AAPA PORT ADMINISTRATION AND LEGAL ISSUES SEMINAR

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“ENVIRONMENTAL ISSUES FACING PORTS: USING ALREADY PURCHASED INSURANCE POLICIES TO COVER ENVIRONMENTAL LIABILITIES”

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OLD INSURANCE POLICIES MAY COVER TODAY’S PROBLEM.

• Liability Insurance Policies (General, Umbrella, EIL, etc.).
• WQIS.
• Ship Scrapping.
• Additional Insured Under Other Entity’s Insurance Program.

The Policies in Effect When the Property Damage Occurred May Provide Coverage for Liabilities Imposed Today.
POTENTIAL BENEFITS:

• Defense (Pays Fees of Lawyers Dealing With Environmental Authorities) (Also May Pay For Investigation: RI/FS Costs).
  – Any Possibility of Coverage.

• Indemnity (Pays Settlements, Judgments and Clean-Up Costs).
FIND OLD INSURANCE POLICIES.

• Own Insurance Files (Storage).
• All Brokers/Agents (Existing and Old).
• Outside Accountants.
• Outside Counsel.
• U.S. Navy (Maryland Warehouse).
• Insurance Archeologists.
NOTICE.

• Notice of An Occurrence (An Event or Happening That Might Result in a Claim Against the Policyholder).

• Notice of A Claim (Claim or Threat Against Policyholder).

• When?
• To Whom?
• How?
WHAT NEXT?

• Identify/Collect/Preserve Records.
• Determine Policy Erosion/Settlement/Release.
• Provide Reasonable Cooperation.
• Provide Updates.
• Value Claim.
• Discuss Settlement.
• Cost/Benefit Analysis of Pursuing Coverage.
INSURANCE COMPANY DEFENSES.

• Clean-Up Costs As “Damages”.
• Allocation: All Sums v. Pro Rata.
• Adversity Needed for Defense.
• Owned Property.
• Expected/Intended.