MICHAEL C. SCHMIDT

Education

BA – Geology, State University of New York at Buffalo, 1988

Specialty Certifications

OSHA 40-Hour HAZWOPER Training and Annual 8-Hour Refresher Training

OSHA 10-Hour Construction Safety Training

Professional Affiliations

American Bar Association (ABA); Section of Environment, Energy and Resources (SEER); Tort Trial & Insurance Practice Section (TIPS)

Claims and Litigation Management Alliance (CLM)

International Risk Management Institute (IRMI)

Society of Environmental Insurance Professionals (SEIP)

Professional Experience

Mr. Schmidt is an accomplished leader with over 30 years of progressively-responsible experience in the environmental consulting and environmental insurance industries, with specific experience focusing on the evaluation of environmental risks and liabilities associated with insurance claims and underwriting, site investigation and remediation, due diligence, project management, and marketing. Mr. Schmidt is a Project Director with SCS Engineers and is responsible for the growth and management of our environmental services practice in the greater New York/New Jersey area. He also established the insurance support services practice at SCS and is the firm’s National Expert on Environmental Insurance Claims and Underwriting Support.

Environmental Insurance

Mr. Schmidt has over 20 years’ experience in providing environmental consulting support services to a number of large insurance companies, pertaining to their evaluation of environmental claims and risk analysis associated with underwriting environmental policies for new and existing clients. Prior to joining SCS, he developed an insurance services practice where insurers retained Mr. Schmidt’s services to assist in the evaluation of environmental claims through the third-party review of project proposals, work plans, data, reports and regulatory correspondence, as well as attending meetings and mediations with the client.

While working with one of the world’s largest insurance companies, Mr. Schmidt reviewed hundreds of environmental claims located at sites across the United States and Canada, and consistently reduced liabilities on these claims by successfully managing and controlling project scopes and costs. His experience includes a wide-range of environmental claim scenarios (i.e. gasoline/service stations, transportation accidents, the oil and gas industry, manufacturing and industrial facilities, asbestos, mold). Through his claims experience, Mr. Schmidt developed strong client service skills, which resulted in consistently successful relationships with insurers, insureds, consultants, attorneys and regulators.

Mr. Schmidt currently manages SCS’ Environmental Insurance Claims and Underwriting Support practice, which provides technical guidance to insurers on a wide-range of environmental claims at locations throughout the United States. This new SCS service area continues to grow as contracts are being negotiated with insurers for the retention of our services and the number of claims evaluated by SCS has been steadily increasing. Mr. Schmidt utilizes the significant extent of SCS’ geographic reach, extensive resources and professional expertise to provide our insurance clients with a high level of service and responsiveness.

Environmental Insurance – Example Projects

**Example Claim – Small Commercial and General Aviation Airport, Arizona.** This environmental claim involved a spill of approximately 30 gallons of aviation gasoline (commonly referred to as AVGAS) at a small commercial and general aviation airport in Arizona. Our client, the insurer, requested that SCS review the technical aspects of this claim, first to provide a source and timing determination to assist in their coverage evaluation, and then to monitor the project through regulatory closure to ensure that investigative and remedial activities were undertaken in a cost-effective and regulatory-compliant manner.

The spill that was the subject of this claim occurred during fueling of an aircraft, with some of the spilled fuel flowing off the paved tarmac and impacting adjacent soils. The insured was the owner of the aircraft and it was their personnel conducting the fueling. Following an initial excavation of impacted soils, the insured’s consultant collected soil samples to delineate impacts. It was at that time that additional impacts were found that appeared to be residual soil impacts, possibly from other past unreported releases. Further delineation sampling was conducted as directed by the regulatory agency and a significant area of impacted soils was defined. It was our opinion that this area of impact was too large to be the result of a 30-gallon spill, particularly when some of the AVGAS had been contained and some had evaporated.

When presented with a significant soil excavation proposal, SCS proceeded to review not only the analytical data collected but the physical characteristics and locations of the observed impacts. We then compared that information with aerial imaging of the subject site and determined that the areas of what we believed to be contamination unrelated to the subject release were where precipitation runoff from the paved tarmac was focused. Specifically, SCS theorized that minor, day-to-day surface releases (i.e. occurring during normal fueling activities) were washed off the tarmac by precipitation and accumulated over time in those specific areas where the runoff left the tarmac.

As a result of SCS’s efforts, the consultant revised their remedial approach which was presented to and accepted by the regulatory agency. Site remediation was completed successfully, the subject release subsequently received regulatory closure, and the claim was closed by the insurer. The reduction in remedial scope recommended by SCS resulted in an approximately 50% reduction in associated costs.

**Example Claim – Gas Station, Illinois.** This environmental claim was unique in that SCS was not asked to conduct a standard environmental claim review; rather, we were asked to review litigation-related documentation for the purpose of developing an expert analysis of the activities and role of the insured in a substantial gasoline release at an active fueling facility. The insured was one of a number of parties named in a lawsuit alleging negligence that resulted in the subject release. It was specifically alleged that the insured (a tank system contractor) had been negligent in the installation and repairs of tank system equipment, which contributed to the subject release.

In regards to the subject release, gasoline was released from multiple system components and entered site soils and groundwater. Contamination associated with this release was found to have migrated off-site and impacted subsurface vapors that subsequently entered a number of nearby homes. Residents of those homes were forced to relocate temporarily while vapor mitigation systems were installed to alleviate the presence of potentially harmful levels of volatile organic compounds in the structures. On-and off-site investigative and remedial actions had also taken place.

SCS was provided for review a significant number of documents, including technical reports, facility equipment and product inventory records, and deposition transcripts of involved individuals. Our review focused on developing a detailed timeline of who did what, why and when, and what events occurred involving facility equipment and personnel. SCS drew upon its years of gas station and underground storage tank (UST) system experience in its evaluation of the numerous technical and human-related factors associated with the subject release.

The end result of our evaluation was an expert report presented to the insurer and insured’s attorneys that included a chronology of facility-related activities for the period prior to, during, and after the subject release, identifying critical information in facility records and the deposition transcripts, and combining this into an overall opinion of whether the actions of the insured did or did not contribute to the cause of the release, and if so, to what extent. The report was discussed with the insured’s attorney and was very well-received. Subsequent settlement negotiations with the facility owner and their attorneys resulted in a significantly reduced contribution from the insured and kudos to SCS from the insured’s attorneys and our client (the insurer).

**Example Claim – Gas Station, Texas.** This environmental claim illustrates the critical initial evaluation of available claim-related information and data, which forms the basis of the source and timing determination that the insured will use in their determination of whether coverage exists for the claimed event. The subject site consists of an active gas station in Texas where a tank system removal had recently taken place. Post-tank system removal sampling indicated limited soil (below a dispenser) and groundwater impacts.

SCS was presented with the Texas equivalent of a tank closure report, which fortunately also contains background information on the site as well as copies of previously-issued site-specific environmental documents. We also drew from site-specific information available on the Texas Commission on Environmental Quality (TCEQ) on-line petroleum facility database.

Our review looked at the history of the site and the associated previous and current tank systems, technical data pertaining to a previous release at the site, tank system inventory and repair records, and observations and analytical data collected during the removal of the current tank system and associated infrastructure (i.e. piping, dispensers). Taking this information into consideration, SCS then developed a series of conclusions regarding the source and timing of subject release (i.e. the detection of soil and groundwater impacts during post-tank removal sampling).

The results of our evaluation indicated that there was no indication that the tank system and its associated infrastructure had been compromised (i.e. holes, signs of corrosion, leaking pipe joints, etc. resulting in a release to the environment) and that the detected levels of contamination in post-tank removal soil and groundwater samples was actually less than what had been left in place when the previous on-site release had received regulatory closure. SCS also noted that methyl tertiary butyl ether (MTBE) was detected in site groundwater. MTBE has not been used in gasoline in the United States since 2006, further evidence that the observed contamination was historical in nature. As such, SCS concluded that the given that the tank system was observed to be intact and that the observed contamination was likely residual impacts associated with the prior release and/or other sources (i.e. off-site and/or on-site surface spills), it did not appear that a release to the environment had occurred that could be attributed to the current tank system.

Taking SCS’s conclusions into consideration as part of their policy and claim review, our client (the insurer) determined that coverage was not available and a claim denial was issued. In cases such as this, SCS’s environmental claim review provides the first step of evaluation of a claimed event, and when the facts are reviewed, a determination is made that assists our client in determining whether an insured’s policy is triggered and costs incurred during the investigation and remediation of a pollution condition will be the responsibility of the insurer or the insured.

Environmental Services

**Site Investigation and Remediation**. Mr. Schmidt has planned, managed and executed dozens of investigations involving multiple media (i.e., soil, groundwater, surface water) and contaminants at a wide-variety of sites located throughout the eastern seaboard of the US. These sites have ranged in size and complexity from residential properties, to commercial/industrial facilities, to major military bases. Mr. Schmidt has participated in all aspects of these projects, including initial bid review and submittal, project scoping and pricing, project planning and staffing, completion of field activities, data evaluation, reporting and client presentations. Many sites required remediation, where Mr. Schmidt’s involvement included remedial action evaluation, implementation, and reporting.

Specific projects involved environmental activities associated with UST and above-ground storage tank (AST) releases, dry cleaners, ISRA closures, historic fill, linear project corridors, a variety of commercial and industrial sites, and Brownfields sites, including the management and oversight of the remediation of the most heavily arsenic-contaminated site in New Jersey. Remedial actions have included soil excavation, pump and treat, air sparging and soil vapor extraction (AS/SVE), and innovative soil stabilization methodology.

Mr. Schmidt has prepared, reviewed and managed reporting related to site investigations and remediation; and, necessary documentation to establish institutional controls consisting of Deed Notices / Declaration of Environmental Restrictions (DER) and Classification Exception Areas (CEA). Specifically in New Jersey, he has supported project Licensed Site Remediation Professionals (LSRPs) from initial site assessment through issuance of Response Action Outcomes (RAOs), as appropriate.

Mr. Schmidt has significant experience in the review of and response to bid solicitations, through evaluation of bid scopes and determination bid viability, pre-bid conferences and site visits, preparation of proposals with highly varied work scopes and associated budgets, and presentations to the prospective client.

Environmental Services – Example Projects

**Investigation and Remediation, NJ Transit, Hudson-Bergen Light Rail Transit System (HBLRTS).** Mr. Schmidt was the Program Director for this high-profile NJ Transit project. He was responsible for the successful planning, execution and completion of the extensive environmental investigations and localized remedial efforts for the entire HBLRTS project corridor, which runs north from Bayonne, through Jersey City, Hoboken, Weehawken, and ending in North Bergen.

This unique 22.5-mile long linear project involved the installation of hundreds of soil borings, dozens of groundwater monitoring wells, and the collection of thousands of soil and groundwater samples, for the purpose of characterizing the area to be impacted by the construction of the light rail system tracks, stations and associated infrastructure. Numerous soil “hot-spots” were identified and remediated.

Mr. Schmidt was involved in negotiations with the New Jersey Department of Environmental Protection (NJDEP) for the reuse of excavated impacted soils within the project corridor, resulting in significant project cost savings. Numerous NJDEP-required deliverables were prepared and submitted to the agency within budget and without comment, ensuring that environmental issues would have little to no impact on the overall project construction schedule. Mr. Schmidt also successfully managed the logistical issues associated with conducting environmental investigations within highly developed, travelled and populated areas of Hudson County.

**Investigation and Remediation, Private Developer, Former Van Leer Chocolate Factory, Jersey City, NJ.** Mr. Schmidt was the Project Manager of this major Brownfield development project located near the Hoboken border in Jersey City, NJ. This former industrial site was once the location of a pesticide manufacturer, a paint and lacquer manufacturer, and a chocolate factory. These activities, as well as the presence of NJDEP-documented historic fill, resulted in the presence of a wide-range of contaminants in both soil and groundwater, most notably extremely high concentrations of arsenic contamination (it was the most heavily arsenic-contaminated site in New Jersey).

Mr. Schmidt managed numerous soil and groundwater investigations at the site, and participated in the preparation of bid specifications that led to the successful remediation of soil impacts at the site in 2017. An innovative soil stabilization technology was implemented which facilitated the reduction of hazardous levels of arsenic to non-hazardous levels, significantly reducing overall remediation costs.

Over 43,000 cubic yards of impacted soil was excavated and disposed off-site. Remediation-related activities included post-excavation soil sampling, perimeter air monitoring, addressing day-to-day environmental issues, vapor intrusion assessment/mitigation system testing, and subsequent post-remediation reporting. As soil remediation was being completed, construction was initiated on a six-story mixed-use residential and commercial building. Mr. Schmidt was responsible for the management of project staffing, budgets, issuance of change orders, project meetings and presentations, and overall project planning and execution.

**Due Diligence**. Mr. Schmidt has significant experience in conducting and managing Phase I and Phase II Environmental Site Assessments (ESAs) and other environmental assessments of residential, commercial and industrial properties throughout the NY/NJ metropolitan area for real estate companies, lending institutions, developers, and private individuals. Mr. Schmidt meets the definition of an Environmental Professional (EP) under the EPA All Appropriate Inquiries regulations (40 CFR 312).