

Appendix 9H

Longhorn Pollution Liability Insurance

Jenkins & Gilchrist

A PROFESSIONAL CORPORATION

MEMORANDUM

TO: Bob Davis
FROM: Barry F. Cannaday
DATE: May 8, 2000
SUBJECT: Longhorn Mitigation Commitment No. 37

In accordance with your request, attached is the form of Insurance Policy that will be issued on or prior to Start-Up to satisfy Longhorn's Mitigation Commitment No. 37. As you can see, this policy is for a term of three years. As part of its Commitment, Longhorn is agreeing to renew this policy at the end of each three year term upon substantially the same terms and conditions and with limits of liability no less than those provided by the attached form of policy.

**AMERICAN INTERNATIONAL
SPECIALTY LINES INSURANCE COMPANY**

A Capital Stock Insurance Company
c/o American International Surplus Lines Agency, Inc.
Harborside Financial Center, 401 Plaza 3
Jersey City, NJ 07311

**NAMED INSURED
AND
POST OFFICE**

POLLUTION LEGAL LIABILITY SELECT POLICY

DECLARATIONS

THIS IS A CLAIMS-MADE AND REPORTED POLICY - PLEASE READ CAREFULLY.

POLICY NUMBER:

**Item 1: NAMED INSURED: LONGHORN PARTNERS PIPELINE, L.P.
ADDRESS: 1801 NORTH LAMAR, SUITE 100
DALLAS, TEXAS 75202**

**Item 2: INITIAL POLICY PERIOD: FROM START-UP TO THREE YEARS AFTER START-UP.
12:01 A.M. Standard time at the address of the Named Insured shown above.**

Item 3: Coverages and Coverage Section Limits and Deductibles

This Policy includes only those Coverages as stated in Section I of the Policy for which deductibles and limits of liability appear below. If no deductible or limits of liability appears for a Coverage, that Coverage does not apply.

Coverage	Deductible-Each Incident	Each Incident Limit	Coverage Section Aggregate Limit
A No	N/A	N/A	N/A
B Yes	\$500,000	\$15,000,000	\$15,000,000
C Yes	\$500,000	\$15,000,000	\$15,000,000
D No	N/A	N/A	N/A
E Yes	\$500,000	\$15,000,000	\$15,000,000
F Yes	\$500,000	\$15,000,000	\$15,000,000

NOTE: THIS DECLARATION PAGE HAS BEEN COMPLETED WITHOUT REVIEW AND APPROVAL BY LONGHORN S INSURER. THE FORM OF THE ACTUAL DECLARATIONS PAGE MAY NOT BE THE SAME AS THIS SAMPLE. HOWEVER, THE FINAL FORM OF THE DECLARATIONS PAGE WILL NOT CHANGE THE AMOUNT, NATURE OR SCOPE OF COVERAGE REFLECTED BY THIS SAMPLE DECLARATIONS PAGE.

Coverage	Deductible-Each Incident	Each Incident Limit	Coverage Section Aggregate Limit
G No	N/A	N/A	N/A
H No	N/A	N/A	N/A
I Yes	\$500,000	\$15,000,000	\$15,000,000

Coverage	Business Interruption (Days) Limit	Business Interruption (\$) Limit
J No	N/A	N/A

Item 4: POLICY AGGREGATE LIMIT: \$15,000,000

Item 5: INSURED PROPERTY(IES): The Longhorn Pipeline System running from Houston to El Paso and the easements, right of ways, and other lands owned, leased or under license to the Insured upon which are located the Pipeline System and all related equipment and facilities used in connection with the Pipeline System.

Item 6: POLICY PREMIUM

Item 7: RETROACTIVE DATE: Under Coverages C, F, G, H and I, the **Pollution Conditions** must commence on or after the date shown below.
Retroactive Date: **None**
(Enter date or none if no Retroactive Date Applies.)

Item 8: CONTINUITY DATE: Start-Up Date for the Longhorn Pipeline

Broker:

AUTHORIZED REPRESENTATIVE
or countersignature (where required by law)

AMERICAN INTERNATIONAL SPECIALTY LINES INSURANCE COMPANY

**POLLUTION LEGAL LIABILITY SELECTSM POLICY
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AMERICAN INTERNATIONAL SPECIALTY LINES INSURANCE COMPANY

A Capital Stock Company, herein called the Company)
c/o American International Surplus Lines Agency, Inc.
Harborside Financial Center
401 Plaza 3
Jersey City, NJ 07311

POLLUTION LEGAL LIABILITY SELECTSM POLICY

THIS IS A CLAIMS MADE AND REPORTED POLICY. THIS POLICY HAS CERTAIN PROVISIONS AND REQUIREMENTS UNIQUE TO IT AND MAY BE DIFFERENT FROM OTHER POLICIES THE INSURED MAY HAVE PURCHASED. DEFINED TERMS APPEAR IN BOLD FACE TYPE.

NOTICE: THE DESCRIPTIONS IN ANY HEADINGS OR SUB-HEADINGS OF THIS POLICY ARE INSERTED SOLELY FOR CONVENIENCE AND DO NOT CONSTITUTE ANY PART OF THE TERMS OR CONDITIONS HEREOF.

In consideration of the payment of the premium, in reliance upon the statements in the Declarations and the Application annexed hereto and made a part hereof, and pursuant to all of the terms of this Policy, the Company agrees with the **Named Insured** as follows:

I. INSURING AGREEMENTS

1. COVERAGES

THE FOLLOWING COVERAGES ARE IN EFFECT ONLY IF SCHEDULED IN THE DECLARATIONS:

COVERAGE A - ON-SITE CLEAN-UP OF PRE-EXISTING CONDITIONS

1. To pay **Clean-Up Costs** on behalf of the **Insured**, on or under the **Insured Property**, if such **Clean-Up Costs** are sustained solely by reason of the discovery by the **Insured** during the **Policy Period** of **Pollution Conditions** on or under the **Insured Property** which commenced prior to **Continuity Date**, provided:
 - (a) The discovery of such **Pollution Conditions** is reported to the Company in writing during the **Policy Period** or within thirty (30) days thereafter by the **Insured** and in accordance with Section II of the Policy;

Discovery of such **Pollution Conditions** happens when any director or officer or any employee with management responsibility of the **Insured**, or in the case of a proprietorship or partnership, an owner or general partner, becomes aware of such **Pollution Conditions**;
 - (b) Such **Pollution Conditions** have been reported to the appropriate governmental agency in compliance with applicable **Environmental Laws**, in effect as of the date of discovery.
2. To pay **Loss** on behalf of the **Insured** that the **Insured** is legally obligated to pay as a result of **Claims** first made against the **Insured** and reported to the Company, in writing, during the **Policy Period**, or during the **Extended Reporting Period** if applicable, for **Clean-Up Costs** on or under the **Insured Property** resulting from **Pollution Conditions** on or under the **Insured Property** which commenced prior to the **Continuity Date**.

COVERAGE B - ON-SITE CLEAN-UP OF NEW CONDITIONS

1. To pay **Clean-Up Costs** on behalf of the **Insured**, on or under the **Insured Property**, if such **Clean-up Costs** are sustained solely by reason of the discovery by the **Insured** during the **Policy Period** of **Pollution Conditions** on or under the **Insured Property** which commenced on or after the **Continuity Date**, provided:

- (a) The discovery of such **Pollution Conditions** is reported to the Company in writing during the **Policy Period** or within thirty (30) days thereafter by the **Insured** and in accordance with Section II of the Policy;

Discovery of such **Pollution Conditions** happens when any director or officer or any employee with management responsibility of the **Insured**, or in the case of a proprietorship or partnership, an owner or general partner, becomes aware of such **Pollution Conditions**;

- (b) Such **Pollution Conditions** have been reported to the appropriate governmental agency in compliance with applicable **Environmental Laws**, in effect as of the date of discovery.

2. To pay **Loss** on behalf of the **Insured** that the **Insured** is legally obligated to pay as a result of **Claims** first made against the **Insured** and reported to the Company, in writing, during the **Policy Period**, or during the **Extended Reporting Period** if applicable, for **Clean-Up Costs** on or under the **Insured Property** resulting from **Pollution Conditions** on or under the **Insured Property** which commenced on or after the **Continuity Date**.

COVERAGE C - THIRD PARTY CLAIMS FOR ON-SITE BODILY INJURY AND PROPERTY DAMAGE

To pay **Loss** on behalf of the **Insured** that the **Insured** becomes legally obligated to pay as a result of **Claims** first made against the **Insured** and reported to the Company in writing during the **Policy Period**, or during the **Extended Reporting Period** if applicable, for **Bodily Injury**, or **Property Damage** to **Personal Property** of third-parties caused by **Pollution Conditions** on or under the **Insured Property**, if such **Bodily Injury** or **Property Damage** takes place while the person injured or **Personal Property** damaged is on the **Insured Property**.

COVERAGE D - THIRD PARTY CLAIMS FOR OFF-SITE CLEAN-UP RESULTING FROM PRE-EXISTING CONDITIONS

To pay **Loss** on behalf of the **Insured** that the **Insured** becomes legally obligated to pay as a result of **Claims** first made against the **Insured** and reported to the Company in writing during the **Policy Period**, or during the **Extended Reporting Period** if applicable, for **Clean-Up Costs** beyond the boundaries of the **Insured Property** resulting from **Pollution Conditions** which commenced prior to the **Continuity Date** and migrated from the **Insured Property**.

COVERAGE E - THIRD PARTY CLAIMS FOR OFF-SITE CLEAN-UP RESULTING FROM NEW CONDITIONS

To pay **Loss** on behalf of the **Insured** that the **Insured** becomes legally obligated to pay as a result of **Claims** first made against the **Insured** and reported to the Company in writing during the **Policy Period**, or during the **Extended Reporting Period** if applicable, for **Clean-Up Costs** beyond the boundaries of the **Insured Property** resulting from **Pollution Conditions** which commenced on or after the **Continuity Date** and migrated from the **Insured Property**.

COVERAGE F - THIRD PARTY CLAIMS FOR OFF-SITE BODILY INJURY AND PROPERTY DAMAGE

To pay **Loss** on behalf of the **Insured** that the **Insured** becomes legally obligated to pay as a result of **Claims** first made against the **Insured** and reported to the Company in writing during the **Policy Period**, or during the **Extended Reporting Period** if applicable, for **Bodily Injury** or **Property Damage** beyond the boundaries of the **Insured Property** that result from **Pollution Conditions** on or under the **Insured Property** which have migrated beyond the boundaries of the **Insured Property**.

COVERAGE G - THIRD-PARTY CLAIMS FOR ON-SITE CLEAN-UP COSTS - NON-OWNED LOCATIONS

To pay **Loss** on behalf of the **Insured** that the **Insured** becomes legally obligated to pay as a result of **Claims** first made against the **Insured** and reported to the Company in writing during the **Policy Period**, or during **Extended Reporting Period** if applicable, for **Clean-Up Costs** on or under a **Non-Owned Location** resulting from **Pollution Conditions** on or under such **Non-Owned Location**.

COVERAGE H - THIRD PARTY CLAIMS FOR OFF-SITE BODILY INJURY, PROPERTY DAMAGE OR CLEAN-UP COSTS - NON-OWNED LOCATIONS

To pay **Loss** on behalf of the **Insured** that the **Insured** becomes legally obligated to pay as a result of **Claims** first made against the **Insured** and reported to the Company in writing during the **Policy Period**, or during the **Extended Reporting Period** if applicable, for **Bodily Injury**, **Property Damage** or **Clean-Up Costs** beyond the boundaries of a **Non-Owned Location** resulting from **Pollution Conditions** on or under such **Non-Owned Location**, which have migrated beyond the boundaries of such **Non-Owned Location**.

COVERAGE I - POLLUTION CONDITIONS RESULTING FROM TRANSPORTED CARGO

To pay **Loss** on behalf of the **Insured** that the **Insured** becomes legally obligated to pay as a result of **Claims** first made against the **Insured** and reported to the Company in writing during the **Policy Period**, or during the **Extended Reporting Period** if applicable, for **Bodily Injury**, **Property Damage** or **Clean-Up Costs** resulting from **Pollution Conditions** from **Transported Cargo**.

COVERAGE J - BUSINESS INTERRUPTION COVERAGE - ACTUAL LOSS OR RENTAL VALUE

To pay the **Insured's Actual Loss** or loss of **Rental Value**, and **Extra Expense** to the extent it reduces **Actual Loss** or loss of **Rental Value** otherwise payable under this coverage section, resulting from the necessary interruption of the **Insured's** business operations during the **Period of Restoration**. Such necessary interruption must be caused solely and directly by **Pollution Conditions** on or under the **Insured Property**. If the necessary interruption of the **Insured's** business operations is caused by such **Pollution Conditions** and any other cause, the Company shall pay only for that part of **Actual Loss** or **Rental Value** and **Extra Expense** resulting from such necessary interruption caused solely and directly by such **Pollution Conditions**.

Such **Pollution Conditions** must:

1. (a) commence prior to the **Continuity Date**, if the **Named Insured** has purchased Coverage A, under this Policy, or
(b) commence on or after the **Continuity Date**, if the **Named Insured** has purchased Coverage B under this Policy; and
2. be first discovered by the **Insured** during the **Policy Period**; and
3. be reported to the Company, no later than thirty (30) days after discovery.

In determining **Actual Loss** or loss of **Rental Value**, the Report/Worksheet annexed to this Policy and made a part of it shall be utilized.

2. LEGAL EXPENSE AND DEFENSE

The Company shall have the right and the duty to defend any **Claims** covered under Coverages A through I provided the **Named Insured** has purchased such Coverage. The Company's duty to defend or continue defending any such **Claim**, and to pay any **Loss**, shall cease once the applicable limit of liability, as described in Section V. (Limits of Coverage; Deductible) has been exhausted. Defense costs, charges and expenses are included in **Loss** and reduce the applicable limit of liability, as described in Section V., and are included within the Deductible amount for the Coverage Section which applies and is shown in Item 3 of the Declarations.

In the event the **Insured** is entitled by law to select independent counsel to defend the **Insured** at the Company's expense, the attorney fees and all other litigation expenses the Company must pay to that counsel are limited to the rates the Company would actually pay to counsel that the Company retains in the ordinary course of business in the defense of similar **Claims** in the community where the **Claim** arose or is being defended.

Additionally, the Company may exercise the right to require that such counsel have certain minimum qualifications with respect to their competency, including experience in defending **Claims** similar to the one pending against the **Insured**, and to require such counsel to have errors and omissions insurance coverage. As respects any such counsel, the **Insured** agrees that counsel will timely respond to the Company's request for information regarding the **Claim**. The **Insured** may at any time, by its signed consent, freely and fully waive its right to select independent counsel.

If the **Insured** refuses to consent to any settlement within the limits of liability of this Policy recommended by the Company and acceptable to the claimant, the Company's duty to defend the **Insured** shall then cease and the **Insured** shall thereafter negotiate or defend such **Claim** independently of the Company and the Company's liability shall not exceed the amount, less the Deductible or any outstanding Deductible balance, for which the **Claim** could have been settled if such recommendation was consented to.

II. NOTICE REQUIREMENTS AND CLAIM PROVISIONS

It is a condition precedent to any rights afforded under this Policy that the **Insured** provide the Company with notice of **Pollution Conditions** and **Claims** as follows:

A. NOTICE OF POLLUTION CONDITIONS AND CLAIMS

1. In the event of **Pollution Conditions** under Coverages A through J, or a **Claim** under Coverage A through I, the **Insured** shall give written notice to:

Steven Lessick
Attorney at Law
P.O. Box 295
Jersey City, N.J. 07303

or other address(es) as substituted by the Company in writing.

2. The **Insured** shall give notice of **Pollution Conditions** as soon as practicable and such notice shall include, at a minimum, information sufficient to identify the **Named Insured**, the **Insured Property**, the names of persons with knowledge of the **Pollution Conditions** and all known and reasonably obtainable information regarding the time, place, cause, nature of and other circumstances of the **Pollution Conditions**. Written notice shall be made on a notice of loss form supplied by the Company.
3. The **Insured** shall give notice of **Claims** as soon as practicable, but in any event during the **Policy Period** or **Extended Reporting Period**, if applicable. The **Insured** shall furnish information at the request of the Company. When a **Claim** has been made, the **Insured** shall forward the following to the Company as soon as practicable:
 - a. All reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the claimant(s) and available witnesses.
 - b. All demands, summonses, notices or other process or papers filed with a court of law, administrative agency or an investigative body;
 - c. Other information in the possession of the **Insured** or its hired experts which the Company reasonably deems necessary.

B. NOTICE OF POSSIBLE CLAIM

1. If during the **Policy Period**, the **Insured** first becomes aware of **Pollution Conditions** which it reasonably expects may result in a **Claim** under one or more of Coverages C through I which the **Named Insured** has purchased, the **Insured** may provide written notice to the Company during the **Policy Period** containing all the information required under paragraph 2) below. Any **Claim** subsequently made against the **Insured** and reported to the Company within five (5) years after the end of the **Policy Period** of this policy or any continuous, uninterrupted renewal thereof, shall be deemed to have been first made and reported during the **Policy Period** of this policy. Such **Claim** shall be subject to the terms, conditions and limits of coverage of this policy.

2. It is a condition precedent to the coverage afforded by this Clause that written notice under paragraph 1) above contain all of the following information: (a) the cause of the **Pollution Conditions**; (b) the **Insured Property** upon which the **Pollution Conditions** took place; (c) the **Bodily Injury, Property Damage** or **Clean-Up Costs** which has resulted or may result from such **Pollution Conditions**; (d) the **Insured(s)** which may be subject to the **Claim** and any potential claimant(s); (e) all engineering information available on the **Pollution Conditions** and any other information that the Company deems reasonably necessary; and (f) the circumstances by which and the date the **Insured** first became aware of the potential **Claim**.

III. RIGHTS OF THE COMPANY AND DUTIES OF THE INSURED IN THE EVENT OF POLLUTION CONDITIONS

- A. The Company's Rights
 - (1) The Company shall have the right but not the duty to clean up or mitigate **Pollution Conditions** upon receiving notice as provided in Section II of this Policy.
 - (2) Allocation of Sums Expended. Any sums expended by the Company under Paragraph A(1) of this Section III will be deemed incurred or expended by the **Insured** and shall be applied against the limits of coverage under this Policy.
- B. The **Named Insured** shall have the duty to clean up **Pollution Conditions** to the extent required by **Environmental Laws**, by retaining competent professional(s) or contractor(s) mutually acceptable to the Company and the **Named Insured**. The Company shall have the right but not the duty to review and approve all aspects of any such clean-up. The **Named Insured** shall notify the Company of actions and measures taken pursuant to this paragraph.

IV. EXCLUSIONS

1. COMMON EXCLUSIONS - APPLICABLE TO ALL COVERAGES

This Policy does not apply to **Clean-Up Costs, Claims, Loss, Actual Loss, Extra Expense**, or loss of **Rental Value**:

- A. PUNITIVE DAMAGES; FINES/PENALTIES:

due to or for any punitive, exemplary or the multiplied portion of multiple damages, or any civil or administrative fines, penalties or assessments, except where such damages, fines, penalties or assessments are insurable by applicable law; or any criminal fines, penalties or assessments.

B. CONTRACTUAL LIABILITY:

arising from liability of others assumed by the **Insured** under any contract or agreement, unless the liability of the **Insured** would have attached in the absence of such contract or agreement or the contract or agreement is an **Insured Contract**.

C. TRANSPORTATION:

except with respect to Coverage I, arising out of the ownership, maintenance, use, operation, loading or unloading of any conveyance beyond the boundaries of the **Insured Property**.

D. ABANDONED PROPERTY:

arising from **Pollution Conditions** on, under or originating from the **Insured Property** and which commence subsequent to the time the **Insured Property** is abandoned.

E. INTENTIONAL AND ILLEGAL ACTS:

arising from **Pollution Conditions** that result from an intentional or illegal act or omission of a **Responsible Insured**, if he or she knew or reasonably could have expected that **Pollution Conditions** would result.

F. NONCOMPLIANCE:

arising from **Pollution Conditions** based upon or attributable to any **Responsible Insured's** intentional, willful or deliberate noncompliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental agency or body.

G. INTERNAL EXPENSES:

for costs, charges or expenses incurred by the **Insured** for goods supplied or services performed by the staff or salaried employees of the **Insured**, or its parent, subsidiary or affiliate, except if in response to an emergency or pursuant to **Environmental Laws** which require immediate remediation of **Pollution Conditions**, or unless such costs, charges or expenses are incurred with the prior written approval of the Company in its sole discretion.

H. INSURED vs. INSURED:

by any **Insured** against any other person or entity who is also an **Insured** under this Policy.

I. ASBESTOS AND LEAD:

arising from the presence of asbestos or any asbestos-containing materials or lead-based paint installed or applied in, on or to any building or other structure.

J. EMPLOYER LIABILITY:

arising from **Bodily Injury** to an employee of the **Insured** or its parent, subsidiary or affiliate arising out of and in the course of employment by the **Insured** or its parent, subsidiary or affiliate. This exclusion applies whether the **Insured** may be liable as an employer or in any other capacity and to any obligation to share damages with or repay third parties who must pay damages because of the injury.

K. PRIOR KNOWLEDGE/NON-DISCLOSURE:

arising from **Pollution Conditions** existing prior to the inception date of this Policy and not disclosed in the application for this Policy, if any **Responsible Insured** knew or reasonably could have expected that such **Pollution Conditions** could give rise to **Clean-Up Costs**, interruption of the **Insured's** business, or a **Claim** under this Policy.

2. COVERAGE I EXCLUSIONS

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The following exclusions apply to Coverage I.

This Policy does not apply to **Claims** or **Loss**:

A. **PROPERTY DAMAGE TO CONVEYANCES:**

for **Property Damage** to any conveyance utilized during the **Transportation** of **Cargo**. This exclusion does not apply to **Claims** made by third-party carriers of the **Insured** for such **Property Damage** arising from the **Insured's** negligence.

B. **POLLUTION CONDITIONS PRIOR OR SUBSEQUENT TO TRANSPORTATION OF CARGO:**

arising from a **Pollution Condition**:

- (1) which commences prior to the **Transportation** of **Cargo**, or
- (2) which commences after **Cargo** reaches its final destination, or while the **Cargo** is in storage off-loaded from the conveyance which was transporting it;

C. **THIRD-PARTY CARRIER CLAIMS:**

made by a third-party carrier, its agents or employees, for **Bodily Injury**, **Property Damage** or **Clean-Up Costs**, whether or not the **Bodily Injury**, **Property Damage** or **Clean-Up Costs** were directly incurred by such third-party carrier. This exclusion does not apply to **Claims** arising from the **Insured's** negligence.

V. **LIMITS OF COVERAGE; DEDUCTIBLE**

Regardless of the number of **Claims**, claimants, **Pollution Conditions** or **Insureds** under this Policy, the following limits of liability apply:

A. **Policy Aggregate Limit**

The Company's total liability for all **Clean-Up Costs** and **Loss**, under Coverages A through I, and all **Actual Loss**, loss of **Rental Value** and **Extra Expense** under Coverage J, shall not exceed the "Policy Aggregate" stated in Item 4 of the Declarations.

B. **Each Incident Limit - Coverages A Through I**

- (1) Subject to Paragraph V.A. above, the most the Company will pay for all **Loss** under each Coverage in Coverages A through I arising from the same, related or continuous **Pollution Conditions** is the "Each Incident" limit of coverage for that particular coverage stated in Item 3 of the Declarations.
- (2) If the **Insured** first discovers **Pollution Conditions** during the **Policy Period** and reports them to the Company in accordance with Section II., all continuous or related **Pollution Conditions** first discovered by the **Named Insured** and reported to the Company under a subsequent Pollution Legal Liability Policy issued by the Company or its affiliate providing substantially the same coverage as this Policy shall be deemed to have been first discovered and reported during the **Policy Period**.
- (3) If a **Claim** for **Bodily Injury**, **Property Damage**, or **Clean-Up Costs** is first made against the **Insured** and reported to the Company during the **Policy Period**, all **Claims** for **Bodily Injury**, **Property Damage** or **Clean-Up Costs**, arising from the same, continuous or related **Pollution Conditions** which are first made against the **Insured** and reported under a subsequent Pollution Legal Liability Policy issued by the Company or its affiliate providing substantially the same coverage as this Policy, shall be deemed to have been first made and reported during this **Policy Period**. Coverage under this Policy for such **Claims** shall not apply, however, unless at the time such **Claims** are first made and reported, the **Insured** has maintained with the Company or its affiliate Pollution Legal Liability coverage substantially the same as this coverage on a continuous, uninterrupted basis since the first such **Claim** was made against the **Insured** and reported to the Company.

C. Coverage Section Aggregate Limit

Subject to Paragraph V.A. above, the Company's total liability for all **Clean-Up Costs** under Coverages A and B, and for all **Loss** under each Coverage in Coverages A through I, shall not exceed the "Coverage Section Aggregate" limit of coverage for that particular coverage stated in Item 3 of the Declarations.

D. Maximum for All Business Interruption

Subject to Paragraph V.A. above, the maximum amount for which the Company is liable for all **Actual Loss** or loss of **Rental Value**, and **Extra Expense** under Coverage J is 80% of the lesser of:

1. the **Actual Loss** and **Extra Expense**, or loss of **Rental Value** and **Extra Expense**, whichever is applicable, incurred during the number of days of interruption of business stated in Item 3 of the Declarations, and
2. the amount stated in Item 3 of the Declarations.

It is a condition of Coverage J that the remaining 20% of such amount be borne by the **Insured** at its own risk and remain uninsured.

E. Multiple Coverages

Subject to Paragraph V.A. above, if the same, related or continuous **Pollution Conditions** result in coverage under more than one Coverage under Coverages A through J, every applicable "Each Incident," "Coverage Section Aggregate," and "Maximum for All Business Interruption" limit of coverage among such coverage sections shall apply to the **Clean-Up Costs**, **Loss**, **Actual Loss** and **Extra Expense**, or loss of **Rental Value** and **Extra Expense**, whichever is applicable, resulting from such **Pollution Conditions**.

F. Deductible

(1) Coverages A through I

Subject to Paragraphs V.A. through V.E. above, this Policy is to pay covered **Clean-Up Costs**, or **Loss**, as the case may be, in excess of the Deductible amount stated in Item 3 of the Declarations for that particular coverage, up to but not exceeding the applicable "Each Incident" limit of coverage. The Deductible amount applies to all **Clean-Up Costs** or **Loss** arising from the same, related or continuous **Pollution Conditions**.

If the same, related or continuous **Pollution Conditions** result in coverage under more than one coverage section in Coverages A through I, only the highest Deductible amount stated in Item 3 of the Declarations among all the coverage sections applicable to the **Claim** will apply. A separate Deductible applies under Coverage J.

The **Insured** shall promptly reimburse the Company for advancing any element of **Clean-Up Costs** or **Loss** falling within the Deductible.

(2) Coverage J

Subject to Paragraphs V.A. through V.E. above, this Policy is to pay the **Actual Loss** or loss of **Rental Value**, and **Extra Expense** under Coverage J in excess of the **Actual Loss** or loss of **Rental Value**, and **Extra Expense** sustained during the first seven (7) days of the necessary interruption of the **Insured's** business operations during the **Period of Restoration**. The Deductible amount applies to all **Actual Loss**, or loss of **Rental Value**, and **Extra Expense** arising from the same, related or continuous **Pollution Conditions**.

VI. DEFINITIONS

A. Actual Loss means the:

- (1) Net Income (Net Profit or Loss before income taxes) the **Insured** would have earned or incurred had there been no interruption of business operations; and
- (2) Continuing normal operating expenses incurred, including **Ordinary Payroll Expense**.

B. Bodily Injury means physical injury, or sickness, disease, mental anguish or emotional distress, sustained by any person, including death resulting therefrom.

- C. **Cargo** means goods, products or wastes transported for delivery by a carrier properly licensed to transport such goods, products or wastes.
- D. **Claim** means a written demand received by the **Insured** seeking a remedy and alleging liability or responsibility on the part of the **Insured** for **Loss** under Coverages A through I.
- E. **Clean-Up Costs** means expenses including reasonable and necessary legal expenses incurred with the Company's written consent, incurred in the investigation, removal, remediation including monitoring, or disposal of soil, surfacewater, groundwater or other contamination:
- (1) to the extent required by **Environmental Laws**, or specifically mandated by court order, the government or any political subdivision of the United States of America or any state thereof, or Canada or any province thereof duly acting under the authority of **Environmental Law(s)**; or
 - (2) which have been actually incurred by the government or any political subdivision of the United States of America or any state thereof or Canada or any province thereof, or by third parties.
- F. **Continuity Date** means the date stated in Item 8 of the Declarations.
- G. **Environmental Laws** means any applicable federal, state, provincial or local law pursuant to which the **Insured** has or may have a legal obligation to incur **Clean-Up Costs**.
- H. **Extended Reporting Period** means either the automatic additional period of time or the optional additional period of time, whichever is applicable, in which to report **Claims** following termination of coverage, as described in Section VIII. of this Policy.
- I. **Extra Expense** means necessary expenses the **Insured** incurs during the **Period of Restoration**:
- (1) That would not have been incurred if there had not been an interruption of the **Insured's** business operations by covered **Pollution Conditions**; and
 - (2) Which avoid or minimize the interruption of the **Insured's** business operations,
- but only to the extent such expenses reduce **Actual Loss** or loss of **Rental Value**, whichever is applicable, otherwise covered under this Policy.
- Any salvage value of property obtained for temporary use during the **Period of Restoration**, which remains after the resumption of normal operations, shall reduce any **Loss** under **Extra Expense** coverage.
- J. **Insured** means the **Named Insured**, and any past or present director, officer, partner or employee thereof, including a temporary or leased employee, while acting within the scope of his or her duties as such.
- K. **Insured Contract** means a contract or agreement submitted to and approved by the Company, and listed in a Schedule to this Policy.
- L. **Insured Property** means each of the locations identified in Item 5 of the Declarations.
- M. **Loss** means, under the applicable Coverages: (1) monetary awards or settlements of compensatory damages for **Bodily Injury** or **Property Damage**; (2) costs, charges and expenses incurred in the defense, investigation or adjustment of **Claims** for such compensatory damages or for **Clean-Up Costs**; or (3) **Clean-Up Costs**.
- N. **Named Insured** means the person or entity named in Item 1 of the Declarations.
- O. **Non-Owned Location** means a site that is neither owned nor operated by the **Named Insured**, and which is identified in a Non-Owned Covered Locations Schedule attached to and made a part of this Policy by endorsement.
- P. **Ordinary Payroll Expense** means the entire payroll expense for all employees of the **Insured**, except officers, executives, department managers and employees under contract.
- Q. **Period of Restoration** means the length of time as would be required with the exercise of due diligence and dispatch to restore the **Insured Property** to a condition which allows the resumption of normal business operations, commencing with the date operations are interrupted by **On-Site Pollution Conditions** and not limited by the date of expiration of the **Policy Period**. The **Period of Restoration** does not include any time caused by the interference by employees or other persons with restoring the property, or with the resumption or continuation of

operations; or any time caused by the delay in any action to be taken by a governmental authority necessary to allow the resumption of business operations.

- R. **Personal Property** means any property other than real property and whatever is erected or growing upon or affixed to real property.
- S. **Policy Period** means the period set forth in Item 2 of the Declarations, or any shorter period arising as a result of:
- (1) cancellation of this Policy; or
 - (2) with respect to particular **Insured Property** or **Non-Owned Locations** designated in the Declarations, the deletion of such location(s) from this Policy by the Company.
- T. **Pollution Conditions** means the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, medical waste and waste materials into or upon land, or any structure on land, the atmosphere or any watercourse or body of water, including groundwater, provided such conditions are not naturally present in the environment.
- U. **Property Damage** means:
- (1) Physical injury to or destruction of tangible property of parties other than the **Insured**, including the resulting loss of use or value thereof; and
 - (2) Loss of use, but not loss of value, of tangible property of parties other than the **Insured** which has not been physically injured or destroyed.

Property Damage does not include **Clean-Up Costs**.

- V. **Rental Value** means the:
- (1) Total anticipated rental income from tenant occupancy of the **Insured Property** as furnished and equipped by the **Insured**;
 - (2) Amount of all charges which are the legal obligation of the tenant(s) and which would otherwise be the **Insured's** obligations; and
 - (3) Fair rental value of any portion of the described premises which is occupied by the **Insured**,
- less any rental income the **Insured** could earn by complete or partial rental of the **Insured Property**, or any reduction in loss by making use of other property on the **Insured Property** or elsewhere.
- W. **Responsible Insured** means any employee of the **Named Insured** responsible for environmental affairs, control or compliance, or any manager, supervisor, officer, director or partner of the **Named Insured**.
- X. **Transportation** means the movement of **Cargo** by a conveyance, from the place where it is accepted by a carrier until it is moved:
- (1) to the place where the carrier finally delivers it; or
 - (2) in the case of **Waste**, to a waste disposal facility to which the carrier delivers it.

Transportation includes the carrier's loading or unloading of **Cargo** onto or from a conveyance.

- Y. **Transported Cargo** means **Cargo** after it is moved from the place where it is accepted by the carrier for movement into or onto a conveyance, until the **Cargo** is moved from the conveyance to its final destination. **Transported Cargo** also includes **Cargo** during the loading or unloading onto or from a conveyance, provided that the loading or unloading is performed by or on behalf of the **Named Insured**.

VII. CONDITIONS

- A. **Assignment** - This Policy may not be assigned without the prior written consent of the Company. Assignment of interest under this Policy shall not bind the Company until its consent is endorsed thereon.

own cost.

- G. **Concealment or Fraud** - This entire Policy shall be void if, whether before or after **Clean-Up Costs** are incurred or a **Claim** is first made, the **Named Insured** has willfully concealed or misrepresented any fact or circumstance material to the granting of coverage under this Policy, the description of the **Insured Property**, or the interest of the **Insured** therein.
- H. **Cancellation** - This Policy may be cancelled by the **Named Insured** by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. This Policy may be cancelled by the Company only for the reasons stated below by mailing to the **Named Insured** at the address shown in the Policy, written notice stating when not less than 60 days (10 days for nonpayment of premium) thereafter such cancellation shall be effective. Proof of mailing of such notice shall be sufficient proof of notice.
1. Material misrepresentation by the **Insured**;
 2. The **Insured's** failure to comply with the terms, conditions or contractual obligations under this policy, including failure to pay any Deductible when due;
 3. Failure to pay any premium when due;
 4. A change in operations at an **Insured Property** during the **Policy Period** which materially increases a risk covered under this Policy.

The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery of such written notice either by the **Named Insured** or by the Company shall be equivalent to mailing. If the **Named Insured** cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If the Company cancels, earned premium shall be computed pro rata. Premium adjustment may be either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

- I. **Other Insurance** - Where other insurance may be available for the **Clean-Up Costs** or **Loss** covered under this Policy, the **Insured** shall promptly upon request of the Company provide the Company with copies of all such policies. If other valid and collectible insurance is available to the **Insured** for **Clean-Up Costs** or **Loss** covered by this Policy, the Company's obligations are limited as follows:

- 1) This insurance is primary, and the Company's obligations are not affected unless any of the other insurance is also primary. In that case, the Company will share with all such other insurance by the method described in Paragraph (2) below.
 - 2) If all of the other insurance permits contribution by equal shares, the Company will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, the Company will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.
- J. **Right of Access and Inspection** - Any of the Company's authorized representatives shall have the right and opportunity but not the obligation when the Company so desires to interview persons employed by the **Insured** and to inspect at any reasonable time, during the **Policy Period** or thereafter, the **Insured Property** and all improvements, structures, products, ways, works, machinery and appliances thereon; but neither the Company nor its representatives shall assume any responsibility or duty to the **Insured** or to any other party, person or entity, by reason of such right or inspection. Neither the Company's right to make inspections, sample and monitor, nor the actual undertaking thereof nor any report thereon shall constitute an undertaking on behalf of the **Insured** or others, to determine or warrant that property or operations are safe, healthful or conform to acceptable engineering practices or are in compliance with any law, rule or regulation. The **Named Insured** agrees to provide appropriate personnel to assist the Company's representatives during any inspection.
- K. **Access to Information** - The **Named Insured** agrees to provide to the Company any information developed or discovered by the **Insured** concerning **Clean-Up Costs** for **Pollution Conditions** covered under this Policy, whether or not deemed by the **Insured** to be relevant to such **Clean-Up Costs** and to provide the Company free access to interview any **Insured** and review any documents of the **Insured**.
- L. **Representations** - By acceptance of this Policy, the **Named Insured** agrees that the statements in the Declarations, the Application and the Report/Worksheet are their agreements and representations, that this Policy is issued in reliance upon the truth of such representations and that this Policy embodies all agreements existing between the **Insured** and the Company or any of its agents relating to this insurance.
- M. **Action Against Company** - No action shall lie against the Company, unless as a condition precedent thereto, there shall have been full compliance with all of the terms of this Policy, nor until the amount of the **Insured's** obligation to pay shall have been finally determined either by judgment against the **Insured** after actual trial or by written agreement of the **Insured**, the claimant and the Company.
- Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the insurance afforded by the Policy. No person or organization shall have any right under this Policy to join the Company as a party to any action against the **Insured** to determine the **Insured's** liability, nor shall the Company be impleaded by the **Insured** or his legal representative. Bankruptcy or insolvency of the **Insured** or of the **Insured's** estate shall not relieve the Company of any of its obligations hereunder.
- N. **Service Of Suit** - It is agreed that in the event of failure of the Company to pay any amount claimed to be due hereunder, the Company, at the request of the **Insured**, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of the Company's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon Counsel, Legal Department, American International Specialty Lines Insurance Company, c/o American International Surplus Lines Agency, Inc., Harborside Financial Center, 401 Plaza 3, Jersey City, NJ 07311, or his or her representative, and that in any suit instituted against the Company upon this contract, the Company will abide by the final decision of such court or of any appellate court in the event of any appeal.
- Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefor, the Company hereby designates the Superintendent, Commissioner, Director of Insurance, or other officer specified for that purpose in the statute, or his or her successor or successors in office as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the **Insured** or any beneficiary hereunder arising out of this contract of insurance, and hereby designates the above named Counsel as the person to whom the said officer is authorized to mail such process or a true copy thereof.
- O. **Financial Assurance** - Coverage I of this Policy shall not be utilized to evidence financial responsibility of any **Insured** under any federal, state, provincial or local law.

- P. **Resumption of Business** - Under Coverage J, the **Insured** shall, as soon as practicable, resume normal operation of the business and dispense with **Extra Expense**.
- Q. **Reduction of Loss** - Under Coverage J, if the **Insured** could reduce the **Actual Loss** or loss of **Rental Value**, or **Extra Expense** resulting from the interruption of business:

1. by complete or partial resumption of operations; or
2. by making use of other property at the **Insured Property**, or elsewhere,

such reductions shall be taken into account in arriving at **Actual Loss** or loss of **Rental Value** or **Extra Expense** under such Coverage J.

VIII. EXTENDED REPORTING PERIOD FOR CLAIMS - COVERAGES A THROUGH I

The **Named Insured** shall be entitled to an Automatic **Extended Reporting Period**, and (with certain exceptions as described in paragraph B. of this Section) be entitled to purchase an Optional **Extended Reporting Period** Endorsement collectively for Coverages A through I, upon termination of coverage as defined in Paragraph B.(3) of this Section. Neither the Automatic nor the Optional **Extended Reporting Period** shall reinstate or increase any of the limits of liability of this Policy.

A. Automatic Extended Reporting Period

Provided that the **Named Insured** has not purchased any other insurance to replace this insurance and which applies to a **Claim** otherwise covered hereunder, the **Named Insured** shall have the right to the following: a period of sixty (60) days following the effective date of such termination of coverage in which to provide written notice to the Company of **Claims** first made and reported within the Automatic **Extended Reporting Period**.

A **Claim** first made and reported within the Automatic **Extended Reporting Period** will be deemed to have been made on the last day of the **Policy Period**, provided that the **Claim** arises from **Pollution Conditions** that commenced before the end of the **Policy Period** and is otherwise covered by this Policy. No part of the Automatic **Extended Reporting Period** shall apply if the **Optional Extended Reporting Period** is purchased.

B. Optional Extended Reporting Period

The **Named Insured** shall be entitled to purchase an Optional **Extended Reporting Period** upon termination of coverage as defined herein (except in the event of nonpayment of premium), as follows:

- (1) A **Claim** first made and reported within the Optional **Extended Reporting Period**, if purchased in accordance with the provisions contained in Paragraph (2) below, will be deemed to have been made on the last day of the **Policy Period**, provided that the **Claim** arises from **Pollution Conditions** or a **Pollution Release** that commenced before the end of the **Policy Period** and is otherwise covered by this Policy.
- (2) The Company shall issue an endorsement providing an Optional **Extended Reporting Period** of up to forty (40) months from termination of coverage hereunder for all **Insured Properties** and **Non-Owned Locations**, if applicable, or any specific **Insured Property** or **Non-Owned Location**, provided that the **Named Insured**:
 - a. makes a written request for such endorsement which the Company receives within thirty (30) days after termination of coverage as defined herein; and
 - b. pays the additional premium when due. If that additional premium is paid when due, the **Extended Reporting Period** may not be cancelled, provided that all other terms and conditions of the Policy are met.
- (3) Termination of coverage occurs at the time of cancellation or nonrenewal of this Policy by the **Named Insured** or by the Company, or at the time of the Company's deletion of a location which previously was an **Insured Property** or **Non-Owned Location**.
- (4) The Optional **Extended Reporting Period** is available to the **Named Insured** for not more than 200% of the full Policy premium stated in the Declarations.

IN WITNESS WHEREOF, the Company has caused this Policy to be signed by its president and secretary and signed on the Declarations page by a duly authorized representative or countersigned in states where applicable.

Secretary

President

ENDORSEMENT NO.

This endorsement, effective 12:01 AM,

Forms a part of Policy No.: PLL

Issued to:

By:

NATURAL RESOURCE DAMAGE AND DRINKING WATER ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

1. It is hereby agreed that Section **VI. DEFINITIONS**, paragraph **U., Property Damage**, is deleted in its entirety and replaced with the following:

U. Property Damage means:

- (1) Physical injury to or destruction of tangible property, including the destruction of any drinking water supply and the replacement cost thereof, of parties other than the **Insured**, including the resulting loss of use or value thereof;
- (2) Loss of use, but not loss of value, of tangible property of parties other than the **Insured** which has not been physically injured or destroyed; and
- (3) **Natural Resource Damage**.

Property Damage does not include **Clean-Up Costs**.

2. The following is added to Section **VI. DEFINITIONS**:

Natural Resource Damage means physical injury to or destruction of, including the resulting loss of value of, land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)), any state or local government, any foreign government, any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe.

All other terms, conditions and exclusions shall remain the same.

AUTHORIZED REPRESENTATIVE
or countersignature (in states where applicable)