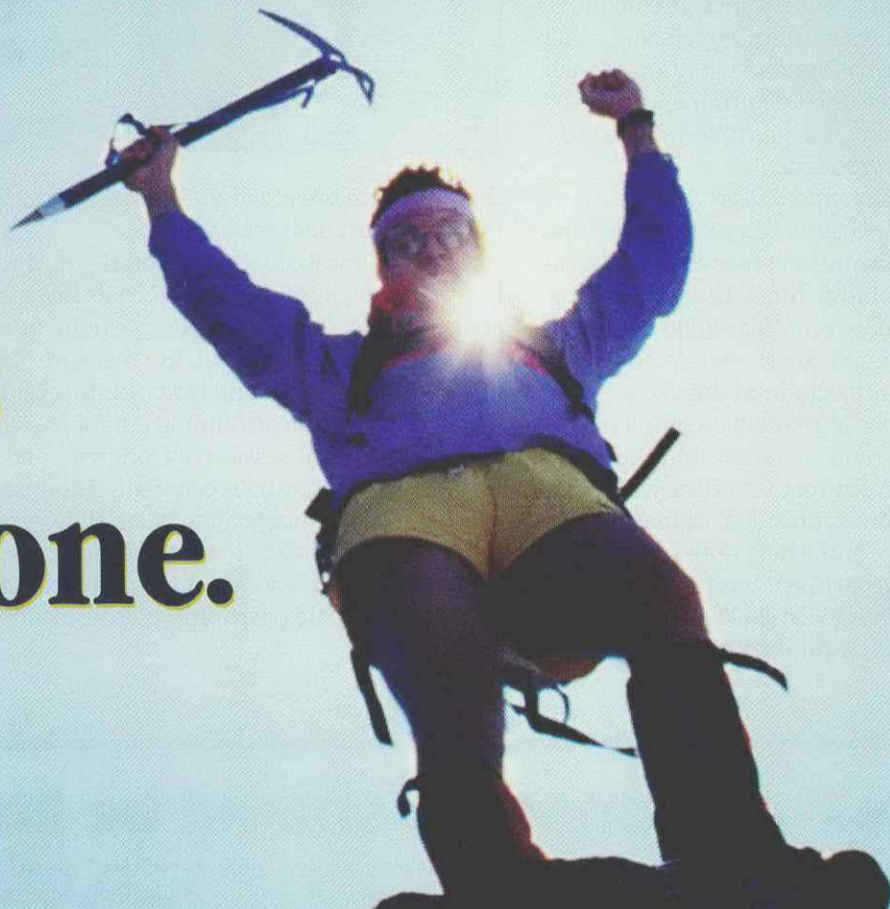
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# Opinions

## Not their securities' keepers

**F**EW LEGISLATORS HAVE DONE as much as Sen. Bob Bennett, R-Utah, to address the looming Year 2000 computer problem.

The senator, who is co-chair of the Senate Special Committee on the Year 2000 Technology Problem, has been willing to ask hard questions of public- and private-sector officials alike in his effort to make sure the economy and the government are prepared for the disruptions that could rock automated systems and devices on Jan. 1, 2000.

Unfortunately, Sen. Bennett's most recent journey into the morass of Year 2000 concerns could cause very significant—and totally unjustified—distress for sponsors of benefit plans governed by the Employee Retirement Income Security Act of 1974.

Sen. Bennett's intentions are the best—he wants to protect the assets of pension plans. But if a measure he introduced late last month becomes law, employers and other pension plan sponsors could be found in violation of their ERISA fiduciary duties if they don't determine that the issuers of securities in which the plan has invested are solving any Year 2000 computer problems.

That's an impossible and unjustified task.

As we reported last week, pension experts say there's no way a plan sponsor can determine whether each of the securities in, say, a 500-equity index fund "has, or is taking, steps to substantially eliminate any Year 2000 computer problems." Even if the sponsors could, there's no way to make sure everybody else in the chain of data processing needed to perform transactions is Year 2000-compliant.

What makes the task even more absurd is that the federal government itself is far from ready to deal with Year 2000 problems. As Mark Ugoretz, president of the employer-backed ERISA Industry Committee, noted, there's no evidence that the Treasury Department has taken the steps needed to substantially eliminate Year 2000 problems, thus making it possible that ERISA plan trustees could find



themselves in breach of their fiduciary duties by investing in U.S. government securities.

As Mr. Ugoretz further pointed out, if the Bennett bill becomes law, plans could halt their investments, causing an economic downturn. It's hard to quarrel with Mr. Ugoretz's assessment that the measure "takes what is a manageable problem and turns it into a catastrophe."

Fortunately, time is running out for consideration of this bill in the current session of Congress, and plan sponsors could be saved by the recess bell. But strange things can happen in the waning days of a legislative session. Employers need to use every tool at their disposal to block this well-intentioned but potentially disastrous law. It's a Year 2000 problem they certainly neither need nor deserve to bear.

# Letters

## 'Cost of risk' components should be limited

To the editor: As a risk management consultant with Betterley Consulting Group and then Tillinghast, I had a role in defining "cost of risk" for comparison purposes and first published a cost of risk study for the forest products industry in the early 1970s.

It is interesting to follow the current debate relative to expanding the definition of "cost of risk" (*BI*, Jan. 12). As was the case 25 years ago, there are those who wish to incorporate costs associated with loss prevention and control, property risk abatement, capital expenditures for risk control and anything else that those with a special interest would like to include.

It might be beneficial to create a new term, "tangible cost of risk." Tangible cost of risk would include only the cost of self-insured losses, costs associated with the servicing or adjusting of those losses, risk

transfer costs and any direct risk management administrative charges. It would not include any widely disbursed risk abatement expenses. The reason for this is that once these other costs are included in the cost of risk, the opportunity to show the cost as a big spender or small spender is largely influenced by the interpretation of risk cost or how well an entity maintains and separates cost records. Even with good accounting procedures, where do you draw the line? Is employee training included? Are the costs of safety personnel and committees at plant levels included? Is the cost of the sprinkler system or a fire wall included? How much of quality control costs should be included? How much of the cost is capitalized, and how much is expensed?

I believe it would be worthwhile to provide consumers with a benchmark of "tan-

gible cost of risk," as earlier defined. That entity could then determine whether all the other costs associated with controlling tangible costs of risk are appropriate. If it turns out that one scores very well on the tangible cost of risk scale, other costs may well be supported. If not, one would have to take a long and hard look at other expenditures if they are not effective in controlling tangible costs of risk.

Accounting procedures have come to reasonable terms with "intangibles." Let's not destroy what could be an otherwise effective measure of comparing company-to-company cost of risk by trying to measure intangibles that are largely left to individual interpretation.

**Charles T. Tagman Jr.**  
Chairman  
TPA Associates Inc.  
Andover, Mass.

## Managed care principles should be spread

To the editor: Recently, Federal Reserve Chairman Alan Greenspan suggested to the National Bipartisan Commission on the Future of Medicare that the ailing Medicare system could benefit from the health care cost management measures that have transformed private health insurance markets.

Mr. Greenspan also indicated that modeling private-sector initiatives that foster great cost-consciousness among patients and improving health care efficiency are worth studying.

In the United States today, virtually 100% of private-sector health care needs are reimbursed in managed health care benefit plans. Since 1988, preferred

provider organizations and point-of-service plans have assumed market predominance and now account for 50% of all enrollees in managed care plans, as opposed to health maintenance organizations, which have a 23% market share after 30 years. The remaining 23% of enrollees in indemnity plans use utilization management programs, according to a national health plan survey.

The inflationary increase in the Consumer Price Index for health care costs was 9.6% in 1990; as of last month's Consumer Price Index, the inflationary increase was 2.8%. This decline in inflation has been mirrored by an increase in the number of people under managed care

plans.

Without managed health care, we would not have a federal budget surplus, record corporate profits, a record Dow Jones Industrial Average or a strong competitive position for U.S. business internationally. Health care costs are so pervasive at all levels of domestic production that the multiplier effect of double-digit inflation would have negated all of these benefits. Managed health care must be supported and expanded into Medicare and other public health programs.

**Richard L. Blomquist**  
President/Chief Executive Officer  
Associates for Health Care Inc.  
Brookfield, Wis.

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# Violent workers may spark suits against employers

By SALLY ROBERTS

**W**hen concern over maintaining a safe workplace intersects with the risk of violating the Americans with Disabilities Act, employers may find themselves stuck between the proverbial rock and a hard place.

Some employers, concerned about potential liability for not maintaining a safe workplace, may try to minimize that risk by swiftly terminating any worker whose behavior is seen as threatening to other workers.

If, however, it turns out the fired employee suffers from emotional disabilities that caused their behavior, the employer could find itself the target of a lawsuit charging it with violating the ADA. The federal law prohibits discrimination against and requires employers to reasonably accommodate employees with emotional and psychiatric disabilities.

On the other hand, if an employer retains an emotionally disabled employee who made threats, and who later harms a co-worker, the employer may be liable for negligent retention claims, an attorney says.

Although psychiatric disabilities and workplace violence are not automatically linked, the issue of whether workers fired for violent or threatening behavior may be protected under the ADA already has found its way into state and federal courts.

Some legal experts say more employers will be confronted with this exposure in the future.

"This is something that, if not a concern now, will be a concern when employers seek to terminate someone because of violent behavior," said William C. Bruce, an employment attorney with Mayo, Gilligan & Zito in Hartford, Conn.

"The employers I talk to are starting to recognize that this is a double-edged sword for them," he said.

To minimize the risk of being liable for discrimination, legal experts advise employers to move cautiously and assess whether there truly is a safety risk before firing an employee. They also encourage input from behavioral experts, such as employee assistance programs, to help both disabled workers and their employers.

Employers also should have policies and procedures in place that prohibit threats and weapons in the workplace and also should clearly state that any violation of those rules will result in termination, legal experts say.

"This is the single most complex balancing act right now (for employers) because it's human beings at their extreme," said Donald A. Phin, an employment law attorney and president of ManagementThink, a San Diego-based consulting firm. At one end, employers are dealing with employees with emotional and psychiatric disabilities, and on the other end, they are dealing with employees who might be capable of committing violent acts against other people, he said.

"This is not a good time to be an employer if you don't have an employee assistance program, a good lawyer and a good risk person," said Gary Salmans, vp and manager-risk control services for Denver-based Sedgwick of Colorado Inc.

"It's truly a balancing act," said Mr. Bruce of Mayo, Gilligan & Zito.

And it is a balancing act that has spilled over into the courts.

Blue Cross & Blue Shield of Michigan, for instance, was sued for violating the ADA after it terminated Irma Collins, a former technical writer. While on disability leave for a major

depression/adjustment disorder, she expressed homicidal ideation against her supervisor to a psychiatrist evaluating her disability claim.

An arbitrator ruled and a Michigan trial court later upheld that Ms. Collins' statements to the psychiatrist were indeed products of her psychiatric disability and that because BC/BS was aware when it terminated her that she suffered from a psychiatric disability that manifested itself in homicidal ideation, it was discriminatory to fire her.

In March, the Michigan Court of Appeals reversed the decision in *Irma Collins vs. Blue Cross/Blue Shield of Michigan*, concluding that "a disabled employee may be discharged for misconduct, even where the misconduct

is a manifestation of the employee's disability."

Other courts often look to a 1997 ruling by the 7th U.S. Circuit Court of Appeals for guidance. The 7th Circuit ruled in *Palmer vs. Circuit Court of Cook County* that the ADA "does not require an employer to retain a potentially violent employee. Such a requirement would place the employer on a razor's edge—in jeopardy of violating the act if it fired such an employee, yet in jeopardy of being deemed negligent if it retained him and he hurt someone. The act protects only 'qualified' employees, that is, employees qualified to do the job for which they were hired; and threatening other employees, disqualifies one."

Despite the legal precedent, em-

ployment attorneys and consultants say employers can get into trouble if they react too quickly to what they perceive as a safety problem.

"Frankly, I've said to employers, if you perceive an immediate safety threat, take action to protect other employees," said Karen Ludington, an employment attorney with her own consulting firm in Holden, Mass.

However, she added, those employers "that perceive a safety problem before it is immediate and act precipitously and make assumptions can get into trouble under the disabilities laws," she said. "Safety comes first, but don't imagine a safety problem when one doesn't exist."

Mr. Bruce of Mayo, Gilligan & Zito agrees. "When you act too quickly

without evidence to prove that the employee is prone to violent behavior, you'll get sued," he said.

For instance, assume there is an employee whose behavior is odd, Mr. Bruce explained. He is not overtly threatening people, but his appearance and demeanor are frightening and other employees are beginning to say they feel intimidated and fearful.

"In light of what has happened recently with guns in the workplace, lots of employers will say, 'I'm not going to risk it' and will get rid of him," Mr. Bruce said.

If it is later determined that there is some emotional or psychiatric reason why that employee acts the way he does, the employer probably

*Continued on next page*

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## Workplace violence

- Homicide is the leading cause of death for women and the second-leading cause of death for men in the workplace, according to the U.S. Department of Labor.
- Out of every 100,000 workers, 2,500 have been physically attacked on the job, according to Northwestern National Life Insurance Co. Of those attacks, 30% were committed by co-workers, bosses or former employees.
- According to the Occupational Safety and Health Administration, 1,144 assaults, 912 homicides, 751 shootings and 79 stabbings occurred in the workplace in 1996.
- Workplace violence was the No. 2 security concern, behind employee theft, among 137 security directors at Fortune 1,000 companies surveyed by Pinkerton Consulting & Investigation Services this year.

In addition to obtaining expert evaluation, employers can back up a decision to terminate a violent person by having a zero-tolerance policy toward misconduct that is uniformly administered and enforced.

Indeed, according to EEOC guidelines issued last year, employers are not in violation of the ADA if they discipline an employee with a behavioral disability for engaging in misconduct, as long as the employer imposes the same discipline on employees without disabilities.

Peggy Mastroianni, associate legal counsel at the EEOC who supervised the drafting of the guidelines, said that while she is "skeptical about the connection between violence and mental illness," employers need to enforce conduct policies uniformly in the workplace.

"If you fire someone for making threats toward someone, and that per-

son then comes to my office and files a charge under the ADA, the first thing we focus on is if the company's conduct rule is a rule that is applied across the board," Ms. Mastroianni said.

She also noted that if a company's conduct rules call for a suspension rather than termination, and the person who violated the conduct rule notifies the employer that his or her mental disability was the cause of the misconduct, the employer is required under the ADA to reasonably accommodate that person.

However, it is the mere potential of a second misconduct incident occurring after making accommodations that causes Gerald L. Maatman Jr., an employment attorney with Baker & McKenzie in Chicago, to advise his clients to terminate, not suspend, all employees who make threats to the safety of others.

"I tell employers that if a threat is made, you have the green light to terminate someone," Mr. Maatman said. "Case law is clear that misconduct is an offense an employer can terminate for even if the misconduct is a product of mental illness," he said.

Other risks can develop for an employer that doesn't terminate an individual who makes threats, noted Mr. Maatman.

"The employer is now on notice of violent tendencies and must reasonably accommodate the person," he said. If, however, a second workplace violence incident occurs, an employer could face negligent retention claims as well as workers comp claims, Mr. Maatman said.

"Take all threats seriously and terminate people who utter threats, because if you accommodate and threats occur, you're in a real Catch-22, because you're on notice of a problem," Mr. Maatman said.

The crossover between workplace violence concerns and liabilities associated with the ADA is an emerging concern for Deborah M. Luthi, director-human resources and risk management for the office of administration at the University of California at Davis.

"We've tried to take a preventive approach to this," she said.

In addition to authoring and widely distributing a policy prohibiting intimidation, threats and violent acts, which states clearly that anyone who violates the policy will be disciplined with penalties up to and including dismissal, the university established a workplace violence prevention operations committee to respond to situations involving primarily faculty and or staff. A separate student crisis response team also was established.

The purpose of the year-old committee is to coordinate the management of ongoing or recurring problems, assist victims and, if appropriate, recommend disciplinary action and/or intervention.

The committee for faculty and staff problems consists of Ms. Luthi, the campus counsel, the director of the campus EAP, a human resource consultant and a member of the police department. Depending on the situation, other individuals, including the director of the vocational rehabilitation services, a representative from student services and the public information officer, may be called upon, she said.

"The beauty of it is that the committee brings in all the resources we need when we have a situation," Ms. Luthi said. "We've got the best and brightest minds at the table" when situations arise.

While Ms. Luthi was unable to elaborate, she did confirm that there is a pending lawsuit against the university that involves a crossover between alleged ADA violations and aggressive behavior on the part of an individual. **BI**



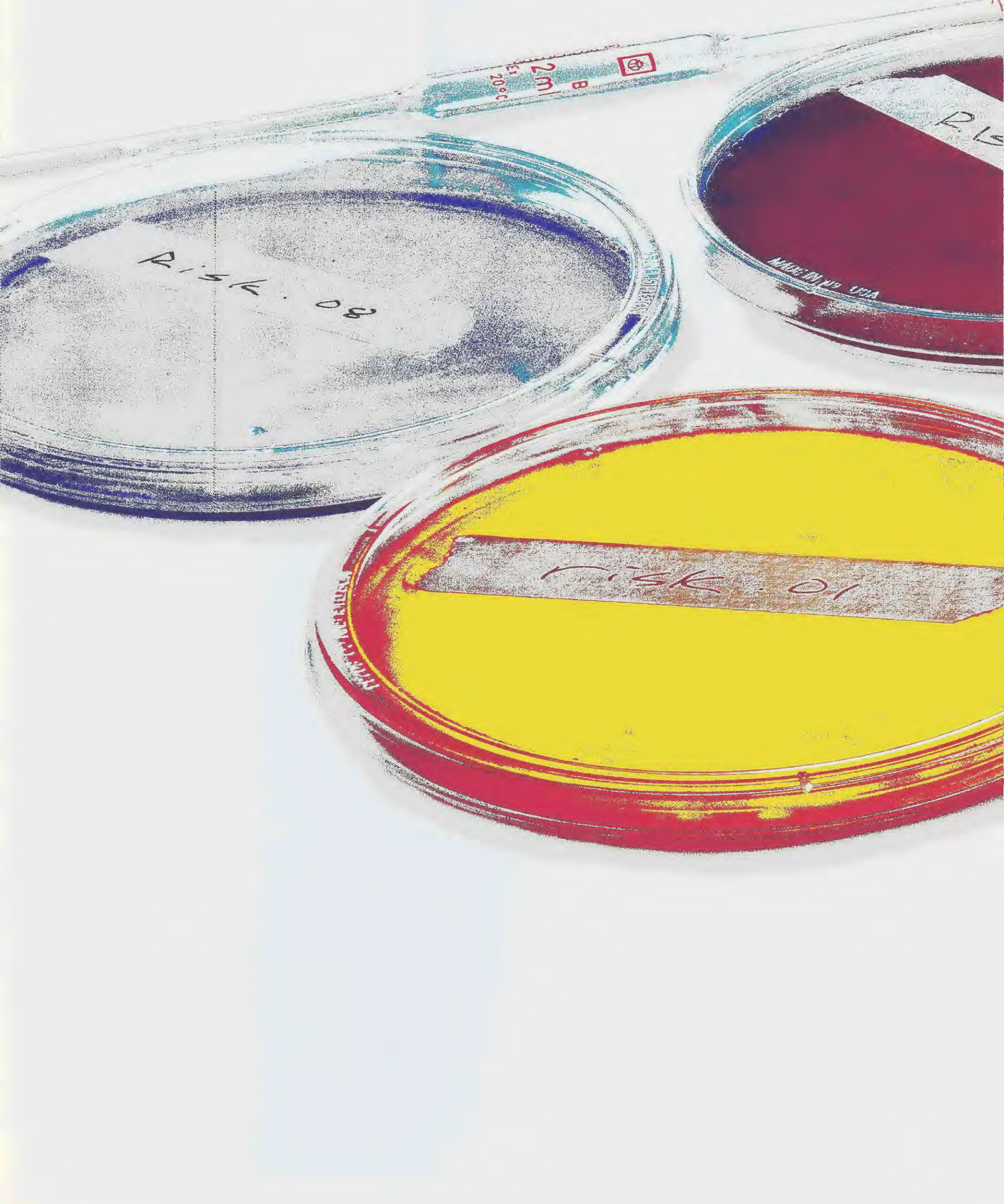
Continued from previous page will get served with a discrimination lawsuit, Mr. Bruce said.

Attorneys say the best way to avoid making the wrong decision about an employee's behavior is to get assistance from outside experts.

"The biggest advice is to get help. Don't try to deal with this situation by yourself," Mr. Phin said. Turn to attorneys, psychologists and consultants. One of the biggest mistakes employers can make is "making decisions without enough facts," he said.

Ms. Ludington advises employers to access their companies' employee assistance programs or, if feasible, establish an EAP within the company.

An EAP can provide resources for employees while also providing employers with the resources so management is "not tempted to go beyond their expertise in areas of mental health," she said.

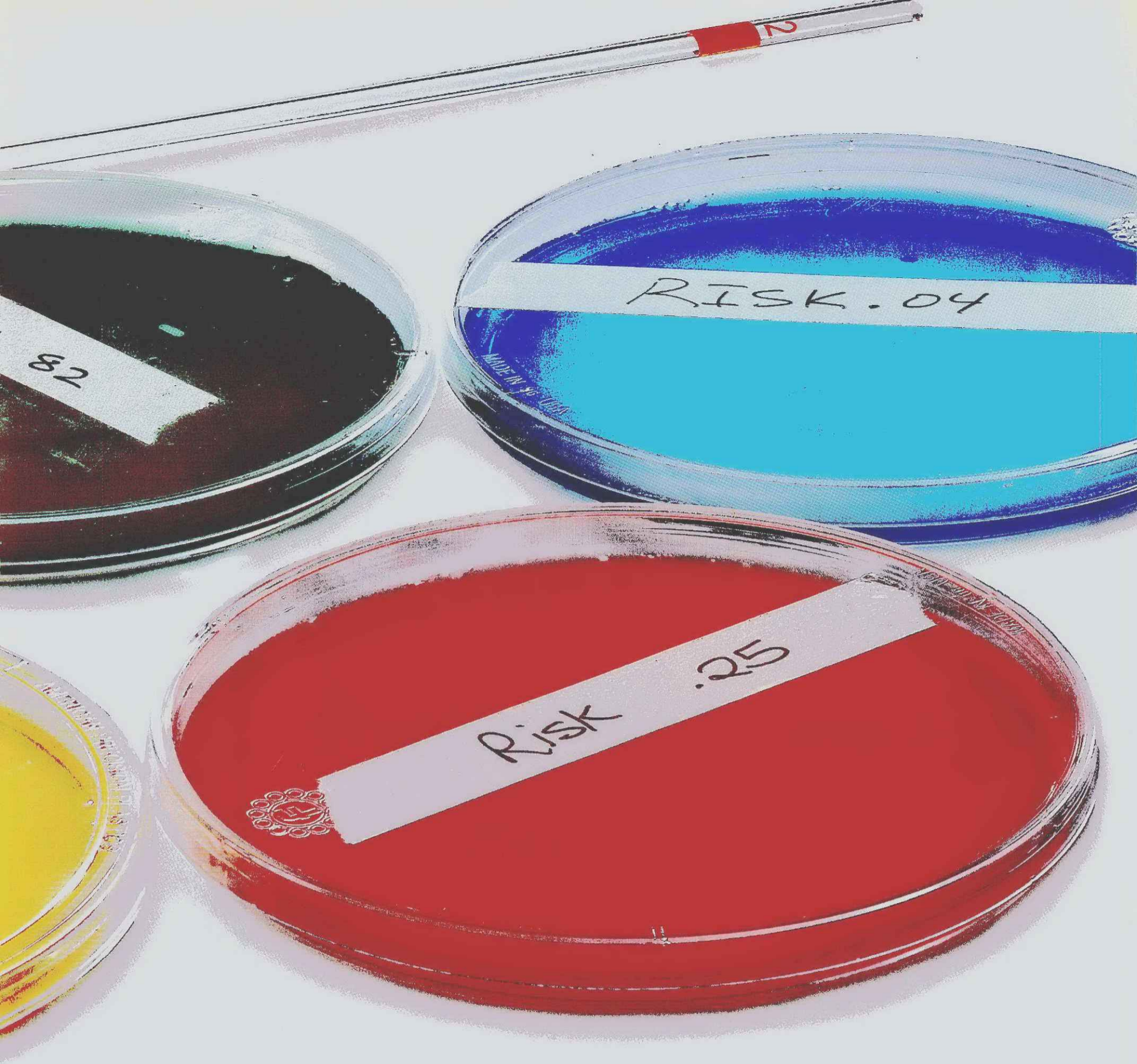


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# Cleanup

Continued from page 3

ECS Underwriting Inc. in Exton, Pa., an underwriting manager for Reliance National Insurance Co. that is hoping to provide some of the insurance for the project.

Indeed, "insurance can remove the hurdles that have traditionally driven the litigation and, as a result, these Superfund projects can move from litigation to actual cleanup," observed John Theiss, vp and director of environmental risk management services at Sedgwick of California Inc. in Orange, Calif.

Mr. Theiss was contacted several months ago by Bob Kuhn, a member of the San Gabriel Basin Water Quality Authority board, to explore insurance alternatives for the cleanup project.

The Water Quality Authority was created by the California Legislature in 1992 to jump-start environmental cleanups throughout the state.

"I think we're in favor of the concept of insurance. It's a matter of how much, ultimately, it's really going to cost and how much responsibility it takes off of the PRPs," said Mr. Kuhn, referring to the potentially responsible parties involved in the project. "If it does what we think it's going to do and the EPA accepts that, then we're all in favor of it."

So far, environmental insurance has had only limited use in pollution cleanup projects. For example, the coverage has been used to cap costs in some "brownfields" cleanups. Brownfields is a designation used to describe old industrial properties that have sustained some degree of contamination and, as a result, have been left undeveloped (BI, Nov. 11, 1996).

Environmental coverage also is being used at a state Superfund site in Virginia and has been proposed for use at a state site in Maine, according to Mr. Benninck of ECS, which was involved in both projects.

But until now, environmental insurance has not been considered for use in expediting the cleanup of a federal Superfund site.

"The biggest barrier (to its use), I think, is just a lack of awareness among the general public of options available through environmental insurance," Mr. Benninck said. "People don't know it exists. And PRPs have been beaten up for so long that they have a defeatist attitude. Nobody's looking for a positive solution to the Superfund problem."

Instead, PRPs and their insurers have been paying lawyers millions of dollars in litigation costs in an attempt to minimize their liability for

cleanups, he said.

In fact, many promoters of the San Gabriel proposal fear insurers' bad public image in connection with pollution coverage litigation could nix the project.

"There have been hundreds of insurers sued over toxic torts," observed Alan Lattanner, president and chief executive officer of EQQUA, an environmental engineering firm based in Fremont, Calif. It is conducting a liability allocation analysis for the San Gabriel site. "But only four of these insurers are offering a solution," he pointed out.

Indeed, the market for environmental liability coverage is dominated by four players: ECS/Reliance, American International Group Inc., Zurich-American Specialties and Kemper Environmental, according to Mr. Theiss, who has brokered policies underwritten by each of them.

"We see that this tool can be used to facilitate remediation of Superfund sites," said Mr. Benninck. "If we can develop a tool to facilitate all the PRPs to come together rather than litigating against each other... we can start addressing the bigger issue, which is the remediation of all these Superfund sites."

But "for these products to move forward, we need to work in tandem with the regulators," Mr. Benninck pointed out.

While there's nothing in the Superfund law that specifically precludes insurance from being used to finance cleanups at a site on the National Priority List, it has yet to be employed, mainly because of concern over how it will be accepted by the EPA.

"From one EPA region to another, they implement things very differently," explained Bob Hallenbeck, vp-government affairs at ECS. "So you talk to Region 9, and they'll tell you one thing. Then you talk to Region 3, and they'll tell you another."

For example, some state environmental regulators have accepted another element of the San Gabriel proposal—transferring liability from all PRPs to a single work party. But whether the federal EPA will be amenable is uncertain.

The concept of transferring liability from a large group of PRPs to a single work party "is an issue of contention with EPA," said Mr. Lattanner.

"But they are beginning to warm up to the idea. They interpret Superfund to say that PRPs must retain their liability forever until the problem is completely closed. But some people say you could interpret Superfund differently, and as long as there's a responsible party with legal responsibility for the cleanup, that's acceptable," he said.

"That's why we need a demonstration project like this one," pointed out Sedgwick's Mr. Theiss.

To ensure that the strategy would be allowed by the EPA on at least a demonstration project basis, ECS/Reliance's Mr. Hallenbeck recently approached Sen. Barbara Boxer, D-Calif., about introducing federal enabling legislation. The proposal would have permitted the allocation of cleanup funds for the purchase of insurance "in order to display the effectiveness of insurance as a way to facilitate cleanup," he explained.

"But Sen. Boxer's office said they would propose that provision only as part of the overall Superfund reform legislation, that it was not something that could be passed as its own piece of legislation," he said. "And that's where we've run into a problem, because Superfund is not going anywhere."

The legislation has stalled largely because it's an election year, he explained. "Who gets the break on Superfund? Companies, mostly. It's hard to translate Superfund into votes," he said.

But all hope is not lost, he pointed out. "There's enough latitude in the enforcement regulations that EPA could still allow it if they really want to."

Still, Mr. Hallenbeck said, "it would be nice if the statute was changed and it wasn't left to the discretion of every region as to how the law's interpreted."

For example, while regulators in San Francisco-based EPA Region 9, which is overseeing cleanup of the San Gabriel site, have approved the use of a single work party to spearhead the remedial investigation and feasibility study, they still are skeptical about the insurance component of the cleanup plan.

"We don't want to be in a position where our only recourse is against an insurer who might decide to litigate with us for the next 20 years," said

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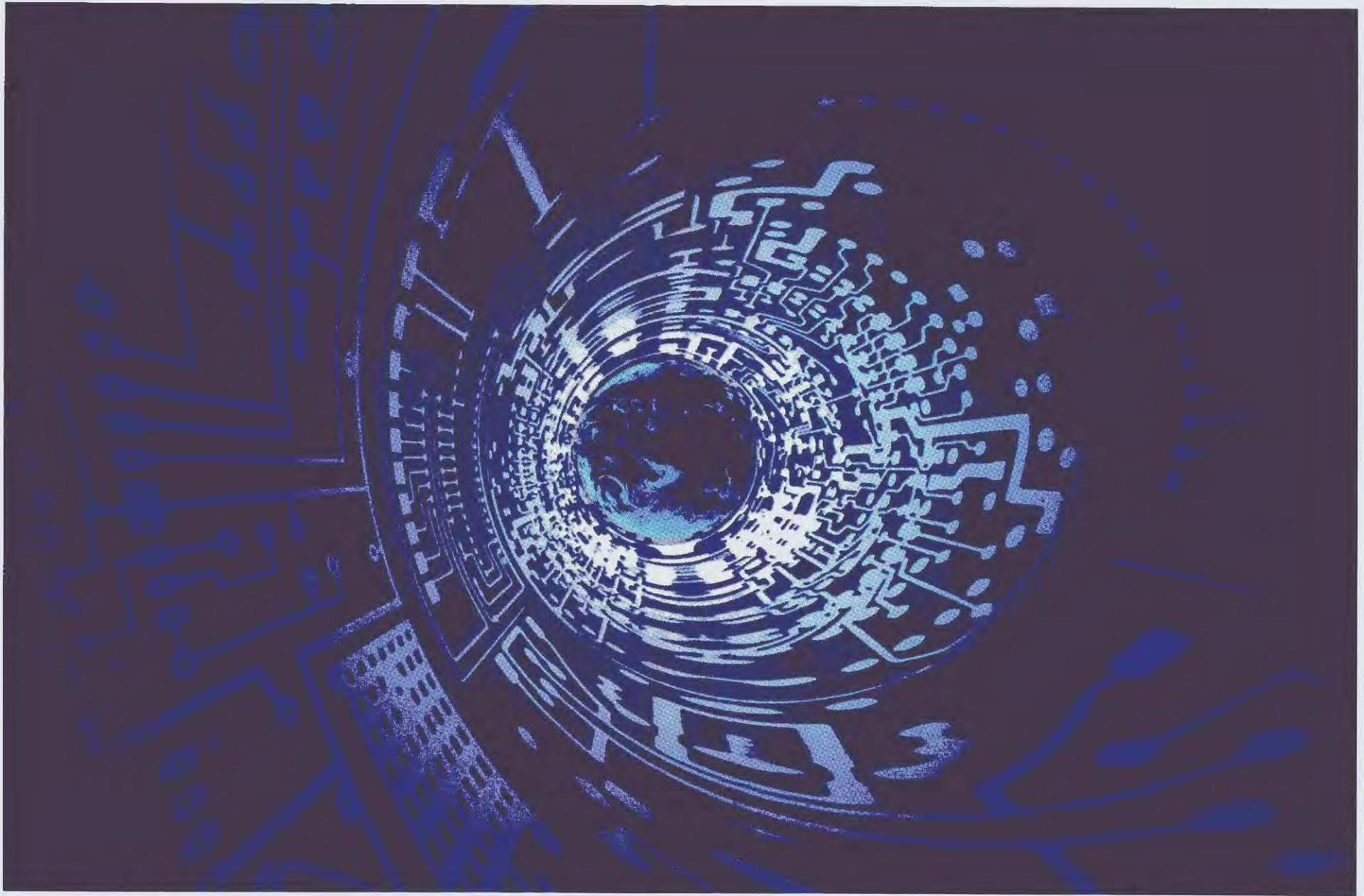
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# Cleanup

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Gavin McCabe, EPA assistant regional counsel.

"That's why, while the PRPs may obtain an insurance policy, we're going to say, 'That's great, that looks good, it seems like you have coverage,' whatever, but if for some reason the insurer doesn't pay them, we don't want to be in the position of having to fight that fight. That's their fight. Ultimately, they would retain responsibility," he said.

Still, "there's no type of thing in the statute or any policy that we have that would prevent them from doing that," Mr. McCabe added.

So far, EPA Region 9 has been receptive to applying the single work party concept to allocating the cost of the remedial investigation and feasibility study that precedes cleanup work.

In 1995, Cardinal Industrial Finishes of South El Monte, Calif., learned that it was going to be one of 42 PRPs receiving a special-notice letter, or official notification, from the EPA in connection with the site. Cardinal then approached the regulators and asked if it could take the lead in the remedial investigation and study.

"My company was aware of the fact that the EPA was going to issue the special-notice letters," recalled Larry Felix, Cardinal's director of corporate affairs.

While Cardinal claims it did not cause pollution found at the site, the company is one of the area's largest employers and felt it was its civic responsibility to take charge, he said.

The company's officers also thought the money it and the other PRPs would spend litigating over which company should be held responsible would be better used paying the cost of the study itself.

"The transaction costs associated with performing the remedial investigation oftentimes are as high as the cost of doing the work itself," Mr. Felix explained.

After doing some Internet research, Mr. Felix found that the EPA had already developed a streamlined process for conducting a remediation study of landfills that permitted the transfer of responsibility to a single work party.

"I dug into the EPA files, and I found this document on streamlined remedial investigation and feasibility study for Superfund sites that mostly applied to landfills," Mr. Felix said.

"So I just took the language, and I applied it to this site, which is a ground water site."

After getting the EPA's approval to apply the process to the San Gabriel site, Cardinal signed the EPA's Administrative Order on Consent, which gave the company the right to head the project and to subrogate against all the other PRPs. "But we told them that we wouldn't do it," he said.

Instead, "we went to people, and we said, 'If you give us \$18,000 toward the remedial investigation and feasibility study, then we will in fact perform it. We will not ask you for any more money, then we will turn it in to EPA in a manner that it will, in fact, be accepted by them,'" he recounted.

EPA acceptance of a plan is often a problem because "a lot of times, people do work but they don't follow EPA criteria, and then the work is rejected and all that money is for naught," Mr. Felix explained.

The contribution amount was based on an estimated total cost for the study of \$1.25 million, less a \$300,000 grant from the San Gabriel Basin Water Quality Authority, divided by the number of PRPs receiving special-notice letters from the EPA.

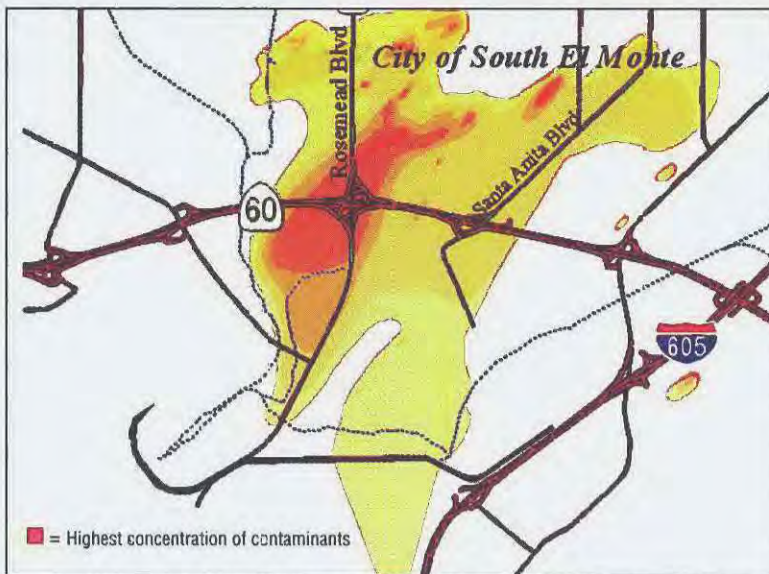
Initially, 62 PRPs were expected to receive notice, so the contribution

amount was set at \$15,000, Mr. Felix said. But there were only 10 initial takers, and the number of PRPs actually receiving notice dwindled to 42, so 32 of the PRPs contributed \$18,000, while the first 10 paid only \$15,000.

Mr. Felix estimates that using the streamlined process has cut about \$1 million off the price of the remedial investigation and feasibility study.

"Now what we would like to do is see if we can take this knowledge and apply it to the actual implementation of the (cleanup) remedy," he said.

"That's why there needs to be some very specific language added to Superfund that would allow insurers to feel more comfortable with this type of volunteer situation," Mr. Felix asserted. "The way that Superfund is set up presently, it's 'the polluter must pay and that's it,' and there's no recognition of proactive PRPs that want to try and get something done in



MAP COURTESY OF SAN GABRIEL BASIN WATER QUALITY AUTHORITY, JASON KORNOFF  
**The San Gabriel Valley Basin is on Superfund's National Priority List.**

a cost-effective manner," he said.

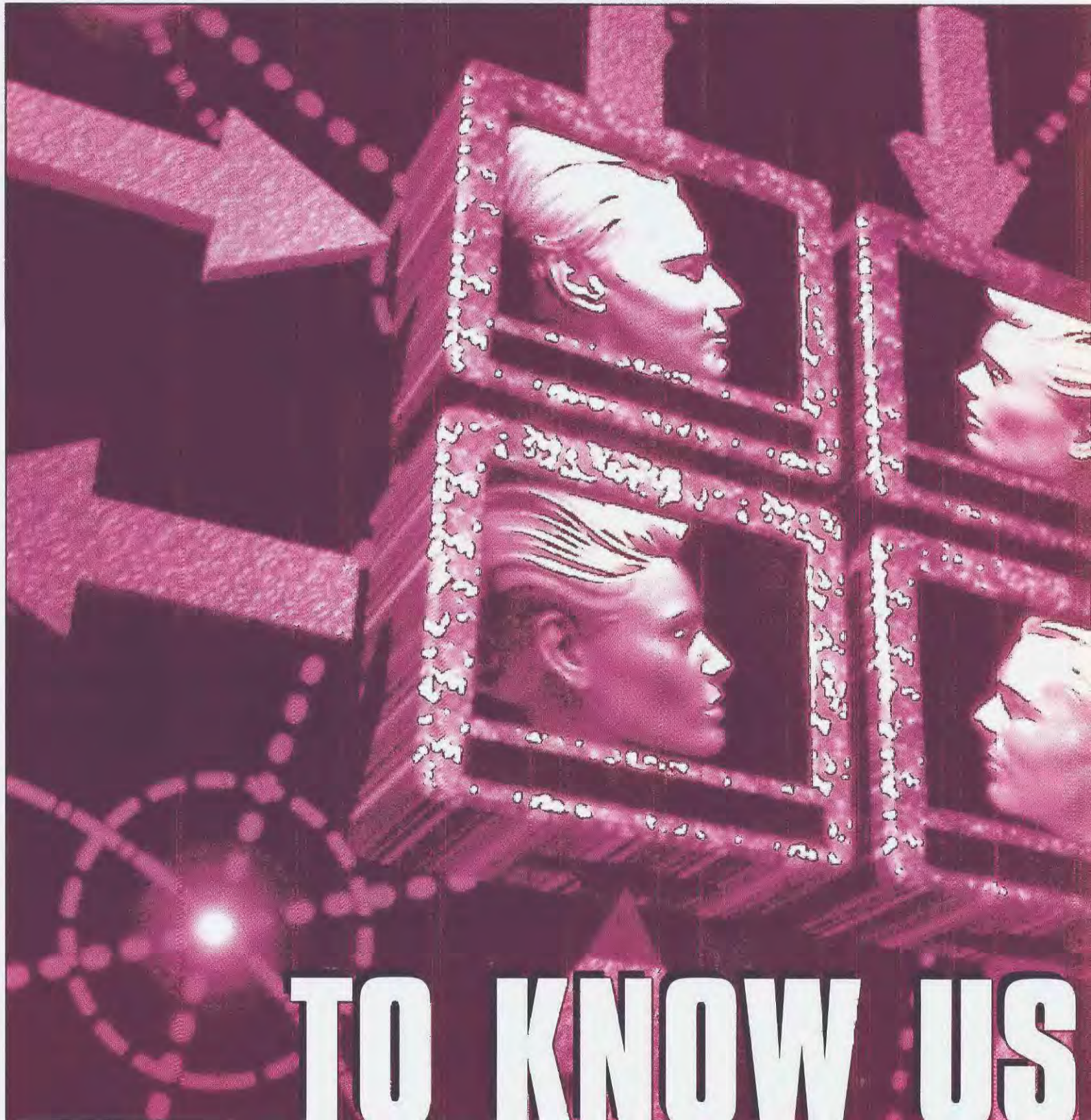
"I believe that the individual parties working with their insurers can do a better job than governmental entities, because they're a lot more cost-conscious."

If the EPA approves the cleanup scheme sought by Cardinal, it would permit the company to take charge of the cleanup effort and divide the actual cleanup costs among the PRPs using an allocation formula developed by Mr. Lattanner of EQQUA.

The formula takes into account all available information about a site to measure each PRP's proportional share of liability, Mr. Lattanner explained.

Among the variables included in the formula are what businesses operated on which properties, the nature of the businesses, what types of storage tanks were used, etc. "There

*Continued on next page*



**TO KNOW US**  
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Continued from previous page  
are many variables for each type of business," he explained.

"We also compare individual experience with industry experience and develop an exposure index, which is multiplied by total cleanup costs to get that company's proportional share," Mr. Lattanner said. "This is a general methodology that we've been applying for about 10 years to different types of problems. We've done the cost estimating side for Superfund, but we haven't done the liability analysis yet."

He added that the PRPs also can use the liability allocation to seek coverage from liability insurers that wrote policies for them prior to the introduction of the pollution exclusion in 1986. Then the insurance recoveries and the PRP contributions would be pooled to provide funding for the cleanup and to pay the premium for

the cost cap and legal liability insurance.

Because of the scope of the project—the initial cleanup estimate so far is more than \$50 million—AIG Environmental and ECS would work together to provide the coverage limits necessary, said Mr. Bennink.

"We would either do a quota-share, where we would work together and split it 50-50, or a layered program, and we would be primary," he said.

ECS/Reliance can provide up to \$40 million in limits, while AIG can write up to \$70 million for the cleanup cost cap and legal liability coverage. The coverage would attach over a prescribed self-insured retention generally equal to the expected cost of the cleanup plus a buffer layer of perhaps 10%, Mr. Bennink explained.

Both AIG's cleanup cost cap policy and ECS/Reliance's remediation stop-loss insurance would cover four vari-

ables:

- If the actual contamination is greater than expected.

- If off-site cleanup costs are incurred in connection with the covered cleanup.

- If new, previously undetected contamination is discovered in the course of performing the cleanup.

- If there is a change in government regulations affecting the scope of the cleanup.

Currently, coverage terms are limited to 10 years, but PRPs can arrange for longer policy periods by purchasing finite risk insurance in addition to the cost cap policy, an AIG spokesman explained. Finite risk insurance works somewhat like an annuity, with the policyholder paying a premium equal to the present value of the cost of the remediation. The insurer then takes over the cleanup, investing the premiums and disbursing

funds as needed, Mr. Bennink explained.

When the proposal is viewed in its entirety, "it's really a complete business plan" that incorporates financial and engineering tools, summarized Mr. Lattanner.

The financial tools include transferring responsibility for the cleanup to a single work party that would purchase the cost cap and legal liability insurance and combine it with funds collected from PRPs and their insurers.

The engineering tools include a rational allocation of who's responsible for what damage, a state-of-the-art calculation of cleanup costs and the creation of an ongoing concern to ensure the cleanup is completed.

"Remember, this may be going on for 30 or 40 years—long after those who developed this scheme have retired," Mr. Lattanner pointed out. **EI**

## Superfund site hits 42 PRPs

**A**t 35 square miles, the San Gabriel Valley Superfund Site is one of the largest Superfund sites in the country, with ground water contamination from industrial and municipal use spanning 50 years.

Site investigations found the principal contaminant to be tetrachloroethylene, or PCE, a degreasing fluid used to clean metal parts before they're painted.

There also is secondary trichloroethylene, or TCE, contamination, according to Kirby Brill, assistant executive director of the San Gabriel Basin Water Quality Authority in Covina, Calif.

While the U.S. Environmental Protection Agency initially identified 263 potentially responsible parties for the 7-square-mile South El Monte Operable Unit portion of the site, the list eventually was pared down to 42 PRPs.

The investigation, scheduled to be completed in September, will determine the extent of the ground water contamination and analyze alternatives to control its spread.

Cardinal Industrial Finishes of South El Monte, Calif., which makes industrial paint used on computer equipment, did not contribute to the PCE contamination, according to Larry Felix, Cardinal's director of corporate affairs.

However, the manufacturer's property was found to be contaminated with PCE, he explained.

The names of other participants in the South El Monte Operable Unit are not being disclosed, in keeping with a confidentiality agreement reached among the parties, Mr. Felix said.

A total of 32 PRPs—including Cardinal and at least two others that were not named on any EPA list—contributed to the financing of the remediation investigation and feasibility study, according to Mr. Felix. The San Gabriel Basin Water Quality Authority also supplied a \$300,000 grant.

At current estimates, the study is expected to cost \$1.33 million—slightly more than the original \$1.25 million budget—and includes all transaction and investigative costs.

The San Gabriel Valley Superfund Site has drawn significant attention because the underground aquifer supplies water to more than 1 million customers throughout Southern California, explained David Bennink, assistant vp-risk management at ECS Underwriting Inc. in Exton, Pa. Furthermore, environmental experts project that the diminishing supply of non-contaminated ground water in the region will result in a water shortfall of 7 million acre feet by the year 2020—just 22 years from now, he said.

Because of the significance of the cleanup project, at least eight state, federal and regional regulatory agencies are involved. Among them are the federal EPA, the California EPA, the California Regional Water Quality Control Board, the Department of Toxic Substance Control, the San Gabriel Valley Water Master, the San Gabriel Basin Water Quality Authority and the Los Angeles County Public Works Department.

The U.S. Army Corps of Engineers also is participating because part of the site is adjacent to a flood control basin, Mr. Felix explained.

—By Joanne Wojcik

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# Environment

Continued from page 3

umentation of waste disposal and government documents, also could reveal the need to take a sampling from the site, Ms. Lee said.

"People are more willing to look at getting a site that might be contaminated (after doing an audit), because if you know what the risk is, you can manage the risk," she said.

Atlanta-based cleaning supply and pesticide manufacturing conglomerate National Service Industries Inc. has become more aggressive in acquiring new facilities, said Mary Edmonds, manager of risk management. As a result, the company has created a planning and development team, which includes the risk management perspective, to scrutinize the merits and pitfalls of properties it is consid-

ering buying.

"The environmental issues have become much more financially critical," Ms. Edmonds said. Her corporation's audit includes more historic research, extensive ground water testing, and sometimes even interviews with local people, she said. National Service Industries Inc. self-insures the risk.

Some risk managers are wary of audits, though, for fear the related documents could fall into the hands of those who might file claims, said Robert Bottome, a principal consultant with Environmental & Occupational Risk Management of Sunnyvale, Calif.

Risk managers "still feel very uneasy—and I can't tell whether with cause or not—from their side," he said. "They're very reluctant to create this document. File cabinets start to fill up with this document, and it's a mixed bag."

Because the discovery phase of a lawsuit could bring environmental audit documents to the forefront, some corporations, Mr. Bottome said, have their legal counsel request the documents, which would secure them under attorney/client privilege.

"I think this is a real obstacle... There's a legitimate complaint: 'Are we unlocking the doors, turning the lights on, and leaving the house open to be burglarized?'"

It is the past that haunts some corporations. Worries over inherited liability can hang on for years after the deal closes, risk managers said.

"We really don't have scary things coming out of our manufacturing process," said Martin Elmore, corporate manager for environmental affairs at Coca-Cola Enterprises. The Atlanta-based soft drink manufacturer and bottler's solid waste, such as old truck tires, bottles and cardboard, all are re-

cycled, he said. Coca-Cola's only hazardous materials are used motor oil and water containing high levels of sugar. The company treats the sugared water before emission, including adjusting the pH level.

But one of the greatest challenges Coca-Cola faces comes from potential Superfund liabilities. In buying up smaller bottlers, which is how Coca-Cola Enterprises grows, Mr. Elmore said some facilities didn't have the resources to modernize. "We spend a lot of time and money managing asbestos," he said. Additionally, "Superfund crops up to bite us quite a lot."

As the successor to a lot of these liabilities, Coca-Cola is required to produce documentation of disposal records. Because it can't always find these documents from bygone eras, Coca-Cola Enterprises sometimes finds itself named as a potentially re-

sponsible party for cleanups.

"It's the past history for us" that is the hardest environmental issue to manage, Mr. Elmore said. "What went on in the past, Lord only knows."

Despite the inherited cleanup costs it has incurred, Coca-Cola Enterprises still considers cleaning up sites a "better expense" than protecting against these costs, said Corporate Risk Manager Lori Taylor. "We would rather spend the money on fixing the problem rather than insuring it," she said.

Southern Co., an Atlanta-based utility that operates primarily in the Southeast, also is troubled by past environmental practices, said Gary Meggs, director of risk management. "Many utilities, both electric and gas, at one time or another were somehow involved in the chain of ownership of sites that had environmental exposures," he said. "Fifty to 100 years ago, if you were ever involved in the chain of ownership, you're on the hook."

This idea of "cradle-to-grave liability" keeps the Southern Co. from delving into more risky operations, such as building waste energy plants. The Southern Co. doesn't have environmental insurance, and it hasn't looked at the newer products recently, Mr. Meggs said, because of what he has heard from market intelligence and broker-provided expertise.

"Coverage is very restrictive; the underwriting process is very rigorous," he said. "It's too much money for too little coverage."

Instead of using insurance to remove the risk, the Southern Co. has increased its awareness of exposures. Now when the utility is involved in an acquisition, the contract language is laden with risk management mechanisms. The company also is careful with whom it deals. Many of the requests to build these waste energy plants come from government entities, which Mr. Meggs said, enjoy sovereign immunity in many cases.

Unless he could be assured his corporation would not be held responsible for the risk, he fears it "could end up being the only deep pocket left."

Bell Atlantic Corp.'s Shelia Small, executive director of corporate risk management, shares the same concern about being held as a PRP. Rather than adding to its real estate portfolio, the New York-based telecommunications company is selling off its holdings. Bell Atlantic has chosen to divest itself of property without using environmental insurance products, with the exception of provisions included in an excess liability policy to assist with the environmental risk transfer. "Since we're not a polluting company, we feel these are adequate," Ms. Small said.

"We're currently so environmentally concerned," said Lou Drapeau, manager of risk management for Troy, Mich.-based The Budd Co. The automobile parts supplier, which has not looked at environmental insurance products since the late 1980s or early '90s, monitors its environmental exposures through an environmental council comprised of different departments that would handle any cleanup efforts at the company's sites.

Efforts like those of The Budd Co. are applauded by Susan Fernandez, vp for Austin, Texas-based environmental risk consultant Radian International. She said avoiding or mitigating risk in a cost-effective way and "dealing with risk proactively is good business."

Another catalyst of corporate attitude change is the opinion of the ultimate consumer. Because the public has embraced environmental cleanup efforts and the awareness of environmental impact has grown, virtually every corporation wants to be perceived as "a good environmental

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## Environment

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steward," said Donna Sandidge, managing director for Sedgwick Environmental Services in Nashville, Tenn.

"Part of that is the public's awareness, appreciation and sensitivity to environmental issues," said Ms. Sandidge. "Risk managers will be interested in anything that will protect their company's reputation... and a reputation is an asset. We're very excited about this area. It's really opening up, and risk managers are challenged."

Ms. Sandidge and others said even traditional environmental liability policies are less expensive and cover more. By offering the policyholder more flexibility, technical expertise and a greater breadth of coverage,

insurance products are making environmentally friendly regulations more palatable for corporations. From cost-cap products that cost the risk manager only the estimated liability and cover excess cleanup costs, to real estate transfer products that ensure a real estate buyer won't inherit the environmental legacy of previous owners, the price and value of these products has greatly improved in recent years, experts said.

Likening the variety of coverages to an extensive selection of produce at a supermarket, Sue Anne Mitro of The Hillman Co., based in Pittsburgh, said she is very pleased with current insurance products. Ms. Mitro, manager of risk and insurance for the privately held holding and investment company and real estate developer, said, "It's truly impressive how robust the marketplace is," adding that four or five years ago, in-

surers were marketing constrictive environmental products and lacked the in-house expertise to inspire confidence in the would-be buyer.

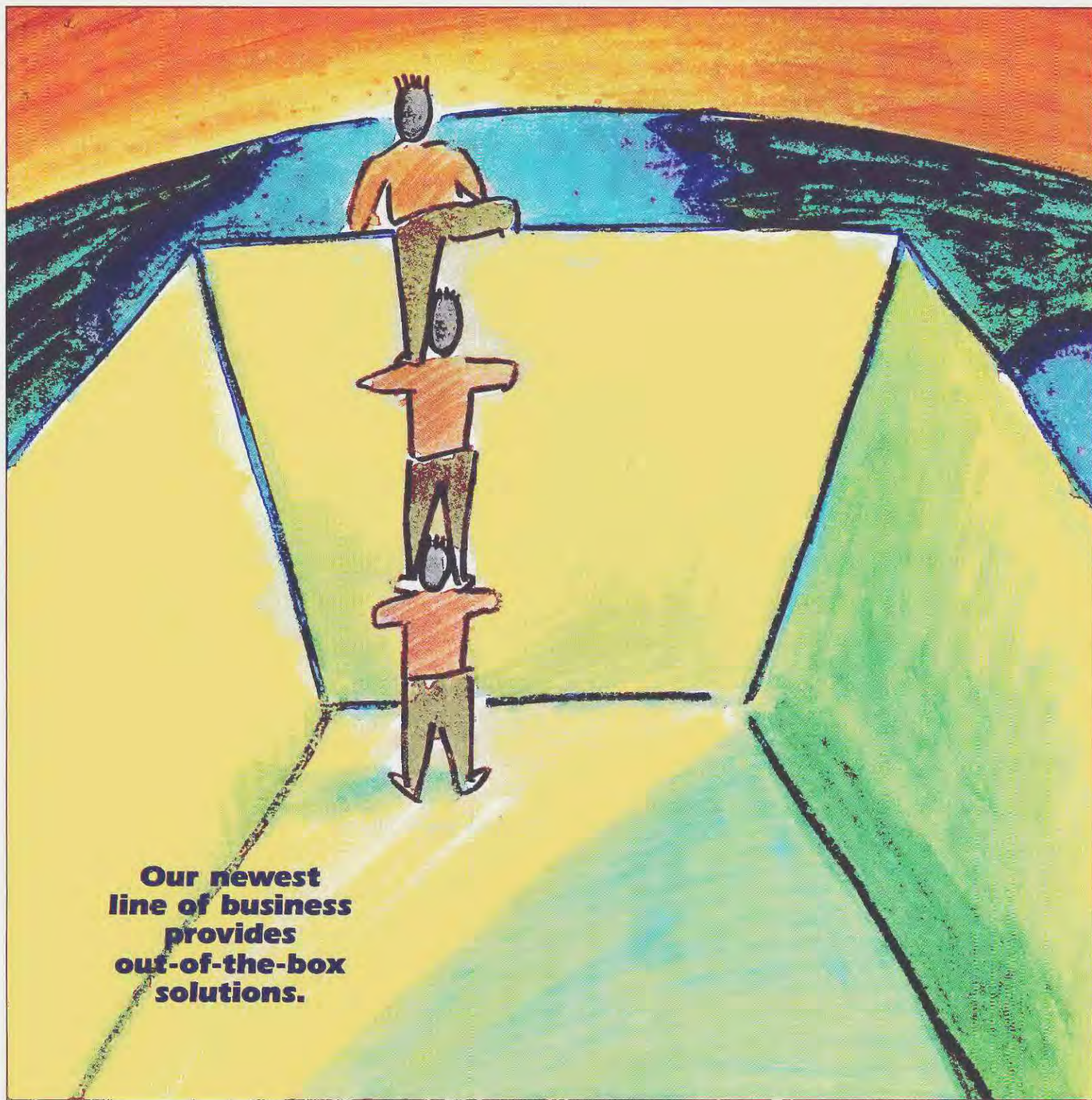
The Hillman Co. relies on its insurance to cover any transfer of liability, Ms. Mitro said. "It's a finite cost of selling a piece of property. I will never need to set aside a reserve to cover that," she said. "I can buy an insurance policy that will cover that risk, satisfy the buyer's concerns, and relieve me and my company of any concerns with regard to that indemnity."

Ms. Mitro said that because of current market conditions and because no one can predict what future regulatory standards corporations will be expected to meet, "risk managers who are not looking at (insurance products) as protection for their companies are really missing an opportunity."



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This Fort Sheridan, Ill., ravine, once used as a dumping area, will be remediated by this summer, an official with the developer says.



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Jim Cox, senior vp and environmental practice leader for J&H Marsh & McLennan in New York, said: "All the products are expanding, and there are better terms and cheaper pricing. There is a general heightened use of insurance by all of the industry."

The continuing soft market, which encourages "shopping a risk" for the best policy for the money, is one factor responsible for the enormous expansion of the environmental market. "All environmental liabilities that a corporation is facing can be insured," Mr. Cox said. "It's a degree of how contaminated things are."

Richard P. Shields, managing director for the real estate division of Chicago-based Mesirow Financial, said that because of the availability of cost-cap products and other insurance that could protect his corporation if the cleanup process went wrong, he was able to have success with former "brownfield" sites. A brownfield is a piece of property that has not been developed due to partial contamination.

ECS sold Mr. Shields the needed insurance products for his \$3 million to \$4 million residential redevelopment of part of the former Fort Sheridan army base in the town of Fort Sheridan, Ill., a lakeside community about 30 miles north of Chicago. The 110-acre site, which will be completed in about four to five years, will contain 551 residences. Old buildings containing asbestos and lead paint will be refurbished, and two landfills are being cleaned up.

A ravine in the middle of the parcel was used decades ago, Mr. Shields said, as a dumping area for construction debris and municipal solid waste. He anticipates the environmental remediation of the property will be completed by the end of this summer.

"We will have a restored ravine that went from a brownfield," Mr. Shields said, noting that the idea of cleaning up brownfields has gone from an ideal notion to a practical reality.

"The market is kind of ripe to turn these properties to productive use," said Bruce Amos, a managing underwriter in the risk management group for ECS. "The thread to bind all of this together is environmental insurance... These insurance products address the knowns and unknowns. It takes away the uncertainty due to the contamination on the business analysis of the project."

Currently, 35 states, in conjunction with the Environmental Protection Agency, embrace brownfield cleanups. The brownfield projects are most popular in heavily industrialized states, Mr. Amos said. "It tracks the industrial growth of this country. Clearly, the Southeast is lagging."

# BI directory of environmental consultants

A

## AGRA Earth & Environmental Ltd.

221 18th St. S.E.,  
Calgary, Alberta, Canada T2E 6J5;  
403-248-4331; fax: 403-569-9031

**Services began:** 1962.

**Parent:** AGRA Industries Ltd.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal, ecological risk assessment.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting.

**Staff:** 1,400 total; 10 environmental professionals, including one principal consultant, nine consultants; 25 PEs, two CIHs, one REA.

**Clients:** 15 environmental consulting clients; three corporate/institutional clients.

**Specialties:** Oil and gas, mining, pipelines.

**Branch offices:** Phoenix; Portland, Ore.; Seattle; Calgary and Edmonton, Alberta; Vancouver, British Columbia; Winnipeg, Manitoba; Toronto; Regina, Saskatchewan.

**Service area:** Worldwide.

**Compensation:** By the hour.

**1997 gross revenues:** \$145 million total, 0.3% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** W.A. Slusarchuk, president; Roger Jinks, executive vp; Les Panek, senior vp.

**Contact:** Les Panek.

## Aon Environmental Risk Services

123 N. Wacker Drive,  
Chicago, Ill. 60606;  
312-701-4430; fax: 312-701-4143

**Services began:** 1993.

**Services:** Contract/indemnification review for environmental liabilities, review of site audits/loss control, evaluation/placement of environmental coverages, litigation support, public health risk assessment, regulatory and public policy analysis.

**Other services:** Environmental consulting to insurers and policymakers, general risk management consulting.

**Staff:** 15 total; 11 environmental professionals, including two PEs, three CPCUs, two CHMMs, one CIH, two REAs, three attorneys.

**Clients:** 600 environmental consulting clients; all corporate/institutional clients.

**Specialties:** Construction, manufacturing, lenders/property owners.

**Branch offices:** Chicago; Grand Rapids, Mich.; Houston.

**Service area:** Worldwide.

**Compensation:** By the project; on retainer; by the hour: \$175 to \$250.

**1997 gross revenues:** \$30 million total, 100% from unbundled environmental risk all to management consulting directly to corporations and institutions.

**Officers:** Gregg Roberts, senior vp/director; Julie Jezuit, Jennifer Flatten, Greg Bond, vps.

**Contact:** Julie Jezuit.

## Apex Environmental Inc.

15850 Crabbs Branch Way,  
Suite 200, Rockville, Md. 20855;  
301-417-0200; fax: 301-975-0169  
<http://www.apexenv.com>

**Services began:** 1988.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting.

**Staff:** 140 total; eight environmental professionals, including one principal consultant, seven consultants; seven PEs, 11 CPGs, four CHMMs, five CIHs, three CGWPs, two REAs.

**Clients:** 200 environmental consulting clients; 75 corporate/institutional clients.

**Specialties:** Construction, financial institutions, manufacturing.

**Branch offices:** Manchester, Conn.; Des

Moines, Iowa; Hoboken, N.J.; Reading, Pa.; Aiken, S.C.; Richmond, Va.

**Service area:** Nationwide\*.

**Compensation:** By the project; on retainer.

**1997 gross revenues:** \$20 million total, 20% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Peter T. Young, president/CEO; Vincent N. DiRenzo, vp/COO; Shannon K. Winston, secretary/treasurer/corporate controller.

**Contact:** Mary Jane Arnold, manager-business development.

\*Worldwide service available to government clients.

## Atlanta Testing & Engineering

11420 Johns Creek Parkway,  
Duluth, Ga. 30097;  
770-476-3555; fax: 770-476-0213  
<http://www.atlantatesting.com>

**Services began:** 1983.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, litigation support, UST management and removal, asbestos/lead paint surveys.

**Staff:** 425 total; 75 environmental professionals; 45 PEs, 35 CPGs, one CHMM, one CIH, one CGWP, one REA.

**Clients:** 500 environmental consulting

clients.

**Branch offices:** Birmingham and Huntsville, Ala.; Jacksonville, Orlando and Tampa Fla.; Lexington and Louisville, Ky.; Raleigh, N.C.; Columbia and Greenville, S.C.; Chattanooga and Nashville, Tenn.

**Service area:** Midwestern and Southeastern states.

**Compensation:** By the project; by the hour: \$50 to \$125.

**1997 gross revenues:** \$25 million total, 30% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** David Albin, president; Dirk A. van Reenen, vp; Clinton Hammond, controller.

**Contact:** Greg Fischer.

B

## Barr Engineering Co.

8300 Norman Center Drive, Suite  
300, Minneapolis, Minn. 55437;  
612-832-2600; fax: 612-832-2601  
<http://www.barr.com>

**Services began:** 1966.

*Continued on page 25*



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## Directory terms explained

The ninth annual directory of environmental risk management consultants lists companies' responses to a *Business Insurance* questionnaire.

The directory is published as an editorial service; there is no charge to be included. However, consultants must offer services directly to corporate and institutional clients on an unbundled basis; companies that offer environmental risk management consulting only in conjunction with other products and services or solely to insurance companies, lawyers and financial institutions are not included.

In addition, companies must generate at least \$250,000 in annual revenues from unbundled environmental risk management consulting to be included, and total 1997 revenues must be reported.

Listings begin with the name and address of the company, the year environmental services began and parent company, if any.

Detailed under environmental services are the environmental risk management consulting services the company provides, as well as any other services provided.

Information on staff is listed next, including total staff, the number of professional staff members assigned to environmental risk management consulting only, the number of principal consultants, the number of consultants and the designations or professional memberships held. Designations include Professional Engineer (PE), Certified Professional Geologist (CPG), Associate in Risk Management (ARM), Chartered Property/Casualty Underwriter (CPCU), Certified Hazardous Materials Manager (CHMM), Certified Industrial Hygienist (CIH), Certified Ground Water Professional (CGWP), Registered Environmental Assessor (REA), and Attorney.

The total number of environmental clients, along with the number of corporate and institutional employer clients in 1997, is listed next.

If the company specializes in consulting to particular types of business or industry, these specialties are noted.

Locations of branch offices providing environmental risk management consulting are listed next, as well as the service area. The compensation section details how the company bills for services. Also listed are the gross revenues for 1997 and the percentage of revenue generated through unbundled environmental risk management consulting directly to corporations and institutions.

Names and titles of principal officers and the name of a contact for those requesting more information complete the listings.

Although every effort is made to publish complete and accurate information, *BI* is unable to verify all information provided by the companies.

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Continued from page 23

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal.

**Other services:** Remediation activities; environmental consulting to insurers and policymakers; general risk management consulting; engineering and environmental science consulting in water resources, process, facility and infrastructure design; information technology services.

**Staff:** 303 total; 80 environmental professionals, including eight principal consultants, 72 consultants; 17 PEs, eight CPGs, six CHMMs, two CIHs, two CGWPs.

**Specialties:** Petroleum, mining, power.

**Service area:** Nationwide.

**Compensation:** By the hour: \$40 to \$155.

**1997 gross revenues:** \$22.5 million total, 53% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Allan Gebhard, president; John Borovsky, Douglas Connell, Dale Wikre, Dean Malotky, vps.

**Contact:** Lori L. Stegink, vp-business development.

assessment, regulatory and public policy analysis, UST management and removal, indoor air quality services.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting.

**Staff:** 425 total; 136 environmental professionals, including 34 principal consultants, 152 consultants; 16 PEs, 13 CPGs, five CHMMs, 37 CIHs, two CGWPs, 10 REAs, two attorneys.

**Branch offices:** Los Angeles; San Francisco; Danbury, Conn.; Miami Atlanta and Savannah, Ga.; Honolulu. Chicago and Rockford, Ill. Indianapolis; Wichita, Kan.; Boston; Detroit; New York; Cyril, Okla.; Cleveland; Portland, Ore.; Philadelphia; Seattle.

**Service area:** Nationwide.

**Compensation:** By the project; by the hour: \$40 to \$150.

**1997 gross revenues:** \$52 million total, 30% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Thomas P. Kowalski, president/CEO; Mark Schumacher, vp/CFO; Alice Farrar, senior vp/national director-environ-

Continued on next page

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### Bowser-Morner Inc.

4518 Taylorsville Road,  
P.O. Box 51, Dayton, Ohio 45401;  
937-236-8805; fax: 937-233-2016

**Services began:** 1980.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, UST management and removal.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, subsurface investigations, analytical chemistry testing, geotechnical engineering, laboratory testing.

**Staff:** 165 total; 12 environmental professionals, including four principal consultants, eight consultants; two PEs, four CPGs, one CHMM, one REA.

**Clients:** 15 environmental consulting clients; 15 corporate/institutional clients.

**Specialties:** Manufacturing, commercial, attorneys.

**Branch offices:** Lexington, Ky.; Toledo, Ohio.

**Service area:** Nationwide.

**Compensation:** By the project; on retainer.

**1997 gross revenues:** \$10 million total, 35% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Steven M. Bowser, president; Richard Hoppenjans, chief engineer; Kenneth A. Taylor, senior vp-construction services division.

**Contact:** Gerald H. Degler, vp/director-marketing.



### Cistar Associates Inc.

1240 Pawtucket Ave.  
Rumford, R.I. 02916;  
401-431-9044; fax: 401-431-9046

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal.

**Other services:** Environmental consulting to insurers and policymakers, general risk management consulting.

**Staff:** Six total; four environmental professionals, including three principal consultants, one consultant; two PEs, one CPG, one CIH.

**Clients:** 38 environmental consulting clients; 15 corporate/institutional clients.

**Specialties:** Construction, educational institutions.

**Branch offices:** Canton, Mass.

**Service area:** New England.

**Compensation:** By the project; by the hour: \$80 to \$130.

**1997 gross revenues:** \$800,000 total, 50% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Michael F. Geisser, president; Deborah A. Pereira, vp; Leland J. Figgins Jr., vp.

### Clayton Group Services Inc.\*

41650 Gardenbrook Road,  
Suite 155, Novi, Mich. 48375;  
248-344-8850; fax: 248-344-0229  
<http://www.claytonenv.com>

**Services began:** 1954.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk as-

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*Continued from previous page*

mental health/safety; Lisa Simkins, senior vp/COO; Robert Lieckfield, national laboratory director/senior vp.

**Contact:** Alison Lindelien, manager-marketing support services; 1252 Quarry Lane, Pleasanton, Calif. 94566; 510-426-2600.

*\* Formerly Clayton Environmental Consultants Inc.*

**Comco Safety Consulting Inc.**

2365 E. Sepulveda Blvd.,  
Long Beach, Calif. 90810;  
562-981-5335; fax: 562-981-5330  
<http://www.comcosafety.com>

**Services began:** 1984.

**Services:** Manufacturing plant audits, design of waste minimization plans, litigation support, UST management and removal, safety plans for environmental projects.

**Other services:** General risk management consulting.

**Staff:** Eight total; four environmental professionals, including two principal consultants, two consultants; two PEs, one CHMM, two REAs.

**Specialties:** Chemical, petrochemical, water management.

**Service area:** Worldwide.

**Compensation:** By the project; on retain-

er, by the hour: \$35 to \$95.

**1997 gross revenues:** \$595,000 total, 45% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Don Rhodes, president; Joy James, treasurer; Joann Blayney, vp.

**Contact:** Joann Blayney.



**DPR Environmental**

E-1500 First National Bank Building,  
332 Minnesota St.,  
St. Paul, Minn. 55101;  
612-227-6500; fax: 612-227-5522  
<http://www.dpra.com>

**Services began:** 1979.

**Parent:** DPR Inc.

**Services:** Real estate audits, design and analysis of remediation plans, litigation support, regulatory and public policy analysis, UST management and removal, environmental health/safety inspections and training.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting.

**Staff:** 175 total; 35 environmental professionals, including 15 principal consultants, 20 consultants; nine PEs, one CPG, one CHMM, one CGWP, two attorneys.

**Clients:** 125 environmental consulting clients; 75 corporate/institutional clients.

**Specialties:** Financial institutions, insurance companies, law firms.

**Branch offices:** Washington; Princeton, N.J.; Oak Ridge, Tenn.; Milwaukee.

**Service area:** Eastern and Midwestern states.

**Compensation:** By the hour: \$35 to \$130.

**1997 gross revenues:** \$16 million total, 25% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Dick Seltzer, president/CEO; Mike Barclay, Tom Eyestone, Dan Francke, Chris Lough, senior vps.

**Contact:** Carol Samat, principal.

**Dames & Moore Group**

911 Wilshire Blvd., Suite 700,  
Los Angeles, Calif. 90017;  
213-996-2000; fax: 213-996-2290  
<http://www.dames.com>

**Services began:** 1932.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting, earthquake risk reduction through retrofit strengthening.

**Staff:** 4,124 total; 1,800 professionals\*, including 1,537 PEs, 32 CPGs, seven CHMMs, 10 CIHs, 40 REAs, 20 attorneys.

**Clients:** 1,700 environmental consulting clients; 1,275 corporate/institutional clients.

**Service area:** Worldwide.

**Compensation:** By the project.

**1997 gross revenues:** \$676 million total; 24%\* from environmental risk management consulting directly to corporations and institutions.

**Officers:** Art C. Darrow, CEO/president; Mark Snell, executive vp/CFO; Leslie Puget, corporate controller; George W. Long, treasurer; Stephanie Hunter, senior cp/chief of staff.

**Contact:** R.L. Trailor, 213-996-2490.

*\* Estimate.*



**ECS Risk Control Inc.**

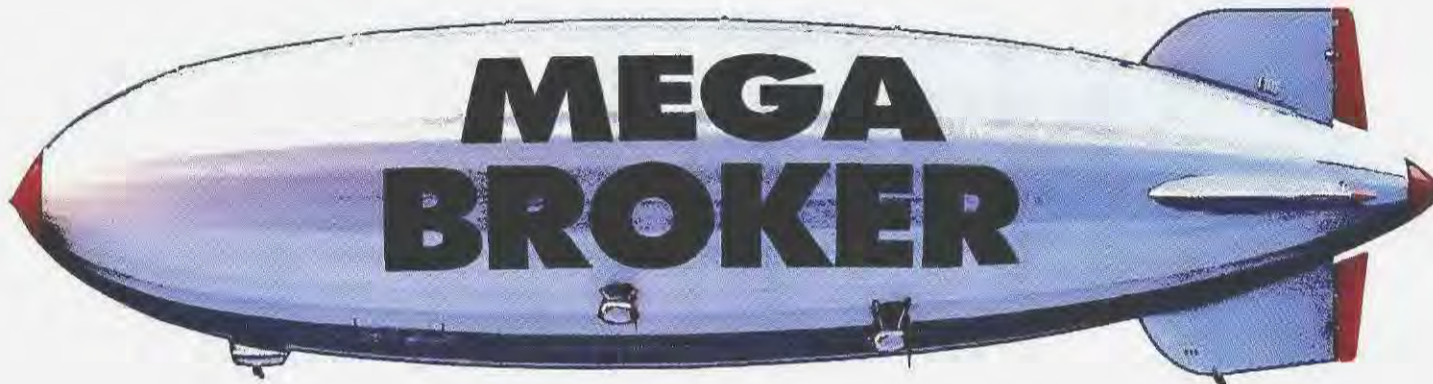
600 Eagleview Blvd.,  
P.O. Box 640, Exton, Pa. 19341;  
800-858-0853; fax: 610-458-7285  
<http://www.ecsriskcontrol.com>

**Services began:** 1985.

**Parent:** ECS Inc.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal, risk and process safety management, emergency planning/response, training, benchmark analysis.

**Other services:** Environmental consulting to insurers and policymakers, general risk management consulting, industrial hygiene services, safety training, auditing and program support, process safety management, workers comp analysis, industrial health care



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# Bringing managed care to workers comp

Efforts can reduce fraud, curb costs and improve outcomes

By Michael Weinper

**T**HROUGHOUT THE PAST DECADE, employers have been concerned about curbing rising workers compensation costs, reducing fraud and improving efficiencies in the system.

The impetus to apply managed care principles to workers comp was fueled by the desire to experience the same kinds of cost savings employers saw on the group health side.

However, differences between the group health system and workers comp make it impossible to import the traditional managed care model into workers comp "as is."

As we enter the second generation of workers comp managed care, several managed care practices are becoming increasingly widespread.

With more than 40% of workers comp injuries involving musculoskeletal injuries for which rehabilitation services are usually required, the role of rehabilitation therapists and services is a critical component of managing medical care for injured workers.

The relationships among payers, physicians, therapists and patients can be modified using managed care approaches to increase accountability, improve cost-effectiveness and enhance outcomes.

The six managed care approaches most prevalent in workers compensation are:

• **Provider networks.**

In workers comp, these networks should consist of physicians and providers who have experience in occupational medicine, understand the workers comp system and, above all, practice the "early and safe return to work" philosophy that spells success in the workers comp system.

The advantages of using an experienced network can be realized only if the employee stays within the network for care.

Although virtually all states allow the employer to direct the employee to a network or selected provider for a period of time, after that period elapses, the only factor that will keep workers in the network is workers' level of satisfaction with their care. It is in the payer's interest to keep the employee in the network, because once the employee leaves the controlled network, the potential for abuse of the system significantly increases.

Responsibility for patient satisfaction resides with the physician and the therapist. Consequently, the network should focus on patient satisfaction and outcomes. It should have in place an objective mechanism for measuring patient satisfaction and for remedying any problems that may surface in this assessment.

The network also should have a means of measuring patient care outcomes in terms of improved functioning.

In addition to keeping the employees within the network, the payer has a stake in getting them there in the first place. Innovative incentive programs such as the one at Fremont Health in Glendale, Calif.—the managed care affiliate of Fremont Compensation Insurance Co.—give claims units incentives to refer cases to their provider network through monthly "report cards" that measure the track record in making appropriate referrals.

The system is designed to get patients to the network providers where they will get the care they need, according to John Roughan, assistant vp-network development at Fremont Health.

All cases requiring rehabilitation therapy are automatically referred to a nurse case manager for handling. The nurse case manager assists the patient with a referral to a provider and then coordinates the patient's care by reviewing the care plan, authorizing an appropriate number of visits and monitoring progress.

• **Reimbursement.**

In return for receiving a volume of patient referrals from the employer, the network may offer a discount on its service fees. Because of varying restrictions among the states as to how long employers can direct employees to certain providers, it is usually not possible to use a capitated system of reimbursement in workers comp.

It's important to note that in states that have a mandated state fee schedule, rates may already be set at the lowest level allowed. In this situation, the advantage that the employer and insurer get from the network is improved outcomes and more efficient utilization.

One reimbursement option to avoid in workers comp is the network that rewards itself and its providers based on the volume of services that it provides. For the appropriate incentives to be in place, members should pay the network a flat fee that is not directly tied to the volume of referrals or services.

Another situation to avoid is the ancillary facility or service owned by a physician or group of

**In Louisiana, incorporating peer review—which uses therapists to review the care provided by other therapists—reduced the cost per case 20% during a two-year period.**

physicians. A 1992 William M. Mercer Inc. study found that the number of patients referred for physical therapy doubled when the physicians making the referrals also owned the physical therapy clinics

The Nov. 19, 1993, edition of the *New England Journal of Medicine* reported that physician self-referral of physical therapy increased utilization by more than 110%, or by a ratio of 2.1 to 1.

• **Case management and utilization review.**

The involvement of case managers and utilization review in workers comp is becoming more widespread and more in depth. Involving case management early in complex cases is critical to getting the appropriate care plan in place to properly manage the case and to put the injured worker back on the road to recovery. This intervention is also vital to avoid the runaway costs and services often associated with unmanaged workers comp medical care.

Whether payers delegate the review process to credible third parties or do it in-house, documentation from therapists and providers should substantiate the need for the recommended care plan and demonstrate the patient's progress on the treatment regimen. Any aberrant case should be reviewed.

Peer review using therapists who have experience in private practice to review the care provided by other therapists has several unique advantages. First, experienced therapists will recognize when another provider is "gaming" the system.

Second, the peer therapist will know what the appropriate care parameters are for a specific diagnosis or situation.

Third, peers also are able to interpret documentation to understand what is really going on. Using peers in the oversight function will foster appropriate utilization.

The potential for good care management by peers to enhance both the cost-effectiveness and the outcomes for workers comp patients is immense. In one scenario in Louisiana, for example, the cost per case was reduced 20% during a two-year period

through the use of a rehabilitation network that incorporated these practices.

Having the network assume the function of case management and utilization review also has distinct advantages. If the network is empowered by the insurer, unauthorized care from a provider is not reimbursed. Over and above this potential short-term adverse financial impact, providers have a stake in the future of network membership.

It is not just one case that is on the line—it is the entire body of referrals that they may receive from this network. If the network is dropped from membership because of inappropriate utilization, this consequence will affect their other lines of business.

This factor is a powerful incentive that also encourages appropriate utilization.

• **Bill review.**

This function, which has been a part of both workers comp and group health for years, assumes additional importance as a means to ensure that preferred provider organization discounts are recognized and taken and that recommendations made by case managers and UR managers are incorporated into the treatment plan and into the billing.

• **Return-to-work programs.**

While they are not in and of themselves managed care practices, the combination of case management and coordination among the payer, patient and provider that is necessary to plan and implement a successful return-to-work program is essential to produce the optimal outcome that is also the goal for a managed care plan.

In workers comp today, aggressive care and early intervention are given as practices that foster early and appropriate functional improvement. Care must be taken to be sure the patient returns at the proper time—neither too soon nor too late. The correct timing of the return to work is fostered by documentation and standards of care that should be developed based on experience with specific diagnoses and monitored through patient satisfaction questionnaires.

• **Prevention.**

Group health managed care plans traditionally have touted their strength in preventive services—encouraging regular checkups and immunizations, for example. The prevention component of a workers comp managed care plan involves the analysis of the workplace environment and the implementation of programs to prevent injury, foster a safe workplace, and make all levels of employees realize that safety is everyone's responsibility.

The workers comp network should contribute to the prevention mentality by offering unique services such as job site analysis and job testing, work hardening and conditioning. The network should have the potential to provide these services to a wide geographic area encompassing all job sites of a company.

There is an untapped opportunity for workers comp insurers to incorporate managed care principles from the group health side. Carefully choosing their provider networks, working with them to better manage the medical care plan, and holding them accountable for appropriate use that fosters an early, safe return to work will go a long way toward meeting that potential. **B**



Michael Weinper is president and chief executive officer of PTPN, a Woodland Hills, Calif.-based outpatient rehabilitation network with services in 24 states.

# Public, private work similar but different

By George L. Head

**A**RE THERE ANY TRULY significant differences between risk management in the public and private sectors?

Most students and practitioners of public administration adamantly answer "Yes," asserting that managing a city, a county or a park district, for example, is much different than running a for-profit business. These general administrative differences, they contend, lead to concrete, practical differences in risk management between private- and public-sector entities.

Some who do not agree argue that there are likely to be more risk management differences between two organizations in either the private or the public sector—for example, more differences between risk management for a nationwide steel manufacturer and risk management for an individual orthodontist—than there are between risk management for the average private firm and the typical public entity.

Knowing the differences between public- and private-sector risk management are fundamental or superficial is important to risk management professionals. It is important to risk managers seeking to move between sectors to enhance their careers. It is important to insurance company commercial lines experts, accustomed to working with policyholders in one sector and taking on new responsibilities for policyholders in the other sector. And it is important to insurance agents, brokers and risk management consultants, working daily with a variety of private- and public-sector clients.

The question of whether there are significant contrasts between public- and private-entity risk management has been very important to my Insurance Institute of America colleagues and me as we have joined forces with the Public Risk Management Assn. to develop a Public Entity Risk Management course. It builds on—but more importantly goes beyond—the content of the three-course Associate in Risk Management curriculum that leads to the ARM designation now held by more than 19,000 risk management professionals. The public entity course will focus on what is really special about risk management for public entities. This new course, to be introduced in the spring of 1999, will be one of several risk management educational innovations being created in a new division of the institutes, the Center for Advanced Risk Management Education.

One major objective of CARME is to partner with professional associations such as PRIMA to develop new, highly relevant educational resources needed by the professionals these organizations serve.

Working with PRIMA to develop the new Public Entity Risk Management course has made it clear there are some fundamental differences between public- and private-sector risk management. These differences are grouped under the three headings that follow. The analytically interesting distinctions are not that a public entity's loss

exposures are somehow more challenging than those of private enterprise. The stimulating challenges arise instead from three ways in which a public entity is, by its very nature, a fundamentally different risk management "animal" than a private organization:

- Public entities are responsible for numerous essential, high-risk, non-delegable functions.

Governmental bodies must govern. They have no choice but to continue maintaining law and order, operating public schools, keeping the roads open and, in many communities, supplying such services as running water, airport facilities and hospital care. A public entity cannot stop these essential activities, even temporarily, just because, for example, all its police cars are carried off in a flood or its computerized property tax records get erased.

"Government Reopening Next Month After Structural Repairs" is not a sign a governor can hang on the front door of the state Capitol after a sinkhole opens under the Capitol building.

"Sorry—our computers are down just now" is not a valid reason for closing a police station until the computers are up again. Even if a public entity privatizes activities such as operating jails or collecting taxes, the responsible public entity still faces the liability and net income loss exposures that inevitably arise from performing these activities improperly.

- Public entities seek primarily the public interest, not profits.

In the private sector, the ultimate goal of generating profits is the driving force behind most companies' efforts to prevent accidents, to keep factories and offices running and, in general, to control costs (including risk management costs).

Unlike most private companies, most public entities do not seek profits. Instead, public entities justify their existence and measure their performance in terms of public service goals—better schools, less crime, a cleaner environment or less costly and more reliable public utility services, for example.

Therefore, while the risk management professionals of private-sector organizations emphasize their contributions to their organizations' bottom lines, most public-sector risk management professionals wish to be seen by other governmental decision makers as contributing concretely and cost-effectively to the current public service goals of their governing entities. By visibly helping to meet these goals, a public entity's risk management program can assure its budgetary future. In the public sector, meritoriously serving the public interest generally earns a risk management department greater prominence and resources in the next round of the governmental budgeting process.

- Public entities have special privileges but also are subject to special procedural limitations and political and budgetary concerns that often affect their risk management actions.

In general, public entities have available to them some

risk management options that private organizations generally do not. Conversely, other options are open to private companies but not to public entities.

As one example, state insurance laws on pooling suit the risk financing needs of public entities more than they suit the needs of private entities. On the other hand, differences between generally accepted accounting practices and budgeting standards for governments and for private entities make it easier for a private company than for a public entity to accumulate reserves for anticipated accidental losses.

In the same vein, public and private entities each face some risk management challenges the other group does not. For example, private companies must deal with some liability exposures against which sovereign immunity still gives public entities a significant (if dwindling) measure of protection. Many state and federal safety regulations apply only to private people and companies, not to public entities.

On the other hand, private companies can take income tax deductions for the costs of many risk management actions—actions for which public entities must absorb the full cost. Because public entities generally pay no income taxes, they typically have no tax-deductible costs to shift to Uncle Sam. Finally, in making and implementing risk management decisions, managers of private organizations can take action in relative privacy. The risk management decisions of public entities, in contrast, usually must comply with the procedures specified in local, state and federal "sunshine laws," opening a public entity's risk management choices to the scrutiny and criticisms of the entire populace.

Is public entity risk management fundamentally different from risk management in the private sector? Usually yes, but perhaps not always. Risk management differences among organizations often depend more on the scope and variety of each organization's activities than on whether a particular organization is in the public or the private sector.

Clearly, however, public- and private-sector risk management are different—perhaps much like playing the violin is different from playing the piano. They are separate yet related competencies that, like public- and private-sector risk management, should be learned and practiced as distinct, yet complementary, professional skills. **BI**



George L. Head is vp of the American Institute for CPCU and the Insurance Institute of America.

## Court: Modification doesn't trigger fiduciary obligations

**T**he trustees of a multiemployer pension fund were modifying, rather than administering, the plan, and thus the amendment did not trigger the Employee Retirement Income Security Act's fiduciary obligations, according to the 3rd U.S. Circuit Court of Appeals.

The Plumbers & Pipefitters Local Union No. 74 Pension Fund is a defined-benefit plan. The eight trustees (four from the union and four from management) also serve as trustees of the welfare fund. The plan administrator has authority to amend, alter or otherwise change the plan. The pension fund also had a surplus while the welfare fund faced increased health care costs.

The trustees planned to require welfare fund participants pay a \$100 per month fee for their coverage, where none had previously been charged.

### Legal Briefs

The trustees further decided to address the imbalance between the funds by paying an additional \$100 per month in benefits to those members of the pension fund who as members of the welfare fund would now have to pay \$100 each month to the welfare fund. A number of pension fund participants brought this action against the trustees, alleging that the trustees violated their fiduciary duties under ERISA by amending the plan. The trial court ruled for the participants.

The appellate court concluded that the fiduciary duty did not apply in this case. Here the court said the employers and the pension fund jointly share liability for the fund's obligations. Thus, the court

said the rationale for having the fiduciary duty of loyalty apply was absent because the trustees of the plan held the power to incur unfunded liabilities. The court held that the simple fact that the plan at issue is a multiemployer plan was insufficient to cause the fiduciary duty to attach to the trustees' actions to amend the plan. The trial court decision was reversed.

*Walling vs. Brady*, 3rd U.S. Circuit Court of Appeals, July 30, 1997 (BI/02/A.-\$10). **BI**

*These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available by sending a \$10 check payable to Mayo H. Stiegler, to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. List the number for each opinion.*

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## Leading environmental risk management consultants

Consulting firm	1997 unbundled environmental consulting revenues <sup>1</sup> (in millions)	% of total revenues <sup>1</sup>	Total number of 1997 clients	Total 1997 professional staff
Radian International L.L.C.	\$198.0	65.3%	800	786
Dames & Moore Group	162.2 <sup>2</sup>	24.0 <sup>2</sup>	1,700	1,800 <sup>2</sup>
Environmental Resources Management (ERM) <sup>3</sup>	116.0	40.0	500	843
IT Corp.	105.3	29.0	250	219
Professional Service Industries Inc. <sup>4</sup>	49.5	30.0	6,000	370
ENVIRON International Corp.	44.8	80.0	250	200
QST Environmental	43.3	60.0	1,000	216
Woodward-Clyde Consultants	35.7	10.0	351	239
Golder Associates	30.9	17.0	100	NA
Aon Environmental Risk Services	30.0	100.0	600	11

1 From companies and organizations other than insurers and government agencies. 2 Estimate. 3 Fiscal year ending 3/31/98. 4 Formerly PSI. NA=Not available. Source: BI survey

Continued from page 26

support.

**Staff:** 78 total; 67 environmental professionals, including 37 principal consultants, 30 consultants; one PE, two CPGs, three ARMs, two CHMMs, one CIH.

**Clients:** 40 environmental consulting clients; 33 corporate/institutional clients.

**Specialties:** Facilities, construction, transportation.

**Branch offices:** Los Angeles; San Francisco; Hartford, Conn.; Orlando, Fla.; Atlanta; Chicago; Detroit; Dallas; Houston.

**Service area:** Worldwide.

**Compensation:** By the project; by the hour. \$75 to \$150.

**1997 gross revenues:** \$9.4 million total, 10% from unbundled environmental risk management consulting directly to corporations and institutions.

To be included, consultants must offer services directly to corporate and institutional clients on an unbundled basis and must generate at least \$250,000 in annual revenues from unbundled environmental risk management consulting

**Officers:** William Kronenberg, president/CEO; Frank Pillero, executive vp/CFO; James F. Splain, senior vp.  
**Contact:** James F. Splain.

### Ecology & Environment Inc.

Buffalo Corporate Center,  
368 Pleasant View Drive,  
Lancaster, N.Y. 14086-1397;  
716-684-8060; fax: 716-684-0844  
<http://www.ecolen.com>

**Services began:** 1970.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal, environmental impact statements, spill emergency response management, hazard/risk assessments.

**Other services:** Environmental consulting to insurers and policymakers, general risk management consulting.

**Staff:** 950 total; 800 environmental professionals.

**Specialties:** Energy, chemical, manufacturing.

**Branch offices:** Anchorage, Alaska; Los Angeles; San Francisco; Washington, DC; Pensacola and Tallahassee, Fla.; Idaho Falls, Idaho; Chicago; Kansas City, Kan.; Baton Rouge, La.; St. Louis; New York; Cleveland; Cincinnati; Portland, Ore.; Philadelphia; Dallas; Houston; Seattle.

**Service area:** Worldwide.

**Compensation:** By the project.

**1997 gross revenues:** \$70.8 million total, 10% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Gerhard J. Neumaier, president; Frank B. Silvestro, executive vp; Gerald A. Strobel, executive vp-technical; Ronald L. Frank, executive vp-finance/administration; Gerard A. Gallagher Jr., senior vp.  
**Contact:** Ronald J. Skare, vp-sales.

### EnecoTech Inc.

1580 Lincoln St., Suite 1000,  
Denver, Colo. 80203;  
303-861-2200; fax: 303-861-2201  
<http://www.enecotech.com>

**Services began:** 1985.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, UST management and removal.

**Staff:** 150 total; 120 environmental professionals, including 25 principal consultants; eight PEs, 20 CPGs, four CHMMs, two CG-WPs, 15 REAs.

**Clients:** 50 environmental consulting clients; 35 corporate/institutional clients.

**Specialties:** Real estate, manufacturing, oil and gas.

**Branch offices:** Phoenix; Little Rock, Ark.; Los Angeles; San Diego; Chicago; Detroit; Minneapolis; Tulsa, Okla.

**Service area:** Worldwide.

**Compensation:** By the project, by the hour.

**1997 gross revenues:** \$12.5 million total, 80% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Barry Stewart, president; Dave Stephens, vp-technical services; Jim Kuenning, Steve McManamon, Dennis Fransway, regional vps.  
**Contact:** Dave Stephens.

### ENVIRON International Corp.

4350 N. Fairfax Drive,  
Arlington, Va. 22203;  
703-516-2300; fax: 703-516-2345  
<http://www.environcorp.com>

**Services began:** 1982.

**Parent:** Pharmaceutical Product Development (PPDI).

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting.

**Staff:** 325 total; 200 environmental professionals, including 25 PEs, 25 CPGs.

**Clients:** 250 environmental consulting clients.

**Branch offices:** Emeryville, Irvine and Novato, Calif.; Chicago; Princeton, N.J.; Cincinnati; Houston; Liverpool and London, England; Edinburgh, Scotland.

**Service area:** Worldwide.

**Compensation:** By the hour. \$50 to \$350.

**1997 gross revenues:** \$56 million total, 80% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Joseph Highland, CEO; Guy Lewis, vp-finance.



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### Environmental Resources Management (ERM)

855 Springdale Drive, Exton, Pa. 19341; 800-544-3117 or 610-524-3500; fax: 610-524-7335 http://www.erm.com

Services began: 1977.

Services: Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal, catastrophic risk consulting services.

Other services: Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting.

Staff: 2,400 total; 843 environmental professionals, including 303 PEs, 196 CPGs.

Clients: 500 environmental consulting clients; 475 corporate/institutional clients.

Specialties: Manufacturing, chemical industry, petrochemical.

Branch offices: 118 offices worldwide.

Service area: Worldwide.

Compensation: By the project; by the hour: \$60 to \$250.

1997 gross revenues\*: \$290 million total, 40% from unbundled environmental risk management consulting directly to corporations and institutions.

Officers: Paul H. Woodruff, chairman/CEO; Daniel Sevicik, CFO.

Contact: Gregory Lloyd.

\*Fiscal year ending 3/31/98.

### Environmental Risk Ltd.

120 Mountain Ave., Bloomfield, Conn. 06002; 860-242-9933; fax: 860-243-9055 http://www.erl.com

Services began: 1985.

Services: Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, UST management and removal, pollution legal liability assessments, remediation cost cap insurance.

Other services: Remediation activities;

environmental consulting to insurers and policymakers; general risk management consulting; air, water and waste permit applications; emission and water testing; OSHA compliance; training.

Staff: 42 total; 36 environmental professionals, including six principal consultants, 30 consultants; four PEs, one CPGs, one attorney.

Clients: 500 environmental consulting clients; 100 corporate/institutional clients.

Specialties: Pollution liability insurance companies, financial institutions, real estate developers.

Branch offices: Roswell, Ga.; Clifton, N.J.

Service area: Worldwide.

Compensation: By the project; on retainer; by the hour: \$50 to \$225.

1997 gross revenues: \$6 million total, 50% from unbundled environmental risk management consulting directly to corporations and institutions.

Officers: Gordon T. Brookman, president; David I. Brandwein, Richard S. Atkins, Mitchell M. Wumbrand, vps.

Contact: David I. Brandwein (at above address) or Syed A. Pasha; 1373 Broad St., Clifton, N.J. 07013; 973-773-8322.

### Environmental Solutions Inc.

8147 Delmar Blvd., Suite 219, St. Louis, Mo. 63130-3735; 314-863-9801; fax: 314-721-0759

Services began: 1987.

Services: Real estate audits, manufacturing plant audits, UST management and removal, indoor air quality, radon screening.

Staff: 12 total; five environmental professionals, including two principal consultants, three consultants.

Clients: 15 environmental consulting clients; five corporate/institutional clients.

Branch offices: East Orleans, Mass.

Service area: Illinois, Massachusetts, Missouri.

Compensation: By the project; on retainer; by the hour: \$65 to \$118.

1997 gross revenues: \$850,000 total, 45% from unbundled environmental risk management consulting directly to corporations and institutions.

Officers: William M. Vaughan, president; Judith Q. Zwicker, Jim Foley, vps.

Contact: William M. Vaughan.

Terms are explained on page 24.



### First Risk Management-Legal Division Inc.

1250 Greenwood Ave., Suite 12, Jenkintown, Pa. 19046-2900; 215-885-1125; fax: 215-885-1161

Services began: 1988.

Parent: First Risk Management Co.

Services: Litigation support.

Staff: Three total; one environmental professional; one ARM, one CPCU.

Clients: 12 environmental consulting clients; 12 corporate/institutional clients.

Service area: Nationwide; Puerto Rico.

1997 gross revenues: \$868,000 total,

100% from unbundled environmental risk management consulting directly to corporations and institutions.

Officers: Leonard J. Silver, president; Bonnie Esposito, corporate secretary.

Contact: Leonard J. Silver.

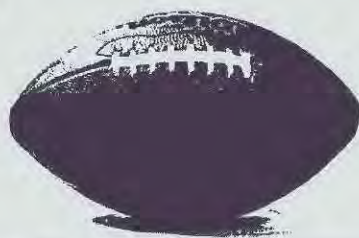
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**GAI Consultants Inc.**

570 Beatty Road, Monroeville, Pa. 15146-1300; 412-856-6400; fax: 412-856-4970 <http://www.gaiconsultants.com>

**Services began:** 1968.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, UST management and removal.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting.

**Staff:** 410 total; 104 environmental professionals, including 80 PEs, 20 CPGs, one CHMM, one CIH, two CGWPs.

**Clients:** 200 environmental consulting clients; 175 corporate/institutional clients.

**Specialties:** Chemical, utilities, manufac-

turers.

**Branch offices:** Orlando, Fla.; Fort Wayne, Ind.; Boone, N.C.; Monroeville, Pa.; Charleston, W.Va.; Vina Del Mar, Chile.

**Service area:** Worldwide.

**Compensation:** By the project; on retainer; by the hour.

**1997 gross revenues:** \$31.1 million total, 35% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** A.M. Digioia, president; D.W. Okorn, executive vp; T.D. Donovan, secretary/treasurer; L.R. Dodd, R.E. Gray, senior vps.

**Contact:** Precha Yodhane, environmental engineering group manager.

**GZA GeoEnvironmental Inc.**

320 Needham St., Newton Upper Falls, Mass. 02164-1513; 617-969-0050; fax: 617-969-0715 <http://www.gza.net>

**Services began:** 1964.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk as-

sessment, UST management and removal, ecological risk assessments.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting.

**Staff:** 466 total; 63 PEs, 33 CPGs, two CHMMs, five CIHs, two CGWPs, two REAs.

**Clients:** 1,100 environmental consulting clients; 800 corporate/institutional clients.

**Specialties:** Manufacturing, construction, developers.

**Branch offices:** Hartford, Conn.; Atlanta; Portland Maine; Boston and Worcester, Mass.; Detroit and Grand Rapids, Mich.; Charlotte, N.C.; Manchester, N.H.; Wayne, N.J.; Buffalo, N.Y.; Providence, R.I.; Dallas; Rutland and South Burlington, Vt.; Milwaukee.

**Service area:** United States, United Kingdom.

**Compensation:** By the project; on retainer; by the hour.

**1997 gross revenues:** \$59 million total\*, 31% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** M. Joseph Cell, regional operating officer (Great Lakes); William R. Beloff, regional operating officer (Northeast); Joe

Hehir, CFO; Richard M. Simon, vp-professional practice; Andy Pajak, president/CEO.

**Contact:** John E. Ayers, executive vp. \*Estimate.

**Galagher Settlements Co.**

6 School St., Dover, N.H. 03820; 800-320-9013; fax: 603-743-4953

**Services began:** 1985.

**Services:** Litigation support, regulatory and public policy analysis, coverage litigation, site cleanup funding, mass tort litigation.

**Other services:** Environmental consulting to insurers and policymakers.

**Staff:** 64 total; six environmental professionals, including two principal consultants, two CPCUs.

**Clients:** 20 environmental consulting clients; 10 corporate/institutional clients.

**Branch offices:** Boston; Dover, N.H.

**Service area:** Worldwide.

**1997 gross revenues:** \$12.5 million total.

**Officers:** John Q. Adams, president/CEO; Patrick J. Murphy, Peter M. Casale, Jerry Schneyer, senior vps.

**Contact:** Raymond S. Kagels, assistant vp.

**Giles Engineering Associates Inc.**

N8 W22350 Johnson Road, Waukesha, Wis. 53186; 414-544-0118; fax: 414-549-5868

**Services began:** 1984.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, litigation support, UST management and removal, asbestos surveys, radon evaluations, geophysical surveys.

**Other services:** Environmental consulting to insurers and policymakers.

**Staff:** 120 total; 40 environmental professionals, including four principal consultants; 36 consultants; 15 PEs, 10 CPGs, one attorney.

**Clients:** 100 environmental consulting clients.

**Specialties:** Retail/commercial; lending institutions; government agencies.

**Branch offices:** Anaheim, Calif.; Atlanta; Columbia, Md.; Dallas; Seattle; Madison and Waukesha, Wis.

**Service area:** Nationwide.

**Compensation:** By the project; by the hour. \$45 to \$110.

**1997 gross revenues:** \$10 million total; 40% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Terry Giles, president; Joyce Giles, human resources director; Pat Reuterman, vp; Robert Russell, regional manager.

**Contact:** Paul Griese.

**Golder Associates**

3730 Chamblee Tucker Road, Atlanta, Ga. 30341; 770-496-1893; fax: 770-934-9560 <http://www.golder.com>

**Services began:** 1980.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal, strategic environmental management systems consulting.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting, industrial hygiene and occupational health audits, safety audits, risk management planning.

**Staff:** 1,899 total.

**Clients:** 100 environmental consulting clients; 100 corporate/institutional clients.

**Specialties:** Insurance, governmental entities.

**Branch offices:** Gainesville and Jacksonville, Fla.; Atlanta; Mount Laurel, N.J.; Houston; Seattle; Calgary, Alberta; Guelph; London and Mississauga, Ontario; Vancouver, British Columbia; Melbourne, Australia.

**Service area:** Worldwide.

**Compensation:** By the project; on retainer; by the hour.

**1997 gross revenues:** \$182 million total; 17% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Michael L. Cannon, director-industrial hygiene/safety; Reidar Zapf-Gilje, Canadian director-environmental sciences; Jeffery J.C. Paul, program director/principal.

**Contact:** Kristin D. Thomas.

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**HWS Consulting Group Inc.**

825 J St., P.O. Box 80358, Lincoln, Neb. 68501; 402-479-2200; fax: 402-479-2276 <http://www.hws-con.com>

**Services began:** 1944.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, UST management and removal, asbestos consulting.

**Other services:** Environmental consulting to insurers and policymakers.

**Staff:** 130 total; 45 environmental professionals, including four principal consultants; 18 consultants; 10 PEs, seven CPGs.

**Clients:** 50 environmental consulting clients; 20 corporate/institutional clients.

**Specialties:** Communications, retail chain corporations, transportation corporations.

**Branch offices:** Denver; Lombard, Ill.; Manhattan, Kan.; Lincoln and Omaha, Neb.

**Service area:** Nationwide.

**Compensation:** By the project; by the hour. \$27 to \$120.

**1997 gross revenues:** \$8.4 million total; 25% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** James L. Linderholm, president; Thomas L. Thelen, Gary A. Westergren

Continued on next page

Continued from previous page  
senior vps; David W. Thomssen, James L. Heckman, vps.

### Hydro-Environmental Technologies Inc.

54 Nonset Path,  
Acton, Mass. 01720;  
978-263-4044; fax: 978-635-0980

**Services began:** 1986.  
**Services:** Real estate audits, design and analysis of remediation plans, litigation support, regulatory and public policy analysis, UST management and removal.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers.

**Staff:** 31 total; 25 environmental professionals, including 10 principal consultants, 15 consultants; three PEs, four CPGs, one CHMM.

**Clients:** 25 environmental consulting clients; all are corporate/institutional clients.  
**Specialties:** Insurance, petrochemical, atomneys.

**Branch offices:** Alameda, Calif.; Hunt Valley, Md.; Acton, Mass.; Syracuse, N.Y.  
**Service area:** Nationwide.

**Compensation:** By the project; on retainer; by the hour: \$35 to \$150.

**1997 gross revenues:** \$2.6 million total, 40% from unbundled environmental risk management consulting directly to corporations and institutions.

**Contact:** Hayden Solomon, president.

### Hydro-Terra Inc.

9190 Red Branch Road, Suite 290,  
Columbia, Md. 21045;  
410-995-1246; fax: 410-730-1785

**Services began:** 1982.  
**Services:** Real estate audits, design and analysis of remediation plans, litigation support, public health risk assessment, UST management and removal.

**Other services:** Environmental consulting to insurers and policymakers, environmental sampling.

**Staff:** Seven total; four environmental professionals, including one principal consultant, three consultants; one PE, one CPG.

**Clients:** Five environmental consulting clients; all are corporate/institutional clients.

**Specialties:** Manufactured gas plants.  
**Service area:** District of Columbia, Maryland, Pennsylvania, Virginia.

**Compensation:** By the hour: \$37 to \$108.

**1997 gross revenues:** \$750,000 total, 50% from unbundled environmental risk

management consulting directly to corporations and institutions.

**Contact:** Thomas R. Mills, president.

## I

### IT Corp.

2790 Mossie Blvd.,  
Monroeville, Pa. 15146-2792;  
412-372-7701; fax: 412-858-3924  
<http://www.itcorporation.com>

**Services began:** 1926.  
**Parent:** International Technology Corp.  
**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization

plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal, strategic environmental planning, brownfields remediation, 112(r) air services, technology development.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting.

**Staff:** 4,900 total; 219 environmental professionals, including 219 principal consultants; 296 PEs, 240 CPGs, 56 CHMMs, 17 CIHs, 7 CGWPs, 45 REAs, 23 atomneys.

**Clients:** 250 environmental consulting clients; 175 corporate/institutional clients.

**Specialties:** Chemical, petroleum, manufacturing.

**Branch offices:** 62 offices nationwide.

**Service area:** Worldwide.

**Compensation:** By the hour: \$37 to \$160.

**1997 gross revenues:** \$363 million total, 29% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Anthony J. DeLuca, CEO/president; Raymond J. Pompe, James R. Mahoney, senior vps; Harry J. Soose, vp/controller; James G. Kirk, vp/corporate counsel.

**Contact:** Benjamin J. Kosek, vp-estimating/proposal development.

## J

### J&H Marsh & McLennan Inc.

1166 Avenue of the Americas,  
New York, N.Y. 10036;  
212-345-6000

**Services:** Risk and insurance services.

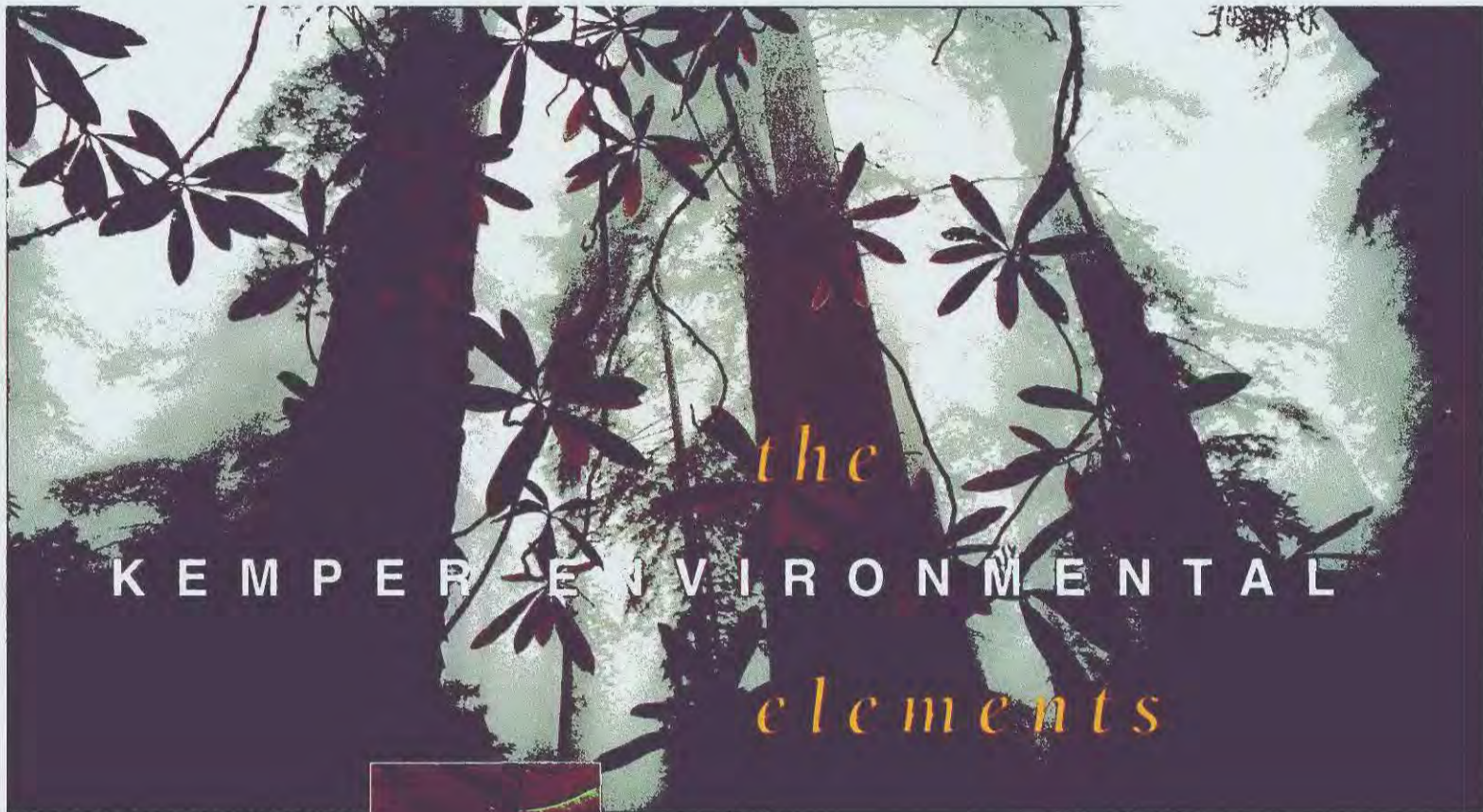
**Staff:** 22 environmental professionals.

**Specialties:** Manufacturing, construction, mergers and acquisitions.

**Branch offices:** Los Angeles; San Francisco; Denver; Washington; Atlanta; Chicago; Boston; New York; Philadelphia; Houston.  
**Service area:** Worldwide.  
**Compensation:** On retainer; commission.  
**1997 gross revenues:** \$3 billion total.  
**Officers:** Ana Maria Zalles Moore, Greg Schilz, Jim Cox, senior vps.  
**Contact:** Jim Cox, 212-574-8287; John Harrah, 212-574-8396.

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Continued from previous page

## K

### Kaye Environmental

122 E. 42nd St., Charin Building,  
New York, N.Y. 10168;  
212-338-2621; fax: 212-986-2159  
<http://www.kayegroup.com>

**Services began:** 1996.

**Parent:** Kaye Group Inc.

**Services:** Real estate audits, manufacturing plant audits, public health risk assessment, risk financing, cost benefit analyses, contract review.

**Other services:** General risk management consulting.

**Staff:** Six total; three environmental professionals, including one principal consultant, two consultants; three CPGs, one ARM, one CPCU, one CIH, one CGWP, one REA.

**Clients:** 40 environmental consulting clients; all are corporate/institutional clients.

**Specialties:** Real estate, construction, financial services.

**Branch offices:** Pasadena, Calif.; New York.

## L

### LAN Associates Inc.

662 Goffle Road,  
Hawthorne, N.J. 07506;  
973-423-0350; fax: 973-423-5175

**Services began:** 1965.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, UST management and removal, permitting and compliance monitoring.

**Staff:** 42 total; including two principal consultants, six consultants; two PEs, one CPG, one CHMM, one REA.

**Clients:** 50 environmental consulting clients; 40 corporate/institutional clients.

**Specialties:** Manufacturing, research and development, public agencies.

**Branch offices:** St. Augustine, Fla.

**Service area:** Nationwide.

**Compensation:** By the hour: \$55 to \$125.

**1997 gross revenues:** \$3.6 million total, 35% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Ken Karle, president; Guy VanDoren, CEO; John Lacz, vp; Ronald Panicucci, treasurer; Steve Secora, secretary.

**Contact:** Ronald Panicucci.

### Levine Fricke Recon Inc.

1920 Main St., Suite 750,  
Irvine, Calif. 92614;  
714-955-1390; fax: 714-955-0683  
<http://www.lfr.com>

**Services began:** 1969.

**Parent:** F.C. International.

**Services:** Real estate audits; manufacturing plant audits; design and analysis of remediation plans; design of waste minimization plans; litigation support; public health risk assessment; regulatory and public policy analysis; UST management and removal; air quality, asbestos and lead paint management; geology; industrial hygiene; wetlands restoration; geotechnical engineering.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting, information technology.

**Staff:** 469 total; 380 environmental professionals, including 34 PEs, 40 CPGs, one CHMM, four CIHs, 21 REAs.

**Clients:** 325 environmental consulting clients.

**Branch offices:** Scottsdale, Ariz.; Emeryville, Roseville and Santa Maria, Calif.; Washington; Tallahassee and Tampa, Fla.; Atlanta; Honolulu; Elgin, Ill.; Weymouth, Mass.; Raritan, N.J.; New York; Warwick, R.I.

**Service area:** Worldwide.

**Compensation:** By the project; by the hour: \$42 to \$225.

**1997 gross revenues:** \$55 million total, 35% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** James D. Levine, president/principal civil engineer; Alain Thieffry, CEO; Sharon Hall, vp; Eileen Wintemute, vp/principal chemical engineer; Charles Robinson, principal engineer; Chapin Koch, vp-marketing.

**Contact:** Ellis J. Biderson, executive director-business development or Chapin Koch.

## N

### Normandeau Associates Inc.

25 Nashua Road,  
Bedford, N.H. 03110;  
603-472-5191; fax: 603-472-7052

**Services began:** 1970.

**Parent:** Thermo TerraTech Inc.

**Services:** Real estate audits, design and analysis of remediation plans, public health risk assessment, environmental impact statements, natural resource damage assessments, ecological risk assessments.

**Other services:** Ecological risk assessments, human health risk.

**Staff:** 160 total; including 15 principal consultants, 100 consultants; one PE, three CPGs.

**Specialties:** Industry, government, utilities.

**Branch offices:** Richmond, Calif.

Continued on next page



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**Service area:** Nationwide.

**Compensation:** By the hour.

**1997 gross revenues:** \$13 million total.

**Officers:** Pamela S. Hall, president; Peter C. Kinner, Robert Blye Jr., senior vps; Paul Harmon, Mark T. Mattson, vps.

**Contact:** Peter C. Kinner.

**Q**

### QST Environmental

8900 N. Industrial Road,  
Peoria, Ill. 61615;  
309-692-4422; fax: 309-692-9364  
<http://www.qstworld.com>

**Services began:** 1965.

**Parent:** CILCORP Inc.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal, environmental risk assessments.

**Other services:** Remediation activities,

environmental consulting to insurers and policymakers, general risk management consulting, environmental management systems, including ISO 14000.

**Staff:** 600 total; 216 environmental professionals, including 11 principal consultants, 205 consultants; 44 PEs, 12 CPGs, six CHMMs, three CIHs, four REAs.

**Clients:** 1,000 environmental consulting clients.

**Branch offices:** 26 offices nationwide.

**Service area:** Nationwide.

**Compensation:** By the project.

**1997 gross revenues:** \$72.2 million total, 60% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Thomas F. Carter Jr., president/COO; Karen Jensen, senior vp; Kirk Sweetland, Stephen Carter, Robert Hilty, vps.

**Contact:** Kirk Sweetland.

**R**

### Radian International L.L.C.

P.O. Box 201088,  
Austin, Texas 78720-1088;  
512-454-4797; fax: 512-454-7129  
<http://www.radian.com>

**Services began:** 1969.

**Parent:** Dow Environmental Inc./TCM Technologies Inc.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal, compliance strategies, training, compliance soft-

ware, compliance procedures manuals.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting, monitoring, modeling, environmental data management, control technology, evaluation/troubleshooting, permitting, waste management, wastewater treatment design.

**Staff:** 1,966; 786 environmental professionals, including 197 principal consultants, 590 consultants; 202 PEs, 55 CPGs, 16 CHMMs, 18 CIHs, 1 CGWP, 14 REAs, six attorneys.

**Clients:** 800 environmental consulting clients.

**Specialties:** Large industrial companies.

**Branch offices:** 35 offices worldwide.

**Service area:** Worldwide.

**Compensation:** By the project; by the

Continued on page 41

### O'Connor Associates Environmental Inc.

639 Fifth Ave S.W.,  
Calgary, Alberta, Canada T2P 0M9;  
403-294-4200; fax: 403-294-4240

**Services began:** 1979.

**Services:** Manufacturing plant audits, design and analysis of remediation plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting, environmental assessments.

**Staff:** 160 total; 75 environmental professionals, including nine principal consultants, 66 consultants; 27 PEs, 11 CPGs.

**Clients:** 40 environmental consulting clients; all are corporate/institutional clients.

**Specialties:** Petroleum, chemical manufacturers, financial institutions.

**Branch offices:** Edmonton, Alberta; Fort St. John and Vancouver, British Columbia; Winnipeg, Manitoba; Toronto; Regina, Saskatchewan.

**Service area:** Worldwide.

**Compensation:** By the project; by the hour: \$50 to \$130.

**1997 gross revenues:** \$11 million total, 50% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** M.J. O'Connor, president; J.G. Agar, R.D. King, J.G. Hawkins, D.R. Williams, R.C.E. McKee, J. Naus, J.G. Carss, W.R. Livingstone, associates.

**Contact:** David R. Williams.

**P**

### Professional Service Industries Inc.\*

4820 W. 15th St.,  
Lawrence, Kan. 66049-3846;  
800-548-7901; fax: 785-865-9170  
<http://www.psiusa.com>

**Services began:** 1961.

**Parent:** Professional Service Industries Holding Inc.

**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, litigation support, regulatory and public policy analysis, UST management and removal.

**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting.

**Staff:** 2,878; 370 environmental professionals, including 33 PEs, 59 CPGs, two CHMMs, three CIHs, one CGWP, 15 REAs, one attorney.

**Clients:** 6,000\*\* environmental consulting clients; 1,900\*\* corporate/institutional clients.

**Specialties:** Financial, property owners, property managers.

**Branch offices:** 136 offices nationwide.

**Service area:** Nationwide.

**Compensation:** By the project; on retainer; by the hour: \$45 to \$150.

**1997 gross revenues:** \$165 million total, 30% from unbundled environmental risk management consulting directly to corporations and institutions.

**Officers:** Stephen Fitzer, president/CEO; Murray Savage, treasurer/CFO; Howell Branum, COO; Robert Pfister, corporate secretary; Mary Grider, vp-human resources.

**Contact:** Tom Boogher, executive vp-corporate marketing.

\* Formerly PSI. \*\* Estimate.

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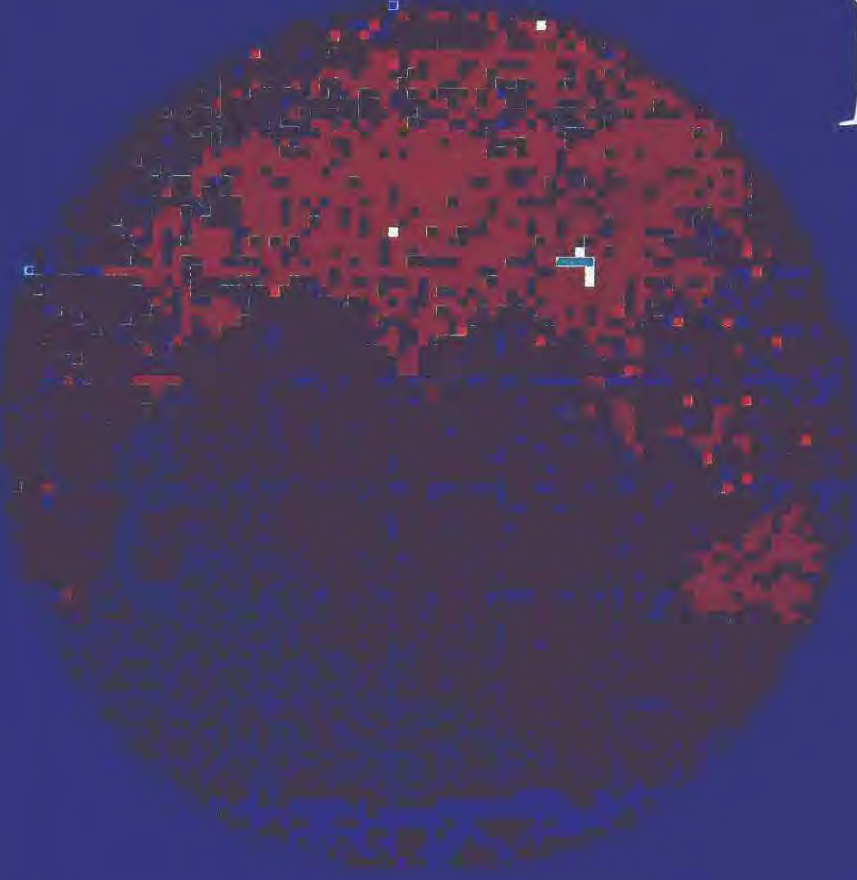
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## PRODUCTS & SERVICES LISTING

Issue of May 25

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hour.  
**1997 gross revenues:** \$303 million total, 65.3% from unbundled environmental risk management consulting directly to corporations and institutions.  
**Officers:** Donald M. Carlton, president; W. David Balfour, Bill Corbett, Stan Porfido, Don Jackson, Leigh Hayes, senior vps.  
**Contact:** Susan Fernandes, vp.

**Risk Science Inc. (RSI)**  
 11166 Main St., Suite 100,  
 Fairfax, Va. 22030;  
 703-591-0113; fax: 703-591-1790  
 http://www.microstate.com  
**Services began:** 1981.  
**Parent:** Microstate Corp.  
**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, regulatory and public policy analysis, UST management and removal.  
**Other services:** Environmental consulting to insurers and policymakers, general risk management consulting, information technology solutions.  
**Staff:** 16 total; five environmental professionals, including one principal consultant, four consultants; two PEs, one CPG, one CHMM, one CIH, two REAs, one attorney.  
**Clients:** 120 environmental consulting clients; 110 corporate/institutional clients.  
**Service area:** Worldwide.  
**Compensation:** By the project; on retainer; by the hour: \$65 to \$250.  
**1997 gross revenues:** \$2 million total, 50% from unbundled environmental risk management consulting directly to corporations and institutions.  
**Contact:** Jeff A. Lalande, managing director.



**STS Consultants Ltd.**  
 750 Corporate Woods Parkway,  
 Vernon Hills, Ill. 60061;  
 847-279-2500; fax: 847-279-2520  
 http://www.stsstd.com  
**Services began:** 1948.  
**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, UST management and removal, indoor air quality, industrial hygiene.  
**Other services:** Remediation activities, environmental consulting to insurers and policymakers, general risk management consulting.  
**Staff:** 365 total; 154 environmental professionals, including 20 principal consultants, 60 consultants; 49 PEs, 17 CPGs, two CHMMs, one CIH, six CGWPs, one REA.  
**Clients:** 590 environmental consulting clients; 567 corporate/institutional clients.  
**Specialties:** Pulp & paper, waste management.  
**Branch offices:** Detroit, Kalamazoo and Lansing, Mich.; Minneapolis; Green Bay and Milwaukee, Wis.  
**Service area:** Nationwide.  
**Compensation:** By the project; on retainer; by the hour: \$60 to \$150.  
**1997 gross revenues:** \$32.3 million total, 51% from unbundled environmental risk management consulting directly to corporations and institutions.  
**Officers:** Thomas W. Wolf, president; Gerald E. Murray, CFO; Michael T. Russell, chairman; Clyde N. Baker Jr., William M. Perpitch, senior vps.  
**Contact:** Michael McMurtry, senior toxicologist; 10900 73rd Ave. N., Suite 150, Maple Grove, Minn. 55369-5547; 612-315-6300.

**Sagamore Environmental Services Inc.**  
 7106 E. 71st St.,  
 Indianapolis, Ind. 46256;  
 317-842-0510; fax: 317-842-0547  
**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, litigation support, public health risk assessment, UST management and removal, soil and groundwater investigations, asbestos surveys.  
**Other services:** Remediation activities, general risk management consulting.  
**Staff:** Eight total; four environmental professionals, including one principal consultant, three consultants; one CPG, one CHMM.  
**Clients:** 60 environmental consulting clients.  
**Specialties:** Cellular communications, financial institutions, commercial/residential developers.  
**Service area:** Illinois, Indiana, Kentucky, Michigan, Ohio.  
**Compensation:** By the project.  
**1997 gross revenues:** \$471,000 total,

90% from unbundled environmental risk management consulting directly to corporations and institutions.  
**Officers:** K. Stephen Mohr, president; Kent R. Shadley, vp-technical services; Marsha J. Gray, vp-sales and marketing.  
**Contact:** Marsha J. Gray.

**Sedgwick Environmental Services**  
 3401 West End Ave.,  
 Nashville, Tenn. 37203;  
 615-298-1414; fax: 615-298-9811  
 http://www.sedgwick.com  
**Services began:** 1991.  
**Parent:** Sedgwick Group P.L.C.  
**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, regulatory and public policy analysis, UST management and removal, risk profiling, media crisis training, benchmarking, risk rating, contaminated property development services.  
**Other services:** Environmental consulting to insurers and policymakers, general risk management consulting, environmental claims management, UST claims handling, owner controlled insurance programs, mergers and acquisitions due diligence, ISO 14000 consulting.  
**Staff:** 36 total; 27 environmental professionals, including 12 principal consultants, 15 consultants; 10 PEs, two CPGs, 14 ARMs, seven CPCUs, four CHMMs, five CIHs, one CGWP, one REA, five attorneys.  
**Clients:** 315 environmental consulting clients; 210 corporate/institutional clients.  
**Specialties:** Manufacturing, industrials, public entities.  
**Branch offices:** Orange and San Francisco, Calif.; Washington; West Palm Beach, Fla.; Atlanta; Boston; Portland, Ore.; Harrisburg and Philadelphia, Pa.; Columbia, S.C.; Memphis, Tenn.; Dallas; Seattle; Sydney, Australia; Brussels, Belgium; Toronto; London.

**Service area:** Worldwide.  
**Compensation:** By the project; on retainer; by the hour: \$115 to \$300.  
**1997 gross revenues:** \$1.6 billion total, 1% from unbundled environmental risk management consulting directly to corporations and institutions.  
**Officers:** Donna H. Sandidge, managing director-U.S.; Steve Osselson, national director-Canada; Marcel Steward, national director-U.K.; James Kenneally.  
**Contact:** Donna H. Sandidge, 615-783-2503.

**Squier Associates Inc.**  
 4260 Galewood St.,  
 Lake Oswego, Ore. 97035;  
 503-635-4419; fax: 503-635-1430  
**Services began:** 1975.  
**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, design of waste minimization plans, litigation support, public health risk assessment, UST management and removal, water resources, agricultural chemical management.  
**Other services:** Remediation activities, environmental consulting to insurers and policymakers, geotechnical engineering.  
**Staff:** 30 total; 11 environmental professionals, including four PEs, five CPGs, two REAs.  
**Clients:** 100 environmental consulting clients; 70 corporate/institutional clients.  
**Specialties:** Manufacturing, commercial/industrial real estate, land development.  
**Branch offices:** Portland, Ore.; Seattle, Wash.  
**Service area:** Alaska, California, Idaho, Montana, Nevada, Oregon, Washington.  
**Compensation:** By the project; on retainer; by the hour: \$40 to \$150.  
**1997 gross revenues:** \$2.5 million total, 40% from unbundled environmental risk management consulting directly to corporations and institutions.  
**Officers:** L. Radley Squier, Arian Rippe, Gary Peterson, Saaid Behboodi, Mike Blankinship.  
**Contact:** Mike Blankinship.

**Superior Environmental Corp.**  
 14641 16th Ave., P.O. Box 118,  
 Marne, Mich. 49435-0118;  
 616-677-5255; fax: 616-677-3484  
 http://www.superiorenmvironmental.com  
**Services began:** 1989.  
**Services:** Real estate audits, manufacturing plant audits, design and analysis of remediation plans, litigation support, public health risk assessment, UST management and removal.  
**Other services:** Remediation activities, environmental consulting to insurers and

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Continued on next page

# Superfund

Continued from page 2

tried and failed to reauthorize the program since 1993, and the federal government's ability to collect special business taxes—used to pay for cleanups for which no responsible parties can be found—lapsed several years ago.

At a White House news conference early last week, Vice President Gore accused the Republican congressional majority of holding the additional money "hostage." Unless it is released, cleanup of 171 Superfund sites at which work is under way will remain uncompleted, he said.

The GOP response was quick and expected. The author of one of the major House bills—Rep. Mike Oxley, R-Ohio—responded with a statement that read, in part: "The problem is not lack of money available for Superfund. The problem is that the money is wasted. In fact, the General Accounting Office recently said that EPA

overestimated cleanup money that it needs by some \$200 million."

The chairman of the House Commerce Committee, Rep. Thomas Bliley, R-Va., countered Vice President Gore's accusations with some of his own, branding

have an important silver lining," because it showed that the vice president is "fully engaged" on the issue.

During a Capitol Hill news conference, Rep. Boehlert warned that "improving the Superfund

**'I think if the vice president of the United States cares enough to hold a press conference on the subject, my bet is we'll get some action on it this year,' says John Arlington.**

the White House call as "political hypocrisy."

Rep. Sherwood Boehlert, R-N.Y., the chief sponsor of the other major House bill, took a more conciliatory tone. "Though I disagree strongly with the partisan assessments of Superfund's failings offered (May 18) by the vice president, I do think this event may

program cannot be done through press conferences" and called upon the vice president to work with him to make "further improvements" in proposed reauthorization legislation.

Reform advocates were, in general, less than impressed with the vice president's words.

"All the press conferences can be held in the world, but unless a viable bill can be moved in the House—and I think Boehlert has one—then we're not going to see any change," said Kelly Smith, manager-legislative affairs for the National Federation of Independent Business in Washington. The administration should work to help move the Boehlert bill through the House "instead of standing in the way of legislation," she added.

"If Mr. Gore is looking for progress, he should remember that the administration he works for hasn't made any reform proposals at all," agreed Lance Ewing, chairman of the External Affairs Team for the New York-based Risk & Insurance Management Society Inc.

"Quite frankly, if the business community were given \$650 million to clean up, I believe the job would get done. I think that the EPA needs to start running more like a business and less like a bureaucracy," said Mr. Ewing, who also is loss control administrator for the Philadelphia school district.

One insurance industry observer dismissed the vice president's

remarks as election-year posturing.

"I think it's just politics," said Taylor Caswell, director-congressional affairs for the Alliance of American Insurers in Washington. The lack of a forceful GOP response shows the Republicans' don't want to appear anti-environment in an election year, he said. He added that "it's pretty clear" the White House intends to use environmental issues in the upcoming congressional elections, and he described the vice president's call as "an opening shot" in that effort. Mr. Caswell added that he doesn't believe the current flurry of activity will have much impact on the Superfund debate.

But another insurance industry observer took a less-jaundiced view of the controversy.

"All this activity can't be anything but good," said John Arlington, assistant vp and counsel of the American Insurance Assn. in Washington.

"I think if the vice president of the United States cares enough to hold a press conference on the subject, my bet is that we'll get some action on it this year. There's definitely enough time if everybody wants to do it. The truth is, there are just minor differences on these bills. They could be resolved within 24 hours."

"The real question here is does the vice president have a proposal or just a press release?" he asked.

Mr. Arlington said that what the vice president has to do to achieve reauthorization is to call Senate Majority Leader Trent Lott, R-Miss., and say "Mr. Leader, let's move that bill next week."

Meanwhile, in another Superfund-related development, a group of business organizations last week filed suit in the U.S. District Court for the District of Columbia and in the U.S. Circuit Court of Appeals for the District of Columbia. The suit seeks to eliminate the EPA's policy of limiting the liability of municipalities at co-disposal sites, which accept both municipal and private materials. The suit charges that the EPA lacks the legal authority to discriminate in favor of a category of potentially responsible parties at the expense of other PRPs. **EI**

# Liberty survey tracks concerns of buyers

Information technology issues, consolidation operations, and restructuring risk management programs will be risk managers' main concerns over the next two years, a recent survey shows.

Technological issues have been a growing concern of risk managers since Liberty Mutual Group began conducting the survey of risk managers three years ago, said John F. Ryan, vp of commercial marketing at the Boston-based insurer. The survey was released at the recent Risk & Insurance Management Society Inc.'s conference in San Diego.

"Risk managers are using technology more in their jobs, and they are more concerned about technological issues," he said. The survey was based on responses from 160 risk managers.

Risk managers are more often using the Internet and intranets in their jobs as well as using risk management information systems, Mr. Ryan said.

About 80% of respondents use the Internet for their jobs, but the majority spend less than four hours a week on the Internet, the survey showed.

Risk managers also are more concerned about electronic security and Year 2000 compliance, according to the survey.

Mergers and acquisitions and expansion of operations globally also will be a major concern for risk managers, according to the survey. For respondents said their companies are pursuing global expansion through foreign acquisitions, compared with 31% a year ago.

The global expansion has been a factor in the increase in restructuring of risk management programs, said Mr. Ryan. "There is so much more interest in global coverages," he said.

That interest includes concerns about how to handle international operations. According to the survey, nearly 70% of risk managers see understanding local business practices and culture as a great concern.

Risk managers' awareness of new products, such as employment practices liability insurance, also is leading to programs being altered as risk managers seek to buy the new coverages, Mr. Ryan said.

For free copies of the survey, contact Charles Moran, senior market research analyst at Liberty Mutual, 617-357-9500, ext. 44205; fax: 617-482-5144; or e-mail: charles.moran@liberty-mutual.com.

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# INTERNATIONAL

## New Zurich unit to target U.S.

### Combined company to expand Farmers

By EDWIN UNSWORTH

LONDON—The United States is the most fertile ground for the expansion of Zurich Financial Services Group, the company to be created from the merger of the financial services operations of Zurich Group and B.A.T Industries P.L.C., executives say.

"Most of the revenue-enhancing opportunities arise in the United States," said Zurich Chairman Rolf Hueppi, chairman- and chief executive officer-designate of the new company.

These opportunities will emerge mainly out of plans to expand Farmers Group Inc., the leading U.S. subsidiary of B.A.T unit British American Financial Services. Mr. Hueppi said, "Zurich and Farmers together can actually make this

whole train (of U.S. expansion) move faster."

Mr. Hueppi spoke at a press conference as more details of the merger, announced in October, were released last week.

Insurance analysts saw nothing in last week's disclosure to alter their favorable views on the merger.

Mikir Shah, an analyst with Robert Fleming Securities in London, said, "Everything this week has gone according to plan." When the merger was announced, Robert Fleming had said the new company would be well-positioned to offer integrated financial services in the United States, with Farmers' network of 14,000 captive agents making an excellent mechanism to distribute Zurich's savings and mutual fund products.

Mr. Hueppi said he was most ex-

### Zurich Financial Services Group

Pro forma figures as of year-end 1997 showing the combination of Zurich Insurance Co. and British American Financial Services.

(in billions)

Gross premiums written	\$27.0
Net income	2.1
Assets under management	\$75.0
Shareholders' equity	21.4

Source: Zurich Insurance Co. and B.A.T Industries P.L.C.

cited about the prospect of combining Zurich's focus on providing global solutions with the "tremendous distribution and production capacity" of BAFS. While BAFS is strong in the U.K. and U.S. retail sectors, Zurich's strengths are in

Continental Europe and in corporate insurance, reinsurance and asset management, as well as core personal and commercial business in selected market segments in several countries.

See ZFS on page 47

### Global Briefs

Lloyd's of London has opened a representative office in South Africa, which is its ninth-largest overseas market, with 1997 premium volume of 691 million rand (\$142.2 million). The Johannesburg office will be managed by Amit Khilosia of Lloyd's Business Development Unit in London. Ronald Napier will continue in the position of general representative for Lloyd's in South Africa, a post he has held for the past 14 years. The opening of a South African office follows the opening of a Lloyd's Australian office last month (BI, April 13). . . London-based broker Lambert Fenchurch Group P.L.C. has entered into an agreement to buy Swedish marine broker Delta Insurance Services AB, based in Stockholm. The purchase will be made through Lambert's wholly owned subsidiary Lambert Fenchurch Sweden AB of Stockholm, Sweden. Delta will be renamed Delta Lambert AB and will be a subsidiary of Lambert Fenchurch Sweden . . . U.K. multiline insurer Commercial Union P.L.C. has reached an agreement to purchase German life insurer Berlinische Lebensversicherung A.G. for 600 million deutsche marks (\$338.9 million). Berlinische, of Wiesbaden, has annual premium income of 950 million deutsche marks (\$536.6 million) and accounts for about 1% of the German life market. Munich Reinsurance Co., which owns 64.6% of Berlinische, and Allianz A.G. Holding, which holds 30%, both have agreed to the CU purchase. CU will make a public offer to shareholders of the remaining 5.4% of Berlinische. The purchase is expected to be finalized by June. . . International credit rating agency Duff & Phelps Credit Rating Co. has identified Italy's pension system as a major growth market for insurance companies. Duff & Phelps said the Italian government has recently enacted reforms to its state pension system to encourage the development of private pension and said the reforms present enormous opportunities for insurers with strong fund performance and well-established distribution in Italy. . . The London Processing Center will have systems in place by October to process the new Euro currency for the 1999 renewal season. The LPC processed £8.4 billion (\$14.10 billion) of insurance claims for the London insurance market in 1997. It established a working party in November 1997 to deal with the introduction of the Euro, a single European currency that will be implemented Jan. 1, 1999 . . . Swiss Reinsurance Co. is buying Reasegueros Alianza S.A. in Mexico for about \$120 million. Alianza, which is owned by several Mexican insurers, had \$135 million in gross premiums in 1997. . . American International Group Inc. bought Union y Desarrollo S.A. in El Salvador for an undisclosed sum. The multiline insurer, which had \$17 million in premium for 1997, will be renamed AIG-Union y Desarrollo S.A.

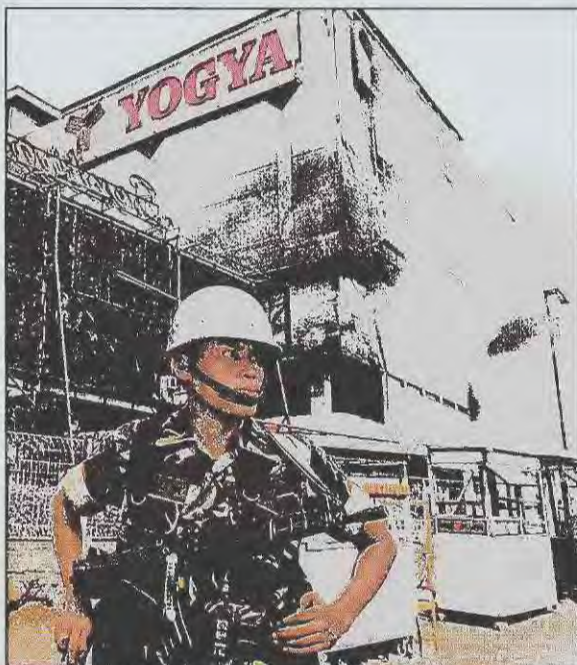


PHOTO: AFP

Property losses such as this burned-out department store are expected to generate hundreds of millions of dollars in insurance claims.

## Major claims expected from Indonesia turmoil

By MARIA KIELMAS

JAKARTA, Indonesia—The insurance industry expects huge claims from the year-long political and economic crisis in Indonesia that has culminated in rioting and last week's resignation of President Suharto.

Rioting in the nation's capital of Jakarta has created hundreds of millions of dollars of property damage and, according to the official estimate, at least 500 deaths.

For multinational companies and insurers doing business in Indonesia, the turmoil means disruption of business activities, some of which will be covered by political risk policies.

"First you had the economic difficulties, then the postponement of infrastructure projects, and now political violence," said Dan Riordan, head of the political risk department at Zurich-American Insurance Co. in Washington.

The Indonesian government has estimated that anti-Suharto riots in Jakarta May 16 and 17 caused \$210 million in damage, but insurers and

reinsurers say this likely is understated.

"That figure refers to just one day of riots in one part of Jakarta," said Werner Bugl, the Singapore-based head of Asian operations for Munich Reinsurance Co. "It is much too early to tell" what total insured losses will be, he said.

The government estimate also does not include

Indonesia among riskiest for overseas investors, report says.....page 46

damage to contents or automobiles, which could drive up insured losses significantly, according to the Insurance Council of Indonesia.

Mr. Bugl said many foreign companies in Indonesia have suspended operations, evacuated their staffs and closed their offices amid the political turmoil. Many foreign insurance executives, for example, temporarily relocated to Singapore, where they are collecting anecdotal evidence of riot damage in Indonesia.

See Indonesia on next page

## Nuclear plant closed for U.K. safety review

### Power failure among incidents

By MATTHEW MacDERMOTT

DOUNREAY, Scotland—A nuclear plant in northern Scotland has been shut down by the U.K. government and faces the most comprehensive safety review in its 40-year history.

The review, scheduled to be released this summer, will determine if, or when, the U.K. Atomic Energy Authority Dounreay plant can reopen. The review is to be conducted jointly by the U.K. government's Health & Safety Executive and the Scottish Environment Protection Agency and is expected to include detailed recommendations on the safe operation of nuclear facilities in general.

The report's aim is to improve safety at Dounreay. It also will provide other operators with useful information on general safety at nuclear facilities.

The Dounreay plant, operated by the government-funded U.K. Atomic Energy Authority, has no insurance arrangements to cover the shutdown.

A UKAEA spokeswoman said all commercial operations have stopped until the results of the review are known. Maintenance on the storage

facilities, which are not money-making, and work on decommissioning the nuclear reactors are continuing. She emphasized that UKAEA staff are committed to cooperating with and satisfying safety inspectors.

The Dounreay complex, on Scotland's far north coast, employs 1,500 people but no longer provides any power. It consists of three nuclear reactors, which currently are being decommissioned in a process that can take up to 100 years; two storage facilities for nuclear waste; and a fuel cycle area that reprocesses nuclear materials into medical chemicals for the treatment of cancer. The plant could see business interruption losses from stoppage of that work, but the revenues from it are small, the spokeswoman said.

The spokeswoman admits that many of the plant's safety problems stem from its age. Even though no energy is being produced, safety is still a major issue, and the new review will investigate the decommissioning process. The spokeswoman said Dounreay plans to continue with reprocessing operations for about another 10

See Nuclear on page 48

## S&P calls P&I clubs stronger and changes traditional rankings

By EDWIN UNSWORTH

LONDON—The financial security of the world's protection and indemnity clubs is continuing to improve, according to rating agency Standard & Poor's Corp.

S&P for the first time also has given the mutual insurance clubs its traditional financial strength ratings, rather than the previously used "flag" rankings. The previous system used from one to three flag icons to rank P&I clubs.

In Marine Mutual Report 1998, its fifth annual report on the world's leading P&I clubs, S&P says that the free, or unallocated, reserves of 28 clubs it reviewed are continuing to improve from the dangerous levels of seven years ago. In the year to Feb. 20, 1997—the fiscal year-end for most P&I clubs—the clubs' estimated free reserves rose by 15%.

Rowena Potter, director-S&P

insurance ratings in London, said the switch to financial strength ratings from flags was requested by clients and also is the result of two key changes in the marine insurance sector.

The implementation of the European Union's Insurance Accounts Directive means that P&I clubs based in or managed from E.U. member states have to show greater transparency and more consistency in their financial accounts, thus meeting criteria for a ranking.

Another factor was that the "substantial" increase in the clubs' free reserves brings them a step closer to fully incorporated companies for the purposes of financial analysis.

The ratings are particularly useful to third-party claimants, such as insurance brokers and bankers, many of whom are S&P clients, in learning about the financial security of the P&I clubs.

See P&I clubs on page 48

# Indonesia

Continued from page 45

Major property losses from the rioting in Jakarta, according to insurers, were sustained by the Bintang Brewery, The Lippo Shopping Centre, the Central Asia Bank building and buildings belonging to the state oil company, Pertamina. In addition, there was widespread damage to individual shops, hotels and homes.

The rioters focused much of their attention on businesses owned by Mr. Suharto and his family.

The government said the riots caused 500 deaths, but insurers' executives say that official figure may be only 10% of the actual death toll.

In addition to property losses, political risk insurers await notices of potential losses associated with the government's review of various infras-

tructure projects. In January, in response to pressure from the International Monetary Fund, the Indonesian government issued presidential decree PD-5, which put eight infrastructure projects "under review," and postponed seven others. The decree was issued as part of an effort to identify possible areas to cut back on government spending.

Zurich-American's Mr. Riordan said the government's postponement of infrastructure projects could be the basis for companies to file expropriation claims under political risk coverage.

Additional political risk losses are expected if the incoming government or its successor takes action to expropriate assets in which the family of President Suharto has a stake, or to repudiate contracts signed by the former president.

President Suharto's family and oth-

er prominent political families hold shares in various joint ventures with foreign companies from the United States, Europe and Asia. Such contracts with political figures are legal under Indonesian law but carry a risk for business partners.

"A joint venture in which a political family is a joint venture partner can be a benefit, but it can also be a risk," said Mr. Riordan.

Fallout from such partnerships already is happening in Pakistan, for example, said Kit Brownlees, managing director of Investment Insurance International, a division of broker Aon Group Inc. in London.

In Pakistan, the government of Prime Minister Nawaz Sharif is alleging that the government of predecessor Benazir Bhutto approved contracts with some foreign companies, such as electrical utilities, on too-favorable terms. As a result, the current

government is attempting to rescind the contracts and change their terms.

"It's a similar type of scenario to Indonesia," Mr. Brownlees warns.

The last time foreign companies incurred significant losses after a government change in the Eastern Hemisphere was in the aftermath of the 1979 Iranian revolution, political risk experts say.

"The interesting thing is that there had been a significant decline in interest in political risk insurance in Southeast Asia as there was a perception that it was a limited risk. Now interest has heightened," said Mr. Riordan.

Some government action, such as changing contract rules, alters political risk but is not reflected in traditional political risk coverage, said Mr. Brownlees. "You don't see much outright confiscation or expropriation (by governments). More an abrogation

or change in concession agreement. This is becoming more important," he said.

Foreign insurance company executives predict the Indonesian insurance sector will have difficulty paying claims retained in the domestic market.

"Many companies will not be able to meet liabilities," said Mr. Bugl of Munich Re. He noted that the year-long financial crisis in Indonesia and Thailand has resulted in a 40% to 50% contraction in insurance premium volume in those markets. Cancellation of infrastructure projects by Asian governments also has had a significant effect on premium volume.

The fallout from the Indonesian crisis will be massive contractions in the local banking and insurance industry, predicted Mr. Bugl. "We already expected this prior to the riots. There will be a massive contraction in the insurance industry both for life and non-life."

Insurers in the Asian region have been fighting to maintain market share during the economic crisis, he noted. "As a result, there is even fiercer competition among insurance companies, as they all desperately try to hold on to what little business they have. The markets are very soft on the direct side, and premium levels are way below what would be technically necessary," Mr. Bugl said.

Currently, foreign direct insurers are allowed to own a maximum of 60% of a local Indonesian insurer. Foreign reinsurers are not licensed to operate in the country and typically operate offshore, mostly from Singapore. But as local insurance and reinsurance companies suffer financially as a result of the economic and political crisis, more and more global players will come into the Indonesian market, Mr. Bugl predicted.

Over the long term, he said he remains optimistic about the Indonesian insurance industry. "Every crisis presents a business opportunity if the insurance industry handles the losses in a professional way." ■

## Indonesia risks high: Survey

By MATTHEW MacDERMOTT

Indonesia is among the riskiest countries in the world for overseas investors, according to a new report.

London-based Merchant International Group assessed the investment risks associated with developing countries by combining conventional risks, including political, economic, and credit risks, with "non-conventional" or "gray area" risk factors. Those include bureaucratic delays; corruption; legal problems, including organized crime and a lack of legal safeguards; cronyism and vested interests; religious fanaticism; unfair market competition; cultural issues, including language and work ethic; and extremist activities.

The report from MIG, an international business research and consulting firm, concluded that Pakistan poses the greatest risk for international investors, followed by Ukraine; Indonesia; Russia; and Myanmar, formerly known as Burma.

The MIG report also concluded that a poor awareness of non-conventional risks in some developing countries is directly limiting multinational companies' returns on

See **Risky** on next page



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## INTERNATIONAL

## ZFS

Continued from page 45

While enjoying the benefits of size, ZFS will aim to customize services to clients. This will mean "tailoring risk and asset management solutions to the various profiles of customers," being "focused on particular target groups of customers," understanding them better, and putting together ways of doing business for them, he said.

To do this better, ZFS, while based in Zurich, will be a decentralized operation, with strategic business units focusing on specific customer groups, distribution channels or markets. Remuneration will be linked to SBU performance.

In the United Kingdom, the merger is intended to help B.A.T.'s multiline insurance company, Eagle Star Holdings P.L.C., "achieve scale immediately."

Synergies with Zurich's U.K. business will give Eagle Star comprehensive coverage of the U.K. commercial insurance market in both public and private sectors, as well as leading positions in personal lines. The other U.K. units of the two parent groups—Allied Dunbar Assurance P.L.C., a leading life insurance and pensions company; Zurich Municipal, a leading insurer of municipal authorities; and existing units of Zurich Insurance—also are intended to benefit from scale and integration opportunities.

Other expected benefits of the merger include a greater pan-European presence; ZFS becoming the fourth-largest insurer in South Africa and the third-largest in Ireland; and stronger positions in Southeast Asia, India and China.

Plans call for Farmers to be expanded throughout the United States from the 31 states it now serves and for it to cross-market Zurich products to its existing cus-

tomers.

Also, Farmers' network of agents will be used to market products from what will become the global asset manager of the group, Scudder Kemper Investments, a U.S. unit of Zurich formed after its acquisitions of Chicago-based asset manager Kemper Corp. and New York-based Scudder, Stevens & Clark.

Joint marketing will include sales of a new structured settlement product; marketing of Farmers' own mutual funds through Scudder Kemper; and joint products with Zurich Kemper Life Insurance.

Mr. Hueppi maintained that while Farmers already is a leading U.S. auto insurer, its product line will be broadened to include the \$12 billion-a-year market for difficult-to-insure auto risks and the

fast-growing areas of recreational and speciality vehicles.

Globally, ZFS will have four core businesses: non-life insurance, life insurance, reinsurance and asset management.

Listing particulars published last week said the formation of ZFS is "on track" for start up, still expected by October 1998, and that the integration will cost \$1.4 billion. This will include restructuring costs and adding \$700 million to \$800 million to non-life loss reserves.

However, projected savings as a result of the merger have been upgraded from \$250 million to \$400 million by the third full year of operation. These savings will come from 1,600 job cuts in the United Kingdom, mainly within Eagle Star; lower office rental and information technology costs; and im-

proved claims management processes.

Details of job losses will be announced in the summer.

Mr. Hueppi maintained that ZFS will be a "global powerhouse," and he again emphasized the synergies between BAFS and Zurich. The merged company will have 30 million customers in 53 countries, \$375 billion in assets under management, gross written premiums and deposits of \$34.1 billion and market capitalization of \$52 billion.

One alteration to the original merger announcement is that Zurich will own 53% of ZFS and B.A.T. 47%, rather than the 55%-45% split earlier envisaged.

Credit rating agency Standard & Poor's Corp. said it believes that the capital adequacy of ZFS "will not be significantly different from

Zurich's current capital adequacy (which it rates "excellent") in relative terms and that its financial flexibility will be enhanced by the merger."

However, S&P is keeping its AA+ ratings of Zurich Insurance Co. on CreditWatch for a possible lowering. It placed the company there last October when the merger was first announced and said it would leave the ratings on CreditWatch because the terms of the agreement have not changed significantly. The possible lowering of Zurich Insurance's ratings arises out of S&P's concerns that its "excellence of business position, underlying earnings capacity and management" could be diluted by the merger with BAFS, rated A+.

Zurich shareholders will vote on the merger June 11; B.A.T. shareholders will vote June 12. **BI**

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## Risky

Continued from previous page  
their investments.

MIG's survey of 7,000 international companies found that 10% of total direct investment in developing countries is lost because companies either don't recognize or downplay the importance of non-conventional risks.

The biggest complaint from respondents is that they failed to identify such risks to investments in advance.

The report found that cultural arrogance is still a dominating factor in investment decisions. Forty percent of companies surveyed believed commercial know-how and superiority are sufficient to mitigate unanticipated local market conditions.

Stuart Poole-Rob, MIG's chief executive officer, said in a statement that eagerness to exploit the potential of developing markets means many companies have ignored non-conventional risks, despite their impact on investment success.

He said multinational companies should develop a careful appreciation of non-conventional risks in order to fully assess markets in which to invest.

Copies of the MIG report, "Intelligence Gap 1998," are available for £995 (\$1,625) from Merchant International Group, 4a-5 William St., Knightsbridge, London SW1X9HL U.K.; 44-171-259-5060; fax: 44-171-259-5090.

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# Privacy

Continued from page 1 including HIV status.

In addition, employers also need to be concerned about their use of personal data, such as credit reports and criminal records, about workers.

In this case, plaintiff Paul Marino alleges that Arandell Corp. of Menomonee Falls, Wis., illegally gained access to his medical records and disseminated their contents.

Specifically, a company secretary opened a letter addressed to him at work from his doctor concerning his chronic Hepatitis C condition, which resulted in it being discussed among co-workers, according to his attorney, Alan C. Olson of Alan C. Olson & Associates S.C., in New Berlin, Wis.

In the pleadings, Mr. Marino sued under the Americans with Disabilities Act, claiming discrimination on the basis of his alleged disability. He claims Arandell conducted prohibited medical inquiries about his condition, intentionally failed to maintain confidentiality of his medical records and denied him advancement opportunities. Mr. Marino had been slated to become an apprentice press operator before his condition became public, Mr. Olson said.

Revelation of his condition subjected him to emotional pain and humiliation, Mr. Marino alleges.

As plaintiffs, Mr. Marino and his wife also included four additional claims based on Wisconsin law: invasion of privacy, defamation, intentional infliction of emotional distress, and loss of consortium.

Under the WCA's exclusivity provision by Wisconsin courts at any level. Nor has the 7th Circuit addressed this question," Judge Adelman wrote. The 7th U.S. Circuit Court of Appeals in Chicago serves as the appellate division for his federal district court.

Arandell argued that the workers comp act should be the sole

are primarily designed to financially compensate injured workers, while the state's privacy and fair employment acts are designed "to affect the behavior of individuals to encourage respect for personal dignity and basic rights."

Mr. Marino's allegations appear, at this stage, to present "a facially valid claim for invasion of privacy and are not barred by WCA exclusivity," Judge Adelman said.

However, it remains to be seen whether these charges will withstand summary judgment or a trial, he added.

As for workplace privacy issues in the future, "the potential exists that Wisconsin's privacy statute could be used to negotiate many of these issues in the coming years," the judge said.

However, "the clear legislative intention to protect the fundamental rights embodied in the privacy statute could easily be disregarded if the entire spectrum of workplace privacy issues is swept under the WCA rug by the exclusive remedy rationale. Workers' compensation, once a blessing for injured workers, was never meant to have this effect," the judge said.

An Aug. 3 trial date has been scheduled to hear the case and decide Mr. Marino's request for unspecified damages, including compensation for lost and future

wages, emotional distress and punitive damages, his attorney said.

Mr. Marino has been off work on general disability—unrelated to workers comp—since May 1996, Mr. Olson said.

Employers can learn some lessons from the court's decision, sources said.

"The surprise in this case is that there may be statutory privacy protection for workers comp-related medical records outside of the Workers' Compensation Act," said John Metcalf, director of human resources policy for Wisconsin Manufacturers and Commerce, the state's combined chamber of commerce, manufacturers' association and safety council in Madison, Wis.

Also, the federal judge's decision is consistent with a 1998 Wisconsin Supreme Court ruling that separates employment-related claims into two groups: claims under common law that are subject to the exclusive remedy provision of the workers comp act, and claims based on other state laws that are treated independently.

In addition, "the rule of thumb is no one who doesn't have a need should see an employee's medical record," Mr. Metcalf added.

In a situation like this, "an employer's workers compensation insurance would not apply to this type of claim," Mr. Olson said. **BI**

**'The potential exists that Wisconsin's privacy statute could be used to negotiate many of these issues in the coming years,' Judge Lynn Adelman wrote.**

In its defense, Arandell Corp. sought partial summary judgment on the four state law claims, arguing that they should be barred under the exclusive remedy provision of the state's workers comp law.

Judge Adelman partially agreed and dismissed three of the four claims, letting only Mr. Marino's privacy claim stand. The judge also dismissed Mrs. Marino as a plaintiff.

"Unlike the previously dismissed state claims, a claim under Wisconsin's privacy statute has never been specifically barred un-

der the WCA's exclusivity provision because the alleged intentional workplace disclosure of Mr. Marino's confidential medical information was an "accident" and that the privacy violation Mr. Marino claims constitutes "mental harm" within the meaning of the workers comp act.

However, the judge disagreed with Arandell's analysis and said it was "too narrowly focused" and "would efface the purposes" behind both the privacy and workers comp laws.

In addition, workers comp laws

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Circulation Breakdown  
Commercial Consumers

<b>Administrative:</b>	
CEO's, Presidents, and Owners	2,710
Vice Presidents, General Managers and Other Administrative Personnel	5,122
<b>Financial:</b>	
Chief Financial Officers and Vice Presidents of Finance	5,429
Secretaries, Treasurers, controllers and other Financial Personnel	4,145
<b>Risk/Employee Benefits:</b>	
Vice Presidents, Directors, Managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations	14,748
<b>Sub-total</b>	<b>32,154</b>
Associations	286
Government, Unions and Educational Institutions	1,019
<b>Commercial Consumers</b>	
<b>Sub-total</b>	<b>33,459</b>
Insurance Agents and Brokers	8,083
Insurance Companies	6,933
Accountants, Actuaries, Attorneys & Consultants	2,705
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers	1,578
Others Allied to the Field	757
<b>Total Qualified</b>	<b>53,525</b>
Non-qualified/Paid Subscription	14
Single Copy Sales	27
<b>TOTAL CIRCULATION</b>	<b>53,556</b>

\* Source Business/Occupational breakdown of qualified circulation, November 24, 1997 Issue, as submitted to BPA for December 1997 BPA Publisher's Statement

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# Results

Continued from page 2

change in the market," she said.

However, beginning in 1999 and certainly by the Year 2000, there is likely to be a change that will be driven by the too-soft workers compensation market, growing losses in the employment liability area and the Year 2000 issue, said Ms. Blades.

Robert M. Steinberg, chairman and chief executive officer of the Reliance Insurance Group in New York, said he, too, thinks the market will turn around the year 2000. The insurance industry cannot continue to have single-digit returns on equity "while the rest of the world is producing 15%, 16% returns on equity. Something's got to give on that," said Mr. Steinberg.

But John Ward, CEO of the Cincinnati-based Ward Financial Group, said he still sees no signs of a hardening market. "There's too much fresh capital coming into the industry to allow that to turn any time soon," he said. The Travelers Group Inc.-Citicorp deal will attract even more capital to the industry "because that will be viewed as a strategic reason to invest, as the walls start to come down in the financial services segment."

Meanwhile, the intense competition continues. "We continue to hear some quotes on business that we just can't believe are real," said George P. Yonker, vp-finance at Seattle-based SAFECO Corp.

"The pressure on commercial lines premium rates is showing no signs of letting up, and the complaints that we hear from managements grew a little louder in the first quarter. Indeed, if you looked at the premium growth, most commercial lines companies had difficulty growing their commercial lines business," said Jay Cohen, an analyst with Merrill Lynch & Co. in New York.

The competition is reflected in the modest 3.3% premium growth reported by 22 of the 23 insurers surveyed by *Business Insurance* for the first quarter. This is lower than the 5.5% increase reported by 23 insurers for 1997 and 1996's 9.9% increase (*BI*, March 23; March 24, 1997).

Only selected first-quarter financial results are reported for USF&G Corp., which completed its merger with The St. Paul Cos. Inc. on April 24 (*BI*, Jan. 26).

Other first-quarter results reported by the 23 insurers surveyed by *Business Insurance* include:

- Investment income declined by 14.8%, to \$3.86 billion. Nationwide Mutual Insurance Co. reported a 77% decline in investment income down to \$249.1 million, which was primarily because of a \$850 million special dividend paid by Nationwide Life Insurance Co. to the mutual in 1997. Ex-

## 'Results were a further indication that the earnings honeymoon for the industry is coming to an end,' says analyst Ronald Frank.

cluding Nationwide, the 21 remaining insurers would have reported a modest 4.8% increase in investment income.

- Underwriting losses increased 5.9%, to \$743.3 million. This compares with a 62% improvement in 1997.

- Insurers reported a 102.2% combined ratio, the same as for 1997.

- Policyholder surplus among the 19 insurers reporting this information increased 24.1%, to \$68.24 billion. This compares with 1997's 29.3% increase.

- Net income for the 20 insurers reporting this data increased 16.9%, to \$3.51 billion from \$3.01 billion. This compares to 1997's 46% increase, when year-to-year comparisons were bolstered by relatively low catastrophe losses in 1997.

"Results were a further indication that the earnings honeymoon for the industry is coming to an end," said Mr. Frank. Both large and small insurers reported disappointing earnings during the quarter, he said, "and the common denominator was intensifying competition in the commercial property/casualty sector."

"One particular pressure point in the

quarter turned out to be medical malpractice," which was reflected in St. Paul's results, among others, he said.

"But it's not just confined to medical malpractice," he added. "Any company with a significant exposure to the commercial business is having a tough time 'making its numbers' now, and I think you'll continue to see cracks in the pavement here and there as we go through the year, and certainly into next year."

Mike Smith, an analyst with Bear, Stearns & Co. in New York, agreed. It is "getting tougher and tougher for even the best companies to show the numbers that Wall Street's looking for, and the cracks in the foundation are starting to get wider," he said.

"Earnings were generally at, or maybe slightly below, expectations, with a couple of notable exceptions, which were significantly below expectations," said Weston M. Hicks, an analyst at Sanford Bernstein & Co. in New York, pointing to St. Paul and SAFECO.

"I think in both cases they were clipped a little by abnormally large catastrophes, and, in addition, I believe that the standard commercial lines exposure that each company has is feeling some competitive pressure."

In addition to reporting higher-than-expected claims costs for its medical liability business, resulting from an increase in loss severity, St. Paul posted \$39 million in pre-tax catastrophe losses for the first quarter, compared with \$5 million in last year's first quarter.

Mr. Yonker said business SAFECO acquired from its American States Financial Corp. acquisition posted \$17.3 million in catastrophe losses for the first quarter compared with \$5.2 million for the same period a year ago, with this year's losses increased by a Minnesota tornado.

Premium growth was meager, said Mr. Hicks. Even "classic growth" companies such as Chubb reported premium growth that was a "deceleration from the pace of the past couple of years," he said. Chubb posted a 6.4% adjusted premium growth for the first quarter after 1997 non-recurring reinsurance premiums are excluded.

"There were more negative than positive

surprises," said Michael Lewis, an analyst with Warburg Dillon Read in New York. This really goes back to the fact that pricing "remains very soft, and that, sooner or later, when you underprice your business, it has to result in poorer results," he said.

Most observers say the outlook is for a continuation of current trends. "I basically don't see anything changing immediately," said Gloria Vogel, senior vp at Advest Inc. in New York. "We have had continued price erosion, and I don't see that changing right now."

While pricing and investment income are inadequate, "everybody seems to be holding their own," Ms. Vogel said.

The rest of the year "would probably be a mirror image of what we've seen right now," including a difficult operating environment and various shortfalls by companies along the way, said Mr. Lewis.

The first quarter is an "accurate picture of what to expect over the balance of the year, and that is growing pressure on underwriting results in the commercial lines, and if weather-related losses return to normal levels, the likelihood is that analysts may have to revise their numbers down somewhat," said Mr. Lewis. "And this is all in the context of no relief anticipated in rates or in pricing and interest rates remaining low," he said.

Mr. Cohen said also, "I think you'll see a gradual erosion of the combined ratio and continued slow premium growth, and we probably should see more consolidation as well."

"I think the outlook varies, obviously, by company," said Mr. Hicks. "Generally, earnings will be up this year for companies that have some revenue growth and there is some modest expense leverage still to be gained from the business, but I think the likelihood of significant upside surprises is pretty low."

He added, "It'll be interesting to see what happens with St. Paul and its merger with USF&G," with St. Paul projecting eventual expense reductions of at least \$200 million as a result of the deal. "By the second half of this year, I think, in the case of St. Paul, you'll begin to see some expense gains coming through," he said. **BI**

## Major property/casualty insurers' first-quarter 1998 results

Ranked by change in net income. All amounts in thousands of dollars.

Rank 1998	Corporate					Property/casualty operations								
	Net income 1998	Percent increase (decline) 1997-1998	Consolidated revenues 1998	Combined <sup>1</sup> ratio 1998	Combined <sup>1</sup> ratio 1997	Net premiums written 1998	Percent increase (decrease) 1997-1998	Pretax underwriting income (loss) 1998	Percent increase (decline) 1997-1998	Pretax investment income 1998	Percent increase (decrease) 1997-1998	Policyholders surplus 1998	Percent increase (decrease) 1997-1998	
1	Reliance Ins. Co. and subs.	\$200,382	605.9	\$1,055,767	101.1	101.1	\$611,772	20.6	(\$7,345)	(4.1)	\$69,352	4.6	\$1,580,186	38.4
2	Hartford Steam Boiler	72,900	358.4	217,700	89.0	90.0	46,700	60.1	10,800	(10.0)	15,200	90.0	641,800	120.2
3	Argonaut Insurance Co.	44,294	104.6	83,365	115.4	106.4	31,878	4.0	(6,784)	(1,441.8)	8,357	(12.3)	614,356	15.4
4	Sentry Insurance Cos. <sup>2</sup>	25,471	47.6	343,353	105.7	109.6	247,817	(9.1)	(16,882)	41.6	52,595	4.9	1,551,684	16.4
5	Fremont General Corp.	27,682	31.2	195,749	96.9	91.2	156,391	28.5	4,807	(52.5)	42,045	61.5	575,525	35.0
6	CNA Financial Corp.	233,000	30.9	4,328,000	108.6	111.6	2,400,000	4.8	(344,000)	2.3	425,000	(0.7)	6,973,000	(2.1)
7	Hartford Financial Services Group	264,000	29.4	3,728,000	104.0	101.3	1,904,000	(2.2)	(77,000)	(97.4)	237,000	12.9	7,890,000	64.9
8	Travelers P/C Corp.	347,100	27.1	2,594,200	101.2 <sup>2</sup>	101.7 <sup>2</sup>	2,017,800 <sup>2</sup>	(4.5)	(58,200) <sup>2</sup>	50.3	507,900	1.6	6,409,100	15.4
9	Old Republic Int'l	81,577	25.0	506,515	98.6	98.7	205,939 <sup>2</sup>	(1.9)	(1,268) <sup>2</sup>	15.2	48,716 <sup>2</sup>	(0.6)	1,460,138	2.3
10	American International Group	886,532	13.5	7,688,695	96.1	96.3	3,381,363	2.0	124,440	4.8	501,243	11.1	N/A	N/A
11	General Re Corp.	271,600	11.4	1,889,600	100.3	101.0	1,086,700	(14.0)	(3,000)	78.9	292,800	0.1	6,646,000	18.7
12	SAFECO Corp.	111,600	-	1,623,500	101.1	98.7	1,045,100	79.2	(10,900)	(49.3)	118,100	67.8	3,338,800	49.6
13	Chubb Corp.	191,800	(0.2)	1,587,300	96.1	96.3	1,331,500	(6.4)	45,000	10.0	183,400	6.9	N/A	N/A
14	CIGNA Corp.	255,000	(1.9)	5,411,000	101.2	100.4	804,000	0.1	(9,000)	(200.0)	84,000	(10.6)	1,920,000	(4.0)
15	Ohio Casualty Corp.	31,194	(4.6)	358,342	103.4 <sup>2</sup>	105.6 <sup>2</sup>	311,802 <sup>2</sup>	1.3	(5,959)	58.7	43,230	1.9	1,219,468	25.5
16	TIG Holdings	33,000	(8.3)	427,000	100.7 <sup>2</sup>	102.7 <sup>2</sup>	420,000	8.3	(2,000)	77.8	71,000	(8.9)	1,011,000	2.4
17	Berkshire Hathaway Group	192,000	(9.1)	1,591,000	96.4	92.8	1,595,000	15.9	49,000	(30.6)	224,000	3.3	N/A	N/A
18	USF&G Corp.	38,100	(15.3)	857,000	106.6 <sup>2</sup>	104.3 <sup>2</sup>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
19	The St. Paul Cos. Inc.	154,000	(19.9)	1,467,157	107.7 <sup>2</sup>	107.8 <sup>2</sup>	1,000,847	(2.8)	(60,623)	(18.7)	218,803	0.2	3,570,920	19.6
20	Royal & SunAlliance USA <sup>2</sup>	55,400	(30.1)	451,000	103.9	102.4	356,100	5.8	(11,400)	(371.4)	87,100	(6.6)	2,947,400	30.3
—	Nationwide Mutual Ins. Co. <sup>2</sup>	N/A	N/A	N/A	101.7	103.1	2,144,767	5.2	(41,835)	38.3	249,141	(77.0)	10,205,951	33.1
—	Kemper Insurance Cos.	N/A	N/A	1,056,681	105.7 <sup>2</sup>	106.5 <sup>2</sup>	1,005,519 <sup>2</sup>	6.5	(93,436) <sup>2</sup>	(3.0)	108,149 <sup>2</sup>	(2.6)	2,471,703	26.4
—	Liberty Mutual Ins. Co. <sup>2</sup>	N/A	N/A	N/A	114.7	109.7	1,537,982	5.0	(227,910)	(45.7)	272,711	5.0	7,213,323	25.4
	<b>Cumulative</b>	<b>3,516,632</b>	<b>16.9</b>	<b>37,460,924</b>	<b>102.2</b>	<b>102.0</b>	<b>23,642,977</b>	<b>3.3</b>	<b>(743,295)</b>	<b>(5.9)</b>	<b>3,859,842</b>	<b>(14.8)</b>	<b>68,240,354</b>	<b>24.1</b>

<sup>1</sup>After dividends <sup>2</sup>Statutory N/A: Company did not provide data  
Source: BI/Survey

# Viagra

Continued from page 1

Decisions by managed care companies and group health plans to limit or not cover the drug likely will be challenged.

A lawsuit accusing Oxford Health Plans Inc. of unjustly denying a Manhattan man coverage of a prescription for Viagra will hinge on proving that a normal sex life is a "medical necessity" as essential as eating or drinking, the plaintiff's attorney says.

The suit, filed in U.S. District Court in New York on May 18, seeks class action status against Oxford and other unspecified health insurers for the approximately 30 million men in the nation who the plaintiffs estimate suffer from impotence and might benefit from the new drug.

According to the suit's allegations against Norwalk, Conn.-based Oxford, the managed care plan violated the Employee Retirement Income Security Act and breached its fiduciary duties when it told the lead plaintiff, Paul Sibley-Schreiber, that his prescription for Viagra was de-

nied and that a final decision on coverage would be delayed for at least 45 days, presumably while the health plan formulated a policy on the drug.

Branding Oxford's decision to postpone payment "totally a delaying tactic" designed to save the plan money, co-plaintiff's attorney Steven Cooper of the New York law firm Anderson Kill & Olick said that to prove Viagra treats a medically necessary condition, he must show only that sexuality is "a basic, human, functional need" and that this would be "easy."

"To argue it's not necessary to have sexual relations, we believe, is totally baseless," he said.

Mr. Sibley-Schreiber said he filed suit "to help the 30 million men out there who are suffering needlessly," and said any insurer dragging its feet on paying for the drug is stigmatizing the illness.

Viagra fits into the Oxford plan's four-point definition stating drugs are medically necessary if they are consistent with the symptoms or diagnosis and treatment of the patient's condition; appropriate with regard to standards of good medical

practice; not solely for the patient's convenience or of any provider; and the most appropriate supply or level of service that can safely be provided, according to the suit.

Mr. Sibley-Schreiber, a member of an Oxford point of service plan offered through his company, claims his impotence is related to being diabetic.

Although Oxford initially approved his prescription for Viagra in April, a subsequent refill for the prescription was denied, and Oxford said it would not approve any Viagra claims until mid-June 1998.

"The insurers are running scared," Mr. Sibley-Schreiber said last week. "It will cost too much money. Why are they trying to come between the patient and the doctor when it comes to treatment?"

The lawsuit demands reimbursement on behalf of the class for costs spent on Viagra prescriptions, less deductibles; enjoining of future denials of Viagra claims; and an estimated \$10 million in compensatory damages for money spent on Viagra between now and the resolution of the case.

Oxford spokespersons did not return telephone calls seeking comment.

Many corporate benefit managers are wrestling with the same coverage decisions as Oxford.

Hershey Foods Corp. decided to approve coverage of Viagra for employees in the company's self-insured health plan, though it requires either the employee or his doctor to telephone for "prior authorization" to the drug plan administrator before pick-up, said Dwaine Hartline, program manager for group insurance at the Hershey, Pa., company. Hershey's plan also covers birth control pills.

Hershey employees enrolled in HMOs are subject to the managed care plans' particular policies, she said.

"What we're hearing all over the country is the prescriptions are being written and the doctor has never even seen the patient," said Ms. Hartline. Although she acknowledged that a call from the employee confirming a medical need for the drug is not a foolproof form of utilization review, she said that system makes more sense than arbitrarily limiting the number of Viagra pills to be authorized.

Other employers' policies are more embryonic, and benefit managers are watching the industry for cues.

At Minneapolis-based Dayton Hudson Corp., the retailer is so far refusing to honor Viagra claims of members of the company health plan, while the remainder of its workers who are covered by HMOs are subject to an array of policies,

said Fred Hamacher, vp for compensation and benefits.

The company is having trouble deciding how many pills would be appropriate to authorize, he said.

"I've seen six (pills authorized monthly), I've seen eight, and our PBM originally analyzed it was 12," Mr. Hamacher said. "That's what makes this such a bizarre discussion. The decision to pay for it is a tough decision, but the toughest decision is how many?"

Dayton Hudson is considering two

**'The decision to pay for it is a tough decision, but the toughest decision is how many?' says Fred Hamacher.**

options: allowing the drug on a pre-authorized basis, similar to Hershey's method, or allowing workers to buy the drug for a 100% co-payment through the company's discount prescription mail order service provider.

In other words, under the second option, workers would have to pay the entire cost of the drug but could obtain the pills, which sell at retail for about \$10 each, for about \$7 apiece, he said.

Dayton Hudson's health plan covers female workers' birth control pills.

The question of whether to cover Viagra has been least pressing for employers whose workers are heavily enrolled in HMOs, as many of them have transferred decision-making on covered products and services to their managed care organizations or their prescription benefit managers.

For example, hotel and hospitality giant Marriott International Corp. has not had to consider the need for a Viagra policy because nine out of 10 of its employees are enrolled in 160 HMOs, said Robert Dankmyer, vp of corporate benefits in Bethesda, Md.

"I guess we would have to listen to the individual" if an employee in the company plan filed a Viagra claim, he said. "Sooner or later, we'll face it."

Mr. Dankmyer said he is not worried about the implications of the class-action suit because Marriott is willing to pay for the drug if a doctor deems it medically necessary.

"To be honest with you, it's a non-issue to us," he said. "It should be based on medical necessity, and if it's a medical necessity it should be covered. Hopefully, the court is going to decide. I'm trying to have some

faith in the court system. See, I'm not a physician and I don't know all the methods they go through to show something's medically necessary."

Marriott does not pay for birth control pills, he said.

As corporate benefit managers attempt to formulate Viagra policies for their self-funded plans, they increasingly will turn to PBMs for guidance on their options.

One of the largest PBMs, Scottsdale, Ariz.-based PCS Health Systems Inc., is advising plan sponsors they have four basic choices regarding the drug, according to a spokesman:

- Limit the quantity of drug to a certain number of pills.
- Increase copayments or co-insurance to place Viagra into a more expensive class.
- Require prior authorization, even with a doctor's prescription.
- Exclude Viagra and all other impotence treatments from the plan.

Express Scripts/Value Rx, a Maryland Heights, Mo.-based PBM, has recommended to its clients that if they choose to cover the drug, it be limited to six Viagra tablets per month, said Barrett Toan, president.

"Many of our clients have scheduled benefits and insurance coverage policies that don't cover impotence, and so in those cases there's a no-coverage policy," he added.

At the other extreme, some plan sponsors have gone beyond the PBM's recommendation and instead permit employees eight or 10 pills per month, Mr. Toan noted. "We have seen doctors write prescriptions for 100 tablets," he said.

As with most other prescriptions, a PBM with a large client "pretty much will do what the employee wants, provided the employer will pay for it," said Harvey Sobel, principal and consulting actuary at Buck Consultants in Secaucus, N.J. Smaller companies, by contrast, are more prone to allow a PBM or third-party administrators to decide, he said.

The lawsuit in New York will probably have "a chilling effect for PBMs on the fence," Mr. Sobel said, meaning that PBMs that would normally routinely disapprove the drug will have second thoughts.

"In the end, the floodgates will open," and just about all PBMs and major employers that can bear the risk will choose to cover prescriptions for Viagra, he predicted.

Richard Sinni, New York practice leader at benefit consultant Watson Wyatt Worldwide, said the class action lawsuit is probably not necessary because of the number of plans already deciding to cover the drug, he said.

"I think here you're jumping the gun, because this is not a life-threatening condition this gentleman has," said Mr. Sinni.

Claims administrators are suspicious of claims for Viagra filed by employees who are normal and want it to feel more virile, said Fred Hunt, president of the Chevy Chase, Md.-based Society of Professional Benefit Administrators, a trade group of 400 TPAs serving self-insured and fully insured employers. Employers should be cautious in paying for the drug in such cases, he advised.


"An ERISA plan has a fiduciary duty to use plan assets frugally," he said. "ERISA represents a much higher standard of prudence in how plan assets are used."

The class-action suit filed in New York could create trouble for plan sponsors, Mr. Hunt said, by trying to force a common policy toward Viagra for all plans and all employees.

Any lawsuit is bound to generate more coverage questions for benefit managers than solutions, he said.

"If the employer decides to be generous, what constitutes (employees being) 'happy?' " he said. "What constitutes 'enough?'"

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## Make common sense part of the policy

Hospital risk managers around the world must be reviewing their policies on hospital staff treating patients off premises after the death last week in Chicago of a 15-year-old shooting victim who was allowed to lie bleeding and unattended by emergency room staff who were just 35 feet away.

The staff was following the hospital's decade-old policy that emergency department employees do not leave the premises to treat and transport patients.

There are very valid reasons for the policy, as expressed by the president of the hospital, John E. Blair, in a news release: "The first priority of emergency room staff is to care for the patients already in the department; you don't leave patients who need your attention. Our role is to treat patients already in our care and to prepare for others that may come in. There is an emergency response system in place involving fire department paramedics, who are responsible for bringing patients to our emergency department for treatment."

Rigid adherence to that policy, however, seems absurd when a person lies wounded such a short distance from emergency room personnel.

The boy, Christopher Sercye, had been shot playing basketball less than a block from Ravenswood Hospital Medical Center on the north side of Chicago. His friends carried him down an alley toward the hospital and ran into the emergency room for help. Chicago police officers inside the hospital on another case called for an ambulance but also asked the emergency room staff to attend to the teenager. The staff insisted the boy had to be brought inside, which the police eventually did themselves. But it was too late. He was dead a short time later.

Fifteen minutes had elapsed from the first 911 call until police officers carried the shooting victim inside the hospital, according to James Maurer, the Chicago Police Department's deputy chief of patrol.

"I hope this family sues them, and I hope they call me to testify," the deputy police chief was quoted as saying in the Chicago Sun-Times.

There is no proof that, had the emergency room staff broken the rules and stepped outside to treat the teenager, he would be alive today, according to the Cook County medical examiner's office. Ravenswood Hospital is not a trauma center and therefore doesn't have emergency trauma surgeons on staff 24 hours a day.

Nonetheless, the image of a young man bleeding to death and unattended while emergency medical personnel are steps away boggles the mind and outrages the senses. What were these people thinking, and where were their hearts?

To his credit, Mr. Blair, the hospital president, revoked the policy the day after the death. "I have instructed my staff to provide treatment to anyone who needs it in the immediate vicinity of the hospital when there are no paramedics or emergency medical technicians available, consistent with due regard for the safety of all, including the hospital's personnel."

Our sister publication Modern Healthcare reports that the American Hospital Assn. has been inundated with calls from hospitals around the country wondering what they should do in such an instance. Some of the hospitals have policies and some don't, according to an AHA official.

The AHA is telling hospitals that common sense in such situations should prevail.

"Hospitals need to make sure people at the front lines have the flexibility to do the right thing for patients," said the AHA spokesman.

Indeed, this incident is a tragic reminder that common sense must be allowed to prevail over official policies and procedures—no matter how well-intentioned and reasoned they are—when circumstances dictate.

Let's hope that hospitals everywhere learn from this and that safety and security procedures in other institutions and businesses are punctuated with the caveat that policies must be subject to common sense.

*Publisher and Editorial Director Kathryn J. McIntyre and Editor Paul D. Winston write columns on alternate weeks.*



Kathryn J. McIntyre

## Tax

*Continued from page 1*

Depending on a state's interpretation of its statute, the procurement tax may apply to:

- Coverage written by captive insurance companies.
- Policies purchased from a direct writer licensed in a state other than the one in which the policyholder conducts business.
- Policies written by a foreign insurer for a global program.

So far state insurance regulators and tax collectors have faced various hurdles to collecting the taxes, not the least of which is detecting when a policyholder has purchased such coverage. Consequently, collection of the taxes often is not pursued.

Recently, however, the Texas Comptroller of Public Accounts began "testing the waters" by alerting businesses that the agency intends to review their insurance transactions to determine if the taxes have been paid, said Gary Johnson, supervisor of the Insurance Section of the Comptroller's Tax Policy Division.

Other states also may be taking renewed interest in collecting the taxes. California and New York in the past few years have clarified their independent procurement laws, according to Richard Bouhan, executive director of the National Assn. of Professional Surplus Lines Offices Ltd. in Kansas City, Mo.

New York was cited by other observers as a state that may be attempting to collect the tax, but tax and insurance officials in the state could not be reached for comment.

Texas' stance, though, is crystal clear. The state in 1995 moved responsibility for collecting independent procurement taxes to the comptroller from its Department of Insurance. "It's just getting on line as far as the agency trying to make sure everyone pays the taxes," Mr. Johnson said last week.

Beginning in 1997, Texas auditors advised some businesses that the state will review their 1996 insurance tax records as part of routine franchise tax audits, Mr. Johnson said.

"So any time a corporation or business is subject to an audit, they go in and ask about their insurance business," he said. "They check to see if the business was written through a licensed company or through the surplus lines market, and if it wasn't one of those two, then they look to see how it was written, and there could be an assessment."

Such action scares alternative market players who fear other states might follow suit and even seek back

taxes, interest and penalties if Texas is successful in uncovering significant amounts of unpaid procurement taxes.

Those fears are driven by the fact that the same complexities that have hindered states from collecting the taxes also have prevented many well-intentioned policyholders from paying them.

The issue of whether some policyholders may be targeted for back taxes has been raised by members of the Coalition of Alternative Risk Funding Mechanisms, an industry group.

"It's an area that might be keeping us busy," said Jon Harkavy, president of CARFM during the International Alternative Insurance Symposium in Indian Wells, Calif., earlier this spring.

Members of the Vermont Captive

### Complexities that hinder states from collecting the taxes also prevent well-intentioned policyholders from paying them.

Insurance Assn.'s Legislative Committee also have been evaluating the issue by informally polling "their colleagues and contacts" on how they treat procurement taxes, said VCLIA President Lisa Ventriss.

Risk managers familiar with the VCLIA committee's work say its members are taking a low-key approach in their research, though, because of concerns that a more public effort could alert other states to the idea of collecting the taxes.

"At this point there are no conclusions; it's very much of an exploratory matter," said Richard H. Hamilton, chairman of the VCLIA's Legislative Committee and president and general manager of CSX Insurance Co.

"I could only say VCLIA would be irresponsible if it didn't take messages from such forums as the CARFM meeting and address it for the benefit of its membership. Certainly that is the stage we are at at this point," Mr. Hamilton said.

According to National Assn. of Insurance Commissioners data on direct procurement taxes, 31 states taxed independent procurement of insurance as of 1996, the most current survey available. Tax amounts and calculation methods vary by state, with some based on net premium and others on gross premium. Texas, for example, requires a tax

payment of 4.85% of gross premiums, according to the NAIC.

Not all policyholders fear such a tax.

"When you buy direct from an offshore company you have to expect to pay the taxes," said Frances C. Oliver, risk manager for Centex Corp., a Dallas-based company with several lines of business, including residential and commercial construction.

Ms. Oliver purchases directors and officers liability coverage from a Bermuda-based insurer, and she works closely with her company's tax department to ensure that it pays the independent procurement tax.

"We're very cautious about paying our taxes on that, always have been," she said. "We make every effort to make sure (we pay it) on a timely basis so we don't pay the penalties that can accrue if you don't pay within a certain time frame."

But many risk managers are not paying the tax, either because they are unaware of it or because many states have not attempted to collect it.

For years, states have struggled among themselves over how to apportion the taxes when a policy is written to cover locations in multiple states. The states have not settled issues such as whether a policyholder should be taxed only in the state where it is headquartered or whether the taxes should be apportioned among all states in which the company operates.

Some states have not written their laws broadly enough to actually impose a procurement tax on all transactions that policyholders enter into, said James Cameron, a partner at Baker & McKenzie in New York. For example, he said, arrangements such as "a portfolio liftoff of an old environmental risk" written years before when a company had a site in a particular state may not trigger taxation.

In some cases, tax collection falls through the cracks because some states don't understand the concept and others are confused when their department of insurance collects premium taxes while a separate revenue department may be responsible for the collection of direct procurement taxes, said NAPSCO's Mr. Bouhan.

One prominent risk manager who asked not to be identified said his strategy to avoid potential tax penalties is to show diligence in paying his Vermont captive taxes.

That way, the risk manager reasons, if revenue collectors in other states question his company's records, he can point out that his company does not avoid its responsibility and pays the taxes that are very clearly defined. **BI**

## Proposals

*Continued from page 2*

establishment of individual savings accounts for Social Security recipients, which would be funded by 2% of the current 12.4% payroll tax. Individuals then would be able to direct the investment of those funds.

"The accounts will simultaneously improve the rate of return that beneficiaries receive from the Social Security system and advance-fund a portion of the future liabilities of Social Security, vastly reducing the tax burden on future generations," the report by the commission says.

Individuals would be able to select from a variety of funds similar to those provided to federal employees through the Thrift Savings Plan, the report says.

Also, individuals will be able to make a voluntary extra contribution of up to \$2,000 a year.

To help relieve the burden on the current system, the commission

proposes gradually increasing the retirement age to 70 by 2029.

Employers will likely be wary of the proposal to raise the retirement age, said Sylvester J. Schieber, vp of research information at Watson Wyatt Worldwide in Bethesda, Md.

"Most employers believe, rightly or wrongly, that productivity starts to decline well before age 65, and keeping workers on even longer is not something that they are going to be in agreement with," he said.

Also, many benefits plans are integrated with Social Security, so raising the retirement age will mean employers could pay more for retiree benefits, said Fred Rumack, director of tax and legal services at Buck Consultants in Secaucus, N.J.

If employers want workers to continue to retire at 65, they will face the choice of increasing their costs or reducing benefits, he said.

"From their point of view, there may be some negative aspects to this plan," Mr. Rumack said.

Raising the retirement age could cause problems for employers, agreed Mark Ugoretz, president of

the ERISA Industry Committee in Washington.

For example, some employers may require skills that are readily available only among recent computer engineering graduates. Those employers may have early retirement programs for older employees that will cost more to apply with a later retirement date, he said.

"It would place some additional burdens on employers who need individuals with different kinds of skills as they try to manage their workforce," Mr. Ugoretz said.

But the individual retirement accounts proposal will likely be welcomed by most people, and the proposal of the plan by several bipartisan members of Congress should help shift individual retirement accounts firmly in to the mainstream, said Mr. Schieber of Watson Wyatt.

The individual accounts will ensure that a substantial part of the retirement funding is prepaid, and by investing in stocks, workers may be able to enhance their retirement income, he said. **BI**

# Satellite

Continued from page 1

maintained a fixed orbit 22,000 miles above Kansas, providing an excellent position to transmit signals within the United States. PanAmSat is a subsidiary of Los Angeles-based Hughes Electronics Corp., a unit of General Motors Corp. of Detroit.

Despite the widespread disruption the failure caused, contracts in the satellite and paging industries generally are structured to keep claims and litigation to a minimum.

"Every party along the way is responsible for their own loss," Mr. Richards said.

Fred Landman, the president and CEO of PanAmSat, said in a news conference last week that he does not anticipate any litigation involving his company from the satellite failure.

The service contracts between the satellite owner and paging companies, as well as those between the paging companies and their customers, generally state that they are responsible only for providing a credit for the lost service time, Mr. Richards said.

"I've seen very few agreements that don't have that limitation in it," said Mark Tauber, partner and head of the communications group at law firm Piper & Marbury L.L.P. in Washington.

Court decisions over the years

have upheld these agreements, making them virtually ironclad, he noted. "I wouldn't expect there would be an awful lot of litigation off of this," he said.

Mr. Richards said PanAmSat's insurance is placed with a worldwide syndicate of 40 insurers, including Assicurazioni Generali S.p.A. of Italy; AXA Space, a unit of AXA Re of Paris; Munich Reinsurance Co.; Tokio Marine & Fire Insurance Co.; United States Aircraft Insurance Group of New

companies and their customers use a three-pronged approach to managing their risks.

Insurance is needed to recover the cost of a non-functioning satellite or for lost business income. A contingency plan is needed to restore service and keep customers happy. And service contracts should contain hold-harmless clauses that limit liability to only the lost service time, to avoid liability for customers' lost business. PanAmSat had these type of contracts, he said.

What companies and individual customers can do is put language in service contracts that require signals to be rerouted to other satellites or to different companies in the event of satellite outages,

Mr. Tauber added. Bigger companies can negotiate contracts that give them priority in the event of a failure that forces a company to replace service incrementally.

The loss of the satellite was not the first trouble with Galaxy IV. In a filing with the Securities and Exchange Commission on May 15, the company stated it was experiencing "anomalies" with the satellite that "are expected to shorten substantially the useful life of the satellite and to affect services" to some customers.

As a result, the company was planning to replace the satellite before originally scheduled. But the company said this trouble was unrelated to the computer error that rendered it useless. **BI**

## Satellite service contracts with paging companies generally take responsibility only for lost service time, according to Alden Richards of Space Machine Advisors.

York; and underwriters in the London market, including Lloyd's of London.

The policy is part of a \$4 billion multiyear program put in place last year to cover launch and in-orbit risks for the company's 23 present and future spacecraft.

Mr. Richards said that although satellite failures are rare—less than 1% of orbiting satellites fail in any year—this loss won't have an impact on the soft market.

"It's one of the softest markets I've ever seen," said Mr. Richards, a 20-year veteran of the satellite insurance business. "There is too much capacity, and underwriters are falling over each other" to write business, he added.

Mr. Richards said the satellite

Sharf said.

One of the most effective ways of increasing that knowledge and bridging gaps among risk management, human resources and legal departments, however, is to form groups to talk through issues with an eye toward the loopholes in the organization, said Elizabeth M. Lindner, executive vp in charge of the Client Services Group of Kemper Insurance Cos. and president and chief execu-

## 'It's obvious the typical risk manager doesn't know what HR is doing,' says James C. Sharf of Aon Consulting.

tive officer of Kemper Risk Management Services Inc. in Long Grove, Ill.

"It seems like a real simple solution, but I think it's communications," she said.

That sort of communication between the departments can be a key step in preventing the various sorts of exposures that can emerge from "rogue employees," the panelists suggested.

Ms. Rimes suggested the first step in reducing rogue employee-type exposures is attracting and employing people that fit a company's culture, and that effort can't be a function of human resources alone.

Mr. McCown offered a similar view.

"The best way to keep from getting into a lawsuit is to have some good selection and screening policies," he said. "Number one is get rid of the person before you ever have the problem. Just don't bring them aboard."

The most important aspect in applying that sort of hiring approach, however, is consistency, the attorney stressed.

While attitudes might vary among different people and in different parts of the country about what constitutes fairness in hiring, an ability to demonstrate consistency in applying its employment guidelines will help a company deflect suggestions that it was unfair in a hiring decision.

Consistency also is key in addressing such exposures as sexual harassment, Mr. Sharf said.

"Your best argument is, 'We are uniform and consistent. There was a policy, we dealt with it, we policed it,'" he said. "You're never going to be able to deal with that rogue employee all the time, but you can show, 'We have our house in order.'"

Ms. Rimes noted that resources information systems can be valuable tools, helping identify workers comp "repeaters," for example. That information is meaningless, however, if it isn't communicated with other departments, she added.

"The problem is, once you have it, what are you going to do with it?" Ms. Rimes asked, adding that human resources had better be communicating that information to legal and risk management.

Describing herself as "passionate" about integrated care, Ms. Lindner noted that the communications involved in those sorts of integrated programs can help reduce companies' workers comp costs as well as the employees' lost time, suffering and loss of morale.

Kathryn J. McIntyre, publisher and editorial director of *Business Insurance*, moderated the symposium.

The Hines Symposium was sponsored by the Chicago and Northeastern Illinois Chapters of the Risk & Insurance Management Society Inc., the Insurance School of Chicago and *Business Insurance*. The annual event honors Harold H. Hines Jr., former president and chief executive office of Rollins Burdick Hunter Co., now Aon Group Inc. **BI**

# Updates

## Bear Stearns will appeal award

OAKLAND, Calif.—Bear Stearns Cos. will appeal a \$108 million jury award in which the investment banking firm was found negligent for advice it gave Daisy Systems Corp. in connection with its 1989 hostile takeover of Cadnetix Corp.

Bear Stearns will appeal the award to Federal District Judge D. Lowell Jensen and, if unsuccessful, will seek a hearing before the federal appellate court in San Francisco, said attorney James Linn of Oklahoma City-based Linn & Neville.

The combined company, which was in the electronics design automation business, was forced into Chapter 11 bankruptcy by bondholders in 1990 after it failed to meet revenue projections. The case was brought by the company's bankruptcy trustee.

J. Thomas Hannan Jr. of San Francisco-based Lovitt & Hannan, who represented the plaintiff, said despite Mountain View, Calif.-based Daisy's and Boulder, Colo.-based Cadnetix's complementary business products, the company failed because of its inadequate capital structure.

The \$108 million verdict against Bear Stearns was reached May 15 after a six-week trial in which the jury found Bear Stearns to be 39% responsible for the failure and the company 61% responsible, said Mr. Linn.

A Bear Stearns spokesman would not comment on insurance coverage.

## Lincoln buys Aetna business

HARTFORD, Conn.—Aetna Inc. plans to sell its U.S. individual life insurance portfolio to Fort Wayne, Ind.-based Lincoln National Corp. for a cash price of \$1 billion.

The deal, announced last week, would mean a transfer of \$50 billion in individual life insurance in force but does not include the insurer's group life plans.

Aetna officials said domestic individual life insurance represents less than 5% of its total life customers and that the sale, which is subject to regulatory approvals, is part of an overall strategy to leave slow-growing markets. Sectors with more promise of expansion for Aetna include investment management and asset management in the defined contribution and annuity fields, the company said.

## KPMG settles with county

NEW YORK—KPMG Peat Marwick L.L.P. will pay \$75 million to settle four lawsuits filed by Orange County, Calif., and other California government units that participated in a failed investment pool administered by the county.

The suits had alleged that as Orange County's auditor, KPMG should have detected the risky investment strategy that led to the investment fund's 1994 collapse with nearly \$1.7 billion in losses, ultimately leading to the county's bankruptcy.

"While we are glad to put this litigation behind us, we still find it appalling to have to pay for a legal defense, and now a legal settlement, when we remain absolutely convinced that KPMG was and is without responsibility for Orange County's investment losses," KPMG said in a statement.

But, "given the legal and political climate in which we live and the inherent risks and uncertainties of litigation," the accounting firm made a "business decision" to settle the suit, the statement said.

A KPMG spokesman would not comment on insurance but said the settlement "will not have a significant impact on the firm."

## Briefly noted

A U.S. Administrative Law judge last week in Richmond, Va., upheld the Consumer Product Safety Commission's authority to recall 10 million installed **Omega fire sprinklers** manufactured by Landsdale, Pa.-based Central Sprinkler Co. In March, Central challenged the commission's right to recall the sprinklers (*BI*, March 9) and now is considering appealing the judge's ruling, a company spokesman said. . . . Beginning next month, the Ohio Bureau of Workers' Compensation will send **\$2 billion in premium rebate checks** to employers that buy workers comp coverage from the exclusive state fund. The rebate is possible because of high investment yields, improved management and increased operating efficiency, bureau officials say. They also reduced rates an average of 6% for private employers. . . . The Internal Revenue Service announced last week that employers that must now report on Form W-2 prior year contributions to pension plans for employees who missed work because of **military leave** will have the option in the future of providing those employees with separate statements showing the contributions. Under the Uniformed Military Services Employment and Reemployment Rights Act of 1994, employees who miss work because of military obligations must be allowed to make up the specified contributions to pension plans that they would have made had they been working during their time of duty. . . . The Senate voted overwhelmingly last week to strip the **tobacco settlement bill** of all legal protections for cigarette makers. The Senate is expected to continue debating the measure when it returns from its Memorial Day recess. . . . The highway spending bill considered by Congress late last week includes a provision that would encourage employers to provide **tax-free mass transit benefits** to employees. An amendment offered by Sen. Daniel Patrick Moynihan, D-N.Y., calls for changing existing law to allow employers to offer up to \$100 a month, beginning in 2002, as a pretax salary reduction to employees to defray the cost of using mass transit. . . . Florida businesses and insurers say they will continue to seek **tort reform** despite Gov. Lawton Chiles' recent veto of such legislation. The Democratic governor sided with trial attorneys and consumer groups in vetoing reforms that would have, among other things, changed the state's doctrine of joint and several liability, set a 12-year statute of repose for product liability and prohibited some punitive damages (*BI*, May 4).

# Hines

Continued from page 2

Symposium was "Who's Talking to Whom," with the session examining the increased risks associated with poor communication within an organization as well as the potential benefits of routine sharing of information among risk management, HR and legal.

"What your job is as the risk manager is to protect the corporation's assets whether it's people, places or things," said Sandy Rimes, manager of benefits and risk for Alberto Culver Co. in Melrose Park, Ill.

Ms. Rimes recalled that when she first came to Alberto Culver, she tried to establish a relationship with the human resources and legal departments "only to be told that workers comp was not an issue for Alberto Culver. They were more of a product liability company."

Then, in reviewing the company's workers comp claims history, she discovered years of open claims and no one tracking them. The result was a vast gap between the amount the company had reserved to pay claims and what she determined to be the actual exposure.

"That's the message I had to deliver to the stockholders," Ms. Rimes said.

But, as a result, the company formed a team from various departments to address the problem, a move that helped promote necessary communications among legal, HR and risk management on other areas at risk.

But, said James C. Sharf, vp in the Human Resources Consulting Group of Aon Consulting in Washington, Ms. Rimes "is really the exception to the rule."

"It's been pretty obvious to me that the typical risk manager is not very knowledgeable about what the HR side of the ship is doing," Mr.



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