

WATER CONTAMINATION - What if my park is the next Flint, Michigan?



Many recall the 2014 Flint, Michigan water contamination crisis. Essentially what is going on is the City of Flint, Michigan, as a cost saving measure, switched their water supply from Lake Huron to the Flint River nearly two years ago. Unfortunately, the Flint River water was more corrosive than the Lake Huron water and caused the metal and lead water pipes to break down. The lead and other contaminants in the pipes then leached into the water stream. Long story short, toxic levels of lead have been found in the City water supply, and residents are alleging they are sick as a result. The City faces class-action lawsuits, fines, and the onslaught of national media coverage. Spoiler alert, there is such thing as bad press.

You may be thinking, "That's fascinating, but why are you telling me this?" Well, here's how it applies to you, Park-Owner. Flint's situation may be an extreme case, but if your park is operating on well water, or even supplying city water through park-owned water pipes, you may face some serious risks. This begs the question, would a bodily injury claim caused by water contamination be covered under a typical mobile home park General Liability policy with typical coverages and pollution exclusions? The answer is, unfortunately, "It depends."

There are two main types of liability policy forms written for park owners, a Business Owner's Policy and a Commercial General Liability policy. A Business Owner's Policy form will likely have water contamination coverage automatically, but there are few of these offered to mobile home park operators.

This brings us to the more common Commercial General Liability policy form. Typically, this form does not automatically include water contamination coverage. You may have the option of adding this

coverage by asking for form CG 2407 (on premise product liability), but keep in mind that many carriers will not allow this form to be added to the policy.

If the insurance company is willing to add this form, regardless of which policy form you have, you must also check your exclusions! We have seen instances where CG 2407 is included in the policy, but there is also a comprehensive lead and/or a broad pollution exclusion such as the "Total Pollution Exclusion" (form CG 21 49). Both limit coverage to an extent, depending on your state's legal rulings of the scope of those exclusions. Whether a pollution exclusion applies depends on the facts of a particular case and the material involved in the incident. Given the typical policy form language, it's possible that bodily injury due to tainted water may be covered, but the cost to remove or replace the water delivery system would not.

If you feel that the exclusions are too restrictive or your coverage is inadequate, you may consider purchasing a separate Pollution policy. Such policies are helpful, but they also typically carry minimum premiums of around \$5,000 and are recommended primarily for park owners with their own sewage treatment plants. But before you jump off a cliff, Mobile Insurance provides coverage for more park owners than any other source in the U.S. and our records indicate that water contamination claims are quite rare.

The main takeaway from this is to know your business risks and the insurance coverage you are buying. Contact your insurance agent for an explanation if you're concerned about your coverage. Be the smart business manager, and know what is included in your policy and most importantly, what is **excluded**.

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