

Challenges of the Marketplace

Lately, it seems that every meeting we have with insurance agents around the country focuses on the state of the insurance marketplace and how competitive it has become AGAIN. If you're a veteran of the insurance business, it is hard to believe the rhetoric we hear from carriers about holding the line on pricing while front line underwriters beat each other up to write business.

New Day's markets are certainly not exempt from the inevitable ups and downs, but they don't seem to suffer the severe peaks and valleys that the standard marketplace faces every few years. In fact, the products New Day offers (environmental and construction-related professional liability insurance) tends to grow in soft markets.

Several years ago, the term "discretionary insurance premium" was coined. This is the premium insurance agents and brokers save their clients in soft markets – the difference between what the client pays for their current policy and what they used to pay for the same coverage. Many agents seize the opportunity that develops from "discretionary insurance premium" to offer other coverages that fill in the gaps in their clients' overall risk management programs, as well as to supplement lost revenue due to the soft market. In years past, Employment Practices Liability Insurance (EPLI) has been offered, as well as various forms of environmental and professional liability coverage.

At New Day, we are seeing an increase in pricing requests for environmental and

construction-related professional liability coverage as the extra funding is now available for clients to more seriously consider the purchase of "optional" coverages that were too expensive in the past or products that did not have the value in the past that they have today. For those buyers of environmental and construction related professional liability insurance it's clear we have to realize that although these products experience "soft" and "hard" cycles, they are not as dramatic as the standard property/casualty cycles. Anecdotally we have heard that the standard lines are experiencing as much as a 50% decline in premium with 20% – 30% reductions occurring more frequently. The environmental and construction related professional liability lines while seeing some price reduction are significantly less dramatic and we often experience rate reductions in the 5% – 10% range. Setting expectations and communicating to your clients about the state of the environmental and construction related professional liability marketplace will make the new and renewal process much more effective for them.

Having successfully navigated many a soft market through the years, we have the experience and expertise to help you most effectively approach these clients. We will partner with you to develop strategies and tactics to increase your hit ratio. Please call us...we'd love to help you replace some of that lost revenue by putting your clients' discretionary insurance premium back in your pocket!

BEAVERS & MOLES – WHO WOULD HAVE THUNK IT?

Jeff Lejfer, President of New Day, and Jeff Slivka, Sr. Vice President, recently made their first visit to both the Beavers and Moles annual dinners in Los Angeles (January 18, 2008) and New York (January 30, 2008). At the Beavers dinner in Los Angeles, over 2,500 attendees were on hand for a keynote address by the Honorable Jack Kemp and the presentation of the Golden Beaver Awards to honor the finest in the heavy engineering construction industry. Back in New York at the Moles dinner, 1,850 attendees from the bridge, tunnel and heavy construction industries were treated to an informative presentation by General Peter Pace USMC (Ret.), former Chairman of the Joint Chiefs of Staff. Jeff and Jeff were honored to be in such esteemed company at both events and greatly enjoyed the opportunity to meet with brokers and insureds.



J&J with John Lamberson, President of Lamberson Consulting of San Francisco, CA



Jeff Lejfer with Nancy Simonson, and Todd Rowland of Zurich Construction.

Success Stories

New Day's objective is to help brokers ensure that their clients have the best possible environmental and construction related professional liability coverage available. Below are several examples of how we use our technical expertise and extensive experience to do just that.

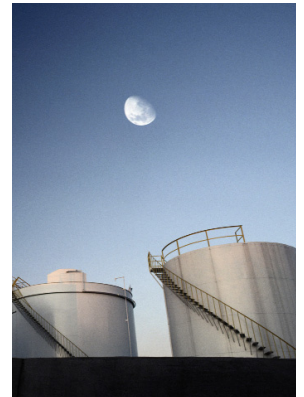
Helping the Retail Broker Win the BOR

PROBLEM: A retail broker sought to secure of broker of record letter from a large engineering firm with annual revenues over \$100,000,000.

SOLUTION: The broker engaged New Day to assess the current combined professional and pollution liability program of the engineering firm. New Day identified several key coverage gaps in the program. After several meetings and conference calls to discuss a more appropriate risk management solution, the firm recognized the benefits of the expertise and service of both New Day and the retail broker. The BOR came soon after, paving the way for New Day to help implement a new, more comprehensive professional and pollution liability program. To the satisfaction of all involved, the \$10,000,000 limit of liability program with the incumbent professional liability carrier was renewed with no additional expense to the insured.

Filling the Gaps for a Petroleum Marketer

PROBLEM: New Day performed a coverage analysis for a large petroleum marketing firm's Pollution Legal Liability (PLL) policy and Storage Tank Liability (STL) policy. Both the PLL and STL policies had several significant gaps, including exclusions for underground storage tanks (USTs), Natural Resource Damages and a blanket contamination exclusion for petroleum products at several of the distribution locations.



SOLUTION: New Day worked with the incumbent carrier to combine the PLL and STL policies into one multi-year PLL placement. By combining the policies onto one PLL form that listed all of the locations, the coverage gaps that had existed in the two independent policies were eliminated completely or limited. Due to New Day's experience and expertise, the new and improved program was successfully negotiated at a 25% premium reduction.

NEW DAY NEWS



Anniversary Celebration

On February 20, 2008, the New Day management team treated the entire staff to a day in New York City to celebrate the company's third anniversary and a

very successful 2007. The staff traveled by luxury bus to New York for the matinee showing of the famed Broadway hit, Mamma Mia, and then ventured on to dinner at Plataforma Churrascaria, a Brazilian Rodizio style restaurant.



New Day's employees are the core of our service to our clients. The trip to NYC was a means to show appreciation for their hard work and dedication. The many compliments that we receive as we travel to our partner brokers around the country are testimony to the strength of our professional, friendly and knowledgeable staff. A good time was had by all – and most are still humming the ABBA tunes that form the basis of the show. Thanks for your cooperation as we took the day off to celebrate.



Success Stories, continued

New Day Structures Unique Insurance Program for Huge Transportation Project

PROBLEM: Five engineering firms were contracted with the state agency to design various elements of a \$500,000,000 transportation project in Connecticut. The agency was contractually required to secure \$20,000,000 in professional liability limits for each of these subcontractors; however, only one was able to meet that requirement. Also, existing environmental conditions associated with the project site's history were an issue.

SOLUTION: New Day was asked to assist in structuring an insurance program to address the unique professional liability and environmental liability needs of this project. New Day turned to the Owner's Protective Professional Indemnity (OPPI). The OPPI provides coverage for damages the owner incurs in excess of the design firms' professional liability insurance limits as a result of negligent acts, errors and omissions of the design firms. Because of the varying limits of each firm involved, the program was structured with varying minimum insurance requirements...a move that substantially lowered the cost of the program. The OPPI also included protection for the owner in the event a contractor created an environmental condition. Recognizing the comprehensive protection New Day had helped structure, the state agency purchased a \$10,000,000 each claim/aggregate program with a 10 year term, allowing the transportation project to proceed.

REAL LIFE PROBLEMS

If you're still not convinced that your facility, real estate and contractor clients need to include environmental liability in their risk management programs, read these articles that discuss issues that we see everyday from the newspapers and periodicals that we read. Then call us at 609-298-3516 and we'll help you find the right coverage to protect your clients.

Small town seeks \$423 million for oil pollution

WICHITA, KS – The city of Neodesha has filed a \$423 million class-action lawsuit on behalf of the 2,700 residents of the town seeking to recover the costs of cleanup and damage from a BP Corp. North America Inc. oil refinery that operated in the city from 1897 to 1970. The lawsuit contends the operation of the refinery and associated laboratories and storage facilities generated a variety of poisonous wastes, including benzene, toluene, arsenic, lead and mercury. The contamination covers almost 70 percent of the town, including underneath City Hall, hundreds of homes and the community's schools. Experts also found groundwater pollution under 350 acres.

Read more: www.thekansan.com/stories/112707/topstories_112707002.shtml

Property values threatened by waste plant odor

TALMO, GA – The Agri-Cycle private wastewater treatment facility that opened up in this small Georgia town a few years ago recycles poultry byproducts and waste and uses a land-application treatment system to dispose of it on company property. Offended residents claim the smell – which they describe in scarcely printable terms – is causing land values to drop, neighbors to move and the quality of life to plummet. They have been holding hearings and begging public officials to close the plant since 2005. The Georgia Environmental Protection Division won temporary closure of the plant a few weeks ago, arguing that the plant repeatedly dumps untreated waste into a nearby creek, has expanded without a permit, and overloaded fields and lagoons used to break down waste. Read more: www.insurancejournal.com/news/south-east/2007/10/05/84058.htm

Environmental groups sue Shell for excess pollution at refinery

Houston, TX – Environmental groups have sued Shell Oil Co. and several of its affiliates, claiming the oil giant has for years released pollutants from its 1,500 acre suburban Houston refinery that are well above state and federal limits. In their federal lawsuit, the Sierra Club and Environment Texas claim the excess air pollutants, including toxic chemicals benzene and butadiene, are a violation of the federal Clean Air Act. The lawsuit alleges that the refinery has routinely had unauthorized emissions releases due to equipment breakdowns or unscheduled maintenance that have exceeded acceptable limits. They want a judge to order Shell to comply with emissions limits and fine the company up to \$32,500 per day for each of more than 1,000 violations. Read more: www.insurancejournal.com/news/southcentral/2008/01/09/86251.htm

Continued on next page

Real Life Problems, continued

\$458 mil settlement reached in Boston Big Dig claim

BOSTON, MA – The main management consultant and contractor on Boston's \$15 billion Central Artery/Tunnel Project (Big Dig) has agreed to pay more than \$407 million to resolve civil and criminal liabilities in connection with the partial ceiling collapse and other defects in the project. In the agreement, the joint firm acknowledges serious failures in its management of the major construction project. The agreement also calls for an additional \$51 million to cover costs of other construction flaws. This sum will be paid to the state by 24 other design contractors who worked on the project and their insurers, bringing the total recovery to \$458.2 million.

Read more:

www.insurancejournal.com/news/east/2008/01/23/86666.htm

CONTACT US



Email info@newdayunderwriting.com to have one of our business development managers contact you.

INDUSTRY TRENDS

READ ON for a few recent and important industry developments. Call us at 609 298-3516 and we'll walk you through what these issues mean to you and your clients.

FIN 47 fuels new thinking about environmental liabilities

Tightening disclosure rules are forcing public companies to disclose environmental liabilities they might not have previously reported. They are also sparking new discussions about environmental risk transfer solutions that can mitigate the potential adverse effects of these newly recognized and reported liabilities. From an environmental liability perspective, FIN 47 presents two challenges: first, uncovering and "pricing" all environmental liabilities associated; secondly, reducing these liabilities. **Read more:** web.aig.com/2007/aie5541/aie5541_landing4.html

Zurich Environmental introduces new form

Zurich Environmental has introduced the Z-Choice Premises Pollution Liability form... exciting news for your real estate owner and facility clients. The Z-Choice claims-made form provides Zurich's same comprehensive environmental protection while allowing the insured to select from a menu of coverage options. This increased flexibility means that coverage is customized specifically for the unique needs

of each insured. New Day can help you determine if Z-Choice is the right choice to help protect your real estate owner and facility clients against the variety of environmental liabilities lurking in their day-to-day operations.

Environmental Insurance looks promising in '08

In 1999, the environmental insurance market stood at approximately \$1.3 billion. At the conclusion of 2007, estimates were at \$2.8 billion. Our own John Heft has been underwriting risk in this blossoming market for nearly 20 years. His article, "Environmental Insurance Looks Promising in '08", in the February 2008 edition of *Agent and Broker* magazine offers an encouraging overview on the state of the market, the primary products available and the wealth of opportunity it creates for savvy brokers.



To read the article click or copy and paste this link into your browser:

www.agentandbroker.com/ME2/dirmod.asp?sid=&nm=Articles&type=Publishing&mod=Publications%3A%3AArticle&mid=8F3A7027421841978F18BE895F87F791&tier=4&id=531EC4B08A824030B627C52017A7AB25

John and New Day want to help you write more environmental and professional liability coverage for your clients. Contact us for more information.



Published by:
New Day Underwriting Managers LLC
33 Third Street, Suite 201, Bordentown, NJ 08505
Toll Free: 877 NDU-8008 • Tel: 609 298-3516
Fax: 609 298-6254 • www.newdayunderwriting.com
Editor: Jeffrey S. Lejfer, CPCU

New Day Underwriting Managers LLC provides specialty insurance broker and underwriting services, assisting insurance brokers and their clients find appropriate, high-quality environmental and construction related professional liability insurance coverages. New Day Underwriting offers agents and brokers single-point access to an ample portfolio of products and services provided by the nation's largest environmental and professional liability insurance providers. The authors of New Day Standard attempt to assured factual accuracy. However, New Day Underwriting Managers LLC is not responsible for errors.