Environmental Risk Transfer For PRPs

STRATEGIES FOR MANAGING SUBSTANTIAL DAMAGES EXPOSURE

March 16, 2007

ENVIRONMENTAL INSURANCE PRODUCTS

AIG Environmental

ENVIRONMENTAL INSURANCE

Risk Management - Business Solutions

Environmental Insurance can facilitate:

- Sale or acquisition of contaminated property
- Satisfaction of regulatory requirements for financial assurance
- Transfer of environmental liability for past, ongoing or future operations
- Capping of clean-up costs to remediate site(s)

AIG AIG Environmental®

ENVIRONMENTAL INSURANCE

Risk Management Tool

Insurance may be structured to help:

- Backup or substitute for an indemnity
- Fill the gap in government protections
- Provide longer term solution (10 years)
- Fix cleanup costs at estimated value – help bring certainty to the cost of cleanup for known conditions
- Provide liability protection for third party claims for cleanup costs, bodily injury or property damage related to known and unknown pollution conditions during and after remediation
- Satisfy lender requirements – help facilitate financing
- Provide protection for purchaser, seller, and/or lenders

AIG AIG Environmental®

ENVIRONMENTAL INSURANCE

Environmental Insurance Products Available to Assist with Environmental Liability Transfer:

- Clean-Up Cost Cap (CCC)
- Pollution Legal Liability (PLL)
- Combined PLL/CCC
- Environmental Protection Program

AIG AIG Environmental®

Who should consider clean-up insurance?

- Entities that own, buy or sell sites with a contamination problem with a clean up value of greater than $1,000,000
- Contractors managing cleanups over $1,000,000
- Entities looking for coverage for catastrophic events

AIG Environmental

Clean-Up Cost Cap

Environmental insurance for FIXED FACILITIES:

CCC – First Party coverage for remedial cost overruns – no coverage for bodily injury or property damage. If there is a planned remediation, CCC not PLL for clean-up coverage.

Covers Clean-Up Cost Overruns for:

- Actual contamination greater than expected for the agreed Remedial Plan.
- Offsite clean-up costs adjacent to the site that are part of the Remedial Plan.
- Offsite clean-up costs migrating from the covered site that are part of the Remedial Plan.
- Change orders of the Remedial Plan by governmental authorities that are required during the policy term.
- Option for clean-up coverage for contamination newly found during implementation of the Remedial Plan

Cleanup Cost Cap

Clean-Up Cost Cap (CCC)

Clean-Up Cost overruns on known remediation projects.

- Greater than $1,000,000 expected in clean up costs

Cost-Cap can be combined with Pollution Legal Liability - Combined Form PLS/CCC Combines CCC and Pollution Legal Liability

AIG AIG Environmental

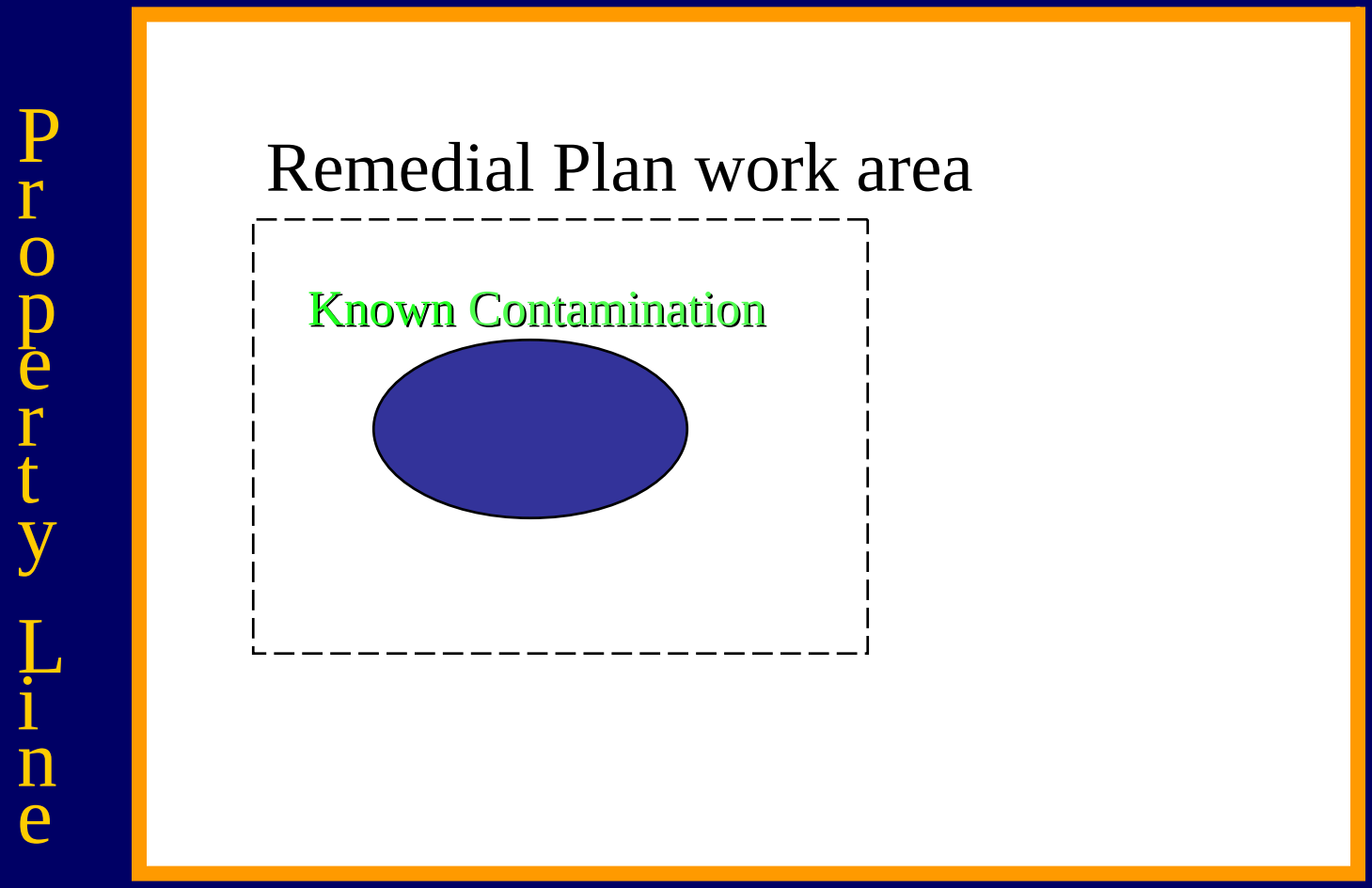
Cleanup Cost Cap

Clean-Up Cost Cap (CCC)

- First Party Coverage
  - Defined clean-up plan for full site or a portion of site.
  - Single site or multiple sites
  - Owner, buyer, seller or contractor driven

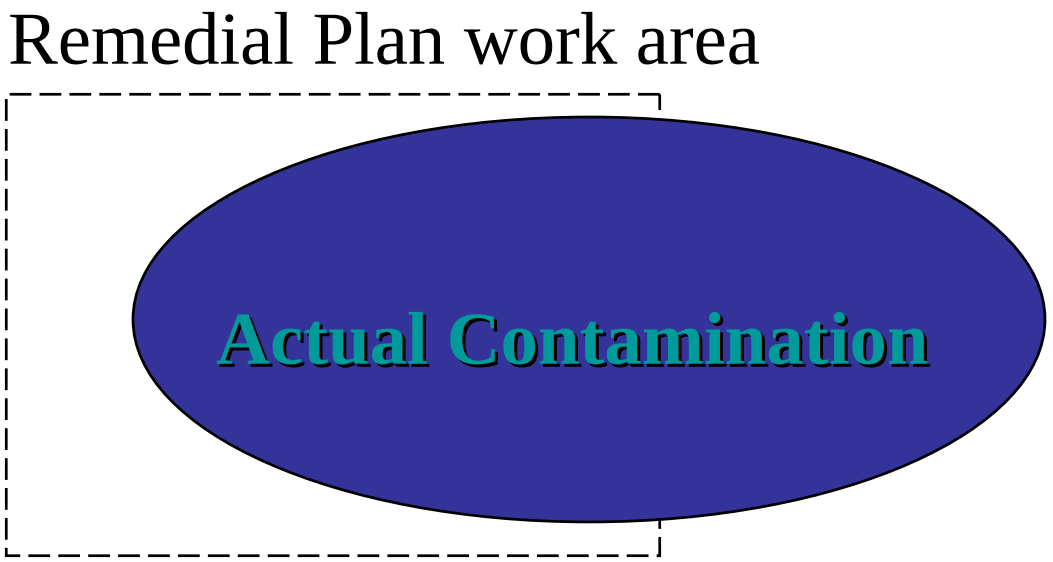
AIG Environmental

Cleanup Cost Cap



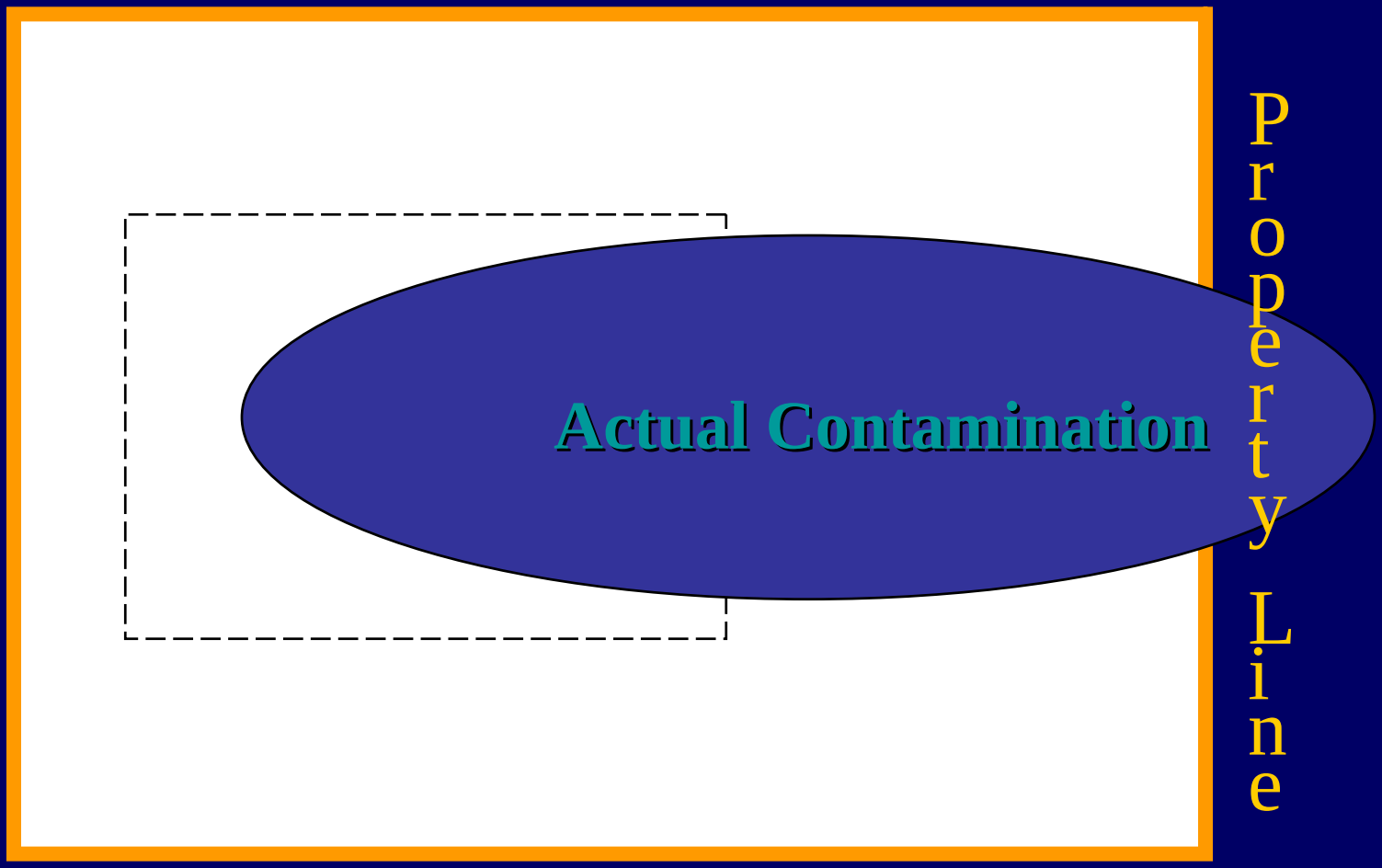
AIG Environmental

Cleanup Cost Cap



AIG Environmental

Cleanup Cost Cap



AIG Environmental

Cleanup Cost Cap

Covers Remediation Cost Overruns for Clean-Up Costs

- Actual contamination greater than estimated.
- Offsite cleanup due to migration from the covered site.
- Change orders by governmental authorities that are required during the policy term.

AIG AIG Environmental®

Cleanup Cost Cap

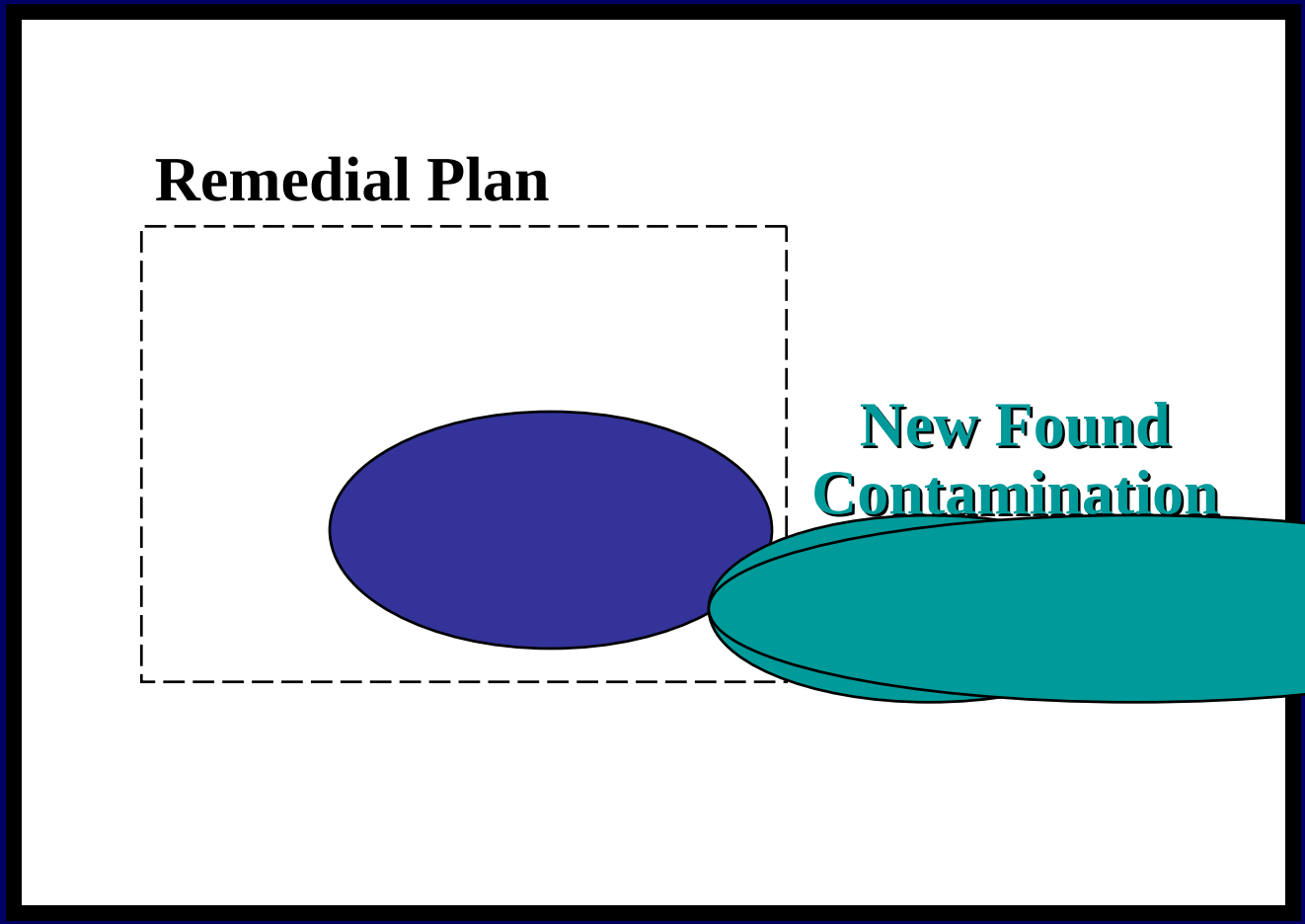
Optional

New Found Contamination Coverage: discovered during the actual RAP

- Includes **Clean-Up Costs** for contamination beyond the remedial plan and covered location.
- **Clean-Up Costs** erodes the single self-insured retention.

AIG Environmental

Cleanup Cost Cap



AIG Environmental

Cleanup Cost Cap

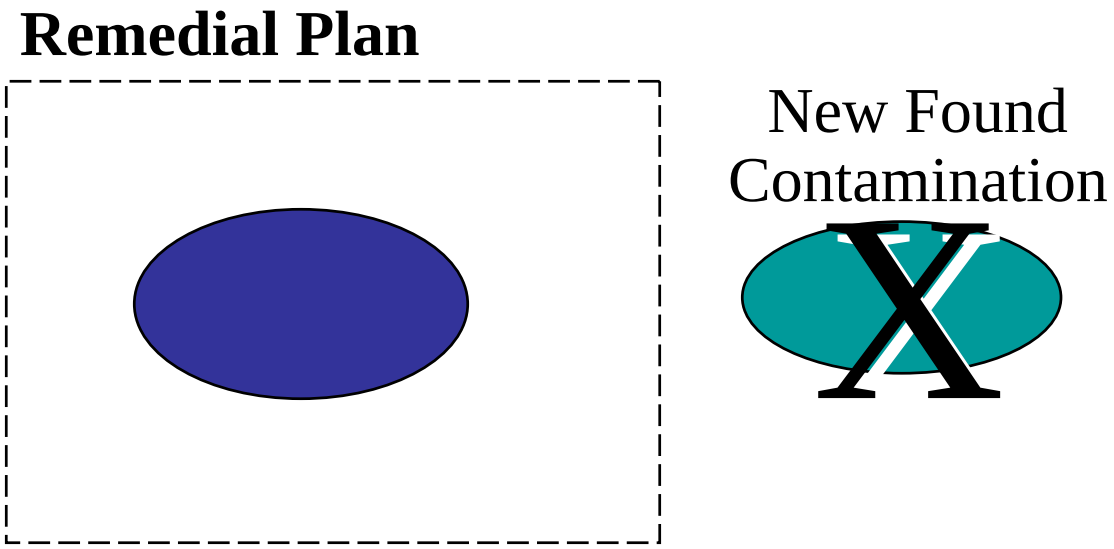
Optional

New Found Contamination Coverage:

- Does ***not*** cover new found contamination that is discovered due to activities outside of the action plan.

AIG Environmental

Cleanup Cost Cap



AIG Environmental

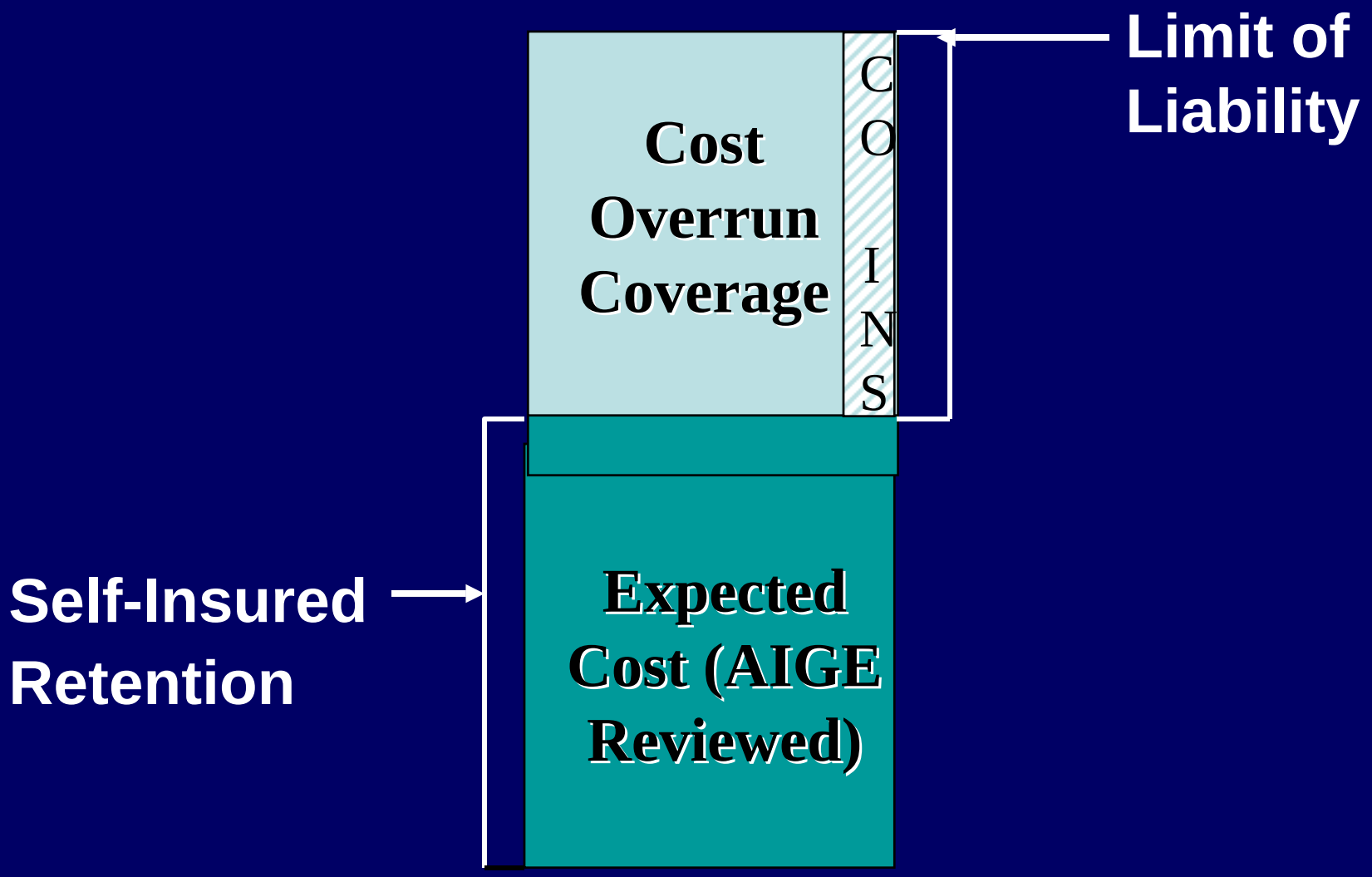
Cleanup Cost Cap

Basic Structure

- Coverage attaches above the expected cleanup costs which costs are as determined by AIG Environmental.
- All Coverage's erode same single SIR.

AIG Environmental

Cleanup Cost Cap



AIG Environmental

Key Issues

SIR = Engineering cost AIGC-EM

Engineered activities = Definition of Cleanup

Definition of Cleanup = CCC coverage

AIG Environmental

Cleanup Cost Cap

- 100% cost overruns up to $25 million (above the SIR) limits available.
- Minimum Premium $300k.
- Multi-site programs can be offered.
- Terms of up to ten years available for a typical Cost Cap. Longer terms available for EPP programs.

AIG AIG Environmental®

Cleanup Cost Cap

Does *not* include:

- Legal liability:
  - bodily injury,
  - property damage,
  - cleanup cost asserted by third party against insured.
- Legal defense or legal fees.
- NRD's
- Any costs post completion of the defined RAP

AIG Environmental

PLL/CCC Combined

PLL/CCC Combined Form

- **First Party and Liability Coverage**
- Ideal for sites that have both clean up and potential liability issues both before and after the proposed clean up.
- Addresses re-opener issues

AIG Environmental

Pollution Legal Liability

Environmental insurance for FIXED FACILITIES:

PLL can cover legal liabilities for **Bodily Injury**, **Property Damage** or **Clean-Up Costs** arising from **Pollution Conditions.** Menu of options.

- **Coverage is Claims Made and Reported, Defense Eroding**
- **On or under scheduled insured properties**
- **Migrating from scheduled insured properties**
- **Sudden / Accidental and Gradual coverage**
- **Pre-existing and/or New Pollution Conditions- Continuity Date distinguishes pre-existing from new**
- **Disposal of waste at scheduled non owned locations**
- **Transportation of Transported Cargo**
- **First Party Business Interruption**

AIG AIG Environmental®

Pollution Legal Liability

Can be structured to cover for third party liability due to:

- ***Pollution Conditions*** **on or under the** ***Insured Property***
- **Pre-existing and new Pollution Conditions**
- **Clean-Up Costs required by Environmental Law - Discovery trigger (not for RAP)**
- **Third party claims for Clean-Up Costs on-site**
- **On-site third-party bodily injury**
- **On-site third-party property damage**

AIG AIG Environmental®

Off-Site Pollution Conditions

Can be structured to cover for third party liability due to :

- Off-site **Clean-Up Costs** resulting from pre-existing or new **Pollution Conditions**
- Coverage for **Claims** for **Clean-Up Costs** from **Pollution Conditions** which have migrated beyond the boundaries of the **Insured Property**
- Off-site **Clean-Up Costs** resulting from pre-existing or new **Pollution Conditions**
- Third party **Claims** for off-site **Bodily Injury** and **Property Damage**
- **Pollution Conditions** must migrate from the **Insured Property** (not limited to on site sources)

AIG AIG Environmental

Other Available PLL Coverage

Non-Owned Disposal Sites

- Third-party **Claims** for on-site **Clean-Up Costs**, **Property Damage** or **Bodily Injury,** arising from **Pollution Conditions** on or under a scheduled **Non-Owned Location** *(excludes employees of the Non-Owned Location)*

- Third party **Claims** for off-site **Clean-Up Costs**, **Property Damage**, or **Bodily Injury arising from Pollution Conditions** that have migrated from a scheduled **Non-Owned Location**

AIG AIG Environmental®

Other Available Coverage

Transportation

- Coverage for BI, PD and CC arising from Transported Cargo (by a conveyance)
- Third Party Transporters (Owners Spill Liability)
- Transportation conducted by the Insured (Supplementary Environmental Automobile Liability)
- Coverage during the course of Transportation and for Loading / Unloading

AIG Environmental

PLL Submission Requirements

- Application and telephone survey
- Information regarding on-site operations
- Any Environmental Reports / Assessments completed for the site
- Financial Information
- Other information deemed necessary by the Underwriter
  - Database Searches
  - Regulatory Correspondence
  - Engineering survey

AIG Environmental

Environmental Protection Programs

- **Long-Term Solutions for:**
  Financial Assurance Requirements
  Clean-Up Cost Overruns

- **Individually tailored insurance programs**

- **Helps support liability transfer or liability release or indemnity**

AIG AIG Environmental®

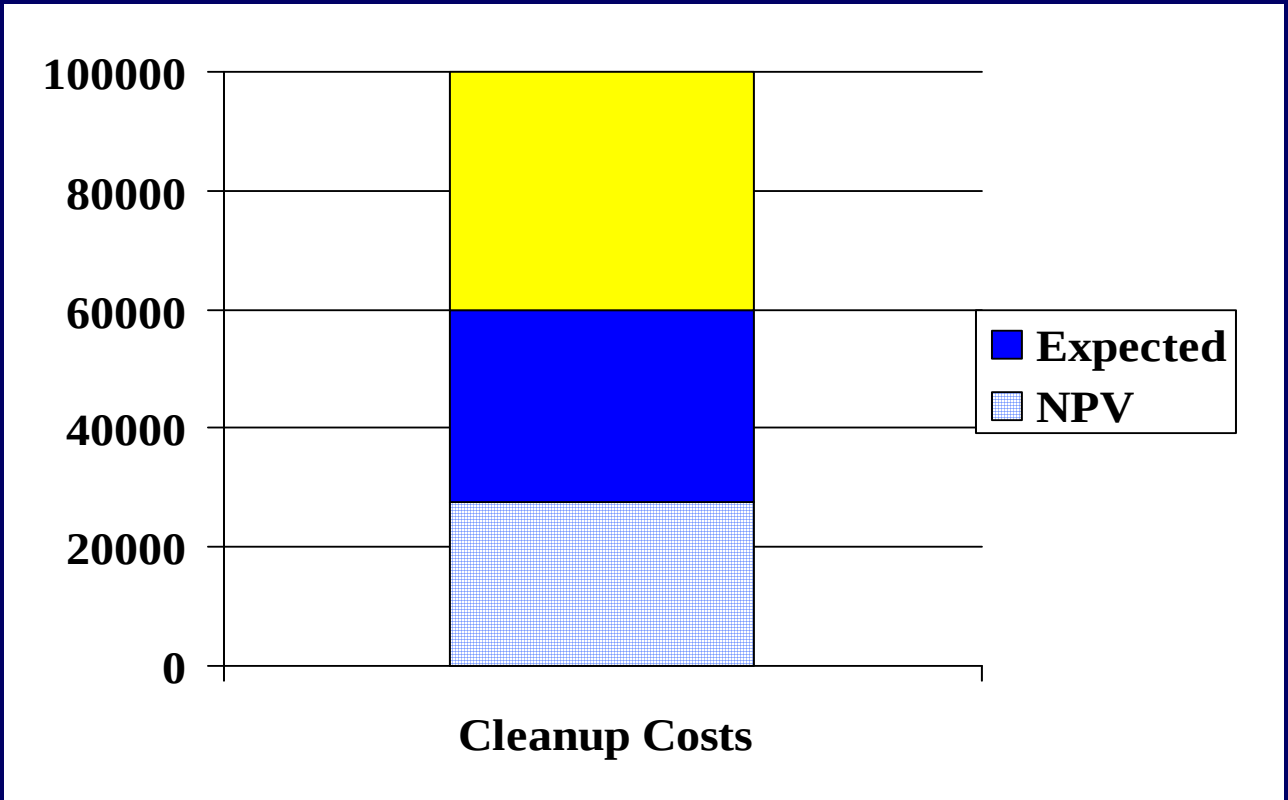
Environmental Protection Programs

Basic Structure:

- Annual Expected Costs are estimated based upon engineering review.
- Annual Expected Costs are discounted.
- Premium Calculated

AIG AIG Environmental®

Environmental Protection Programs



AIG Environmental

Environmental Protection Programs

- **Premium: $ 33,347**
- **Estimated Losses $60,000**
- **Limit: $100,000**
- **Notional Commutation Deposit Credit: $ 27,577**

AIG Environmental

Notional Commutation Account

- **Notional Commutation Account?**

  Notional Account deemed to accrue interest at CMT rate

  Losses (payments from the Policy) are subtracted from the balance

  Incentive to all parties to keep cost down

AIG AIG Environmental

Why?

Financial Assurance.

Financial assurance (in some instances Financial Assurance) that money will be available for future cleanup activities that may be:

- Required by a governmental agency
- Required to complete a property transfer or development
- Required to resolve superfund or other litigation

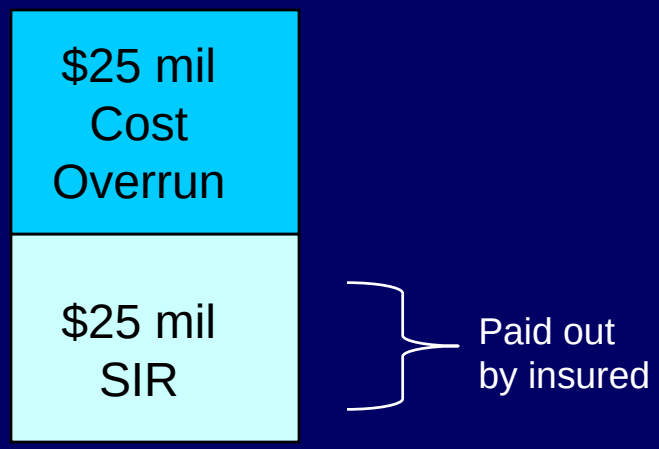
  Support of Liability Transfer or Guaranteed Fixed Cost Contracts.
  Obtain Long Term Coverage.

- **Collapse of Surety Market.**

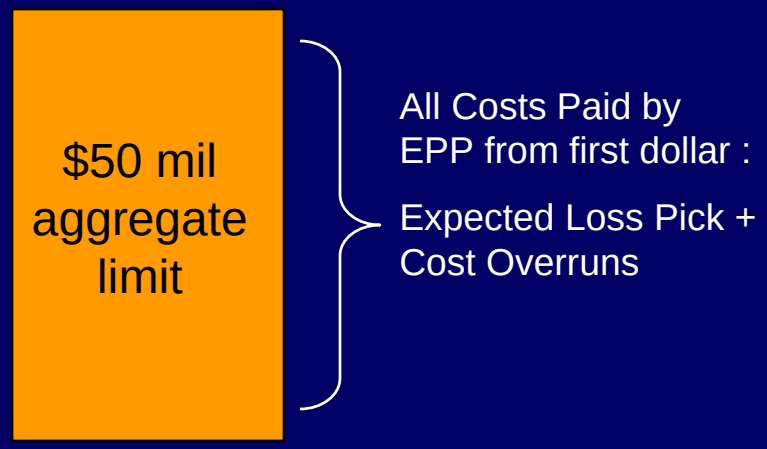
AIG Environmental

Environmental Protection Program Cost Cap

Traditional Cost Cap Insurance



Cost Cap EPP Program



<u>EPP Advantages may include:</u>

1) **Longer Terms than available in traditional market**
2) **Greater Limits than available in traditional market**
3) **More efficient use of client's capital – EPP absorbs the timing risk associated with the time value of money**

AIG Environmental

The scenarios summarized above are offered only as examples. Coverage depends on the actual facts of each case and the terms, conditions and exclusions of each individual policy. Anyone interested in the above product(s) should request a copy of the policy itself for a description of the scope and limitations of coverage. Policy terms may vary based on individual provincial requirements and may not be available in all states. Further, descriptions of all agreements and contracts herein is summary only.

Insurance underwritten by member companies of American International Group, Inc. The description herein is summary only. It does not include all terms, conditions and exclusions of the policies described. Please refer to the actual policies for complete details of coverage and exclusions. Coverage may not be available in all states. Issuance of coverage is subject to underwriting review and approval.

Nothing herein contains legal, tax or accounting advice. Please contact your legal, tax or accounting professional for advice.

AIG AIG Environmental®