

WILDFIRE FIGHTING INSURANCE COVERAGE

From the perspective of the insurance industry and stakeholders who undertook the negotiations, it was appropriate that the BC government resolved late last year to assume more responsibilities for insuring heavy equipment used to fight fires on Crown land—especially considering Victoria pays contractors to help fight the fires.

But along with this shift in policy comes potential confusion as to who is liable for what. And as with anything pertaining to insurance, an awareness of details is essential if contractors wish to avoid past incidents in which claims were not honoured and losses were incurred. “Contractors need to know what their insurance will and won’t cover if they decide to fight fires using their own equipment,” says Peter Pringle, a broker and managing director of Marsh JLT Specialty.

Under the revised rules, if someone is engaged in battling wildfires with the BC

Wildfire Service, then government is also responsible for equipment damage compensation (prior to 2019 negotiations, Victoria paid contractors a higher fire-fighting rate if they relied on their own insurers to cover damage, but since this strategy hadn’t been discussed with the insurance industry this led to a number of claims being turned down).

Pringle says, “A small group of industry reps and insurance professionals managed to inch things back to the way they were before, with the Province agreeing to accept responsibility for a contractor’s equipment from the time it leaves home base until it returns to home base.” The option of not accepting the government’s insurance was consequently eliminated.

But the transition between a fire that begins in the bush and grows to the point where it warrants government intervention is what contractors must pay special

attention to, according to Pringle. “Obviously those who are able to fight the fire in the early stages must do so immediately and are therefore covered by their insurers—and most policies don’t exclude this,” he says. “However, it’s important to make sure that these policies recognize the possibility of fires growing large enough to transition to government control, in which case—assuming the contractor registers his equipment under the BC Wildfire Service Equipment Rental Agreement—the insurer relinquishes his obligations to the province, and Victoria is now responsible for damages.

“Generally speaking, policies are worded accordingly. But in the event they are not, two sets of insurance policies could be in play during a big fire, leading to contention.”

Now comes some legalese that’s vital for contractors to understand: it’s called exceptions to the exclusion, and it should



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be a key part of any properly worded insurance policy. Essentially, such a policy will not insure the interests of the policyholder while being used to suppress fires under the supervision or direction of the Province (this is the exclusion).

if a) and b) above do not apply and in the absence of an agreement [the provincial Wildfire Equipment Rental Agreement].

In other words, if the contractor is not working for the BC Wildfire Service and

government to fight a fire not presided over by the BC Wildfire Service (i.e.: it's not an immediate threat)? "It's not the intent of the insurer to cover damages resulting from that scenario," says Pringle. "So in this case, it's the contractor and the company's responsibility to consult with the government, because it's the latter's bailiwick."

As a parting takeaway, Pringle urges policyholders to learn everything they can about the circumstances surrounding damage coverage. "The problem with insurance in general from a client's viewpoint is that insurers won't directly tell you what is insured. Risks are covered except for what's excluded, and that's why we worked our three exceptions as clearly as possible.

"The new guidelines ratified late last year are an improvement, but anything is open to ambiguity, so we would stress the importance of checking in with your equipment insurance policy, reading the appropriate section, and following up with your broker for final clarification."▲

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But the exceptions to the exclusion—which Pringle stresses must be clearly stated in the policy—are three-fold and show as follows:

- a) Such forest fire is a direct result of the insured's operations, or
- b) Such forest fire is an immediate threat to the property or operation of the insured.
- c) Such forest fire, as defined under applicable provincial statute, obliges the insured to attend the fire even

encounters one of these three circumstances, he will still be protected by his insurer. "It should be noted that point C is a bit of a catch-all to protect the policyholder fighting a fire that doesn't fall into the A or B categories," says Pringle. "I can't think of any immediate examples of such a situation, but we want to leave a little leeway in case something unexpected does arise."

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