



Commercial General Liability

A glass half full?



Capri Insurance Services

- **Capri Insurance** has been in the general insurance business since 1975.
- We are a privately owned BC corporation with 100% of it's ownership held by active employees

Capri and CMW Join Forces

- As of January 1, 2017 CMW Insurance Services and Capri Insurance Services, two of British Columbia's Premier insurance brokerages merged.
- The merged company employs a workforce of over 400 employees in 14 offices across British Columbia.
 - Annual Premium: Over **\$361 Million**

Lana Hunnie, CIP, CAIB

- Partner / Owner
- Chartered Insurance Professional
- Canadian Accredited Insurance Broker
- 30 years Experience in Insurance
 - ✓ Morly was 3 years old when Lana started her career in insurance

Morly Bishop, B.Sc.

- Bachelor of Science in Chemical Biology
- Instructor Water Treatment Technology for Thompson Rivers University
- 7 years experience in Drilling Operations
 - Oil and gas
 - Construction (Micropile Drilling)



What triggers the CGL?

Commercial General Liability (Occurrence Form)

L1

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under SECTION II - WHO IS AN INSURED.

Other words and phrases that appear in quotation marks have special meaning.

SECTION I - COVERAGES

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement.
 - a. We will pay those sums that the insured becomes legally obligated to pay as compensatory damages because of "bodily injury" or "property damage" to which this insurance applies. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS - COVERAGES A, B AND D. This insurance applies only to "bodily injury" and "property damage" which occurs during the policy period. The "bodily injury" or "property damage" must be caused by an "occurrence". The "occurrence" must take place in the "coverage territory". We will have the right and duty to defend any "action" seeking those compensatory damages but:
 - 1) The amount we will pay for compensatory damages is limited as described in SECTION III - LIMITS OF INSURANCE.
 - 2) We may investigate and settle any claim or "action" at our discretion; and
 - 3) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A, B or D or medical expenses under Coverage C.
 - b. Compensatory damages because of "bodily injury" include compensatory damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury"
 - c. "Property damage" that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the "occurrence" that caused it.

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Compensatory Damages:

- Sum of money awarded in a civil action by a court to indemnify a person for a particular loss, detriment, or injury suffered as a result of the unlawful conduct to another
- compensatory damages provide a plaintiff with the monetary amount necessary to replace what was lost nothing more.
 - The insurer retains the right to investigate and settle any claim

What does a CGL NOT Cover?

- Common Exclusions
 - Pollution Liability
 - Professional Liability
 - Your Property
 - Contractors Equipment
 - Down Hole Tool Coverage
 - Expenses
 - Forest Fire Fighting Expense
 - Expenses to control a flowing Artesian Well

Not All Pollution Exclusions are the Same

- Some policies will have a pollution exclusion, however, they still provide limited coverage
 - i.e. Pollution from hostile fire.
 - Release of pollutants unearthed from the job site
 - Accidental release of a pollutant from mobile equipment during normal operations

What is a professional?

- A professional is expected to perform their services with the degree of knowledge, care and skill of an average professional peer in good standing
- This is frequently referred to as the “standard of care.”
- A failure to perform to this standard constitutes negligence
- **Liability** arising from rendering or failure to render professional services are specifically excluded from the commercial general liability form.
- **Claim example:** perfectly functioning well accidentally placed outside the property lines.

Expenses not covered by definition.

- Forest Fire Fighting Expense – The expense to extinguish a forest fire the you caused
 - Example: If a forest fire broke out due to an employee smoking, the cost to extinguish of \$ 500,000 would not be covered by the cgl
 - If a \$ 500,000 house was lost and a lawsuit was presented this would be covered (property damage)

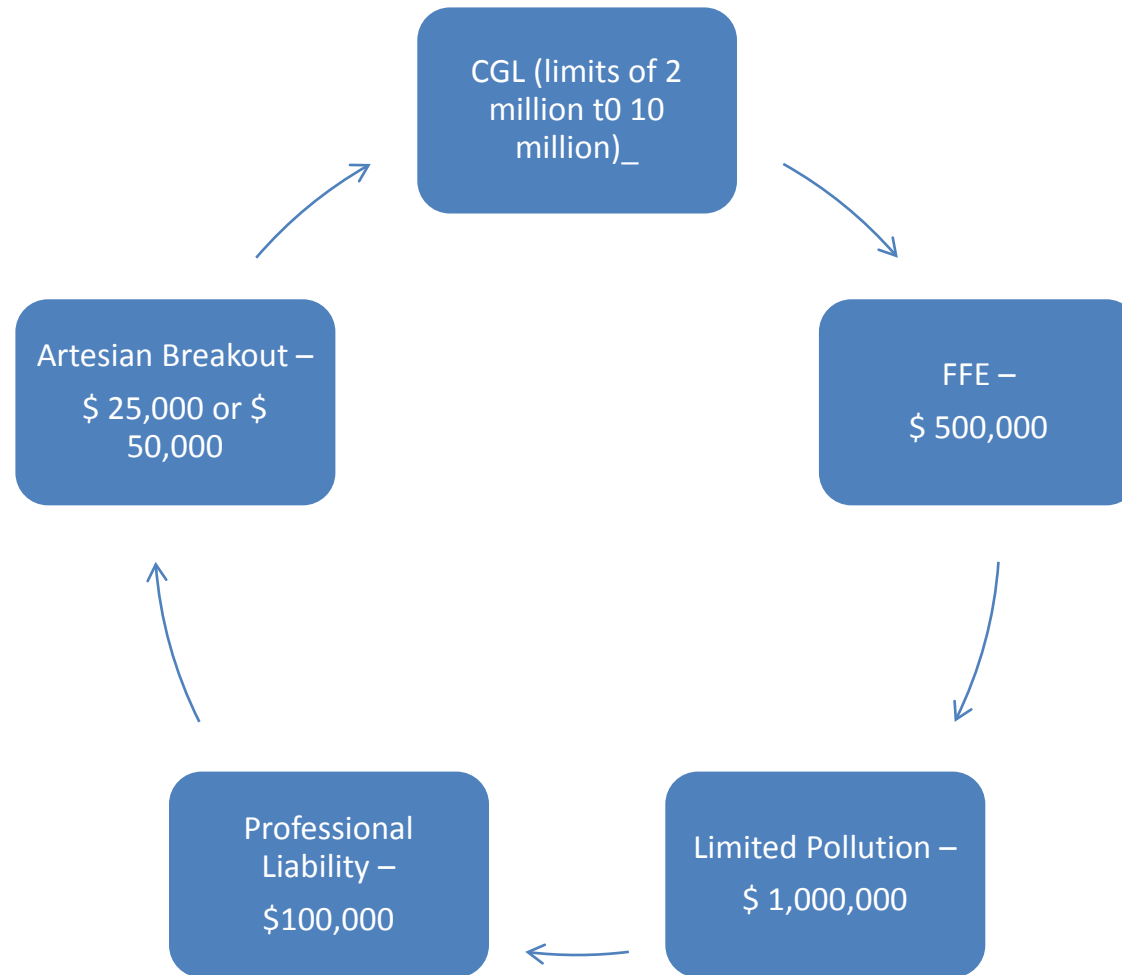
Expenses not covered by definition.

- Expense to control an artesian flowing well is not covered by a commercial general liability policy
- Property Damage occurred as a result of a flowing water well would be covered.

we all have a
choice to make.



Liability Policy: Complete Solution!



What is artesian Breakout Expense Insurance?

Limit

\$ 25,000

\$ 50,000

Deductible

\$ 5,000

\$ 5,000

Premium

\$ 750

\$ 1,250

- Consult with a broker who fully understands the issues with Artesian Break Out Expense
- Pro-active instead of Re-active
- They must check with the Insurer to ensure that the losses arising from this issue are **NOT EXCLUDED** under your professional liability insurance

A CLOSER LOOK INTO PROFESSIONAL LIABILITY!

- COMMONLY REFERRED TO AS ERRORS AND OMISSIONS INSURANCE
- WHAT IS IT? WHAT DOES IT DO?
 - A FORM OF LIABILITY INSURANCE THAT HELPS PROTECTS PROFESSIONAL ADVICE
 - PROTECTS INDIVIDUALS AND COMPANIES FROM BEARING THE FULL COST OF DEFENDING AGAINST A NEGLIGENCE CLAIM MADE BY A CLIENT
 - YOUR CLIENT SUFFERED A FINANCIAL LOSS DUE TO YOUR PROFESSIONAL ADVICE

THE STANDARD PL INSURING AGREEMENT

I. INSURING AGREEMENTS

The Insurer will pay on behalf of the Insured all Damages and Claim Expenses in excess of the Retention and up to the applicable Limit of Liability specified in Item 5. of the Declarations that any Insured, in the performance of Professional Services, becomes legally obligated to pay because of Claims first made during the Policy Period or any Extended Reporting Period and resulting from a Wrongful Act.

LETS DIG DEEPER!

- DAMAGES
 - AMOUNTS WHICH THE INSURED IS LEGALLY OBLIGATED TO PAY AS A RESULT OF A JUDGMENT, AWARD OR SETTLEMENT
 - COST CHARGED AGAINST THE INSURED IN ANY SUITE DEFENDED BY THE INSURER
 - INTEREST ASSESSED PRIOR TO THE INSURER PAYING OR OFFERING TO PAY, OR DEPOSITED IN COURT

CONTINUING TO DIG DEEPER.....

- CLAIMS EXPENSES
 - REASONABLE AND NECESSARY FEES CHARGED BY ATTORNEYS SELECTED OR PRE-APPROVED BY THE INSURER TO DEFEND AN INSURED
 - REASONABLE OR NECESSARY EXPENSES INCURRED BY THE INSURED AT THE REQUEST OF THE INSURER
- CLAIMS EXPENSES ARE NOT:
 - LOSS OF EARNINGS OR PROFIT BY THE INSURED
 - SALARIES, WAGES, FEES, OR OTHER COMPENSATION PAYABLE TO THE INSURED

AND FINALLY....

- WRONGFUL ACT.
 - MEANS THE FOLLOWING ACTUAL OR ALLEGED CONDUCT BY THE INSURED, OR BY ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED IS LEGALLY LIABLE, AND WHICH RESULTS FROM THE PERFORMANCE OF PROFESSIONAL SERVICES FOR OTHERS
 - A NEGLIGENT ACT, ERROR, OR OMISSION

QUESTIONS?

CONCLUSION

PROFESSIONAL LIABILITY POLICY DOES INCLUDE LIABILITY ARISING FROM EXPENSES AND THERE FOR WOULD BE BROADER COVERAGE FOR ARTESIAN BREAKOUT EXPENSE THAT THE CGL OF A DRILLERS POLICY

THE WATER SUSTAINABILITY ACT – HOW DO YOU PROTECT YOURSELF?

- INSURANCE
- CONTRACT LANGUAGE
- RISK MANAGEMENT

Controlling artesian flow during construction

52 (1) For the purposes of this section and section 53, artesian flow of a well is under control when

(a) the artesian flow

- (i) is clear of sediment,
- (ii) is entirely conveyed through the well's production casing to the wellhead, if the well has a production casing,
- (iii) may be mechanically stopped for an indefinite period in a manner that prevents leakage onto the surface of the ground or into another aquifer penetrated by the well, and
- (iv) does not pose a threat to property, public safety or the environment, or

(b) if the artesian flow cannot be controlled in accordance with paragraph (a), the well is decommissioned

- (i) in accordance with the regulations,
- (ii) by a person authorized under section 49 [restrictions on constructing or decommissioning wells], and
- (iii) in a manner that allows no artesian flow at the surface of the ground or leakage into another aquifer penetrated by the well.

(2) If a well driller or a professional encounters artesian conditions while constructing a well or supervising the construction of a well, the well driller or professional must ensure, as soon as practicable, that

(a) any artesian flow is stopped or brought under control, or

- **LIMITATION OF LIABILITY:**

IN RECOGNITION OF THE REQUIREMENT FOR SERVICES PROVIDED BY (TBA WELL SERVICES LTD) CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO LIMIT THE LIABILITY OF (TBA WELL SERVICES LTD)FOR ANY AND ALL CLAIMS, LOSSES, COSTS, DAMAGES OF ANY NATURE WHATSOEVER OR CLAIMS EXPENSES FROM ARTESIAN WELL BREAK OUT SO THAT THE TOTAL AGGREGATE LIABILITY OF (TBA WELL SERVICES LTD) TO THE CLIENT SHALL NOT EXCEED \$25,000, OR THE TOTAL FEE FOR SERVICES RENDERED ON THIS PROJECT, WHICHEVER IS LESSER. IT IS INTENDED THAT THIS LIMITATION APPLY TO ANY AND ALL LIABILITY OR CAUSE OF ACTION HOWEVER ALLEGED OR ARISING, UNLESS OTHERWISE PROHIBITED BY LAW.

RISK MANAGEMENT

- DO A PRE DRILL ASSESSMENT INCLUDING GEOLOGICAL CONDITIONS, STATIC WATER LEVELS AND ANY HISTORY OF FLOWING ARTESIAN WELLS IN THE AREA.
 - THIS INFORMATION CAN BE OBTAINED FROM REVIEWING AVAILABLE LOCAL WELL CONSTRUCTION REPORTS OR REVIEWING HYDROGEOLOGICAL INFORMATION IE: MAPS ON THE WATER RESOURCE ATLAS([HTTP://WWW.ENV.GOV.BC.CA/WSD/DATA_SEARCHES/WRBC/INDEX.HTML](http://www.env.gov.bc.ca/wsd/data_searches/wrbc/index.html)) SHOWING FLOWING ARTESIAN WELL COVERAGE (SEE FIGURE 4)
 - OR REPORTS ON ECOCAT ([HTTP://WWW.ENV.GOV.BC.CA/ECOCA/](http://www.env.gov.bc.ca/ecoca/)), CONSULTING WITH THE MINISTRY OF ENVIRONMENTAL REGIONAL HYDROGEOLOGISTS AND CONSULTING WITH LOCAL WELL DRILLERS AND GEOTECHNICAL ENGINEERS WITH KNOWLEDGE OF THE AREA

RISK MANAGEMENT

- ALWAYS RECOMMEND A HIGH QUALITY (CONSERVATIVE) SOLUTION
- IF YOU QUOTE MORE THAN ONE OPTION, MAKE SURE TO RECOMMEND THE HIGH QUALITY SOLUTION (IN WRITING) AND BRING BACK CONTRACT LANGUAGE TO HOLD YOUR CLIENT LIABLE FOR SOLUTIONS WHICH SAVE MONEY BUT ARE LESS CAUTIOUS