



Environmental Claims & Insurance

Mileidy Perez

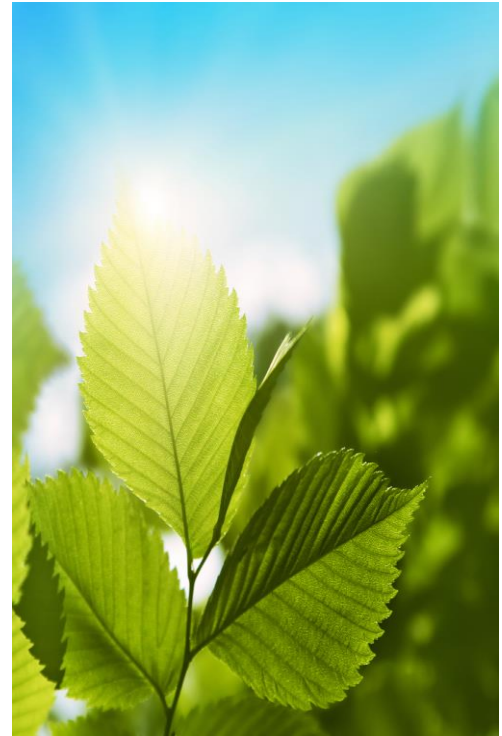
VP Major Loss Environmental Claims EMEA

Mileidy.perez@aig.com

4th February 2017

Introduction

- Overview of Environmental Law Targets
- Environmental Claims
- Environmental Policy Products



Environmental Law in the UK

Environmental law targets five broad environmental problems:

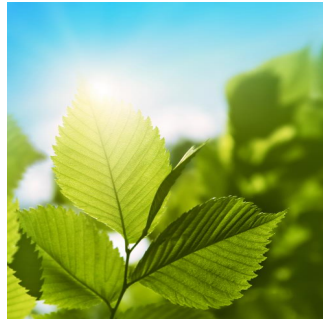
1. Water Pollution
2. Contamination of land
3. Environmental Damage and Destruction of Natural Resources
4. Irresponsible waste dealings
5. Pollution of air



Environmental Law in the UK

In the UK, each broad environmental problem is tackled by two types of law:

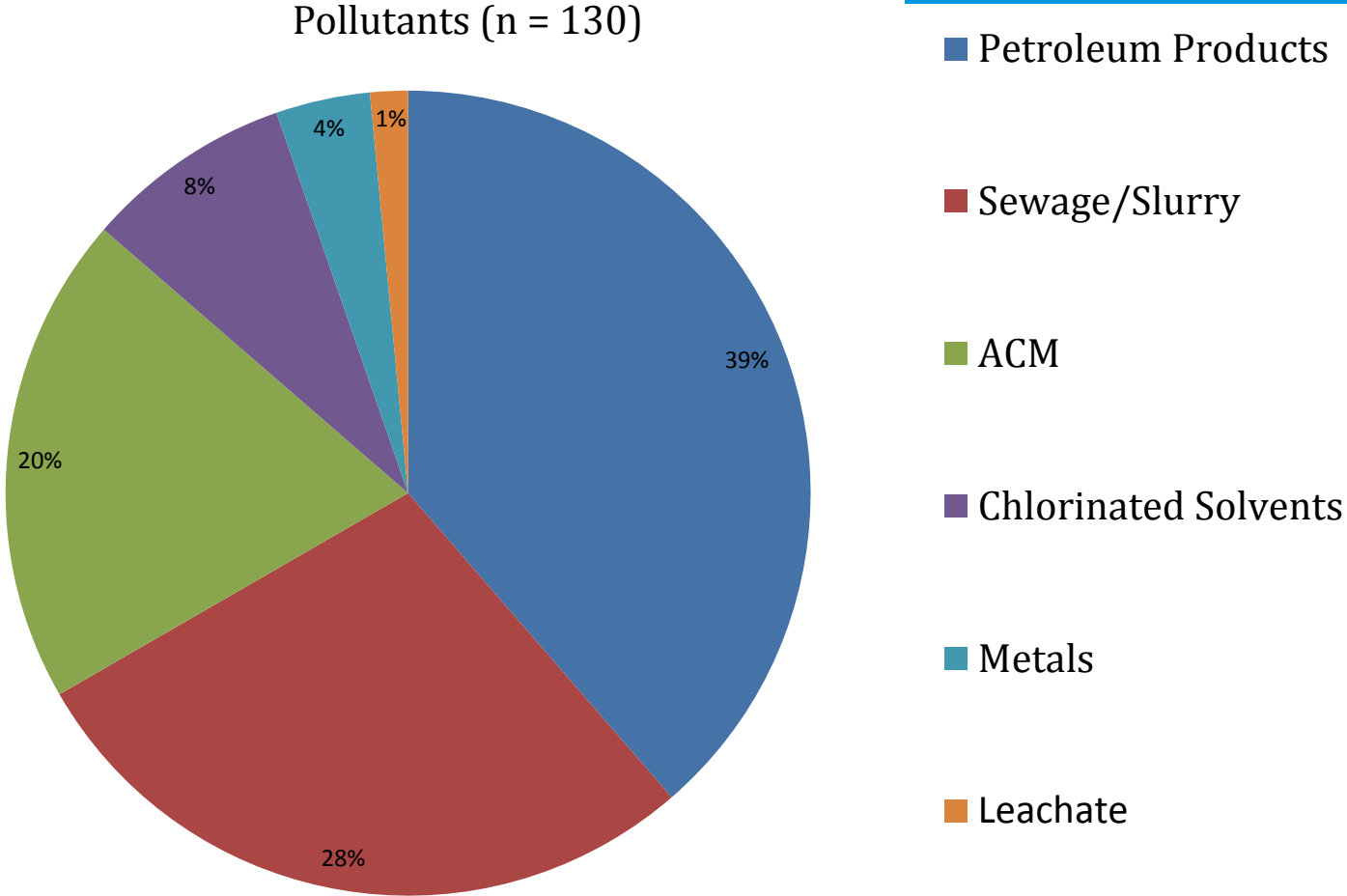
1. “compliance laws” that regulate how business conduct their day to day operations to avoid pollution, underpinned by criminal sanctions
2. “civil liability laws” which determine who pays for the consequences of pollution when it happens, initiated by
 - Regulators like the Environment Agency, Natural England, Local Authority, Health & Safety Executive
 - Third parties



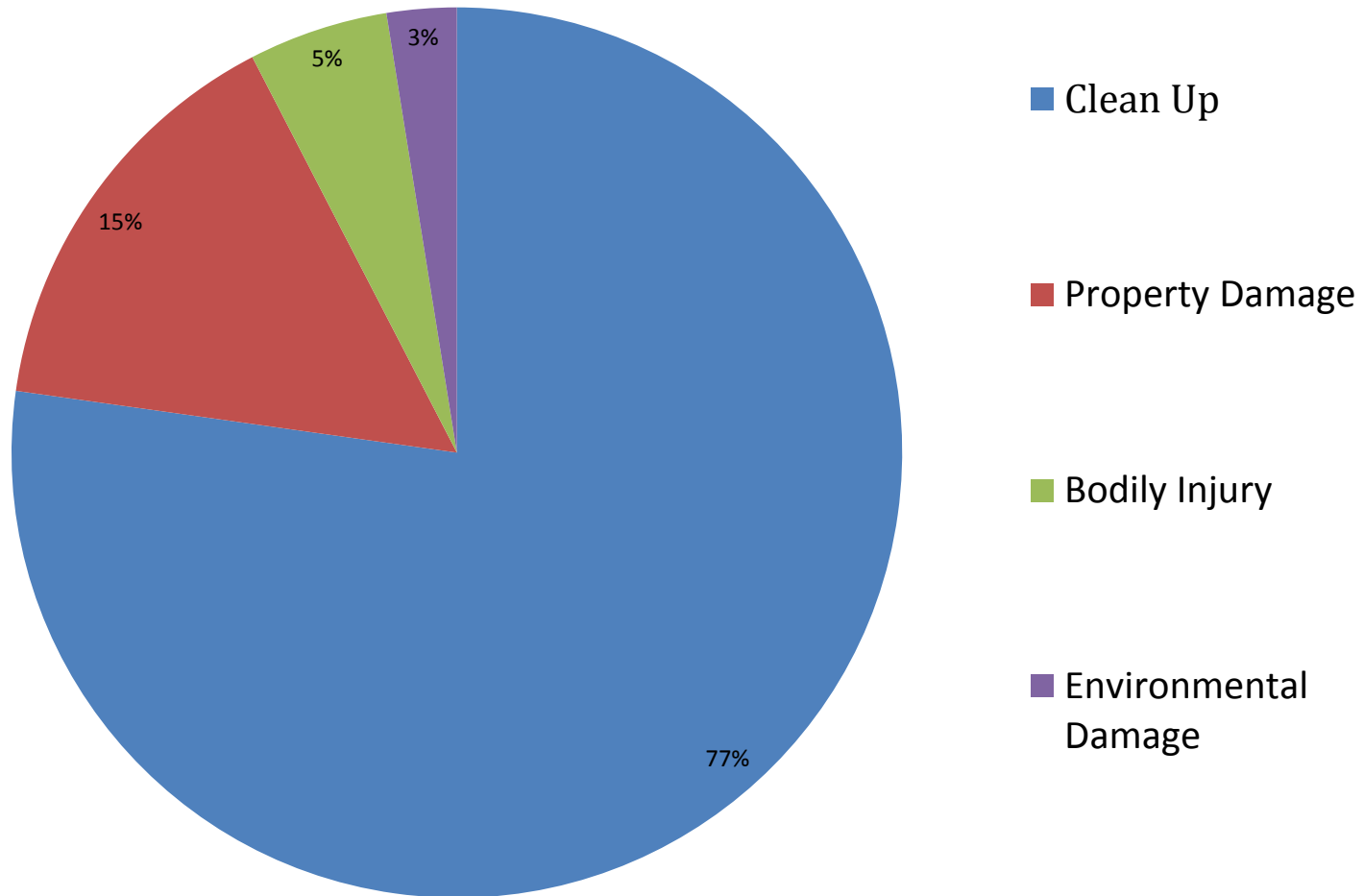
Environmental Law in the UK

- Some current points to note:
 - Very frequently, compliance and liability is intertwined
 - Criminal fines are increasing, with fines for very large (>£50M turnover) companies now frequently approaching or even exceeding £1M
 - Civil liability claims by third parties have been increasing
 - Liability falls on “knowing permitters” of pollution as well as direct polluters

AIG - UK & Ireland: Summary of Key Pollutants



AIG - UK & Ireland: Summary of Damages



Water Pollution

- Water pollution can lead to:
 - The Environment Agency bringing criminal proceedings against the polluter under Regulation 38 Environmental Permitting (England and Wales) Regulations 2010 (compliance)
 - The Environment Agency requiring the polluter to clean up liability under S161 and S161A Water Resources Act 1991 (liability)
 - Third parties suing in tort for personal injury/damage to property caused by the water pollution (liability)

Water Pollution Claim Example

Key Facts

- Manufacturing facility
- Loss of about 40,000 litres diesel entered storm drains and sea
- Regulator investigation (EA)
- On-site: clean-up of drainage network
- Off-site: clean-up of hydrocarbon impact along coast
- Third-party claims: property damage



Water Pollution Claim Example

Key Facts

- Incident: Domestic property
- Chasing out an electrical fault on electricity cable
- Damaged sub-surface fuel pipeline
- 1,000 litres kerosene ground
- Impact: soil and groundwater
- EA involved



Contamination of Land

- This can lead to:
 - The Environment Agency bringing criminal proceedings against the polluter under the Environmental Permitting (England and Wales) Regulations 2010 (compliance)
 - Assuming site not scheduled for development, the LA/EA requiring the polluter/owner to clean up under Part 2A of the Environmental Protection Act 1990 (liability)
 - Third parties suing in tort for personal injury/damage to property caused by the land contamination (liability)

Contamination of Land - Claim Example

Key Facts

- Bio-waste plant
- Discharge of $\sim 1,000 \text{ m}^3$ of digestate to land
- Software fault SCADA system
- Contaminated gravel washed and disposed off
- Digestate disposed off-site and wash down water ($3,000 \text{ m}^3$)
- EA involved



Impact to Land & Water Claim Example

Key Facts

- Split in above ground pipework
- Discharge of slurry to land and local watercourse
- Clean-up: slurry removed from land
- Fish kill in local watercourse
- EA involved



Environmental Damage & Destruction of Natural Resources

This can lead to:

- Liability imposed by the EA to remediate damaged water, land and natural resources under the Environmental Damage Regulations 2015 (liability)
- The EA bringing criminal proceedings against the permit holder under the Environmental Permitting (England & Wales) Regulations 2010 (compliance)
- The EA imposing liability to remediate under S161 and S161A Water Resources Act 1991 (liability)
- Natural England requiring the polluter to restore under the Wildlife and Countryside Act of 1981 (liability)
- Natural England bringing criminal proceedings against the polluter under the Wildlife and Countryside Act 1981 (compliance)
- Third parties suing in tort for personal injury/damage to property caused by the land contamination (liability)

Environmental Damage Regulations

- EDR transposes EU Directive 2004/35/EC into national legislation
- EDR covers 'environmental damage' to: protected species/habitats, water and land.
- Where 'environmental damage' has occurred the enforcing authority can serve a Remediation Notice.

Remediation falls into 3 categories:

- 1. Primary Remediation** - consists of those measures which return the damaged resources or impaired services to or towards the state that would have existed if the damage had not occurred.
- 2. Complementary Remediation** - consists of measures to compensate where primary remediation does not fully return the damaged natural resources or services to the condition that would have existed had the damage not occurred.
- 3. Compensatory Remediation** - consists of measures to be taken to compensate for interim losses. Can be undertaken at the damaged site or an alternative site.

ELD – European Statistics

- EU ~ 1,245 incidents of Environmental Damage (April 07 to April 13)

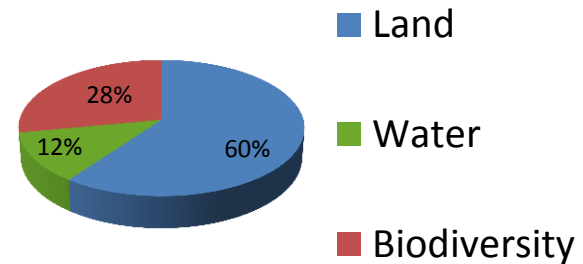
- United Kingdom 25 incidents (2009 to 2014)
- Ireland 0 incidents

➤ 2 MS account > 86% of reported cases

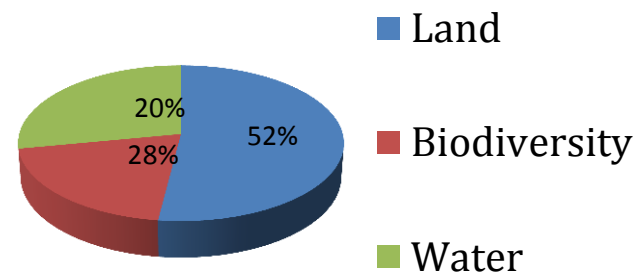
➤ Hungary	563
➤ Poland	506
➤ Germany	60
➤ Greece	40
➤ Italy	7

➤ 11 MS no incidents since 2007

ELD Cases - UK



ELD Cases - EU



Environmental Damage: Habitats

Key Facts

- Blockage in sewer
- Discharge of solid/liquid sewage
- Sensitive location SSSI, NNR, SAM, Principal Aquifer (PWS)
- Multi-Agency interest (EA, NE)
- Significant amenity value in local area



Impact to Environmental Habitat

Key Facts

- EA - Notice of Liability (NOL) EDR
- NOL challenged and withdrawn
- Clean-up involved scraping and removing contaminated soils, waters
- Install groundwater monitoring installations
- Long term environmental monitoring to assess impact



Improper Waste Activities

This can lead to:

- The Environment Agency bringing criminal proceedings against the polluter under S33 and S34 of the Environmental Protection Act 1990 or the Environmental Permitting (England & Wales) Regulations 2010 (compliance)
- The Environment Agency or the Local Authority requiring the occupier of the affected site to clean up, for example, Part 2 of the Environmental Protection Act 1990 (liability)
- Third parties suing in tort for personal injury/damage to property caused by the waste (liability)

Pollution of Air

This can lead to:

- The EA bringing criminal proceedings against the polluter under the Environmental Permitting (England & Wales) Regulations 2010 (compliance)
- The LA requiring the polluter to abate a nuisance under Part 3 of the Environmental Protection Act 1990 (liability)
- The EA requiring the permit holder to abate a nuisance under the Environmental Permitting (England & Wales) Regulations 2010 (liability)
- Third parties suing in tort for personal injury/damage to property/harm to amenity caused by the air pollution (liability)

Environmental Policy Products

AIG three main policy types:

PLL/EnviroPro



Pollution Legal Liability
(PLL, Environmental Impairment Liability &
EnviroPro Policies)

COPS



Contractors Operations & Professional
Services Policy

CPL



Contractor Pollution Liability Policy

Pollution Legal Liability

(PLL, Environmental Impairment Liability & EnviroPro Policies)

- Site based coverage – Insured Property, Non-Owned Disposal Sites
- New &/or Pre-existing Pollution Conditions
- Third-Party Claims for On-site and Off-Site Cleanup Costs
- Third-Party Claims for Bodily Injury and Property Damage
- Biodiversity Damage
- Emergency Response & Mitigation Expenses
- Transportation Liability
- Business Interruption
- Crisis Management Costs
- Defense Costs



Contractors Pollution Liability (CPL)

Covers Contractors for Loss resulting from Pollution Conditions caused by Covered Operations including work performed by subcontractors

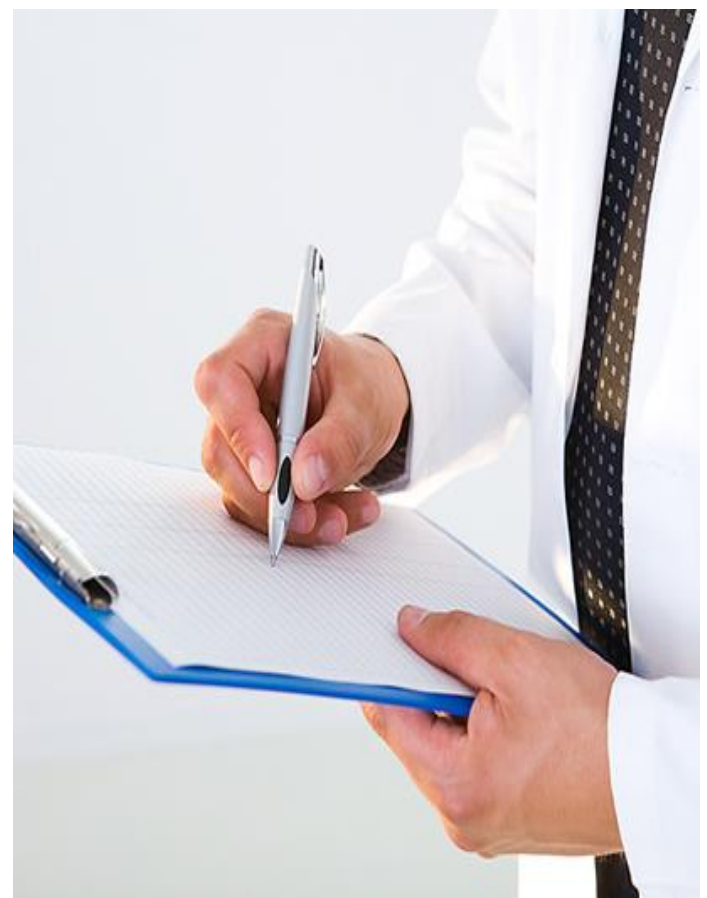
- Cleanup Costs
- Environmental Damage
- Third-Party Claims for Bodily Injury
- Third-Party Claims for Property Damage
- Emergency Response
- Defense Costs
- Claims-Made or Occurrence Based



Contractors Operations & Professional Services Policy (COPS)

Covers full service environmental firms that perform field operations as well as Professional Services such as planning, engineering, design, architecture or consulting by combining the coverage elements of Contractors Pollution Liability (CPL) and Errors & Omissions (E&O) policies.

- Cleanup Costs
- Environmental Damage
- Third-Party Claims for Bodily Injury
- Third-Party Claims for Property Damage
- Emergency Response
- Defense Costs
- Claims-Made or Occurrence Based







American International Group, Inc. (AIG) is a leading global insurance organization. Founded in 1919, today we provide a wide range of property casualty insurance, life insurance, retirement products, mortgage insurance and other financial services to customers in more than 100 countries and jurisdictions. Our diverse offerings include products and services that help businesses and individuals protect their assets, manage risks and provide for retirement security. AIG common stock is listed on the New York Stock Exchange and the Tokyo Stock Exchange.

Additional information about AIG can be found at www.aig.com and www.aig.com/strategyupdate | YouTube: www.youtube.com/aig | Twitter: @AIGinsurance | LinkedIn: <http://www.linkedin.com/company/aig>. These references with additional information about AIG have been provided as a convenience, and the information contained on such websites is not incorporated by reference into this press release.

AIG is the marketing name for the worldwide property-casualty, life and retirement, and general insurance operations of American International Group, Inc. For additional information, please visit our website at www.aig.com. All products and services are written or provided by subsidiaries or affiliates of American International Group, Inc. Products or services may not be available in all countries, and coverage is subject to actual policy language. Non-insurance products and services may be provided by independent third parties. Certain property-casualty coverages may be provided by a surplus lines insurer. Surplus lines insurers do not generally participate in state guaranty funds, and insureds are therefore not protected by such funds. In Europe, the principal insurance provider is AIG Europe.