

**The California Oil and Gas Report**

# Fracking May Punch Holes In Your Insurance Coverage

Posted on [May 5, 2013](http://www.caloilgas.com/insurance-part-1/) by [Editor](http://www.caloilgas.com/author/Editor/)

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##### Part 1 of a 4-part series

As oil and gas fracking operations have increased, so have the risks and the potential liability claims associated with enhanced recovery techniques, horizontal wells, water disposal wells and fracking.

Insurance companies have had to adapt the policies they sell to protect against claims linked to fracking and other recovery processes.

The customers of those insurance companies – oil and gas companies, their fracking-related contractors, and landowners where drilling occurs – have to be much more knowledgeable about the coverage they are buying.

Despite a long history of safe operations, there have been some large fracking-related claims. Chesapeake Energy paid $1.6 million to settle allegations of water well pollution in Bradford County, PA. Cabot Oil & Gas Corp. reportedly made a $4.1 million settlement with residents of Dimock, PA, who claimed that their drinking water was contaminated by fracking-related methane gas. (Pennsylvania regulators determined later that the contamination was the result of naturally-occurring methane, not fracking.)

Faced with potential payouts like this, it’s not surprising that insurance carriers are revising their policy contracts. In mid-2012, Nationwide Mutual Insurance Co., became the first major insurance company to say it would not cover damages related to fracking for landowners who lease property to gas companies.

Oil and gas companies have long carried insurance to protect themselves against a wide range of risks, including the costs of pollution they may cause. But traditional pollution coverage is simply not adequate for fracking-related risks, and insurers have come up with new products to protect against these risks.

Fracking contractors are also changing their contracts with the owner-operators of wells. Many now include provisions called “catastrophic loss indemnities” that shift a lot of the exposure to the operator if an accident occurs.

A well owner-operator has to be adequately insured today not just because of the new fracking-related risks. Expensive fracking equipment, coupled with the large number of people and the round-the-clock activity at the site, means there is a lot of exposure.

Landowners who allow gas exploration or production activity on their property, typically through lease agreements, are also at risk. They may be held responsible under common law for “dangerous conditions” on their property.

Oil and gas leases often indemnify the landowner for claims arising from a gas company’s operations. The leases also typically require the developer to obtain liability insurance that protects the landowners for claims arising from such operations.

Correct wording of the lease is critically important. If the lease does not transfer liability to the developer, the landowner who faces a claim may find that their liability insurance carrier rejects the claim.

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