

Using insurance archeology

Digging up dough for clean-ups

In this article, Stephen Henshaw, president of EnviroForensics (Environmental Forensic Investigations), a national environmental engineering firm specializing in remediation for small and medium businesses, including drycleaners, answers question about Insurance Archeology and how it can help drycleaners find money for costly cleanups.

Q. What is insurance archeology, and why is it beneficial for drycleaners?

Insurance archeology is a term used to describe the process of locating and finding historical insurance policies that covered individuals and businesses.

Historical insurance can be a huge benefit to drycleaners as old policies can be used to pay for costs associated with soil and groundwater contamination investigations, legal representation and even the cleanup of contaminated sites.

Q. When should drycleaners consider investigating their historical insurance coverage?

Right away. Finding historical insurance policies can be like finding hidden treasures or lost money.

Business and property owners, even former business owners and operators, should make it a high priority to search, locate and securely store all of their old insurance policies and any evidence that may support that they had historical insurance.

Many drycleaners wait until it is time to sell a business to figure out what they are going to do about contamination. At that point, there may be questions about the value of the property because of contamination.

In order to have the value of the business at its peak, a drycleaner should look for insurance coverage now as a way to reduce personal liability and maintain the value of their business.

Q. How can drycleaners begin reconstructing the historical

insurance coverage of their businesses?

The first step to reconstructing your insurance coverage is by reviewing your old business files and personal files. It isn't uncommon when I talk with drycleaners to learn that they have thrown away their old records.

Many people only keep records for seven years, as this is the customary time that the IRS tells us we need to keep records for audit purposes.

In these cases, we need to dig deeper. We need to focus on looking for companies and individuals that may have required proof that you had coverage, for example landlords, legal counsel and mortgage companies. Another approach is to call EnviroForensics. There are dozens of avenues we pursue in an effort to locate your historical coverage.

Q. Who is responsible for covering the cost of investigations and clean ups?

In many cases, EnviroForensics can assist drycleaners, as policyholders, with obtaining a defense from their old insurance policies.

The site investigations of a dry cleaning business can be considered defense against claims because the investigations quantify liability and exposure for the insured. EnviroForensics can also build a case for the drycleaner to obtain a site cleanup by using the insurance company's defense obligation.

Q. What kind of coverage do drycleaners want to find in old policies?

Drycleaners should look for all insurance policies they can remember purchasing. The best policies would generally be the historical comprehensive general liability (CGL) policies.

Other valuable policies would include umbrella policies and excess liability coverage.

Often times, finding workman's compensation policies, auto

policies or other specialty policies can lead you to finding other coverage, because past brokers often provide drycleaners with bundled policy packages.



Q. How can drycleaners tender claims to insurance companies so that old policies kick in?

Often times, finding just one year of coverage can be the catalyst to finding more coverage. This is because one year of coverage may be enough to obtain a defense and this defense could include finding other responsible parties, including past owners and operators of the dry cleaning business, and their insurers, as well as other carriers that covered you.

Q. What states have the best laws for insurance coverage?

We believe that the states with laws that best protect policyholders include, Indiana, Colorado, Oregon and Washington. However, most states have laws that help the policyholders with defenses, which can include costs for site investigations and legal representations.

Q. What are typical costs of remediation and legal expenses associated with contamination?

The cost estimates with investigating contamination associated with drycleaners can range between \$30,000 and over \$500,000 – depending on the extent of the site contamination, the site geology and the ultimate use of the groundwater beneath the dry cleaning businesses. Legal expenses can often times go into the six figures, while site remediation can cost

between \$50,000 and over \$1,000,000.

In one case, we have worked on an individual project in excess of \$44 million, which we helped settle successfully. Sometimes there are as many as 200 additional parties responsible in some manner for the cost of cleanup. But this is an extreme case.

Q. How does insurance archeology help drycleaners obtain site closure?

In short, insurance archeology is the term given to finding old insurance policies. These old policies, used appropriately, can pay for the costs of site investigation, including soil and groundwater contamination studies, responsible party searches, assessing the cleanup costs and developing the facts of the case. In many cases the insurance will pay for the site cleanup or other suitable settlements.

Additionally, though the insurance companies actually pay for the defense related costs, it is the policyholder that gets credit for spending the money for cleanup. For most clients, reaching the end of contamination begins with finding the policies.

Stephen Henshaw, a registered geologist for 20 years and President of EnviroForensics, has worked on a hundred drycleaning sites, in addition to thousands of other businesses, to remediate contamination in the most cost-effective manner. His firm boasts a 100% win ratio on insurance coverage claims. EnviroForensics operates a national customer service department for drycleaners, toll-free (866) 888-7911. Information is also available on the firm's web site: www.EnviroForensics.com.