



Insurance Archaeology

What is it and Why is it Beneficial?

Insurance archeology is 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.

When should drycleaners and other owners consider investigating their historical insurance coverage?

Right away. Finding historical insurance policies can be like finding hidden treasures or lost money. Business and property owner, 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.

How can drycleaner, business, and property owners 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 literally dozens of avenues we pursue in an effort to locate your historical coverage.

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

In many cases, EnviroForensics can assist drycleaners, as policyholder, with obtaining a defense from their old insurance policies. The site investigations of a drycleaning 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.

What kind of coverage do owners want to find in old policies?

Drycleaners should look for all insurance policies they can

remember purchasing. The best policies would generally be the comprehensive general liability (CGL) policies written before 1985. 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 provided drycleaners with bundled policy packages.

How can owners and operators 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 drycleaning business and their insurers, as well as other carriers that covered you.

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 whether groundwater beneath the drycleaning businesses can be used for drinking. Legal expenses can often times go into the six figures, while site remediation can cost between \$50,000 and over \$1,000,000.

How does insurance archeology help drycleaners and property owners 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, finding other parties that caused contamination (past owners and operators), 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.

With more than 25 years of experience, Mr. Henshaw holds professional geology registrations in numerous states. As President and CEO of EnviroForensics®, Henshaw serves as a client and technical manager on projects associated with site characterization, remedial design, remedial implementation and operation, and litigation support and insurance coverage matters. Henshaw's expertise includes a strong knowledge of industrial operations, past and current industry practices and procedures, and a hands-on, practical understanding of the fate and transport of contaminants in soil and groundwater. He has also served as a testifying expert on behalf of individual landowners, and facility operators at several sites impacted by industrial activities, and continues to provide technical and litigation support services.