

Insurer Required to Defend Waste Disposal Well Operator in Lawsuits Arising from Sinkhole Collapse

Article By:

Environmental Practice Group Beveridge Diamond

On August 1, 2013, the Texas Court of Appeals (13th District) held that an insurer owed a duty to defend a waste disposal well operator in four lawsuits arising from damage caused by the collapse of a sinkhole at the well site. The plaintiffs in the underlying suits alleged that their property had been damaged as a result of contamination from harmful substances injected by the well operator. The insurer, which had issued a commercial general liability policy to the operator, declined coverage on several grounds, including that coverage was excluded by the policy's Total Pollution Exclusion ("Pollution Exclusion") and Oil and Gas Amendatory Endorsement ("Oil and Gas Endorsement"). The operator argued that those exclusions should not apply, as they would render illusory the coverage for blowout and cratering hazards provided under the policy's Blowout and Cratering Coverage Endorsement ("Blowout Endorsement").

The court agreed with the operator. Reasoning that the Pollution Exclusion and Oil and Gas Endorsement effectively excluded coverage for all occurrences arising from a hazardous substance release or other pollution, the court found that applying those exclusions would nullify the Blowout Endorsement because a blowout or cratering event as defined under the policy could not arise in the absence of pollution.

The court also rejected the insurer's argument that coverage for certain of the underlying suits was excluded because those suits arose solely from groundwater damage, which was not covered by the Blowout Endorsement. Construing the allegations in the underlying complaints liberally in favor of the insured, the court found that the underlying suits also alleged above-ground property damage, thus triggering the insurer's duty to defend the entirety of those suits.

The opinion is available here: [*Century Surety Co. v. DeLoach*, No. 13-12-00072-CV \(Tex. App. 13th Dist. Aug. 1, 2013\)](#)

© 2025 Beveridge & Diamond PC

National Law Review, Volume III, Number 241

Source URL: <https://natlawreview.com/article/insurer-required-to-defend-waste-disposal-well-operator->

[lawsuits-arising-sinkhole-co](#)