



Env. Insurance

Case Studies on Environmental Insurance for Brownfields
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AGENDA

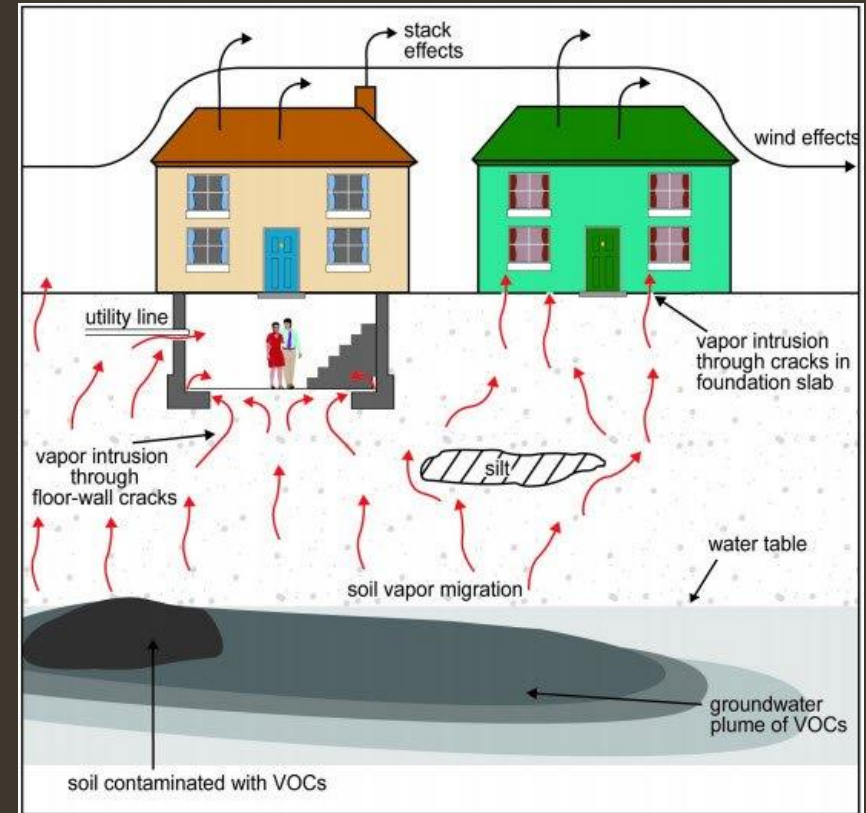
- Environmental Insurance
- CS1: The Reluctant Seller
- CS2: The Horse Has Left the Barn
- CS3: RFO to Condo – Urban reDevelopment
- Q&A

Environmental Insurance – What?

Fixed Site Environmental Policy:

- Covers any Site (e.g., 123 ABC Street)
- Maximum Policy Term = 10 Years
- Responds to various liabilities associated with Pollution at/migrating from the Site

**A HELPFUL TOOL WHEN BUYING, SELLING
OR DEVELOPING A CONTAMINATED SITE**



Environmental Insurance – How?

Traditional Insurance Broker

- Can access a variety of Underwriters
- Can help place all types of insurance
- Paid via commission or fee

Berkley Canada Agent

- Enables direct interaction
- Legal Privilege/Confidentiality
- Realtime delivery of terms and conditions

Helpful/Required Underwriting Information

- Environmental reports re Site
- PSA or S/APA (as applicable)
- Indemnity Agreement (if applicable)
- (re)Development Plan (if applicable)
- RAP (if applicable)
- Disclose any litigation / demands (if applicable)

Case Study 1: The Reluctant Seller

The Site



PCB and cVOC impacts in soil/gw
concern re IAQ (cVOC)

The Background Issue

- In Canada, we try to uphold the Polluter Pays Principle (when possible)
- Substantial case law exists causing Polluters to be cautious when selling

Case Study 1: The Reluctant Seller

The Solution

- Environmental Policy w/ Seller as the INSURED
- Policy Term of 10 Years
- Environmental Policy responds to any 3rd Party CLAIMS (including Government Orders) for both known and any undiscovered Pollution

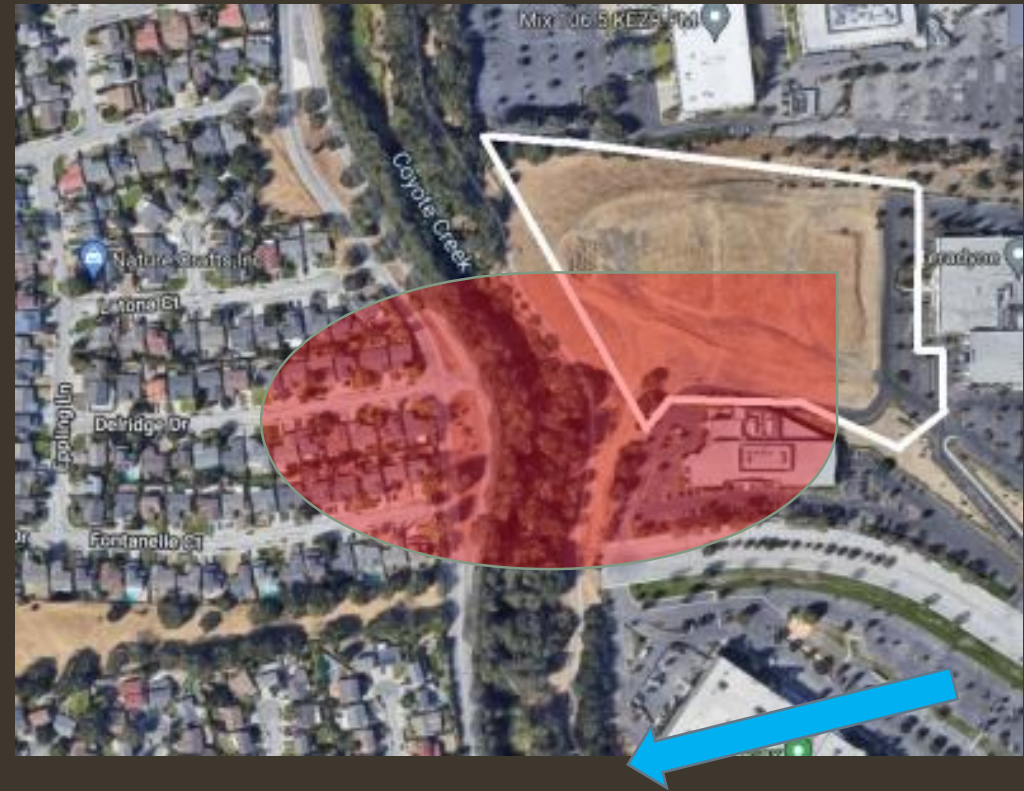
Buyer Succeeded By:

1. Purchasing the Site on an “as-is, where-is basis”
2. Stipulating they would buy the Policy (at closing) for the Seller

Case Study 2: The Horse Has Left the Barn

The Site

- Large manufacturing site, located across from a residential community
- cVOCs found in both soil and gw



Case Study 2: The Horse Has Left the Barn

The Solution

- Environmental Policy with Buyer as INSURED (seller as ANI)
- Policy Term of 7 Years (aligns with anticipated condo build/registration timeline)
- Environmental Policy responds to any 3rd Party CLAIMS (including Government Orders) for both known and any undiscovered off-site Pollution

Buyer Succeeded By:

1. Negotiating an Access Agreement (12 months) re installation of concrete barrier
2. Including the Seller as an ANI wrt any worsening during Access Agreement work

Case Study 3: RFO to Condo – Urban reDevelopment

The Site



- RFO for ~70 years
- Lead, PHC and BTEX impacts in soil / gw

Development Constraints

- Requirement for low cost rental units and community day care/ early education facility
- Requirement to convert adjacent city owned vacant lot (parking) to park/ green space

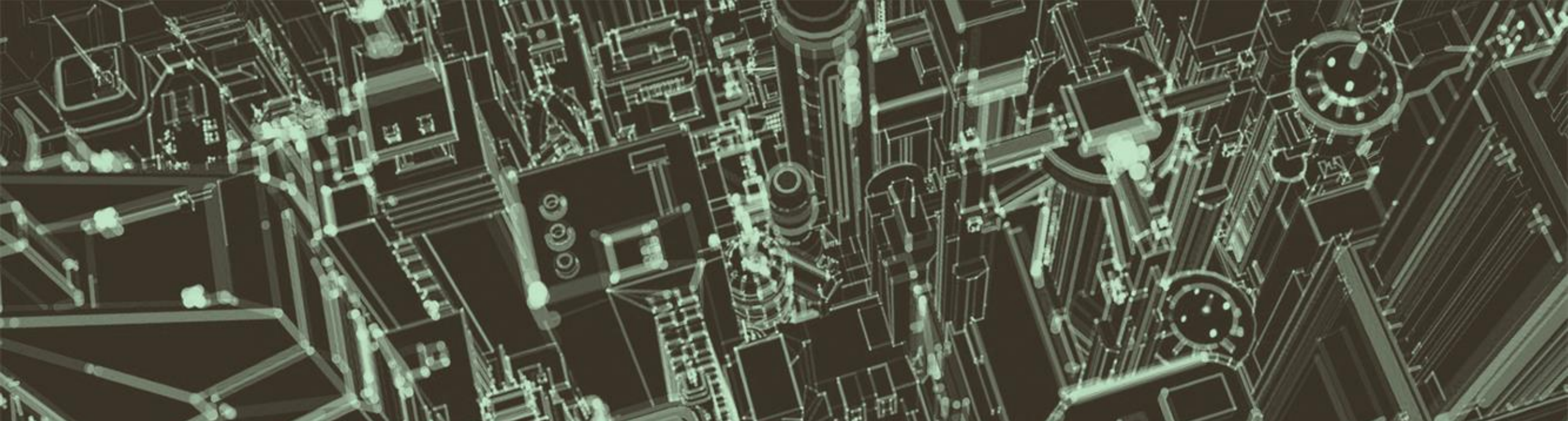
Case Study 3: RFO to Condo – Urban reDevelopment

The Solution

- Environmental Policy w/ Buyer as the INSURED
- Policy Term of 10 Years including Project Pollution cover (for condo build)
- All Lead, BTEX and PHC exclusions are deleted once “cleanup” is achieved (as documented by filing a RSC or similar instrument)

Developer Succeeded By:

1. Securing traditional financing and construction loan, by including Lender as AI
2. Obtained City approval to use Risk Assessment by including City as AI



Q&A

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