

## Lesson Learned – Sewer Backups Are Costly!

**What Occurred:** The District was responding to a sewage pump station which had failed the day before. Because the field pump failed, the wet well was inundated with sewage and needed to be cleaned out. To clean the wet well, the District had to close off the incoming wet well lines. The District crew lost track of the amount of time the wet well cleanup was taking and left the plugs in too long causing the backup into the claimant's location. Initially, most of the claim cost was for clean up and mitigation. The affected building was a large warehouse used by an HVAC contractor as well as for private storage. A second building housing the retail portion of the HVAC business was also affected. The District contracted directly with XYZ restoration company (XYZ) to perform the cleanup to the buildings and materials. This claim was initially reserved for \$50,000.

**What Resulted:** The Pool's claims adjuster met with XYZ's on-site supervisor. Our adjuster assessed the damages and reviewed the scope of work with the on-site XYZ supervisor. XYZ stated they could clean any item that was non-porous (i.e. galvanized fabricated ducting); however, any contaminated porous items would need to be properly disposed of and replaced. XYZ began the cleanup process and dealt directly with the claimant. The claimant expressed concern for the heating ducting that was on the warehouse floor when the sewage entered into the building. XYZ advised the Pool adjuster that he would clean the non-porous items, but then told the claimant privately, *"if I were you I wouldn't put those cleaned HVAC system parts into a home."* XYZ completed the cleaning of the building and the retail area of the claimant's business. The claimants stated they would not return to the facility unless third party environmental testing was completed. An estimate was obtained and third party testing was completed by a Certified Industrial Hygienist. Testing results were negative for any airborne contaminants. The final XYZ invoices were much greater than the acceptable insurance industry standard schedule of rates and materials. The Pool was obligated to pay since the District had signed the contract. Ultimately, the Pool's adjuster argued with XYZ about their charges and got them reduced substantially.

The Pool was presented with the formal Claim for Damages and at that time the claimant was represented by Legal Counsel. The initial claim demand was for up to **\$750,000**. At that point the Pool attorney got involved to defend the case. As this liability claim exceeded \$200,000 the Pool put its excess insurance carriers on notice of the claim. After months of evaluating the damages, claimants Counsel came back with a lower demand of \$350,000. As part of our defense, the Pool hired a forensic accountant to evaluate the claimant's business interruption losses. Eventually, suit was filed by the HVAC firm and a trial date was set.

Trial preparation began by taking depositions and further fact finding. The potentially damaging testimony of XYZ's supervisor would have caused serious problems if this case had gone before a jury.



As a result, the Pool entered into settlement negotiations to settle this claim without an expensive trial. The case was finally settled for \$120,000 with the Pool paying an additional \$110,000 in claims adjustment costs and legal fees. This claim took over 2 years to resolve.

**Direct Costs:** The total paid loss was **\$230,000**.

**Indirect Costs:** The District's labor and expense in cleanup coordination, interviews, and document gathering was estimated to total 150 hours for **an indirect/non insurable cost of approximately \$9,000**.

**Contributing Factors:**

1. District workers did not plan enough time to allow for worst case condition when performing the cleanup of the wet well.
2. District contracted with XYZ Restoration Company rather than the rate payer/claimant retaining the restoration contractor.
3. The XYZ's on-site supervisor made unprofessional remarks to the claimant causing additional costs and increasing the total cost of the claim.
4. XYZ's charges were not in-line with acceptable insurance industry standard schedule of rates and materials.

**Root Cause:**

1. The District had a poor pre-planning process for infrequently performed tasks and counted on tasks to be completed without glitches. The District did not allow extra time if the crew encountered complications. As a result the crew left the line plugs in too long causing a \$230,000 backup into the claimant's location.

**Best Practice - Lessons Learned to Prevent Recurrence:**

1. If you are performing work that has specific time constraints with unknown site conditions make sure the task can be done within the allotted time. If it looks as though the job cannot be completed within the allotted time, have a contingency plan in place!
2. If a backup occurs, take the corrective measures to stop or contain the backup; mitigate the damages as soon as practical.
3. Provide the potential claimant with a list of reputable restoration companies along with standard rate schedules accepted by the insurance industry; have the ratepayer contract with the restoration company directly for cleanup.
4. Caution contractors (and District crews) to never make inappropriate remarks or provide unfounded opinions to ratepayers or claimants.

## **Errors and Lack of Pre-planning Leads to Backups Which Mean Claims!**

**For additional information** about this and other Water and Sewer risk management programs please contact Leah Vergosen at 425-452-9750 or [leahv@wsrmp.org](mailto:leahv@wsrmp.org)

This claim has been sanitized for risk management training purposes.