

What Is a Comprehensive General Liability (“CGL”) Policy?

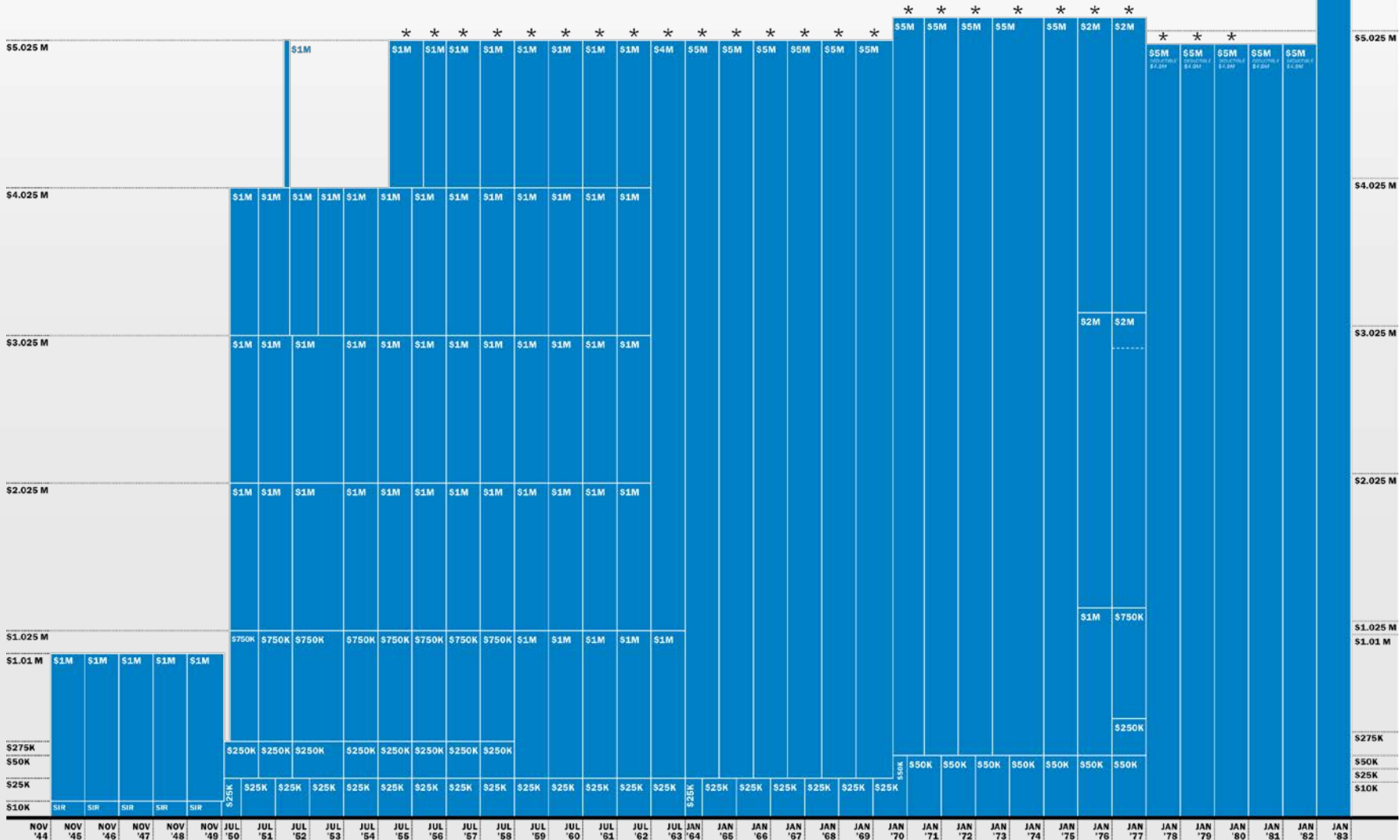
CGL Policy

- ▶ Policy provides liability insurance protection for the **multiple liability risks** of commercial entities under a **single “comprehensive” policy**.
- ▶ **Examples of covered risks:**



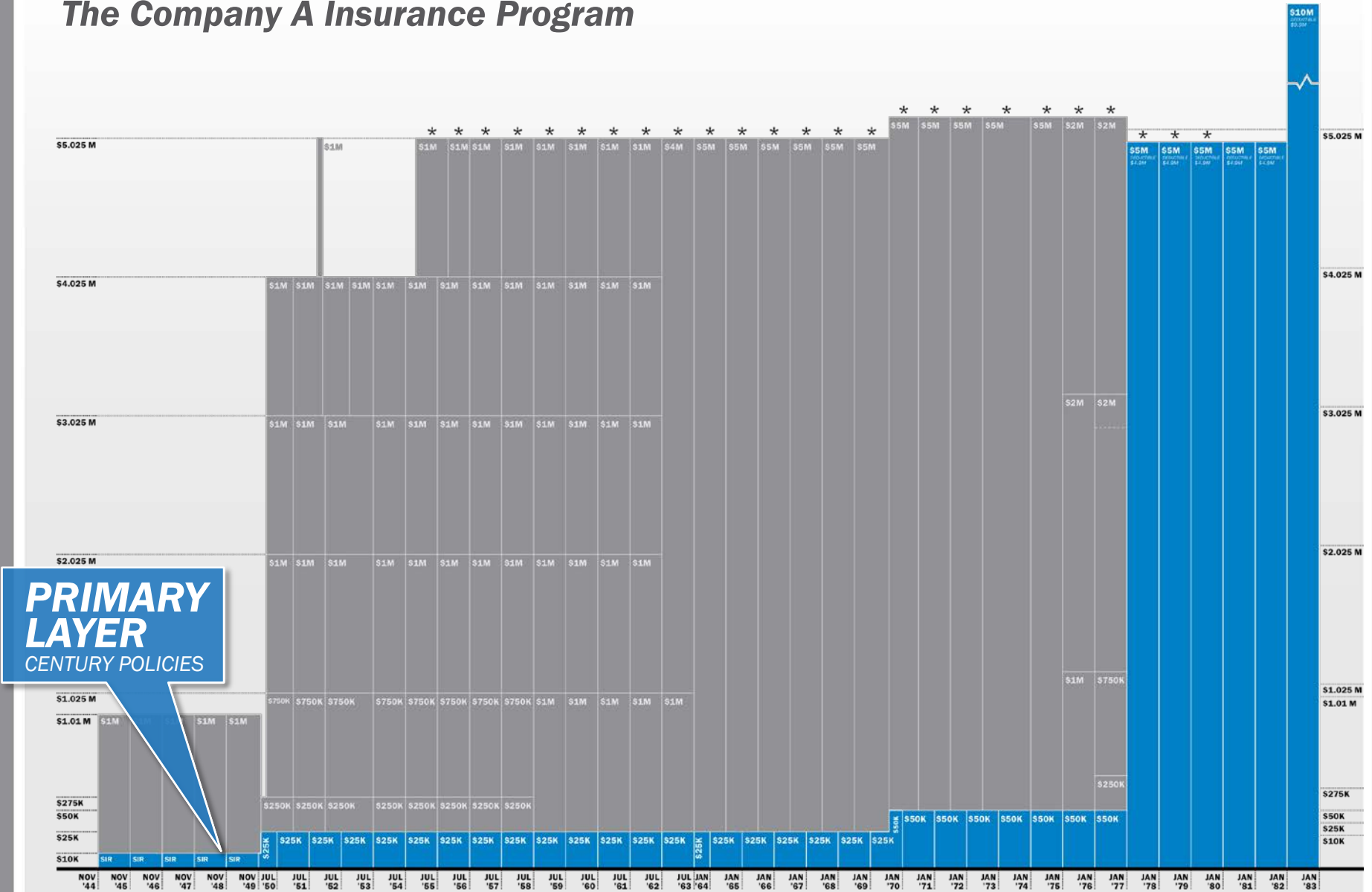
POLICY PERIOD

The Company A Insurance Program



* Additional coverage not shown.

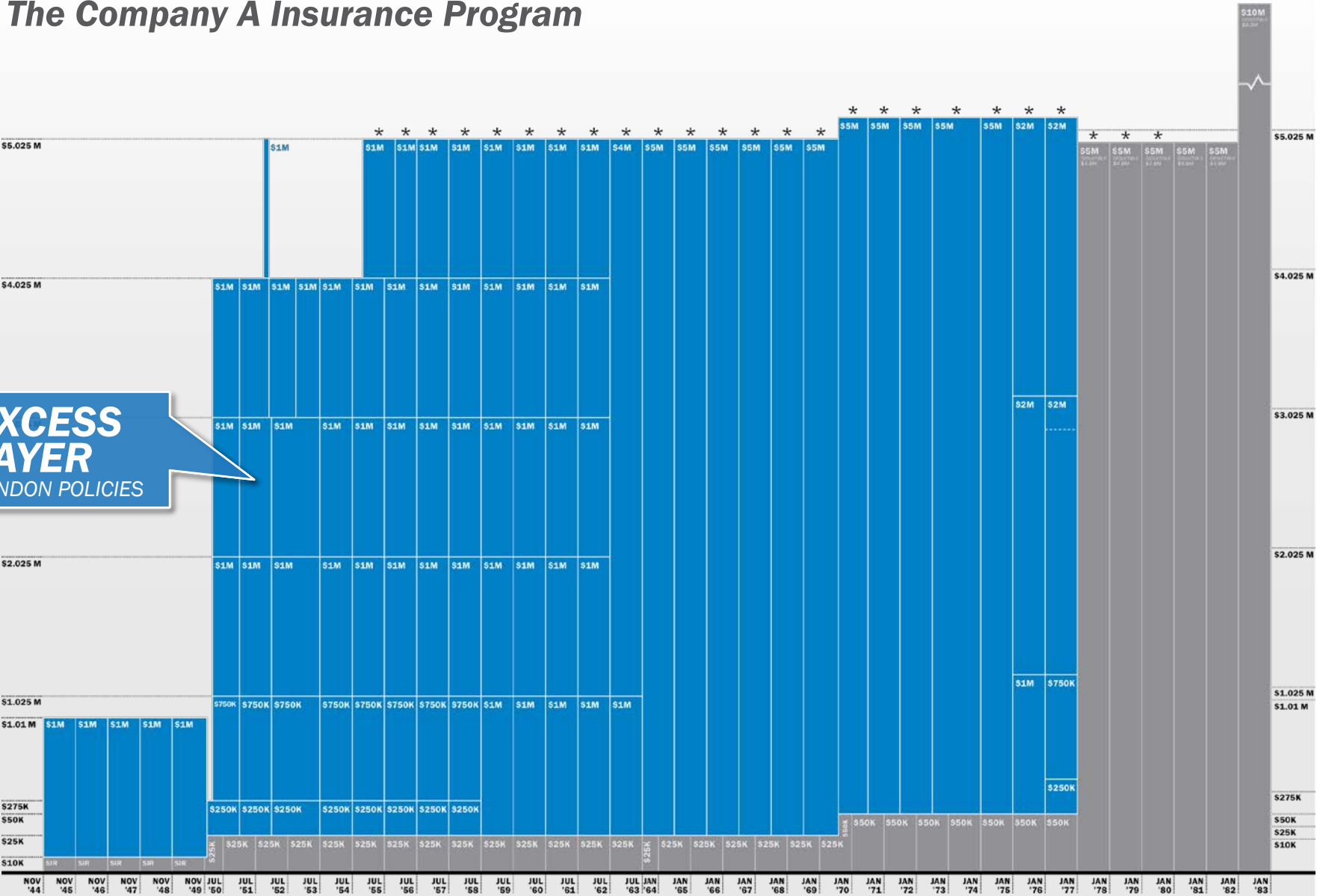
The Company A Insurance Program



* Additional coverage not shown.

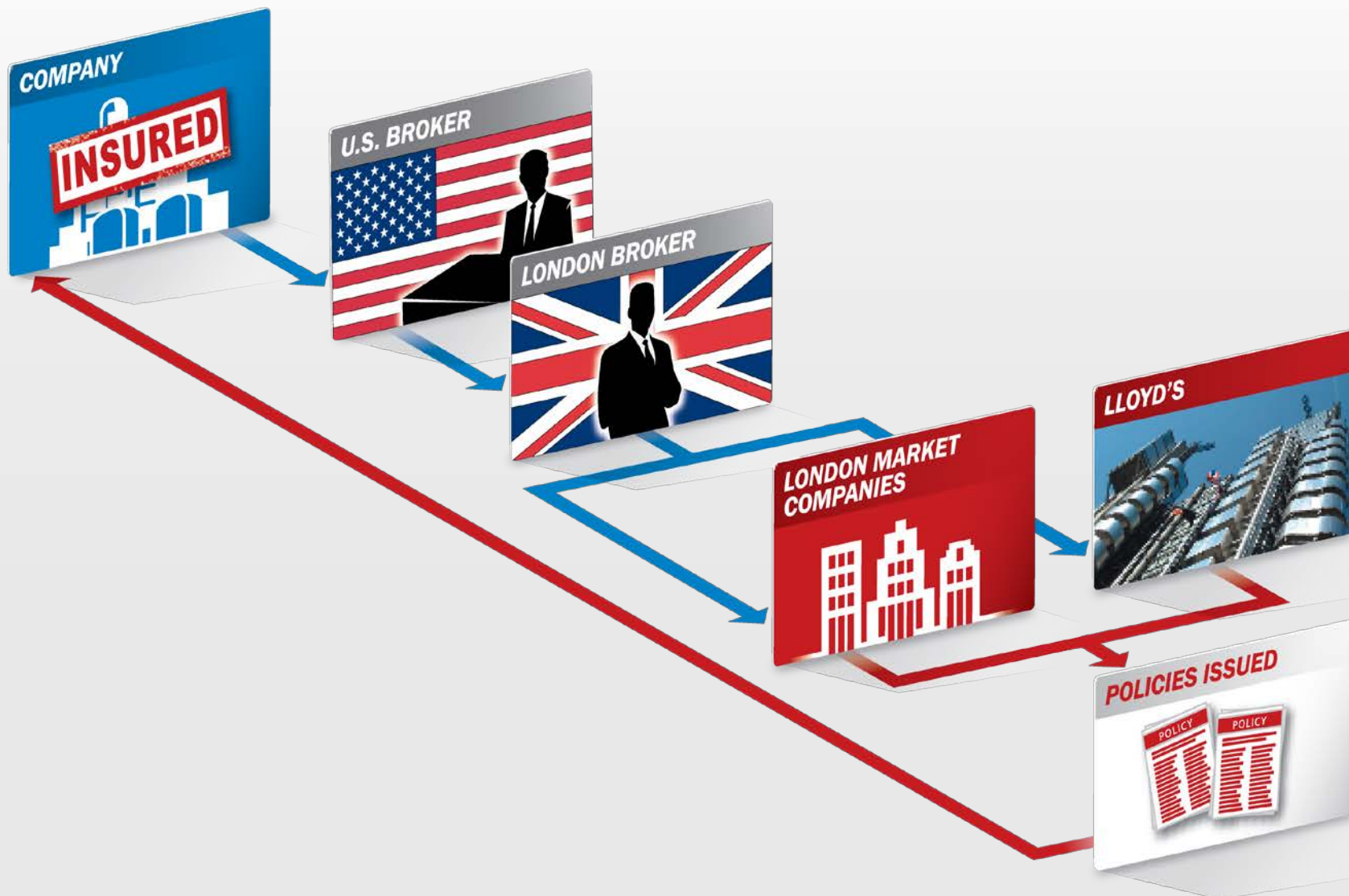
The Company A Insurance Program

**EXCESS
LAYER**
LONDON POLICIES



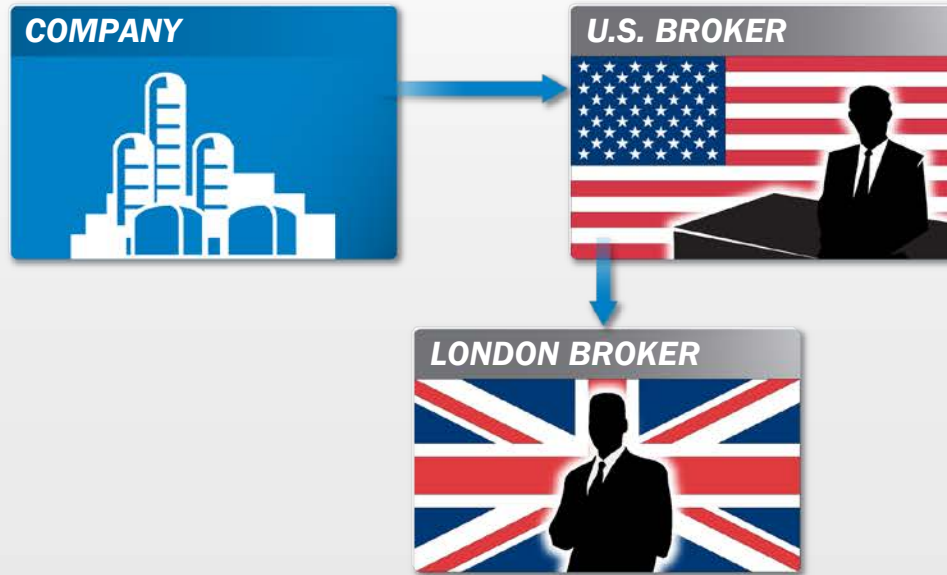
* Additional coverage not shown.

How Do U.S. Companies Purchase Insurance from the London Market?



How Does the London Market Work?

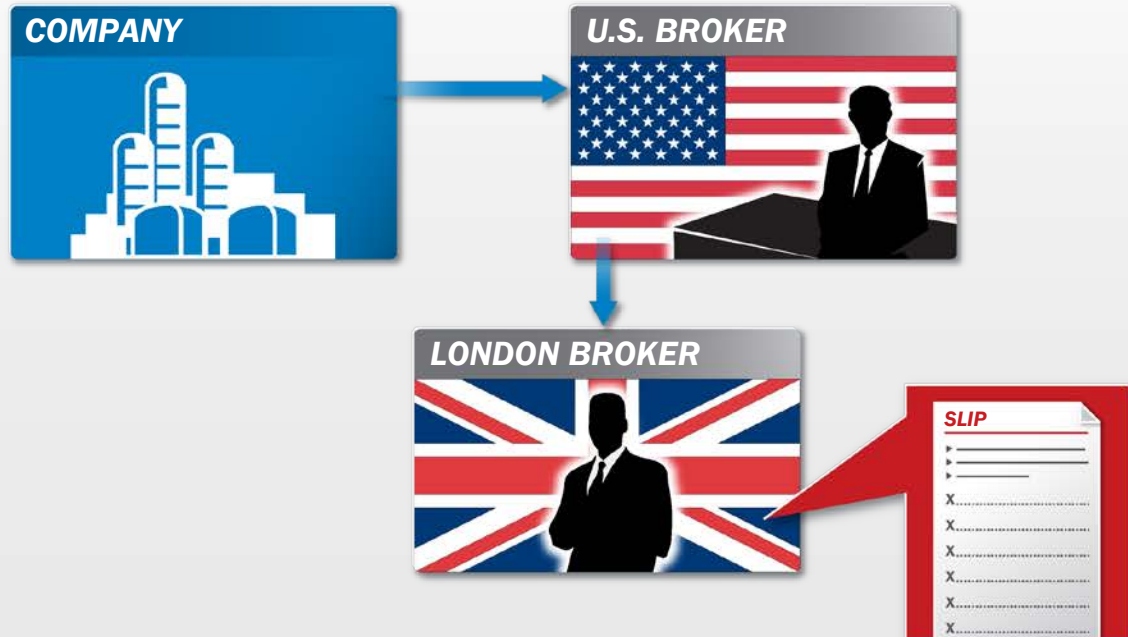
U.S. BROKER
communicates
underwriting information
provided by COMPANY,
along with instructions for
placing insurance to
LONDON BROKER.



How Does the London Market Work?

LONDON BROKER

Prepares “slip”
outlining the basic
parameters of the risk.

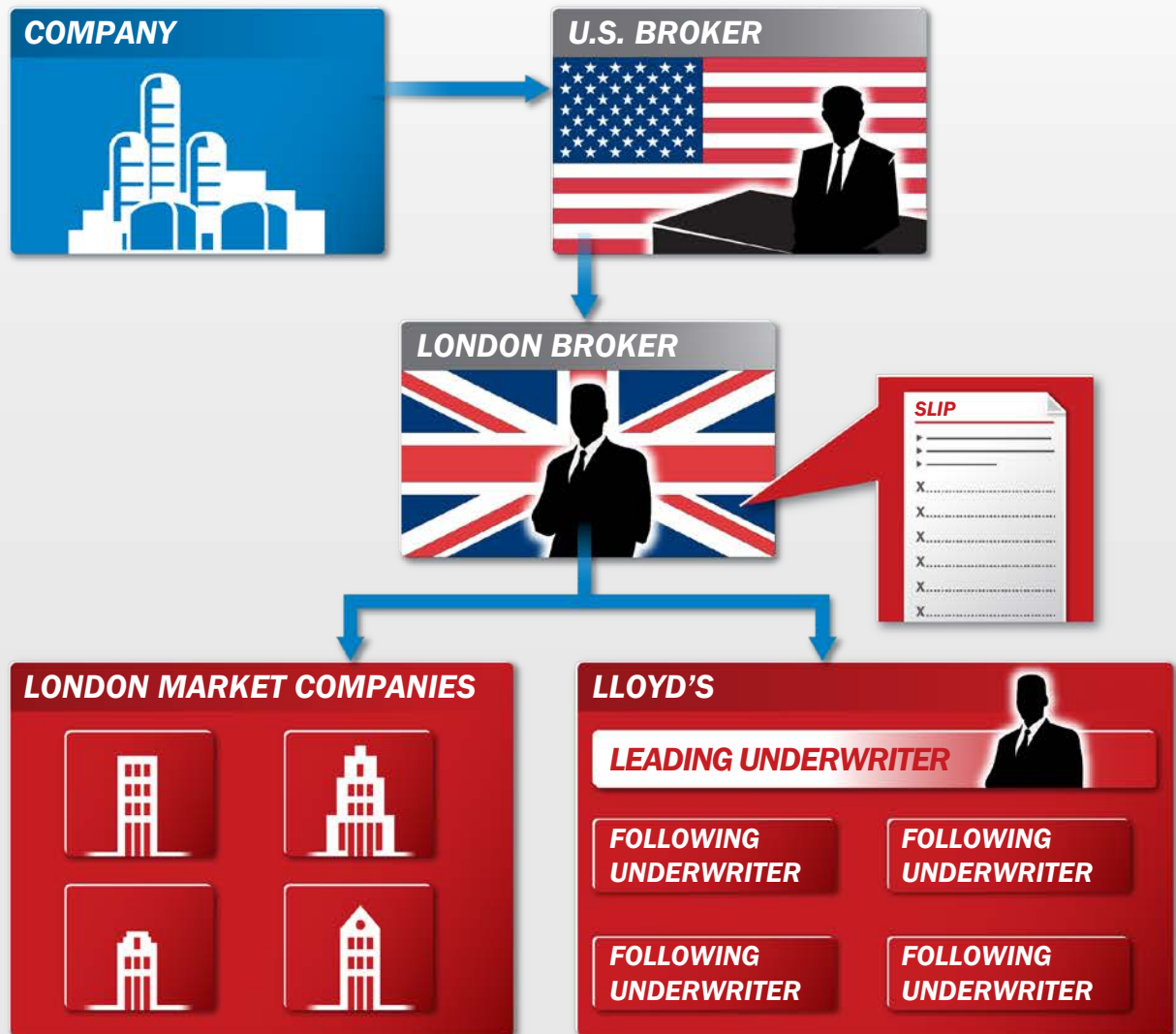


How Does the London Market Work?

LONDON BROKER visits an underwriter he believes is the most suitable to quote terms for insuring the risk.

This person is known as the **LEADING UNDERWRITER**.

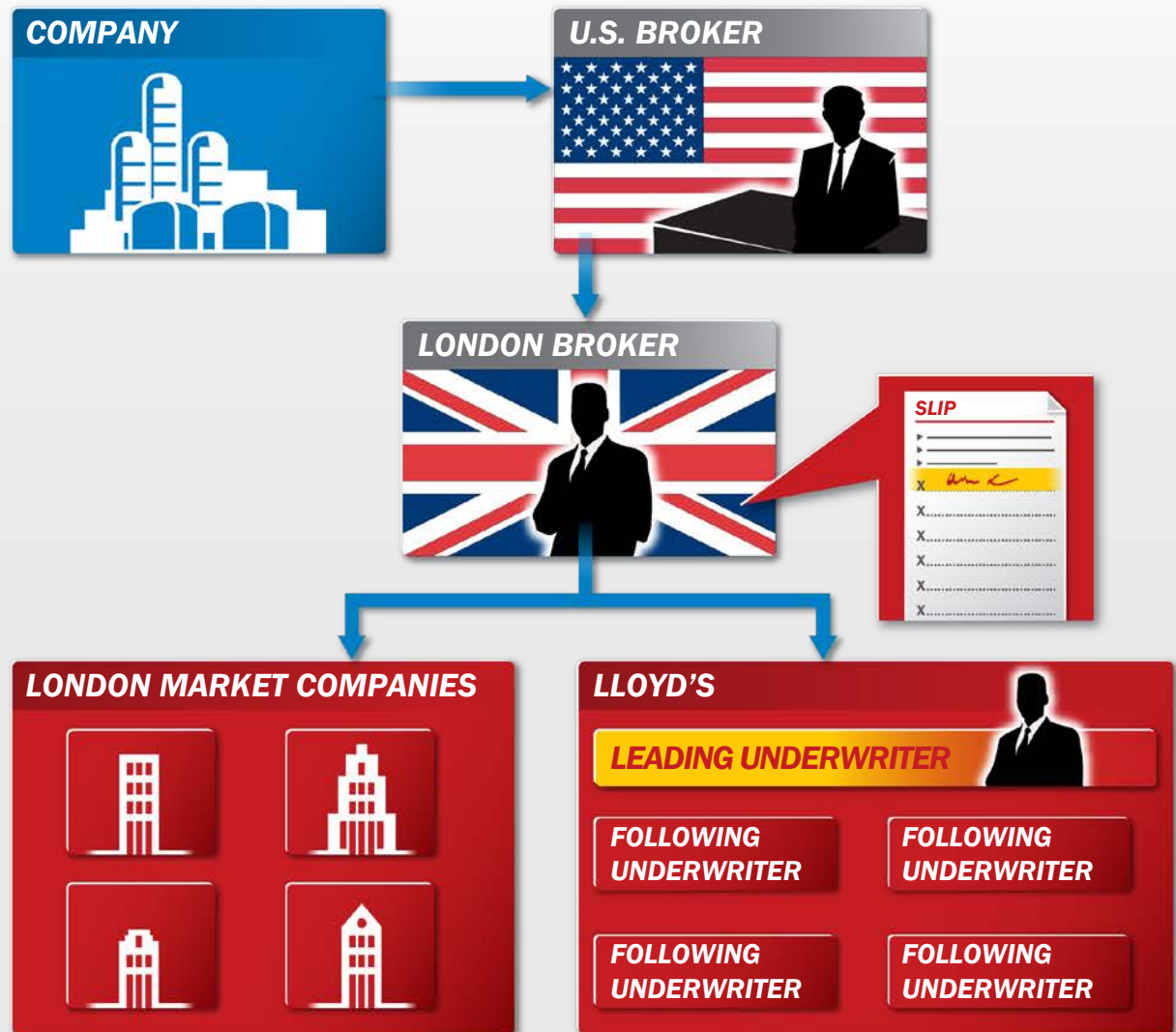
THE LEADING UNDERWRITER evaluates the risk and determines the **terms** at which he is willing to write the risk.



How Does the London Market Work?

THE LEADING UNDERWRITER then signs the slip

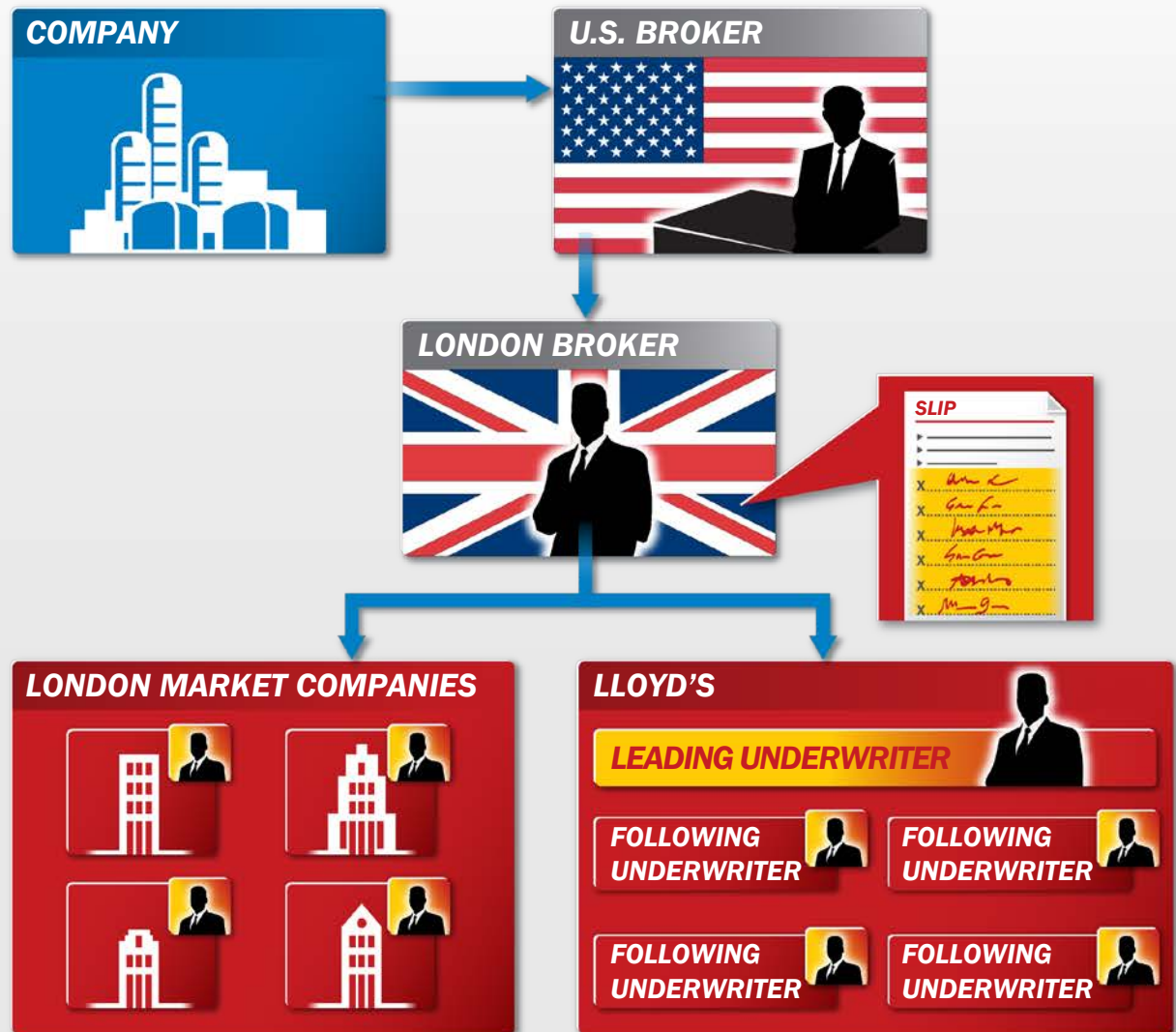
indicating he is willing to take on a share of the risk outlined.



How Does the London Market Work?

LONDON BROKER then visits **FOLLOWING UNDERWRITERS** and **LONDON MARKET COMPANIES** in order to complete the placement.

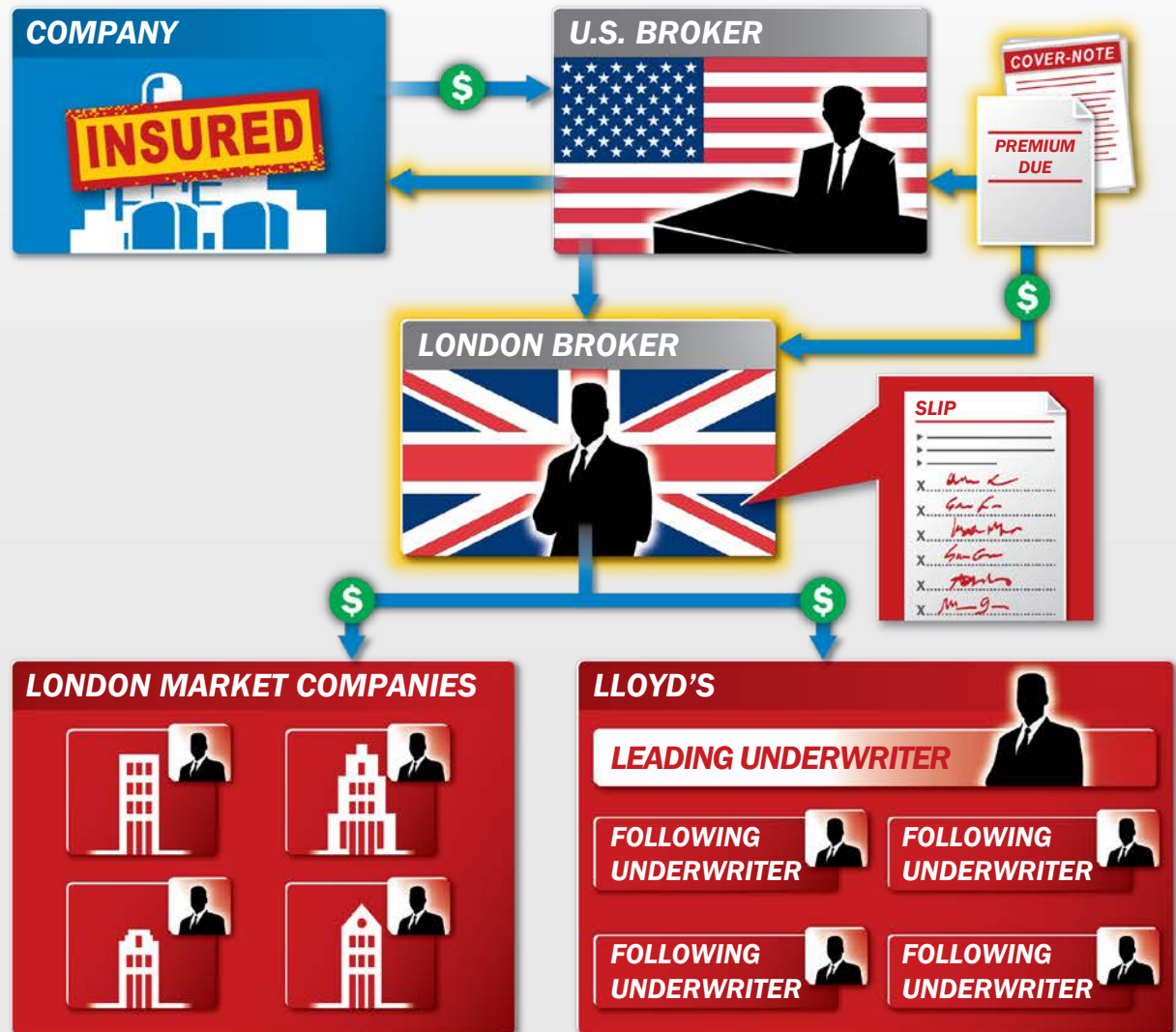
Those willing to write the risk at the terms quoted by the **LEADING UNDERWRITER** also sign the slip.



How Does the London Market Work?

Once he has completed the placement, **LONDON BROKER** prepares a **cover-note confirming bound coverage** along with an **invoice for the premium**.

The company pays the premium.

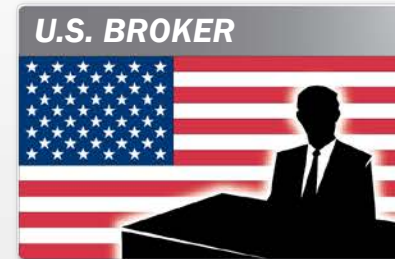


How Does the London Market Work?

LONDON BROKER
assembles the policy
from details of the slip
as amended by
underwriters.

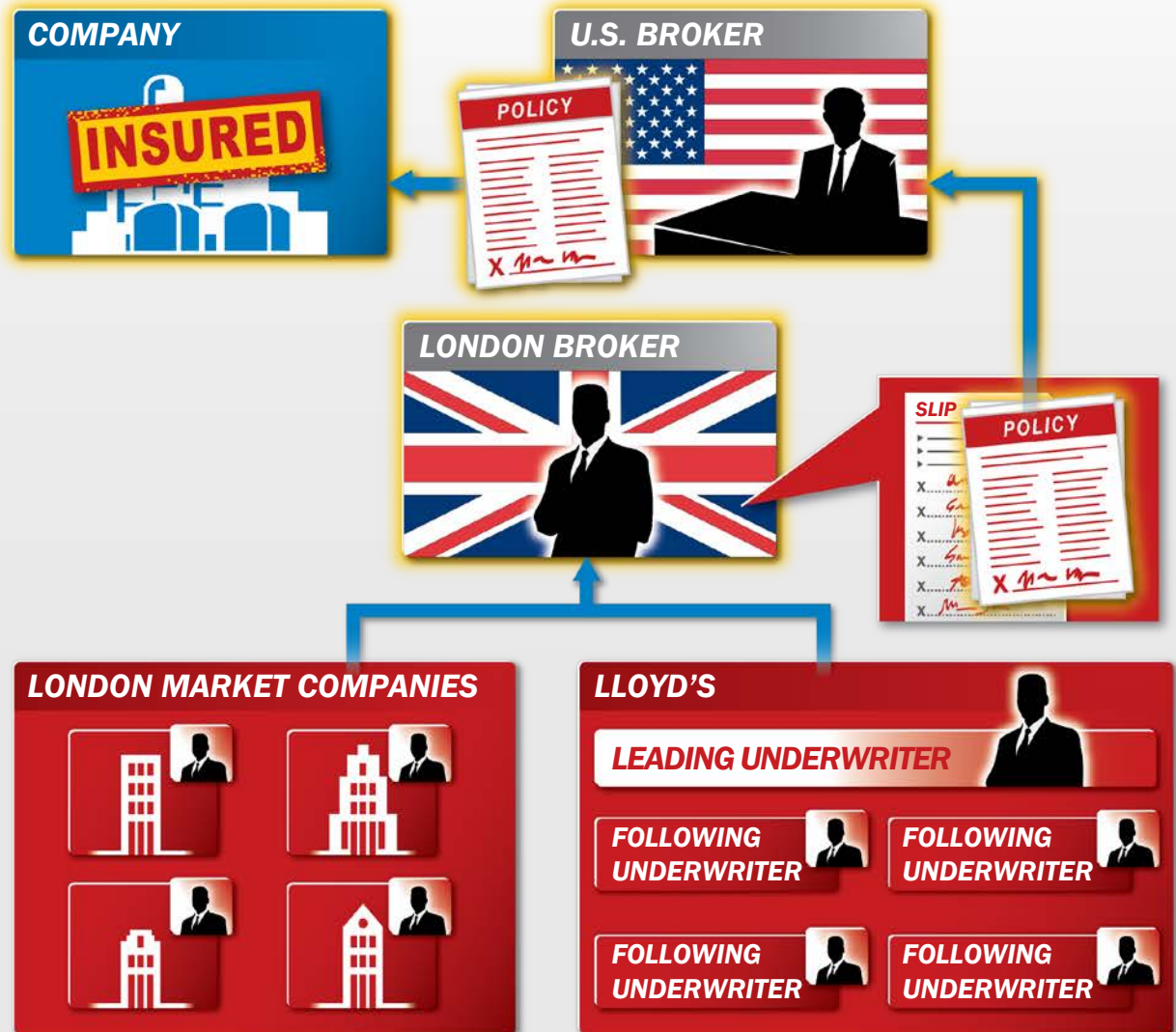
The policy and slip
are sent to **Lloyd's**
Policy Signing Office
who will check that the
slip and policy are
compatible, and the
premium is paid.

A separate but
identical policy is
issued by the London
Market Companies.



How Does the London Market Work?

The signed policies are sent to the **U.S. BROKER**, who in turn sends them to the **COMPANY**.



***Information
the Leading
Underwriter
Requests when
Evaluating the
Risk He's Been
Asked to Write***



Nature of the operation

- For example, oil company, mining company, railroad, chemical company, etc.



Size of the company

- For example, number of facilities, number of employees, amount of revenue, etc.



Potential hazards

- For example, is there a risk of bodily injury liability caused by defective products?



Company's loss record

- Number, frequency and amounts of prior claims.



Entity writing the primary insurance

- Is primary coverage provided by a reputable or is company self-insured at the primary level?

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***BASED ON ANSWERS TO THESE QUESTIONS,
LEADING UNDERWRITER DETERMINES THE PREMIUM AND
TERMS AT WHICH HE IS WILLING TO WRITE THE RISK.***

History of Environmental Clean Up Laws

1976

RCRA enacted:

Owner/operator of an **operating regulated hazardous waste management unit** would be required to clean up any release to soils or ground water.

42 U.S.C. § 6902(4)

DEC 11, 1980

CERCLA (or Superfund) signed into law.

Created **joint, several and retroactive liability** for any party that contributed hazardous substances to **abandoned or inactive sites**.

42 U.S.C. § 9601

1984

HSWA to RCRA enacted.

Owner/operator required to clean up all releases from all units at the facility, **whether or not such units are currently active, regardless of the time at which the waste was placed at the site.**

42 U.S.C. § 6902(4)

1975

1976

1977

1978

1979

1980

1981

1982

1983

1984

1985

1986

RCRA/HSWA Requirements Codified in Federal and State Regulations

Federal Regulation: **40 CFR Part 264**

Once authorized, state has primary enforcement authority.

264.101 reads:

“(a) **The owner or operator of a facility** seeking a permit for the treatment, storage or disposal of hazardous waste **must institute corrective action as necessary** to protect human health and the environment **for all releases of hazardous waste or constituents** from any solid waste management unit at the facility, **regardless of the time at which waste was placed in such unit.**”

State Regulation: **LAC 33.V.3322**

“(a) **[T]he owner or operator of a facility** seeking a permit for the treatment, storage or disposal of hazardous waste **must institute corrective action as necessary** to protect human health and the environment of **all release of hazardous waste or constituents** from any solid waste management unit at the facility, **regardless of the time at which waste was placed in such unit.**”

Environmental Statutes

RCRA

CERCLA

HSWA

1976 Resource Conservation and Recovery Act (“RCRA”)

- ▶ Applicable to **operating facilities**.
- ▶ Created universe of **“hazardous wastes.”**
- ▶ **Required permits** for regulated units at Treatment, Storage, and Disposal (“TSD”) facilities.
- ▶ **Required “clean closure”** for regulated units taken out of service.
- ▶ **Required corrective action** for contamination from regulated units.
- ▶ **Imposed liability on current Owner/Operator.**

Environmental Statutes

RCRA

CERCLA

HSWA

1980 Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” or “Superfund”)

- ▶ Created universe of **“hazardous substances.”**
- ▶ Imposed joint, several, and retroactive liability on any **Potentially Responsible Party (“PRP”).**
- ▶ **“Superfund” created** to fund clean-up by EPA, which would then seek cost recovery.
- ▶ **PRPs allowed to seek reimbursement** from other PRPs.
- ▶ **Applicable to orphaned or abandoned facilities.**

Environmental Statutes

RCRA

CERCLA

HSWA

Hazardous and Solid Waste Amendments of 1984 (“HSWA”)

- ▶ All RCRA permits required to include **corrective action**.
- ▶ **Owner/Operator (permittee)** is required to conduct corrective action.
- ▶ **Corrective action applies to any contamination, regardless of when the waste was placed in the unit.**

**Process for
Conducting
Corrective Action
Pursuant to
RCRA/HSWA
Permit**

RFA

RCRA Facility Assessment Report

- Agency identifies areas of contamination.

RFI

RCRA Facility Investigation

- **COMPCO investigates** areas of contamination.
(Permit Sec. VII.K)

CMS

Corrective Measures Study

- **COMPCO develops** plan for corrective action where necessary to protect human health and the environment. (Permit Sec. VII.O)

CMI

Corrective Measures Implementation

- **COMPCO** incorporates corrective action into permit and **implements corrective action plan.** (Permit Sec. VII.R)

COMPCO

- COMPCO identifies** any new releases or areas of contamination. (Permit Sec. VII.I)

Under RCRA, Company A Is Liable for Investigation and Remediation of All Pre-1983 Pollution Property Damage at the Refinery

1944

Refinery constructed by **Company A** began operations.
Ex. 10

AUG 1982

EPA issued a RCRA interim status permit to **Company A** for the operation of the Refinery.
Ex. 190

MAR 18, 1983

Company A created a new subsidiary, **BCD Corp.**
Ownership of the Refinery transferred to Company A BCD Corp. pursuant to the **Restated Assignment and Assumption Agreement.**
Exs. 200, 201

OCT 30, 1992

Settlement Agreement with Johnson Co. **partially indemnifies** COMPCO (up to 50% maximum) for RCRA environmental liabilities arising from pre-1983 contamination at the Refinery.
Ex. 282

1976

RCRA enacted.
42 U.S.C § 6902(4)

APR 15, 1983

Company A BCD Corp. name changed to **COMPCO.**
Ex. 210

JAN 20, 1994

EPA notified **COMPCO** of issuance of a HSWA **Corrective Action Permit.**
Ex. 288

MAY 9, 1983

Company A Letter to EPA requesting transfer of RCRA permit to **COMPCO as the operator and permittee.**
Ex. 215

1984

HSWA to RCRA enacted.
42 U.S.C. § 6924(u)

1944 1976 1977 1978 1979 1980 1981 1982 1983 1984 1985 1986 1992 1993 1994 1995 2008

COMPCO, AS RCRA PERMITTEE AND FACILITY OWNER/OPERATOR, IS 100% LIABLE FOR ENVIRONMENTAL CONTAMINATION AT REFINERY

COMPCO IS NOT SEEKING THE RIGHT TO COVERAGE FOR POST-1983 CONTAMINATION

Key Periods in Time

Policy
Period

NOV 1944

DEC 1979

1940s

1950s

1960s

1970s

1980s

1990s

2000s

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Relevant
Regulations

1976
RCRA

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HSWA

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Oily wastes
included as
hazardous
under
TC Rule

NOV 1990
Oily wastes
listed as
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by EPA

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2000s

COMPCO's Investigation and Clean-up

MAY 1992
RFA

1998
COMPCO begins
incurring costs for
investigation and
clean-up

1940s

1950s

1960s

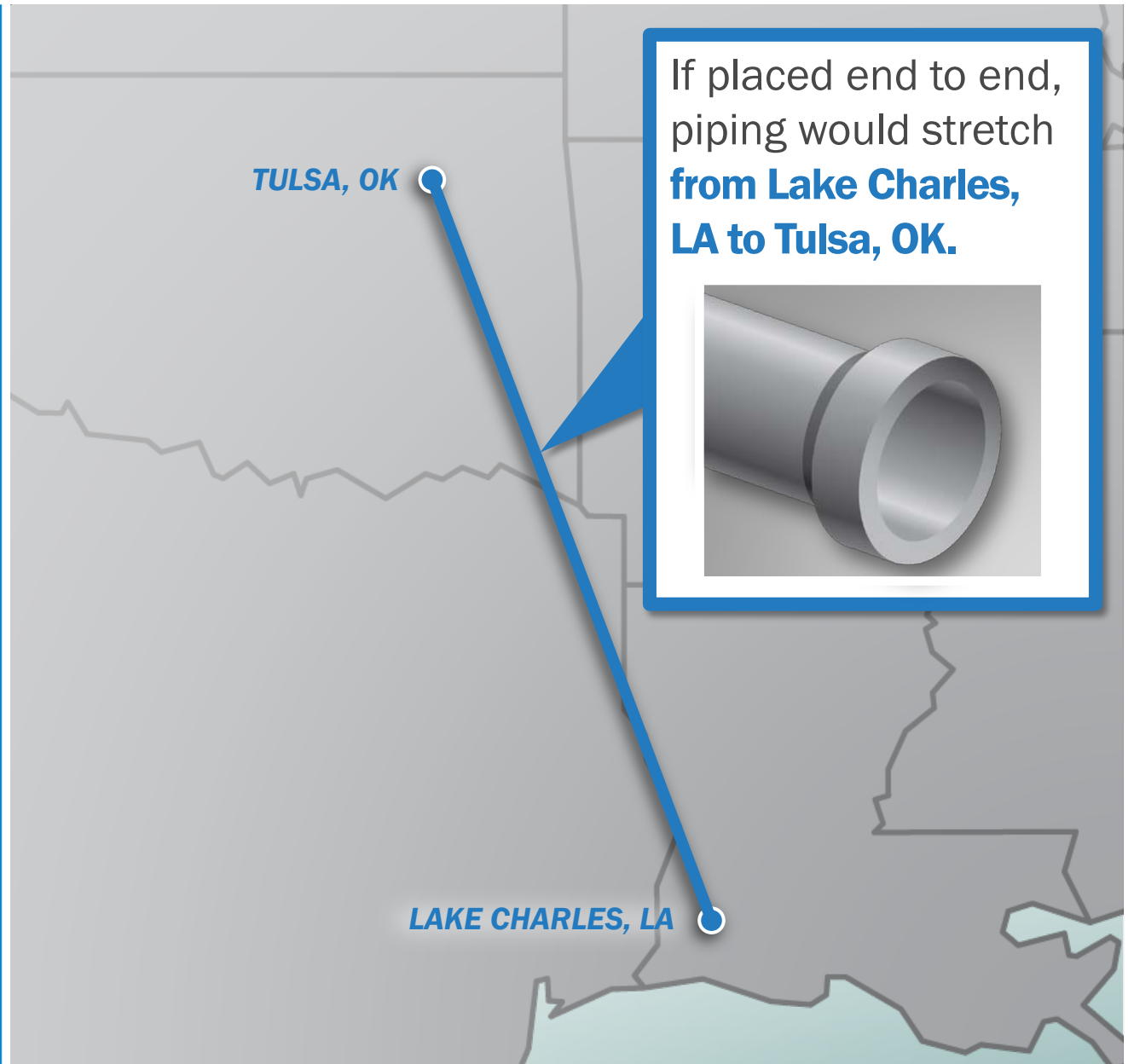
1970s

1980s

1990s

2000s

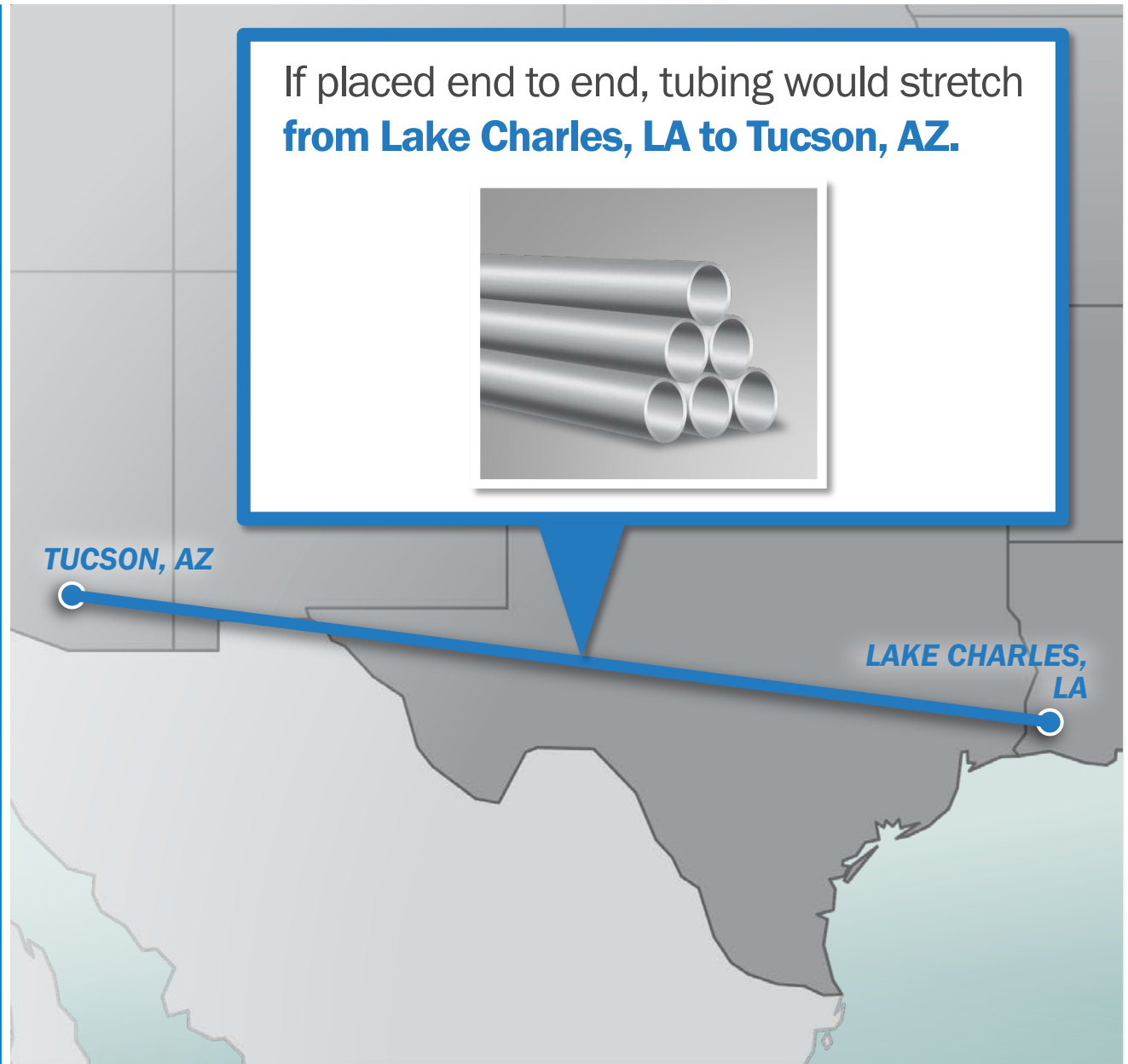
**Putting the Size
of the Refinery
into Perspective**
*2.5 Million
Linear Feet of Pipe*



***Putting the Size
of the Refinery
into Perspective***

***6 Million
Linear Feet
of Tubing***

If placed end to end, tubing would stretch
from Lake Charles, LA to Tucson, AZ.



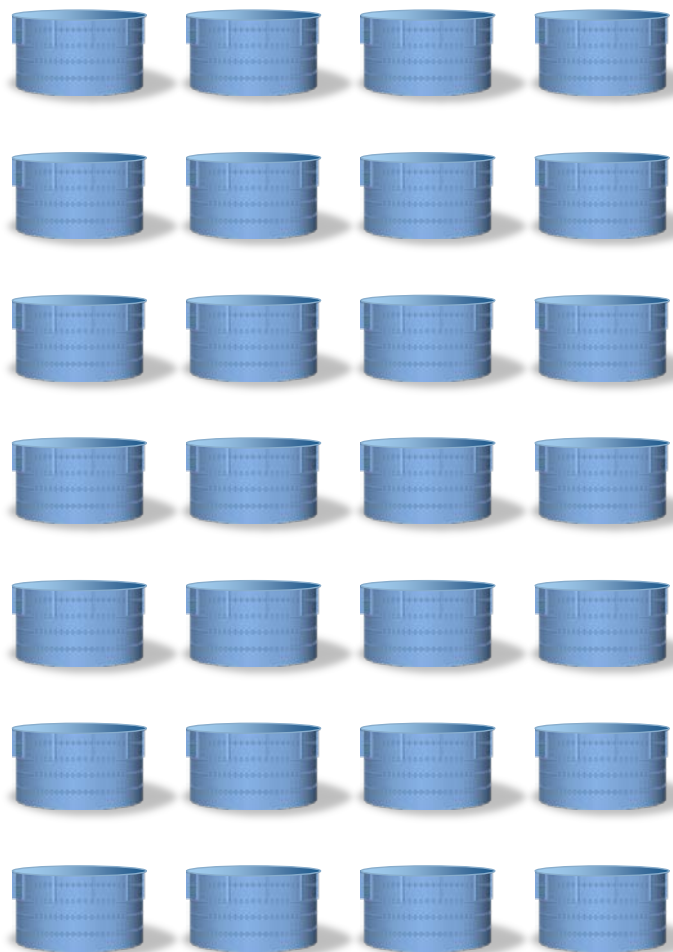
Putting the Size of the Refinery into Perspective

NEARLY 800 PUMPS*



*Each figure represents 5 pumps.

140 STORAGE TANKS** (5 MILLION BARREL CAPACITY)



**Each figure represents 5 storage tanks.

***Steps from
Recognition to
Regulation***

STEP 1:

Issue discussed in scientific literature

Steps from Recognition to Regulation

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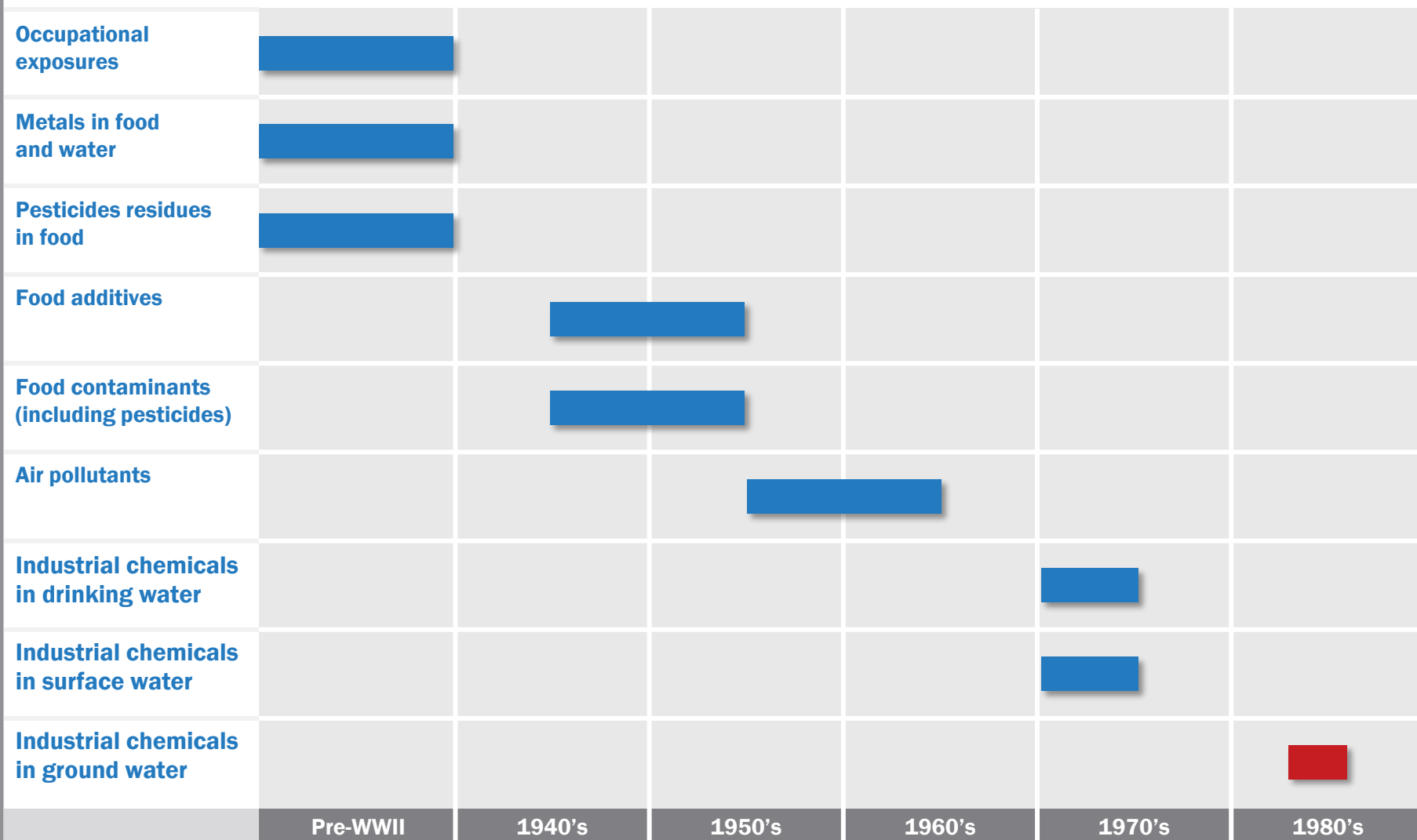


Issue discussed in scientific literature

STEP 2:

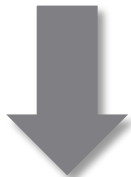
Scientific community recognizes problem or potential problem

Scientific Community Recognizes Problem or Potential Problem



Steps from Recognition to Regulation

STEP 1:



Issue discussed in scientific literature

STEP 2:



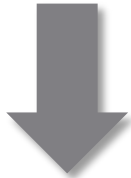
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STEP 3:

Public attention leads to generic laws

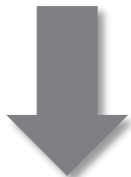
Steps from Recognition to Regulation

STEP 1:



Issue discussed in scientific literature

STEP 2:



Scientific community recognizes problem or potential problem

STEP 3:



Public attention leads to generic laws

STEP 4:

**Regulators, industry and scientists
develop methods to deal with the problem**

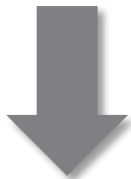
Steps from Recognition to Regulation

STEP 1:



Issue discussed in scientific literature

STEP 2:



Scientific community recognizes problem or potential problem

STEP 3:



Public attention leads to generic laws

STEP 4:



Regulators, industry and scientists develop methods to deal with the problem

STEP 5:

New regulations or industrial standards are implemented

Until Mid-Late 1980s, Surface Impoundments Were the Preferred Methodology Employed by Petroleum Refining Industry to Manage Wastewater and Oily Sludge

1987 SURFACE IMPOUNDMENTS ASSESSMENT FINAL REPORT

TABLE 1. - NUMBER OF SURFACE IMPOUNDMENTS, CAPACITY, AND VOLUME OF OIL AND OILY SLUDGE

WILLIAM C. BATES
BATES
INDUSTRIAL WASTE MANAGEMENT SERVICE
A FORD REPORT SUBMITTED TO THE

Category	Number of Impoundments		Capacity (Gallons)		Volume of Oil and Oily Sludge (Gallons)	
	Active	Inactive	Active	Inactive	Active	Inactive
Industrial	115	40	1,000,000	1,000,000	1,000,000	1,000,000
Municipal and Mining	10	1	100,000	100,000	100,000	100,000
Total	125	41	1,100,000	1,100,000	1,100,000	1,100,000

CONFIDENTIAL - Data No. 000-1000

31%

INDUSTRIAL
SERVICE

65%

OIL AND GAS
EXPLORATION AND
PRODUCTION
SERVICE

4%

MUNICIPAL AND
MINING SERVICE

TOTAL ACTIVE SURFACE IMPOUNDMENTS:

2,804

Until Mid-Late 1980s, Surface Impoundments Were the Preferred Methodology Employed by Petroleum Refining Industry to Manage Wastewater and Oily Sludge

1987 SURFACE IMPOUNDMENTS ASSESSMENT FINAL REPORT

The majority of surface impoundments identified and located from questionnaire responses reported **no liners or liners of native clay.** Most unlined impoundments fell into the oil and gas category.

* * * *

In the past, **no systematic monitoring of surface runoff, ground-water quality, air quality, or leachate migration** existed in a complete environmental monitoring package.

* * * *

Additional investigations are necessary to determine environmentally sound site-selection methods and construction techniques.

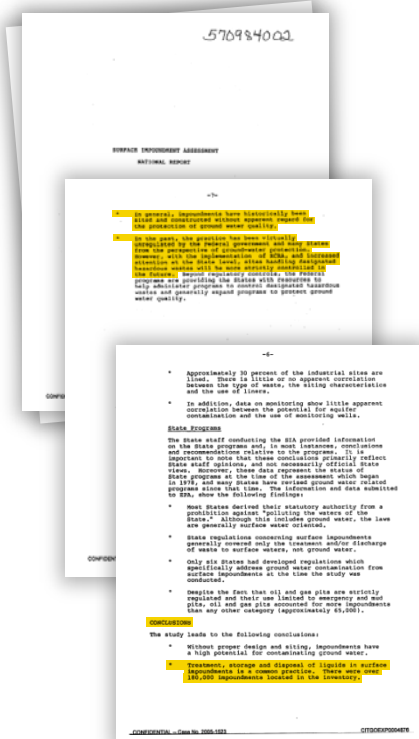
Until Mid-Late 1980s, Surface Impoundments Were the Preferred Methodology Employed by Petroleum Refining Industry to Manage Wastewater and Oily Sludge

DECEMBER 1983 SURFACE IMPOUNDMENT ASSESSMENT NATIONAL REPORT

Conclusions

* * * *

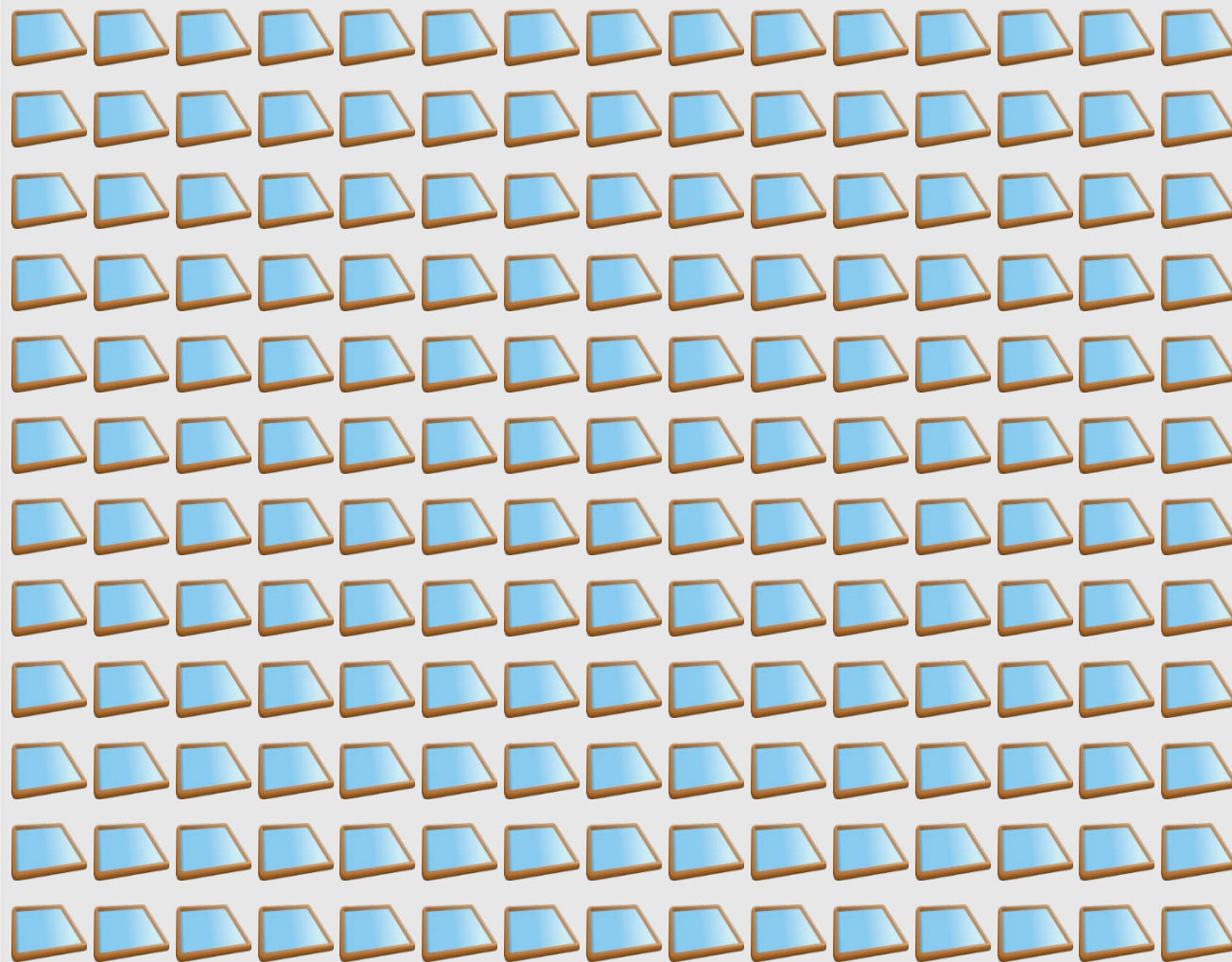
- **Treatment, storage and disposal of liquids in surface impoundments is a common practice.** There were over 180,000 impoundments located in the inventory.
- In general, **impoundments have historically been** sited and **constructed without apparent regard for the protection of ground water quality.**
- In the past, the practice has been **virtually unregulated by the Federal government and many States from the perspective of ground-water protection.** However, with the implementation of **RCRA**, and increased attention at the State level, sites handling designated hazardous wastes **will be more strictly controlled in the future.**



Until Mid-Late 1980s, Surface Impoundments Were the Preferred Methodology Employed by Petroleum Refining Industry to Manage Wastewater and Oily Sludge

 = 1,000 IMPOUNDMENTS

**180,973 surface
impoundments in
operation between 1978
and 1983 in the U.S.**

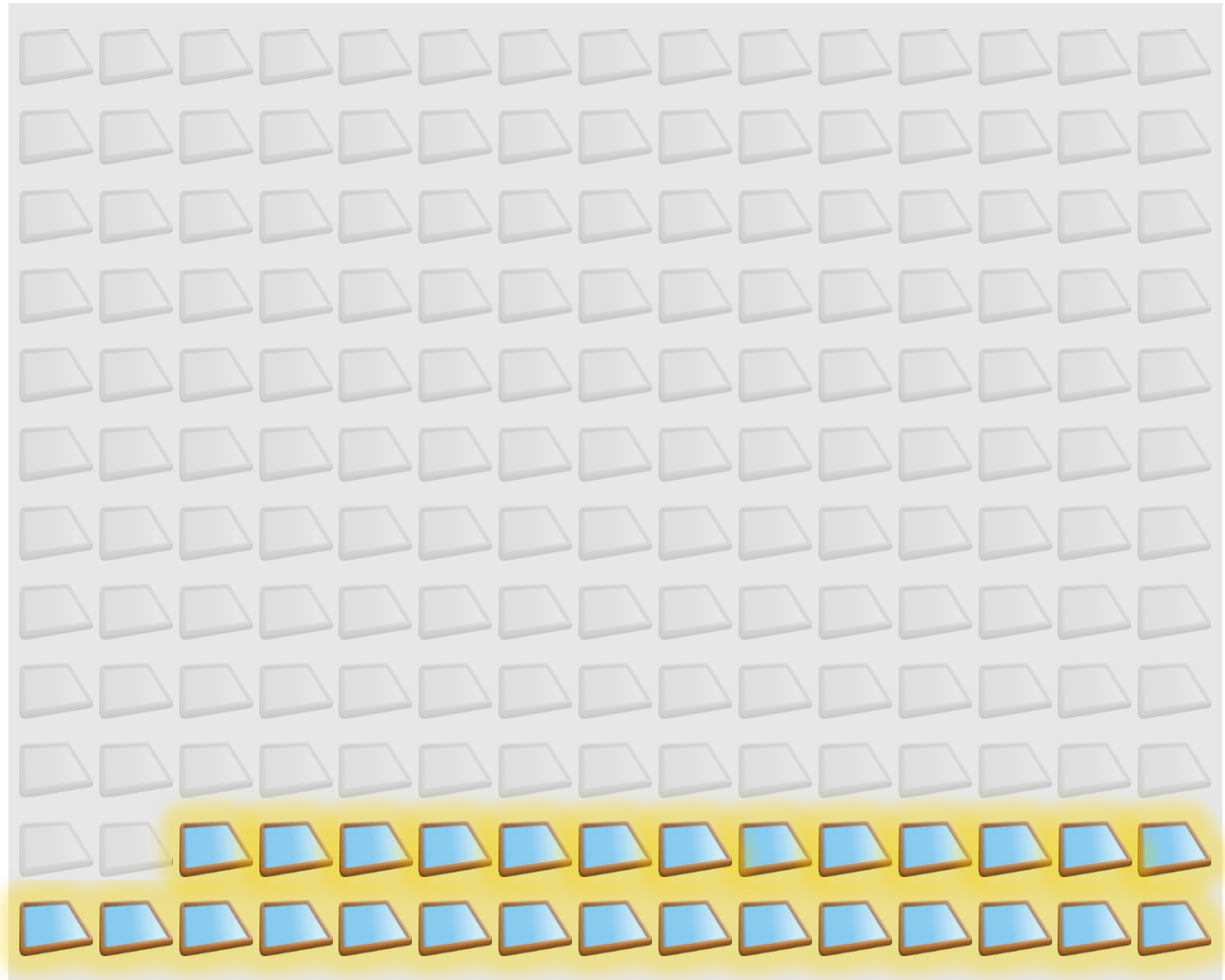


Until Mid-Late 1980s, Surface Impoundments Were the Preferred Methodology Employed by Petroleum Refining Industry to Manage Wastewater and Oily Sludge

 = 1,000 IMPOUNDMENTS

180,973 surface impoundments in operation between 1978 and 1983 in the U.S.

.....
28,000 being used by Industrial Facilities



Approximately 5% of Industrial Sites Had Impoundments with Synthetic Liners

DECEMBER 1983 SURFACE IMPOUNDMENT ASSESSMENT NATIONAL REPORT

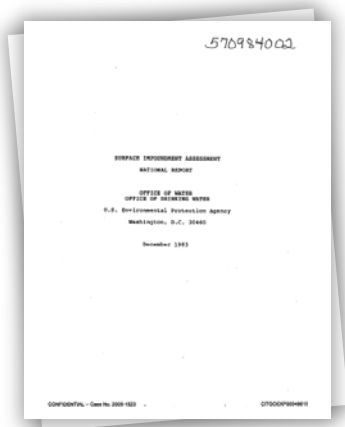
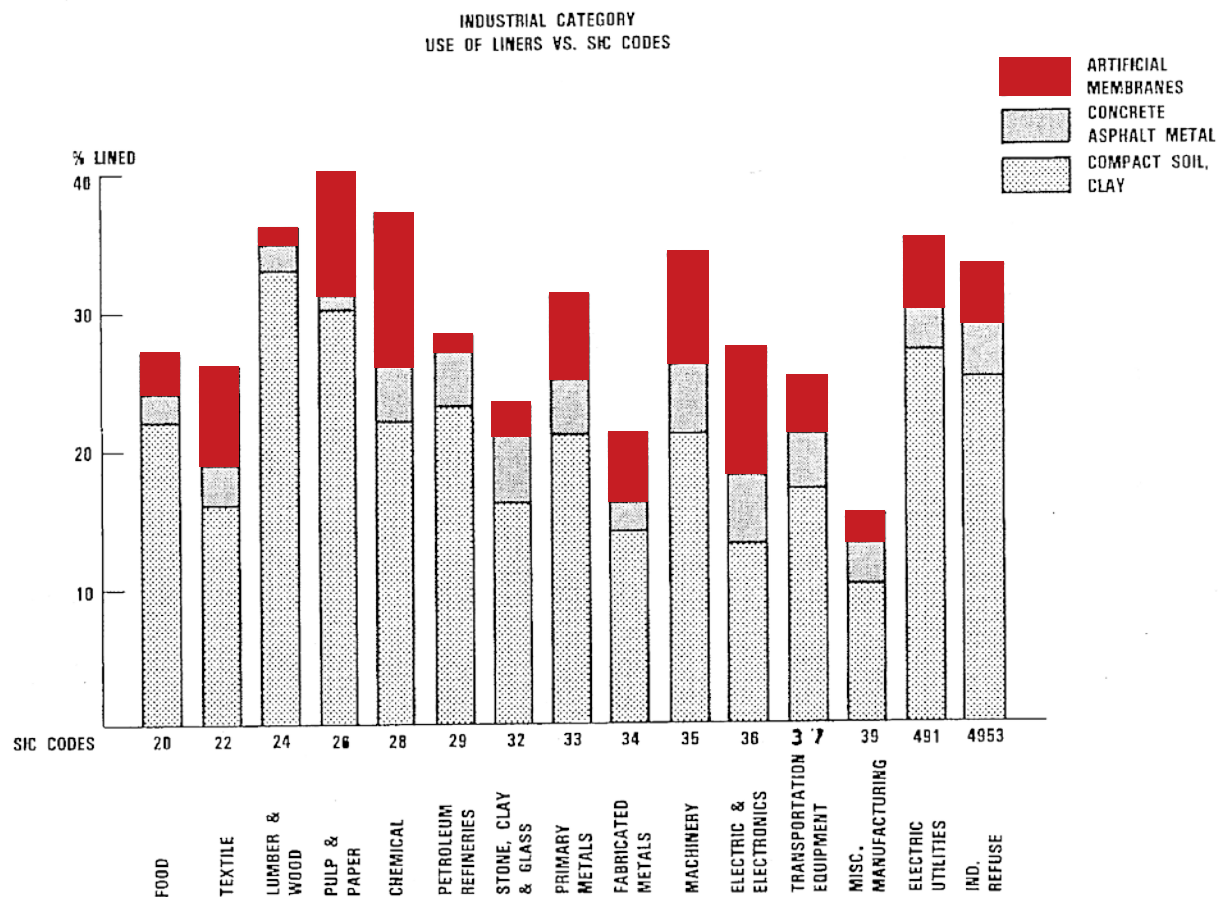


Figure 4.13



Approximately 5% of Industrial Sites Had Impoundments with Synthetic Liners, **BUT ONLY 1% of Those Were in the Petroleum Refining Industry**

DECEMBER 1983 SURFACE IMPOUNDMENT ASSESSMENT NATIONAL REPORT

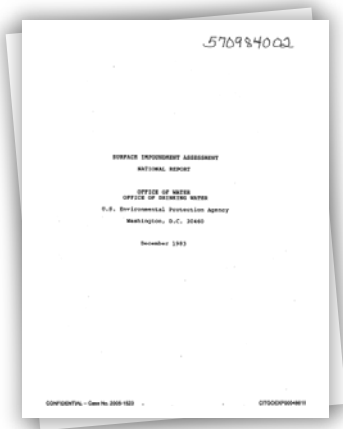
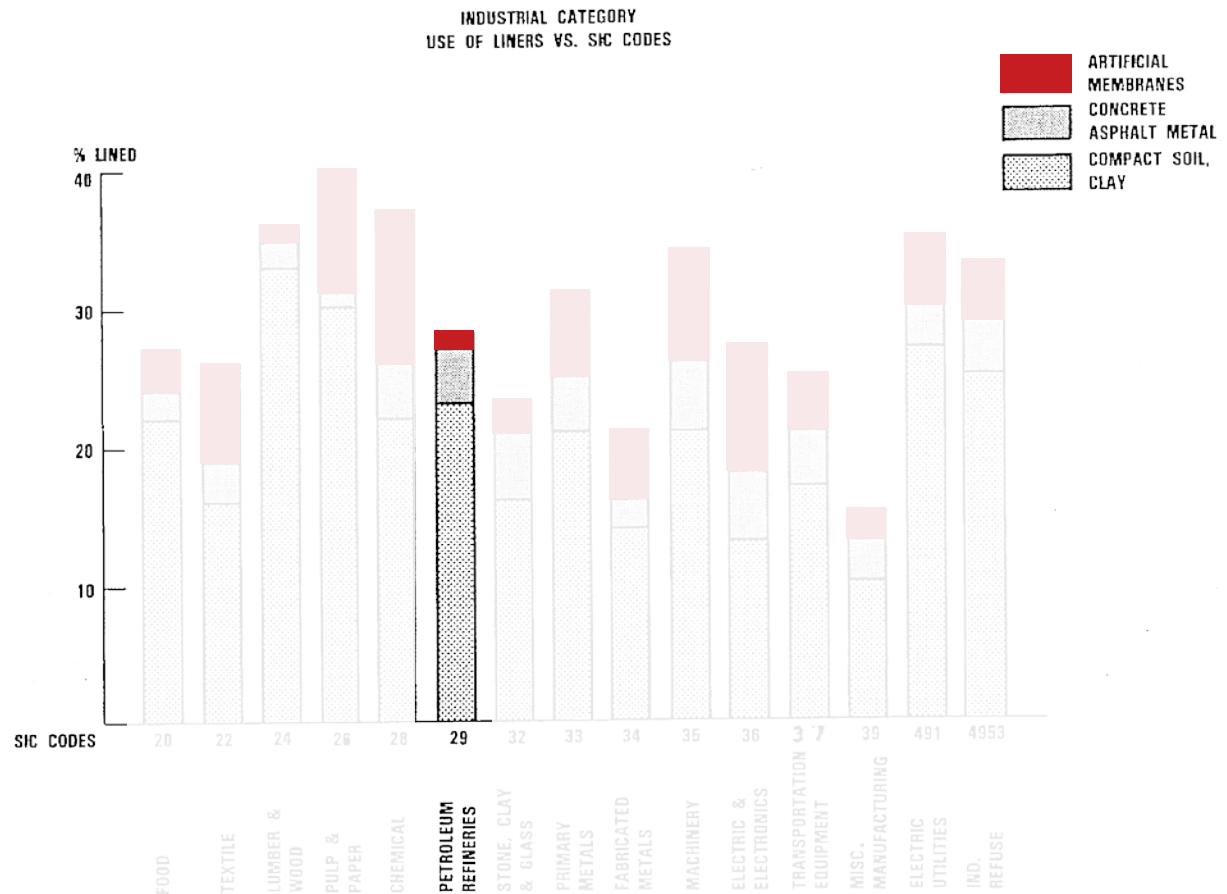
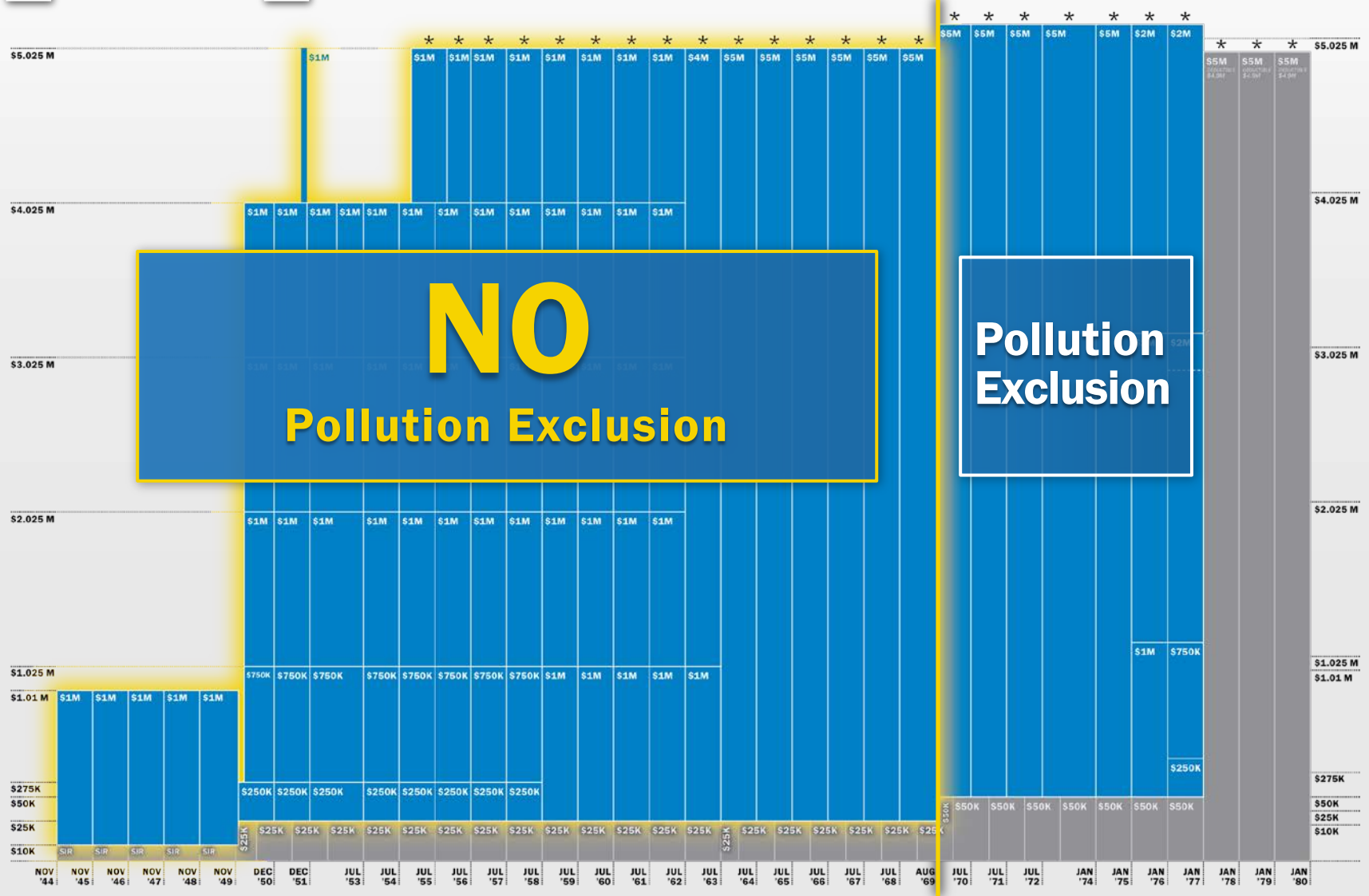


Figure 4.13



The Company A Insurance Program

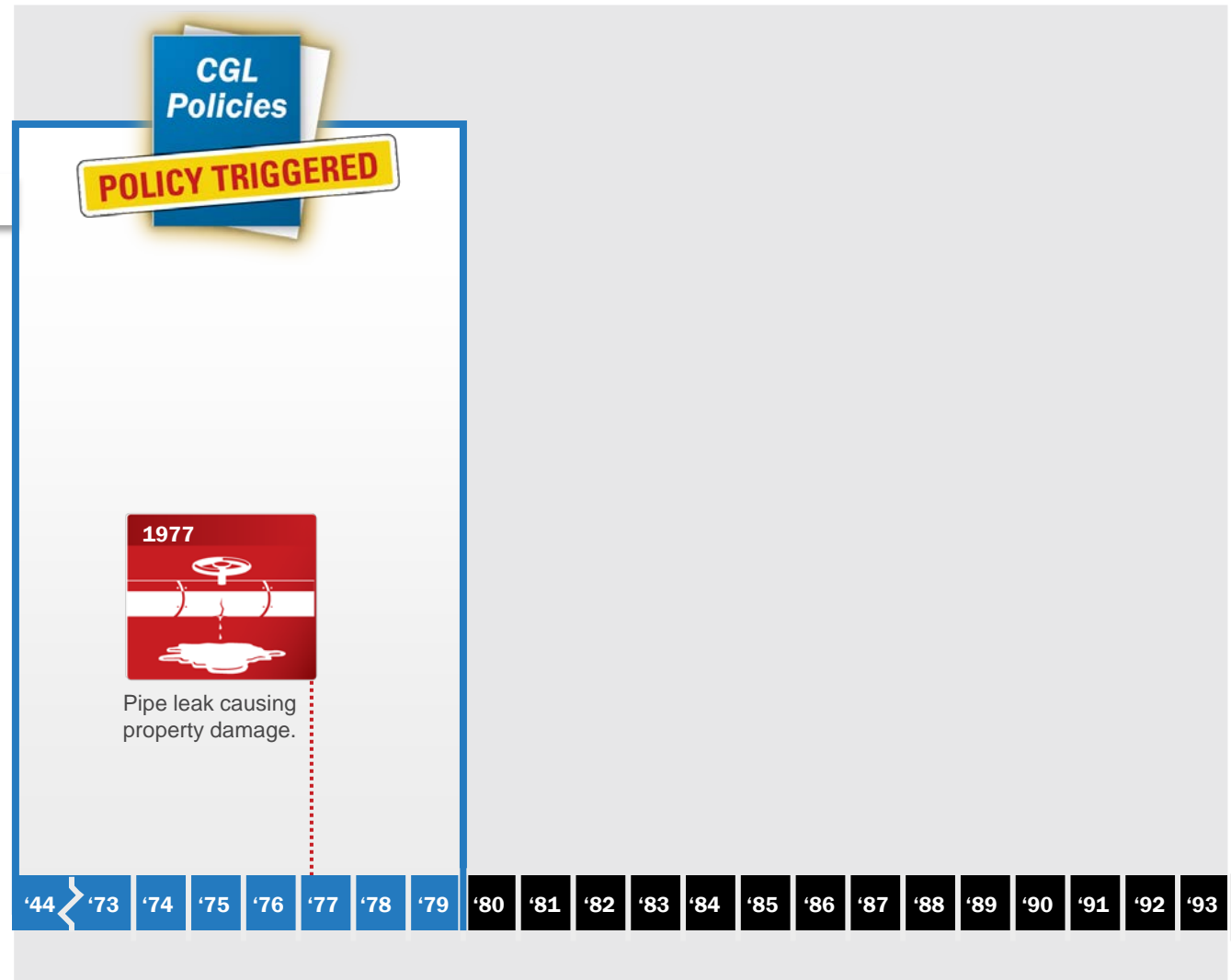
Primary Layer
 Excess Layers



What Is an “Occurrence” Policy?

Triggering event occurs **during the policy period.**

Policy is TRIGGERED

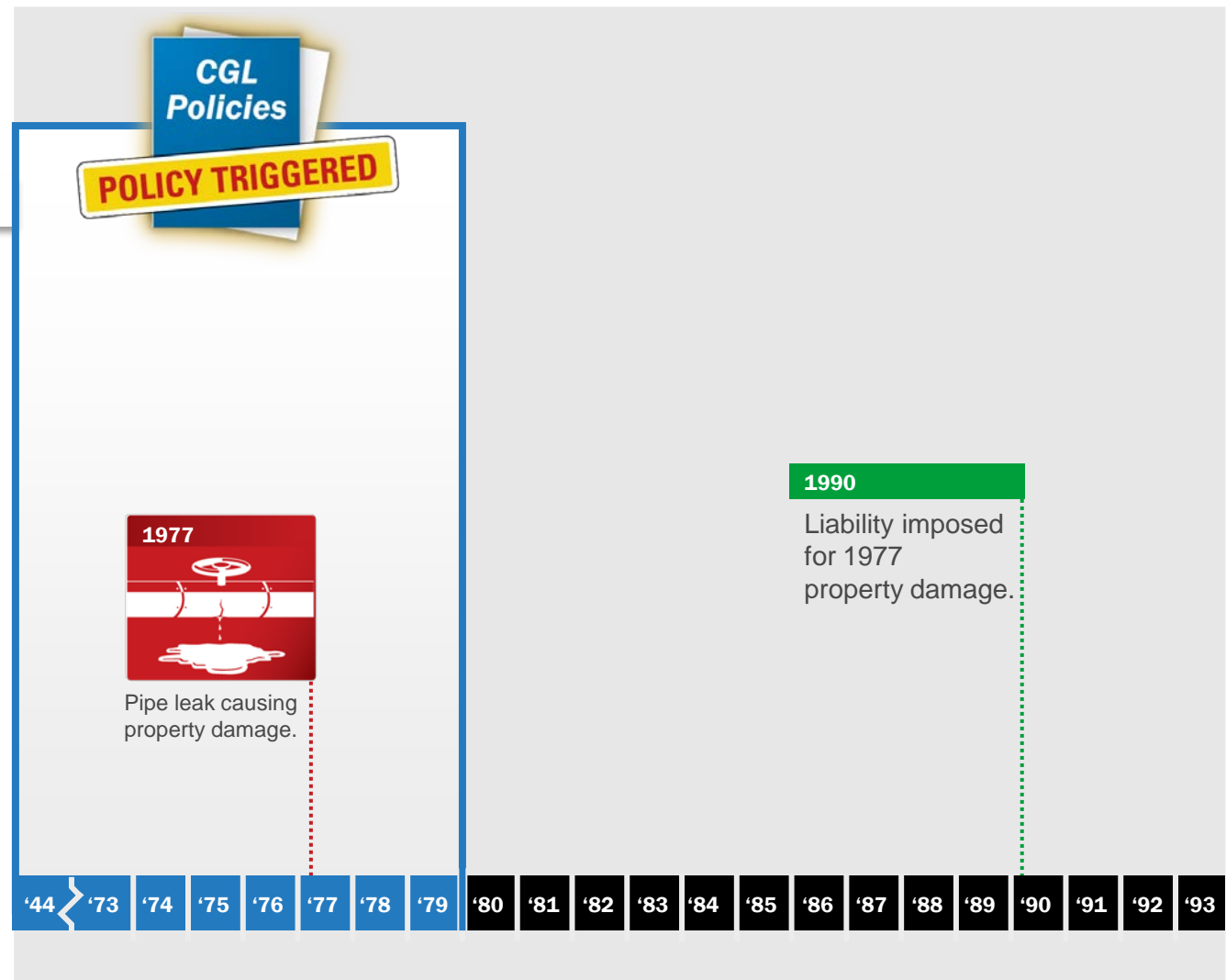


What Is an “Occurrence” Policy?

Triggering event occurs **during the policy period.**

Policy is TRIGGERED

Liability is imposed after the policy period.



Coverage for Companies

“Hereafter...Subsidiary to Company A”

Triggering event occurs **during the policy period.**

Policy is TRIGGERED

Liability is imposed after the policy period.

CGL Policies

POLICY TRIGGERED

“[T]his policy also covers any other firm or corporation now or hereafter... subsidiary to Company A.”

1977



Pipe leak causing property damage.

1983

COMPCO created as a “hereafter subsidiary” of Cities Service Company.

1990

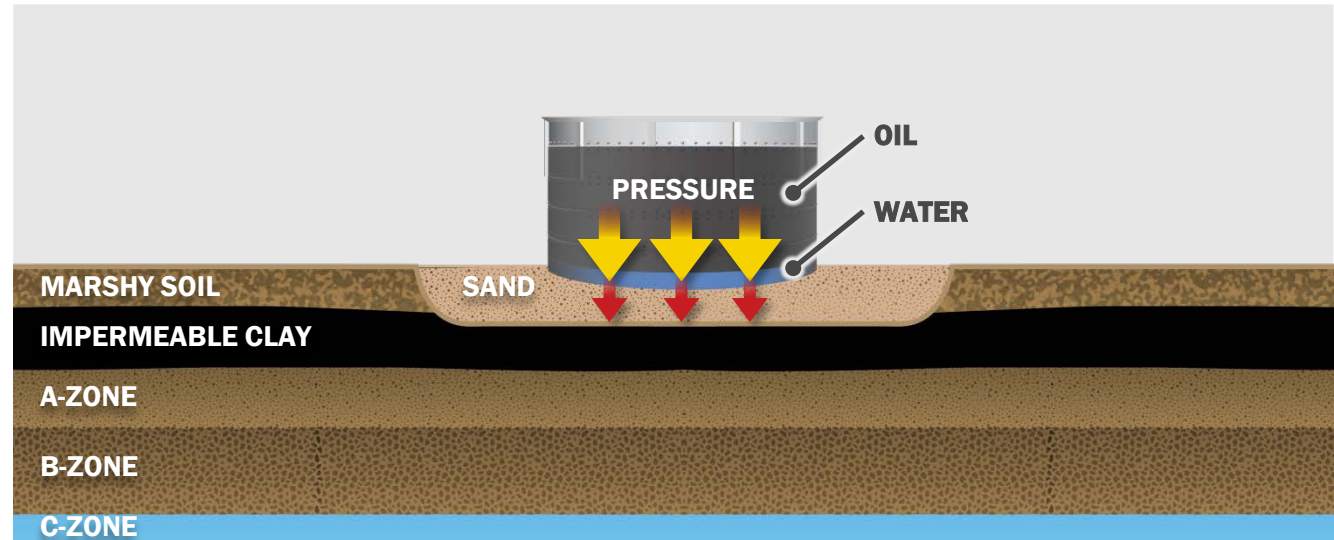
Liability imposed on COMPCO for 1977 property damage.

'44 '73 '74 '75 '76 '77 '78 '79 '80 '81 '82 '83 '84 '85 '86 '87 '88 '89 '90 '91 '92 '93

Wastes Were Introduced into the Environment Through a Combination of Unexpected and Unintended Discharges, Leaks and Spills

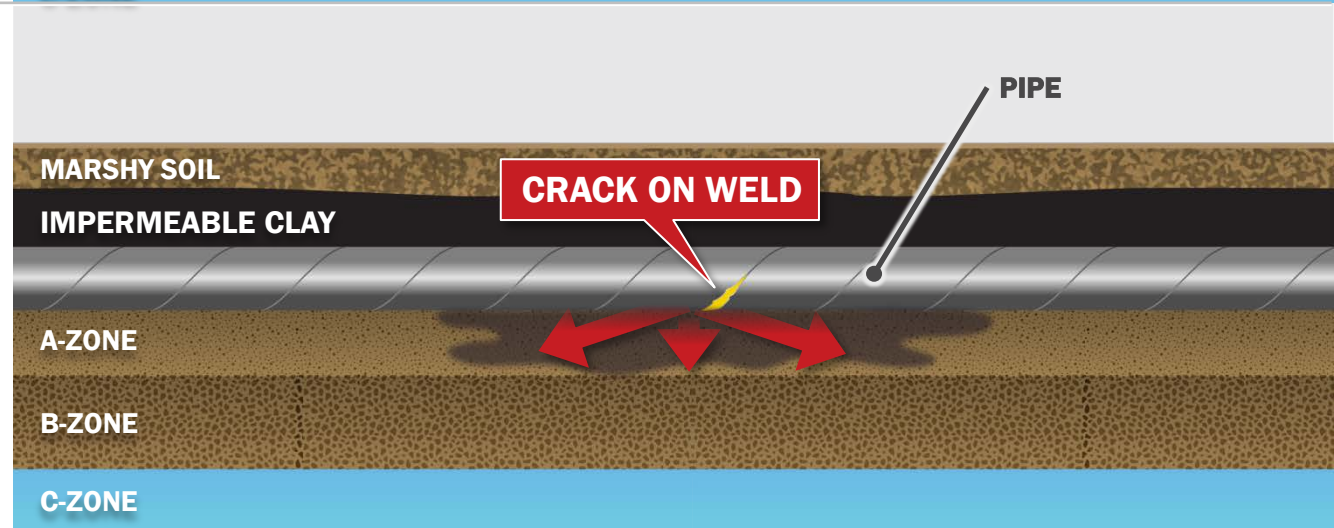
TANK LEAKS

- **Earthen pits** were dug into clay layer
- **Pressure** from contents of tank forced leaks and spills to migrate through the clay layer faster



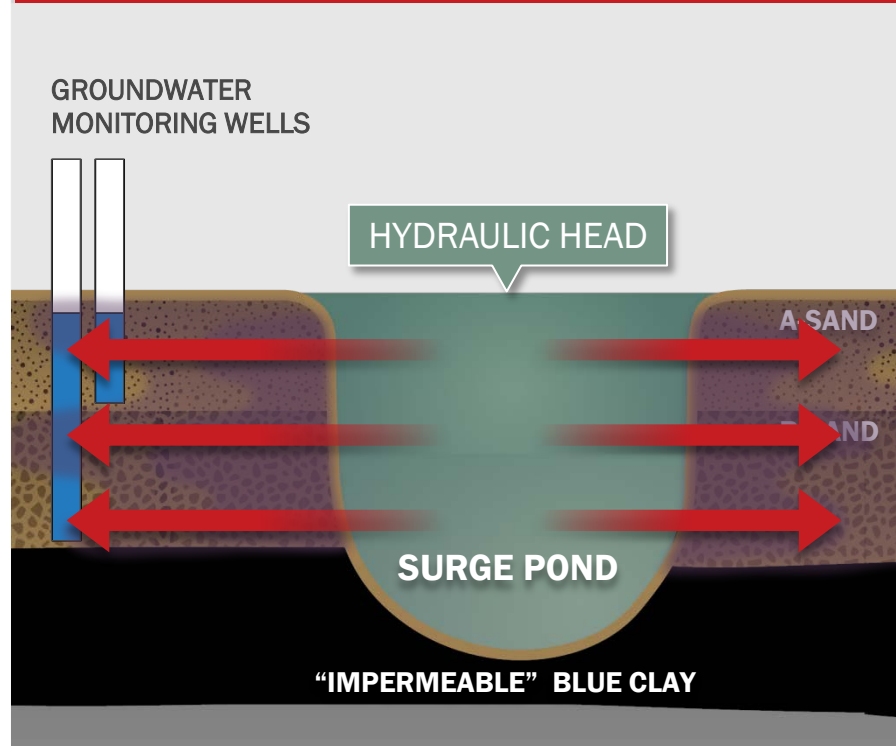
PIPE RUPTURES

- **Spiral-welded pipe** was used when plant was constructed during war effort
- **Welds failed**, releasing oil into environment



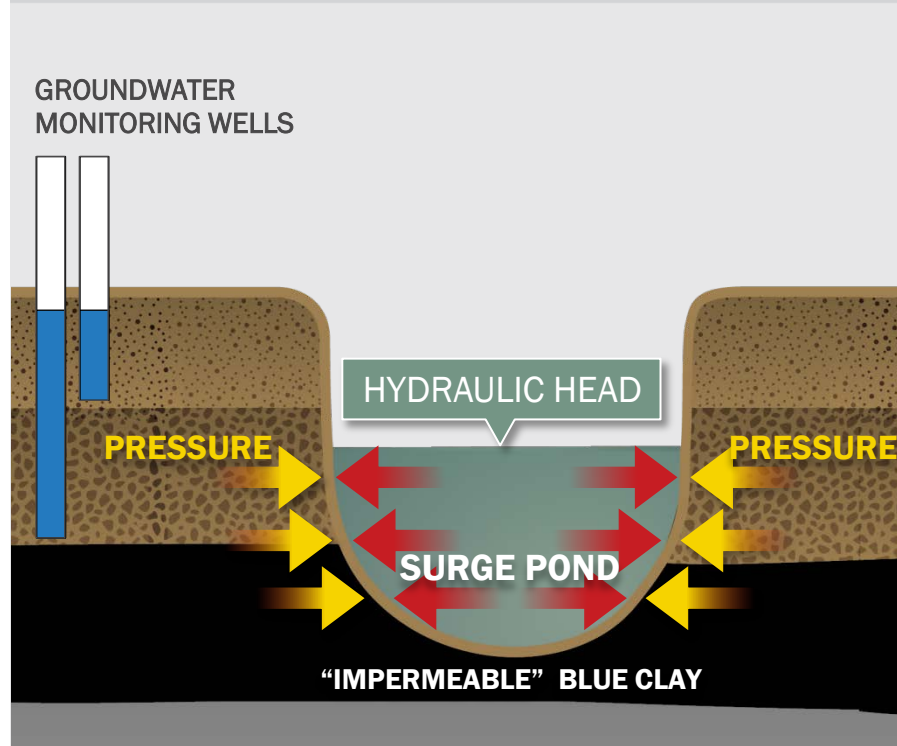
The Surge Pond Was a Source of Contamination to Third-Party Property

1944 TO 1981: SURGE POND OPERATING AT CAPACITY



Surge Pond maintained a hydraulic head, **HIGHER THAN THE GROUNDWATER**, causing pressure that **forced** dissolved waste material to enter the groundwater.

1981 TO PRESENT: SURGE POND BELOW CAPACITY



Surge Pond maintained a hydraulic head **LOWER THAN THE GROUNDWATER**, causing pressure that **inhibited** dissolved waste material from entering the groundwater.

Improvements Made to the Refinery and Wastewater Management Systems to Conform with Evolving Regulatory Requirements

TECHNOLOGY CHANGES

ELECTRONIC MONITORS

- ▶ **Converted to electronic monitors to accurately measure tank levels**
 - Alarm sounded if overtopping was threatened
 - VIRTUALLY ELIMINATED tank overfills

TANK REPLACEMENT PROGRAM

- ▶ **Tank replacement program**
 - Replacing old, riveted tanks fabricated from used steel because of wartime shortages GREATLY DECREASED storage tank releases

REPLACE PUMP “PACKING GLANDS”

- ▶ **Replace “packing glands” on pumps with mechanical seals**
 - Frequency and volume of fluid leakage was SIGNIFICANTLY LOWERED

DESALTERS

- ▶ **Electrostatic emulsion breakers added to desalters**
 - GREATLY REDUCED the amount of emulsion in wastewater routed to the surge pond

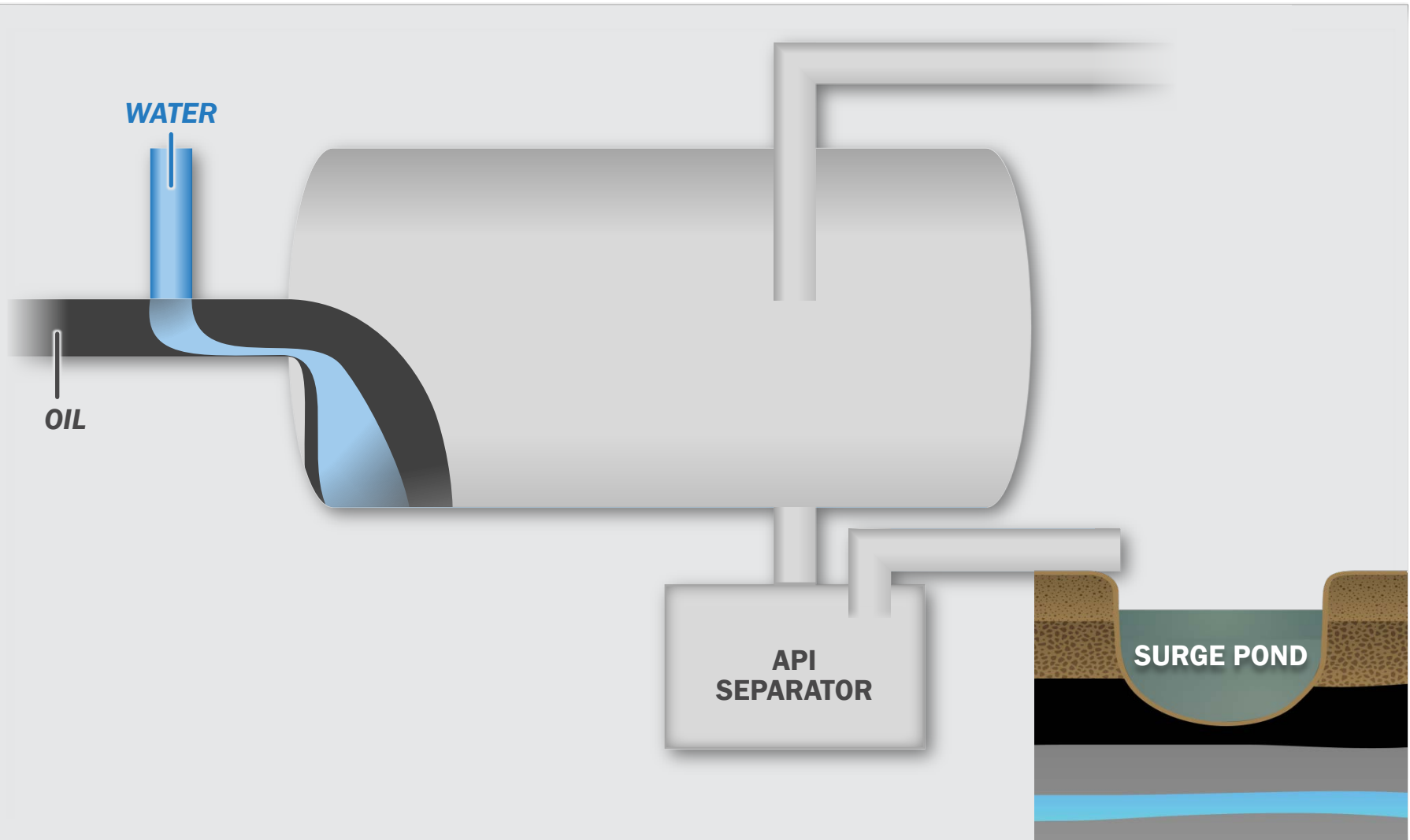
Improvements Made to the Refinery and Wastewater Management Systems to Conform with Evolving Regulatory Requirements

PROCESS CHANGES

SECONDARY WWTP	<ul style="list-style-type: none"> • Secondary Wastewater Treatment Plant added <ul style="list-style-type: none"> – Treated API separator effluent BEFORE it went to the Surge Pond and Bayou
OILY SLUDGE MANAGEMENT PROGRAM	<ul style="list-style-type: none"> • Oily Sludge Management Program <ul style="list-style-type: none"> – ELIMINATED burn pits in 1968 – ADDED West Sludge Basins and South Sludge Basins
COKER QUENCH	<ul style="list-style-type: none"> • Coker quench added to process <ul style="list-style-type: none"> – Wastewater streams were diverted to coker to cool or “quench” the coke product – DECREASED oil loading to API separator
DISSOLVED AIR FLOTATION	<ul style="list-style-type: none"> • Dissolved Air Flotation flow to API separator <ul style="list-style-type: none"> – REMOVED residual emulsified oil and suspended solids – DECREASED oil loading to API separator
LEAK AND SPILL RESPONSE PROGRAM	<ul style="list-style-type: none"> • Leak and Spill Response Program <ul style="list-style-type: none"> – Replace light-weight spiral-welded pipe – Inspect, replace and eliminate Dresser couplings in pipeline service – GREATLY REDUCED frequency and impact of pipeline leaks and releases – Properly collect and dispose of contaminated residues and soils from leaks and spills
WATER DRAWS	<ul style="list-style-type: none"> • Collection system for water draws <ul style="list-style-type: none"> – Conveyed to a corrugated plate interceptor (CPI) for oil collection pre-treatment – SEGREGATED tank water draws from clean storm water

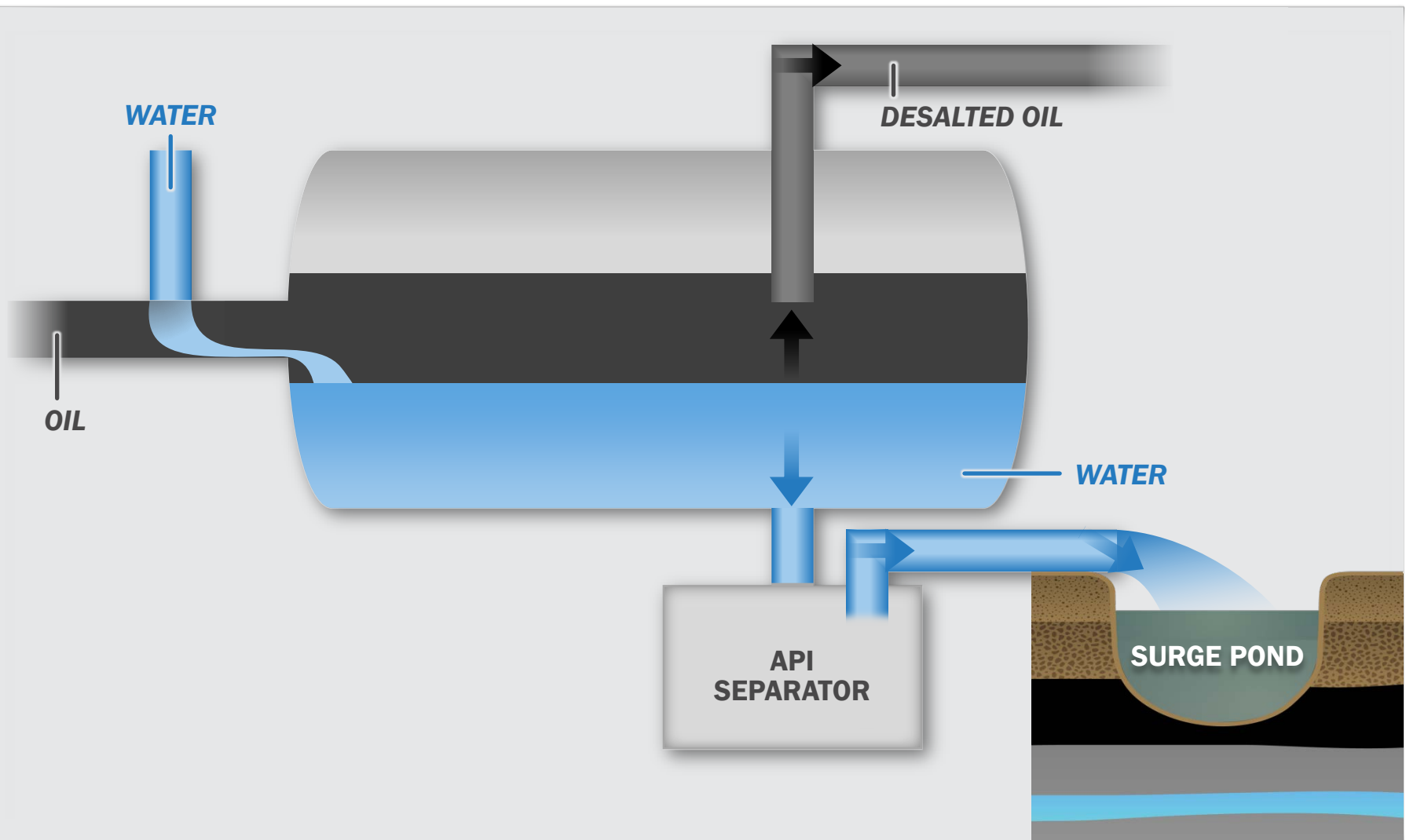
Installation of Cooling Towers Led to Better Control of Heat Exchanger Leaks and Discharges

BEFORE ELECTROSTATIC EMULSION BREAKERS



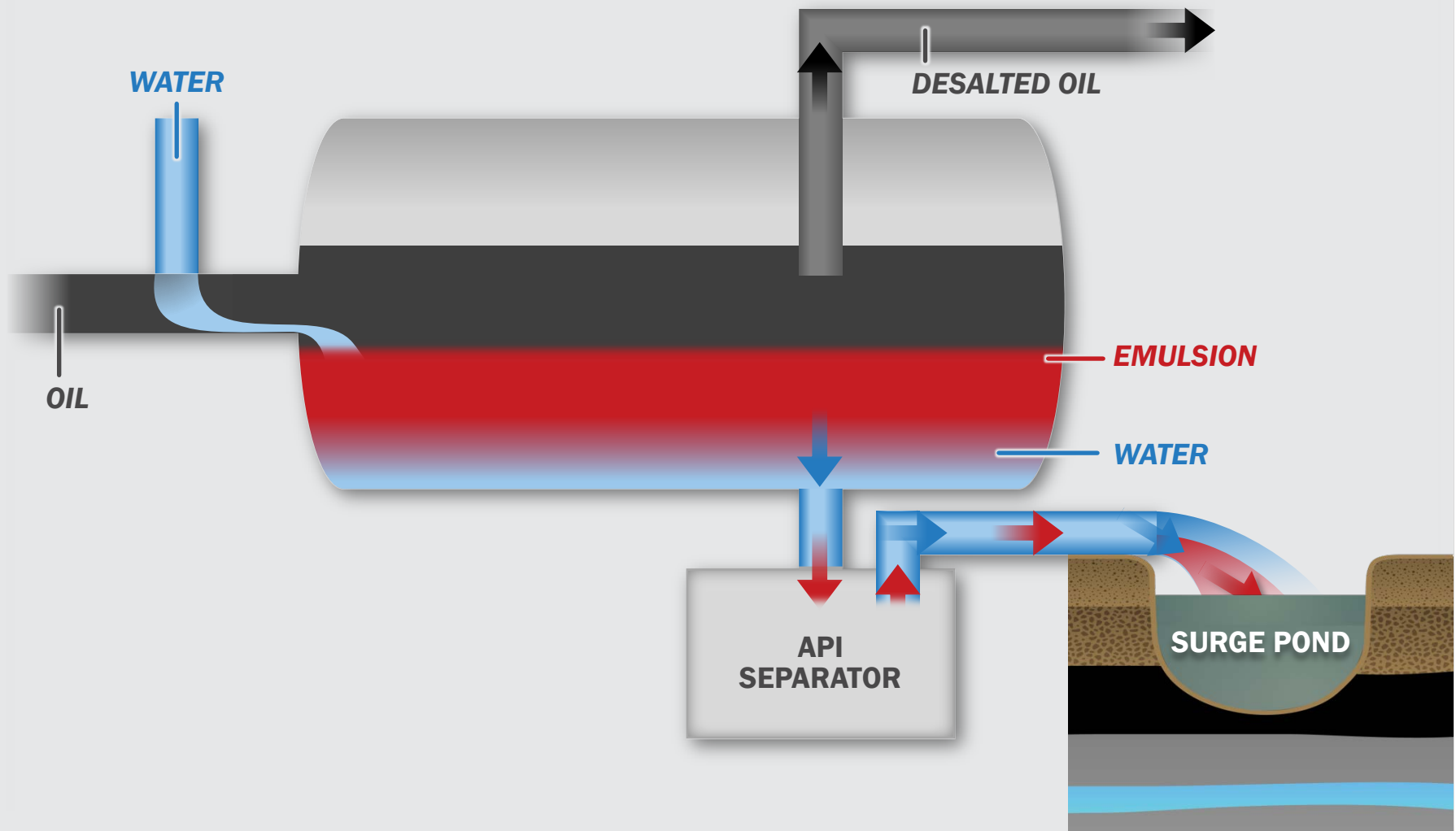
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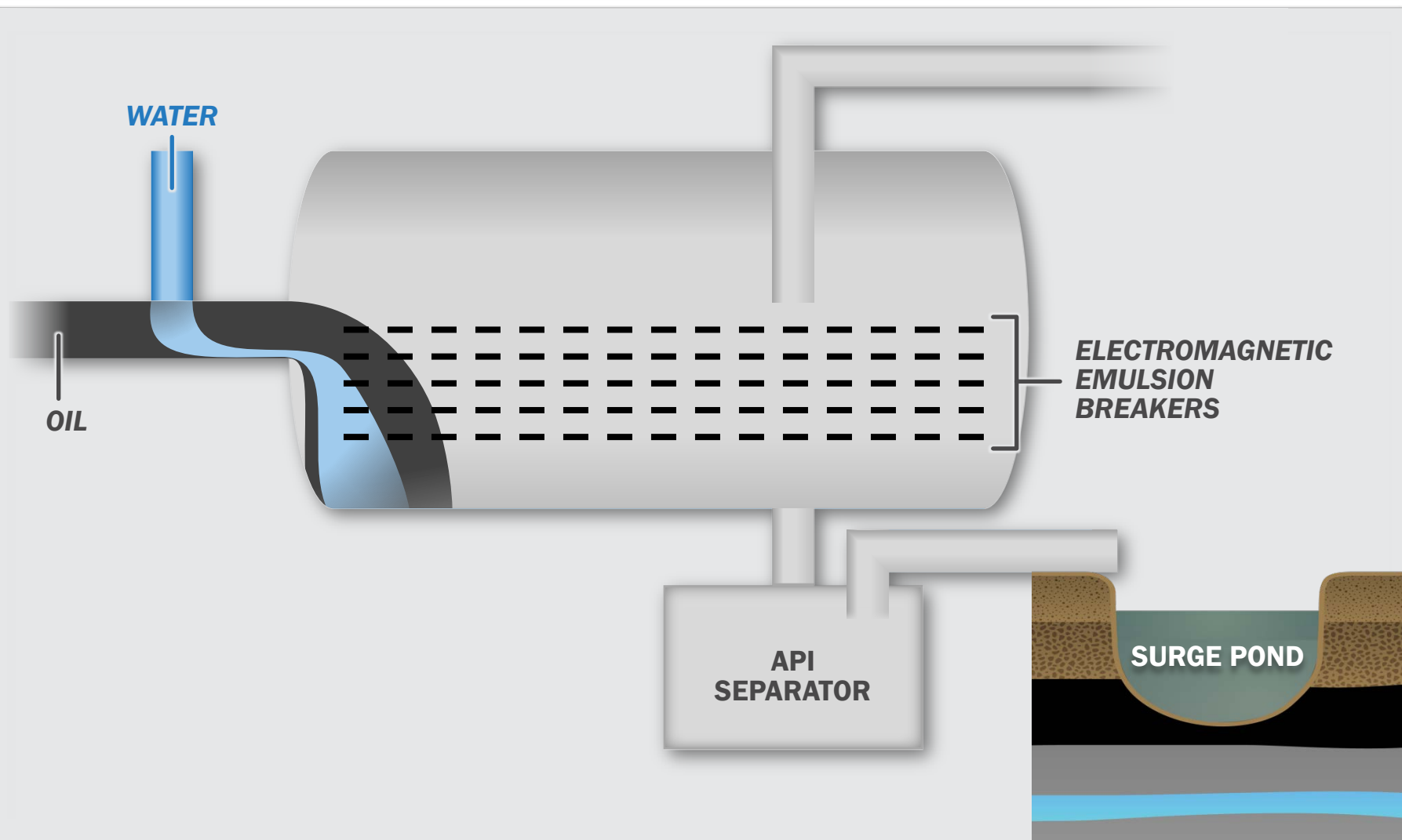
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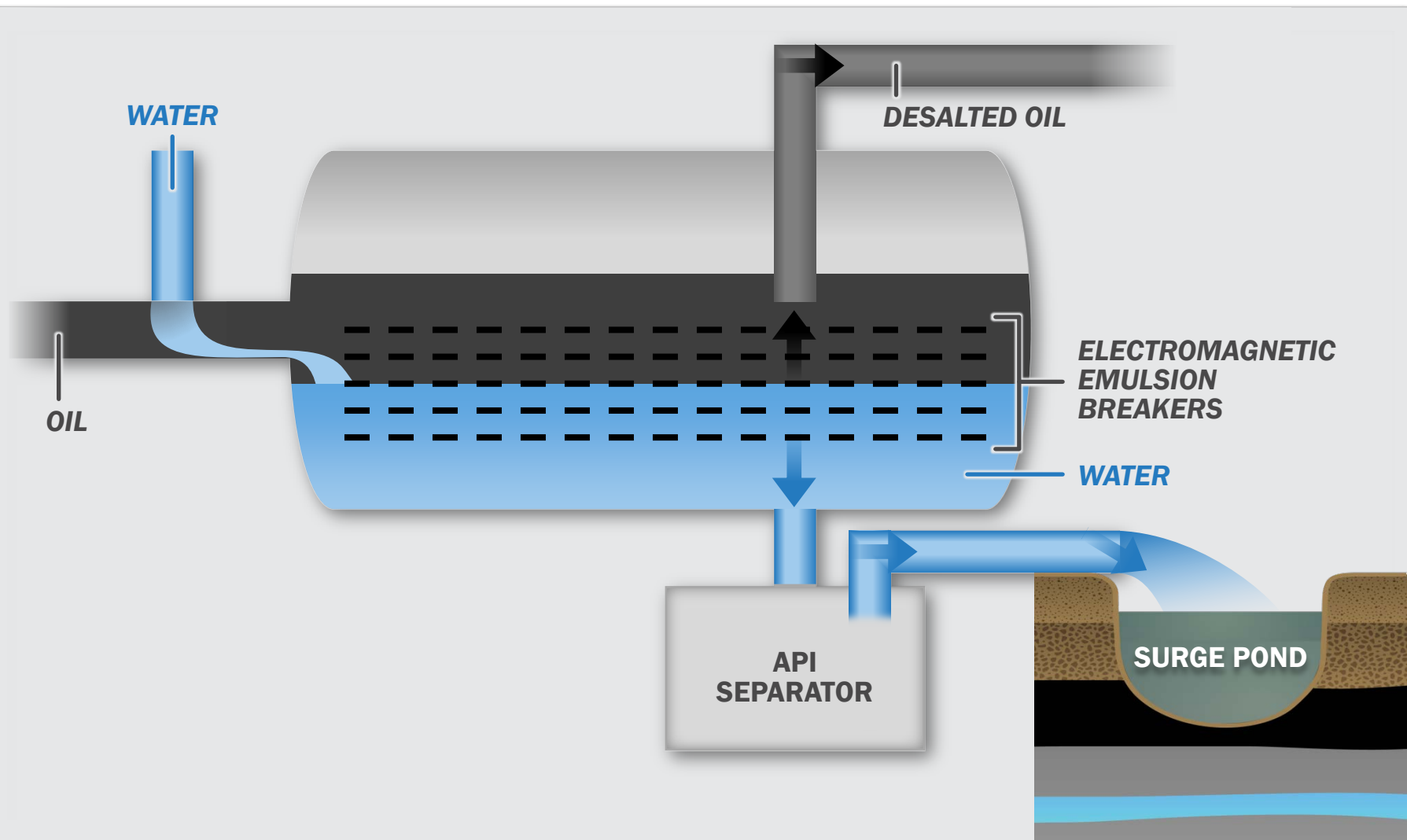
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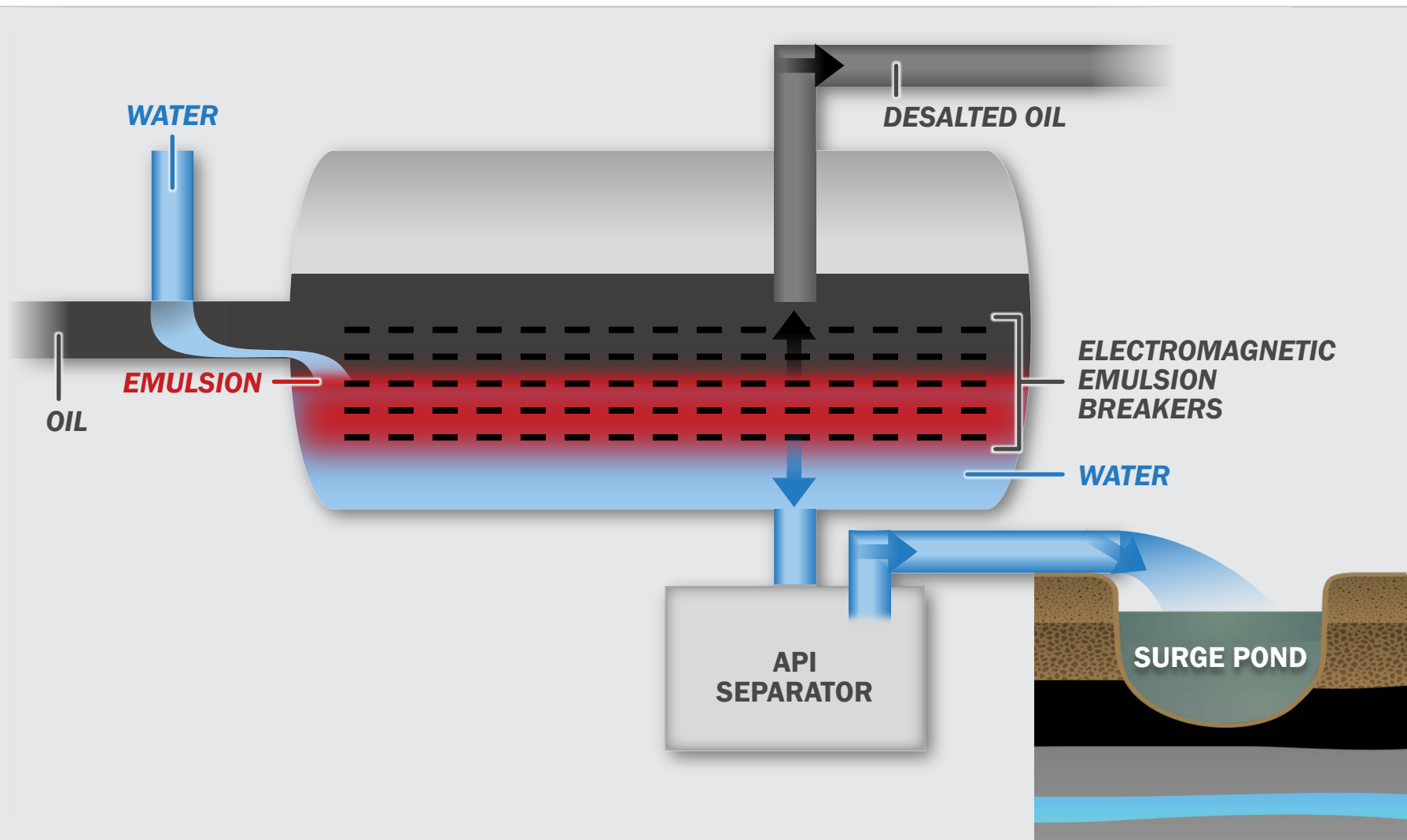
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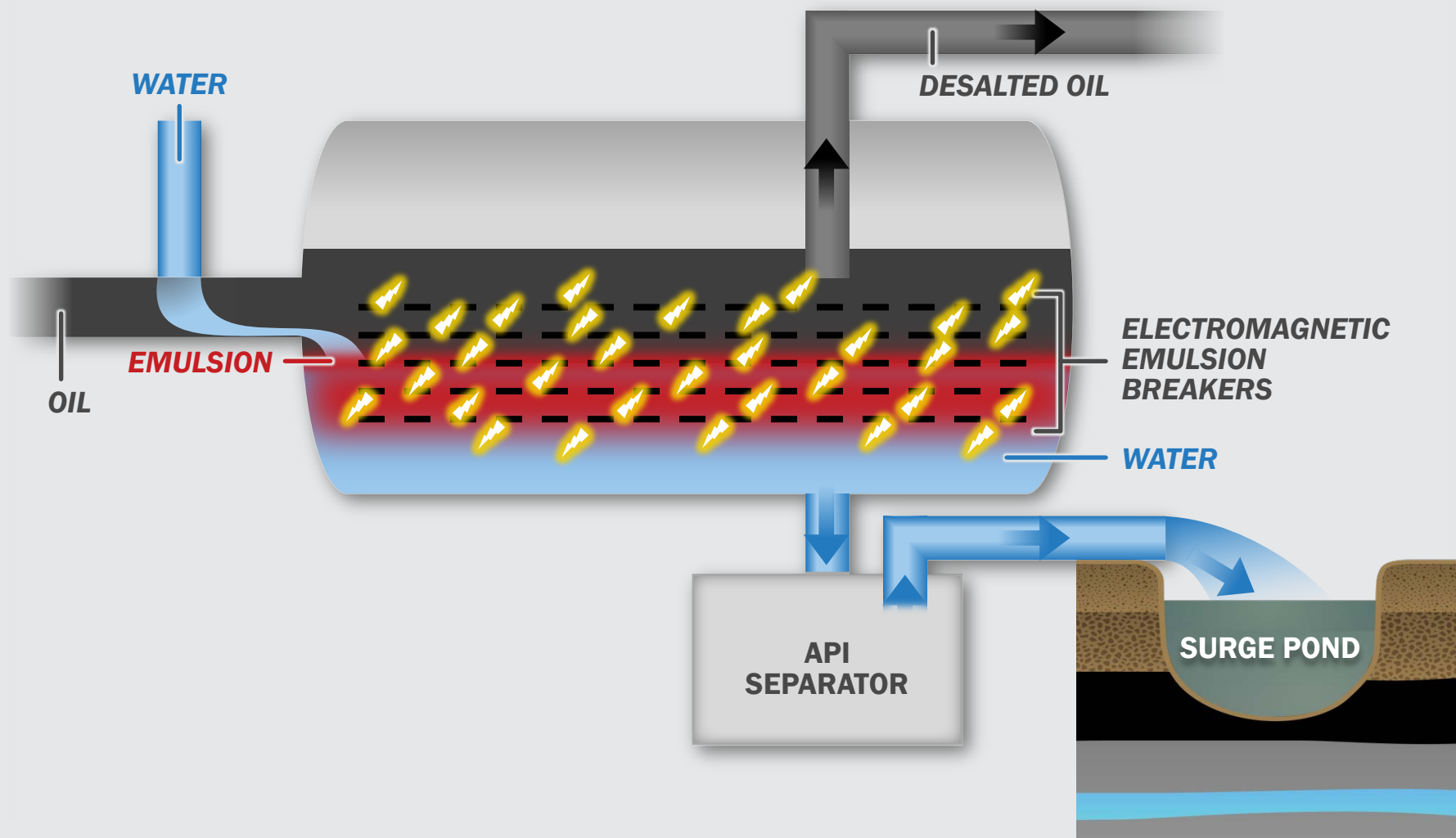
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