

Liability Policies Cover Property Damage Caused By Seismic Activity Related To Oil And Gas Exploration, Says Oklahoma Supreme Court (Insurance Law Alert)

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The Supreme Court of Oklahoma ruled that a general liability policy covered property damage losses resulting from seismic activity stemming from the policyholder's oil and gas exploration activity. *Crown Energy Co. v. Mid-Continent Cas. Co.*, 2022 OK 60 (June 14, 2022).

Crown, an oil and gas producer, was named as a defendant in a class action suit alleging property damage caused by seismic activity stemming from Crown's use of waste water disposal wells. Mid-Continent denied coverage, arguing that the damage was not caused by an "occurrence" and that in any event, a pollution exclusion barred coverage. The court rejected both contentions and ruled in Crown's favor.

Mid-Continent argued that because Crown's injection of waste water into the disposal wells was intentional, its activities could not constitute an "accident" for insurance coverage purposes. Rejecting this assertion, the court reasoned that the resulting seismic activity was not a "natural and probable consequence" of Crown's disposal activities. The court explained that "some risk" of seismic activity does not mean that it is a natural and probable consequence of Crown's waste water disposal activities.

The court also ruled that the pollution exclusion did not bar coverage, deeming it ambiguous under the factual scenario presented. The court relied on *National American Ins. Co. v. New Dominion*, 2021 OK 62 (2021) (discussed in our [December 2021 Alert](#)), in which it ruled that a pollution exclusion did not apply to similar underlying losses. Mid-Continent argued that the exclusion here was broader than that in *New Dominion* because it contained expansive "arising out of" language and because unlike in *New Dominion*, the present exclusion did not rely on a separate definition of "pollutants." The court acknowledged these distinctions, but concluded that they did not "expand [the exclusion's] scope to such an extent that it would preclude coverage for the underlying claims."

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