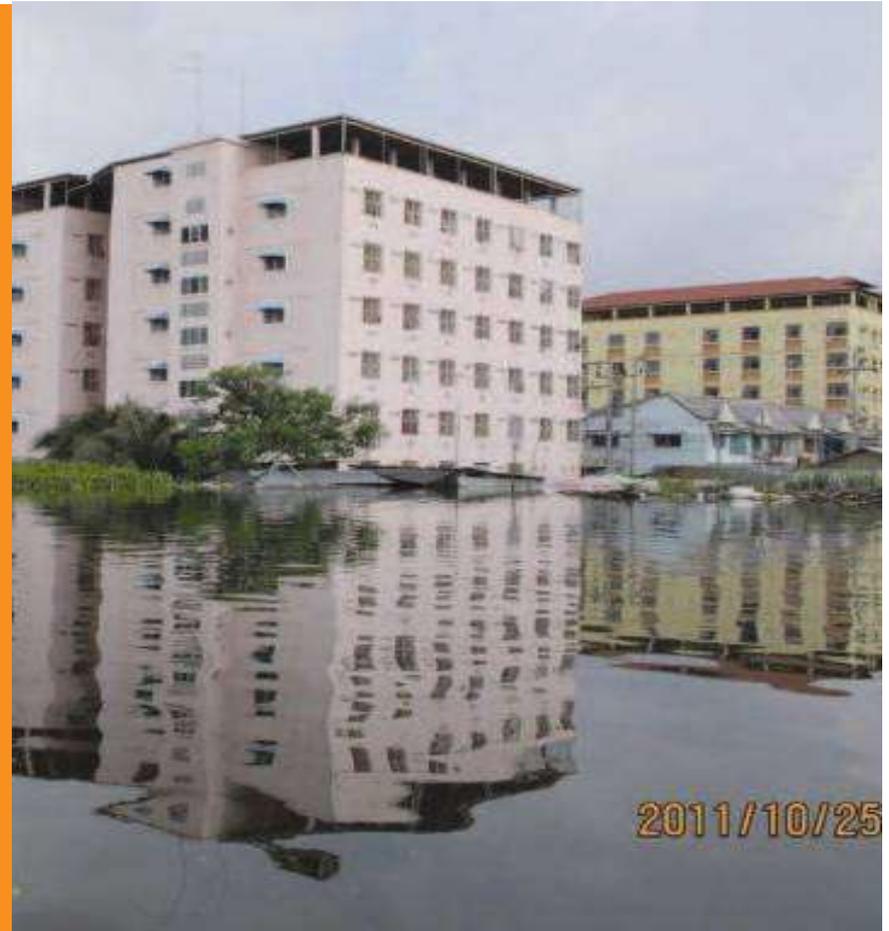


Thailand Floods: Update and overview of the major issues around coverage and settlement

Wednesday 30th May 2012



Presenters

- Introduction Mike Reeves, Executive Vice President, Global Markets, Crawford & Company
- Thailand Floods Ian Baxter, Regional Director, Crawford Global Technical Services^(sm) Asia Pacific
- Reinsurance Situation John Pyall, International Claims Coordinator, Munich Re



Thailand Floods – 2011



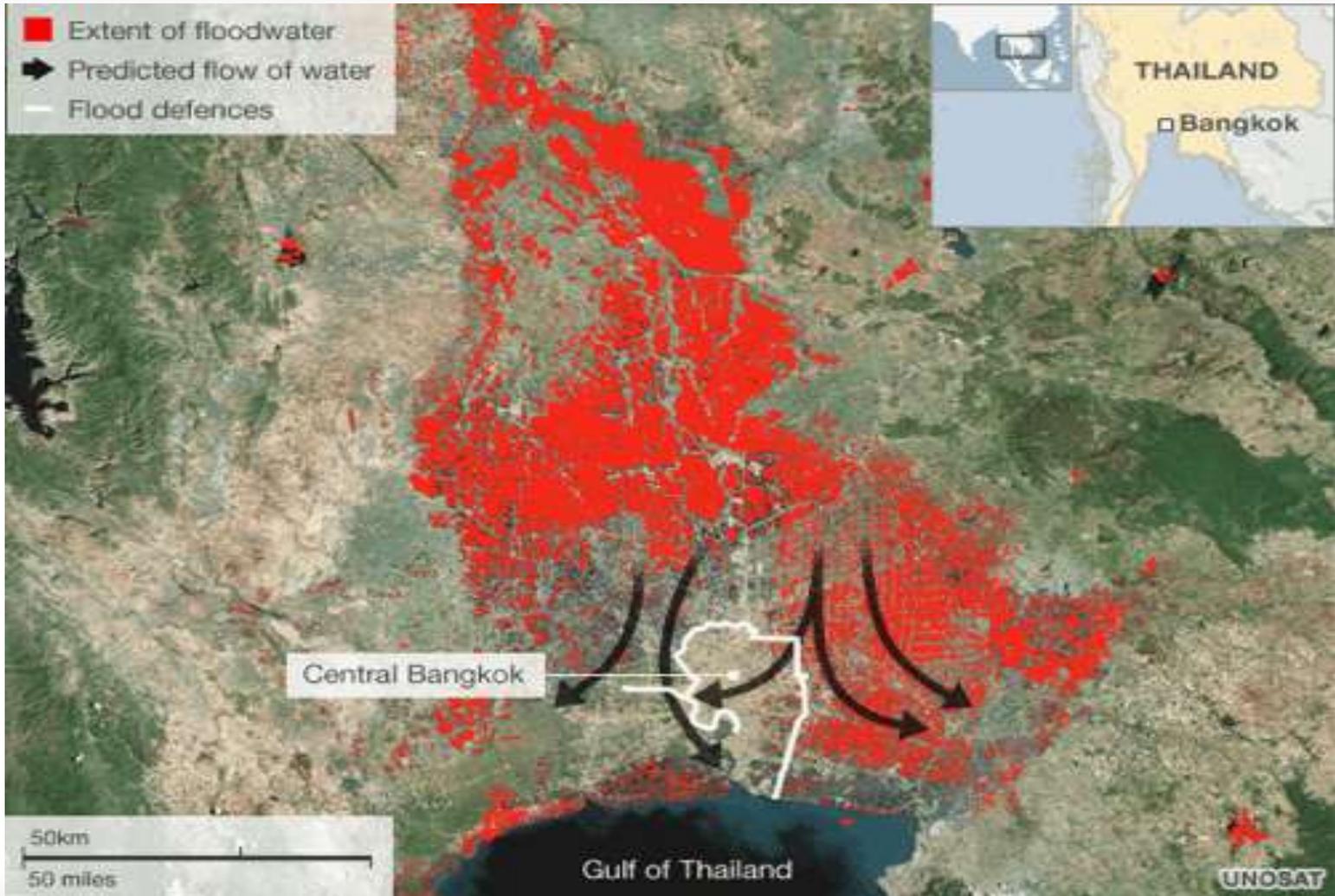
London Market Presentation
Wednesday 30th May 2012

Ian Baxter, Regional Director, Crawford Global
Technical Services^(sm) Asia Pacific

To recap

- **2011 March rainfall % above normal**
 - North – 334%
 - Central 305%
 - Eastern 113%
 - South (East Coast) 1,005%
 - South (West Coast) 502%
- **Already flooding in March/April across Southern sections of the country**
- **Five major weather systems followed**
 - Haima - June 24-26, 2011
 - Nock-ten - July 30-August 3 2011
 - Haitang – September 28, 2011
 - Nesat – September 30 – Oct 1, 2011
 - Nalgae – October 5-6 2011

An area the size of Denmark flooded



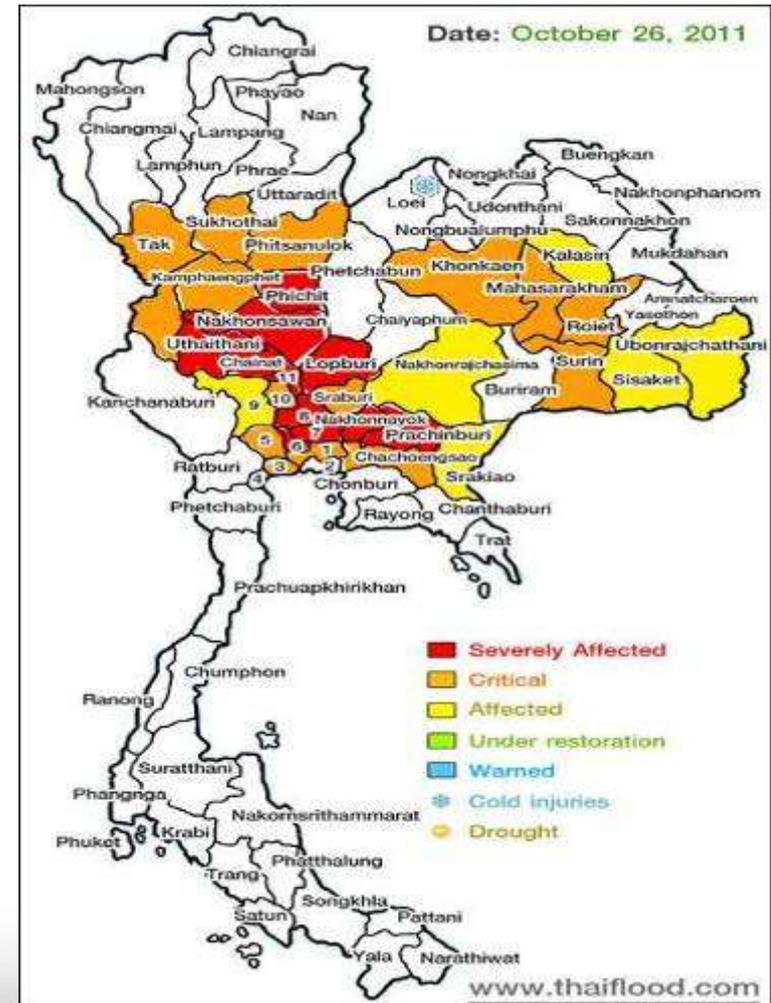
To recap

- Monsoonal and tropical cyclone triggered rains continued in the North
- Chao Phraya river and tributaries swell and bank breached whilst moving Southward
- Floods eventually covered an area from Chian Mai in the North to Ayutthaya just North of Bangkok and the Gulf of Thailand
- Water in the Bhumibol and Sirikit Dams had to be released
- As water flowed Southward – it broke floodgates and allowed water to traverse through irrigation canals and into large areas of paddy fields
- Early and Mid October 40% above average rainfall added to the problem following on from Typhoon Nalgae
- Prompted Government to release more than 9 billion cubic metres down the river basin

Dates on which Industrial Estates affected

Impact on the seven Industrial Estates as follows:

- Saha Rattana Nakorn : 04 Oct 11
- Rojana : 10 Oct 11
- Hi-Tech : 14 Oct 11
- Bang Pa-in: 16 Oct 11
- Factoryland: 16 Oct 11
- Nava Nakorn: 17 Oct 11
- Bang Kadi: 21 Oct 11



Crawford Asia Response

- Deployment of 130 staff including 50 support staff and 35 senior adjusters from other locations
- Purchased appropriate equipment, e.g. computers, cameras, waders, etc.
- Contracted Japanese translators
- Cars/drivers
- Worked with restoration and other machinery and building experts
- In-house forensic accountants and other firms appointed independently
- Japanese Insurers also appointed surveyors to work with adjusters

Mitigation / Sue and Labour



- Costs incurred with no sue and labour cover
- Costs incurred with cover but measures ineffective

Reinstatement at other locations



- Within Thailand
- Outside Thailand

Under Insurance



- 80% average clause
- Still large proportion of risks under-insured
- Alleviated in many cases by ACV settlements as opposed to reinstatement
- BI covers inadequate and underinsured

Subrogation



- No legal cases as yet
- Little prospects of suing Thai Government or individual companies

Reinstatement / Repair & Resource constraints



- Restoration Experts
- Machinery specialists
- Percentages of damage / uneconomic / repairs / reliability issues
- Salvage Companies

Current Status



- Many interim payments released
- Claims now coming in so massive workload
- Many Insured's looking at cash options to establish their options
- Reserves
- Reinsurers involvement
- Run-off until mid 2013

The Future



- Flood prevention plans sponsored by the Thai Government
- Valued at USD 9.7 billion for the Chao Phraya River Basin
- An additional USD 1.6 billion for 17 additional river basins
- Measures by private enterprise

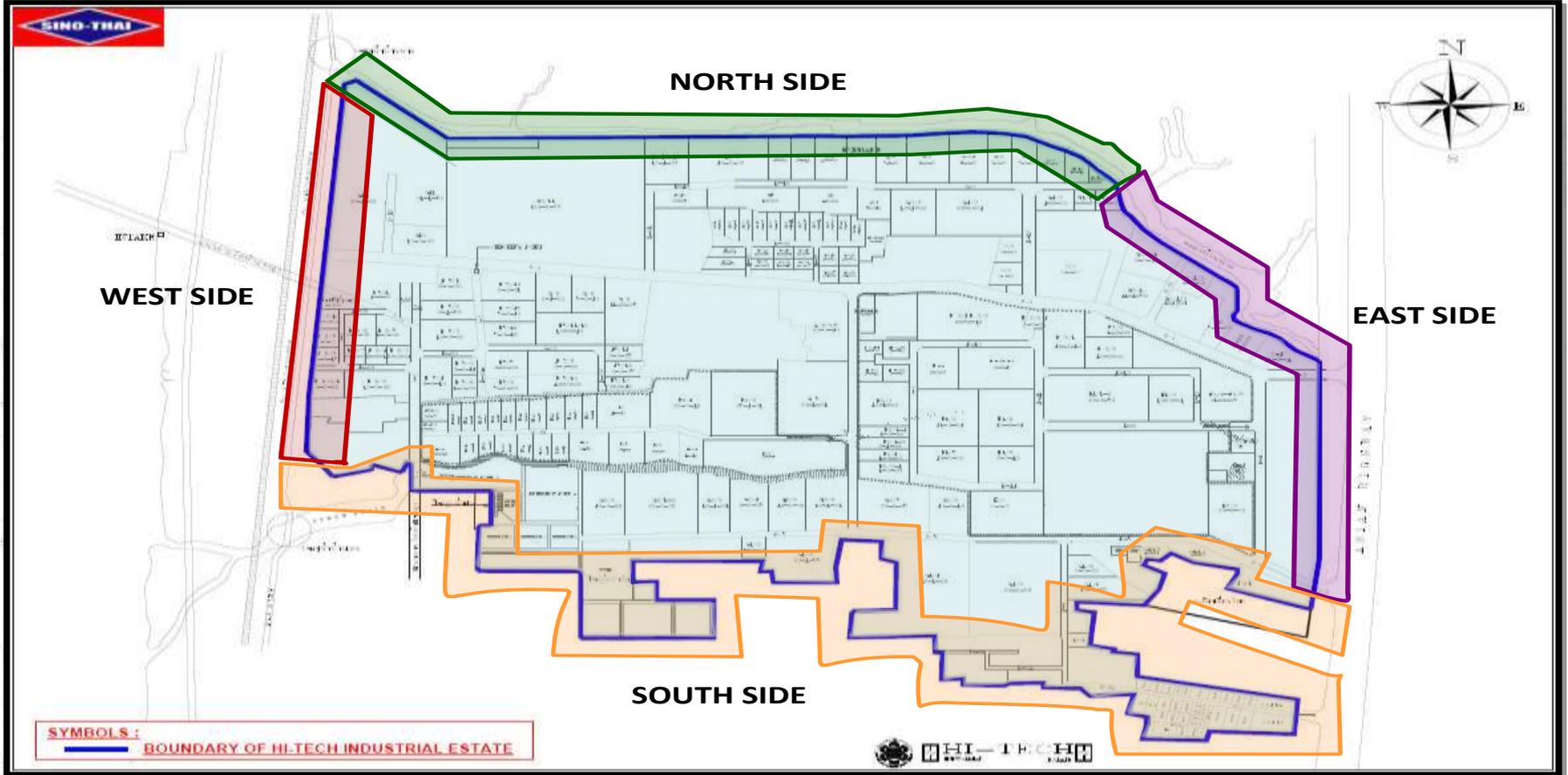
FLOOD PROTECTION BARRIER

FLOOD PROTECTION BARRIER : IS APPROXIMATELY **13** km.



- **EARTH DIKE**
about 11.0 km.
- **CONCRETE RETAINING WALL**
about 2.0 km.

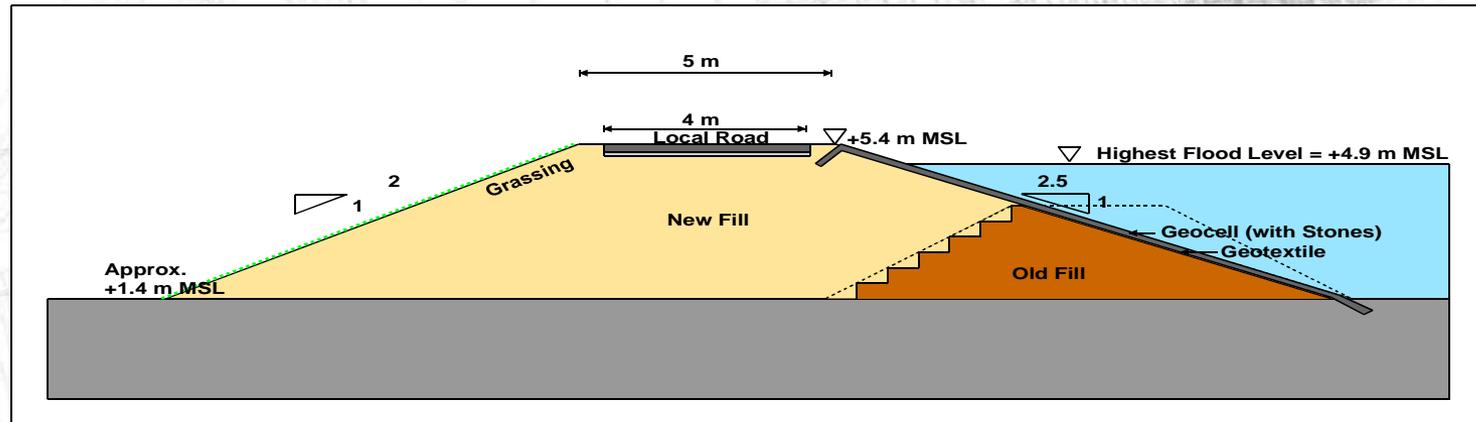
PLAN FOR HI-TECH INDUSTRIAL ESTATE



FLOOD PROTECTION BARRIER

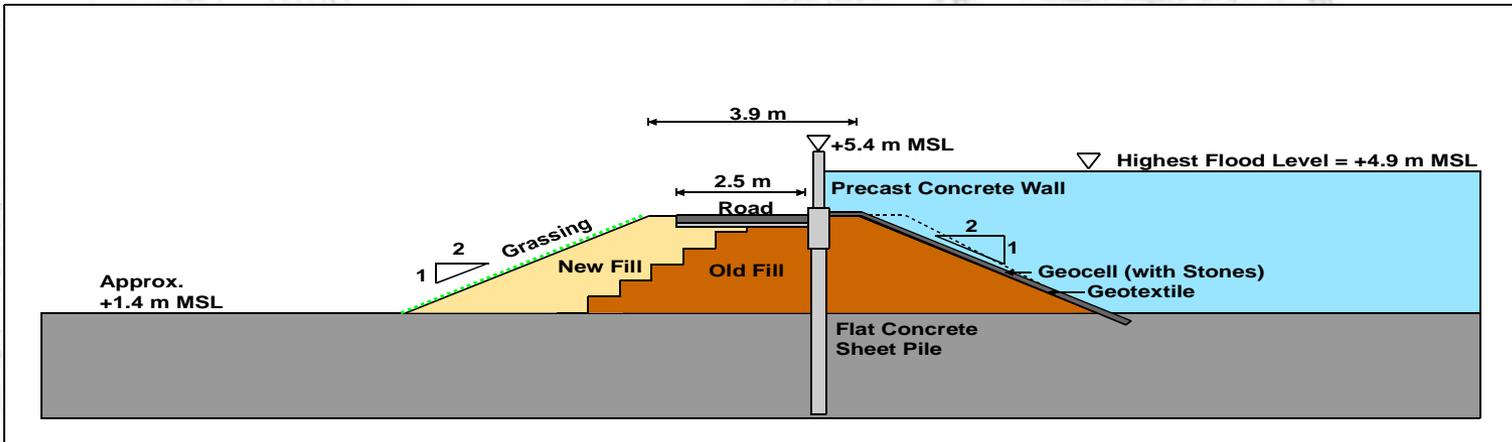
EARTH DIKE TYPE :

2) NEW FLOOD PROTECTION DIKE WITH 4.0 m. ACCESS ROAD (NORTH AND WEST SIDE)



FLOOD PROTECTION BARRIER

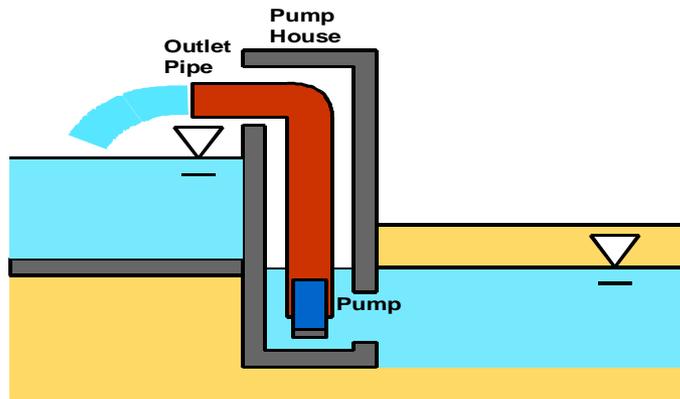
CONCRETE RETAINING WALL TYPE :



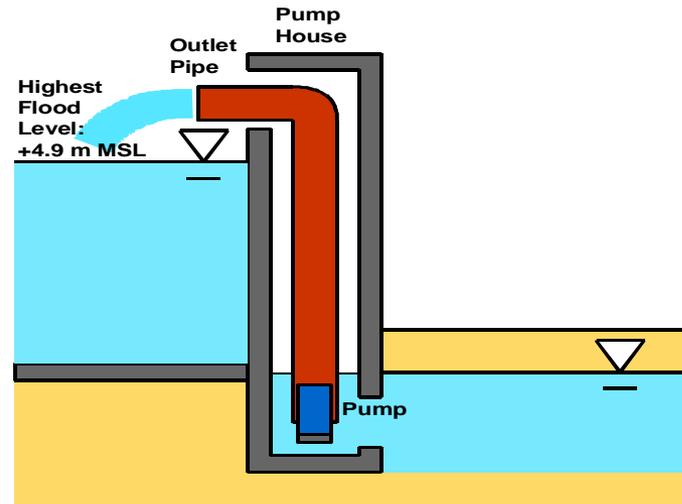
PUMPING FACILITIES

PUMPING SYSTEM DESIGN :

a) Existing Pump Level



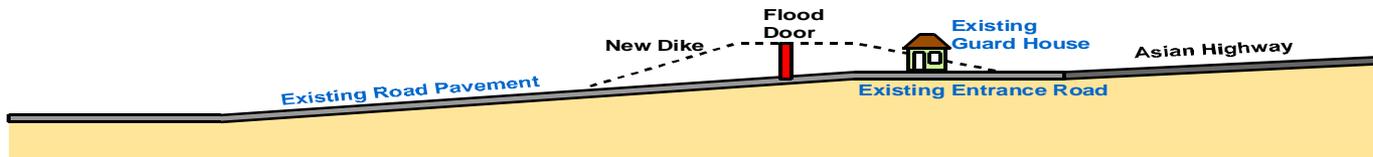
b) Raising of Pump Level



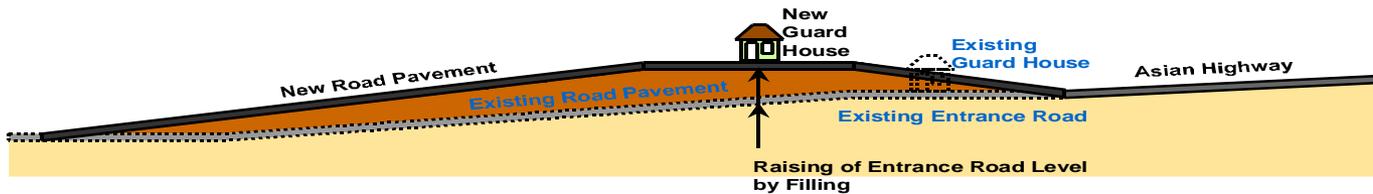
ROAD ENTRANCE

ROAD ENTRANCE BY 2 OPTIONS :

a) Flood Door



b) Raising of Entrance Road



OVERALL TENTATIVE SCHEDULE AND PLAN

Item	Description	Year 2012												Remark		
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec			
1	Topographical Survey	█	█													Started in Dec 2011
2	Geotechnical Investigation	█	█	█												Started in Jan 2012
3	Detailed Design		█	█	█	█										
4	Construction for Barrier		█	█	█	█	█	█	█	█	█					
5	Road Works										█	█	█			
6	Miscellaneous Works												█	█	█	



CRAWFORD LOSS ADJUSTERS THAILAND FLOOD UPDATE WIDE AREA DAMAGE

John Pyall

Novotel London - 30th May 2012

WIDE AREA DAMAGE – WHAT IS THE ISSUE?



-
1. During 2011, widespread flooding in Thailand caused extensive property damage in northern and central Thailand.
 2. The Insureds brought claims in respect of:
 - i. property damage ("**PD**") and
 - ii. business interruption ("**BI**") losses resulting from the flooding.
 3. Subject to the terms and conditions of each policy, policy liability is triggered in respect of:
 - **PD**: in circumstances in which flood is an insured peril and flooding has caused damage to insured property and
 - **BI**: in circumstances in which the damage to insured property has caused an interruption to the Insured's business.

What is the issue?

-
1. If the BI loss is purely caused by damage to insured property there is no issue and can be indemnified subject to the terms and conditions of the policy.
 2. Where BI loss incurred by the Insured is caused by damage to both insured and uninsured property; independent concurrent causes of loss and these cannot be separated, under English law there is no cover.
 3. The Insured may demand a full BI indemnity on the basis of the flood damage.
 4. Insurers may deny any indemnity on the basis that a concurrent cause of loss is uninsured, i.e. "but for" the insured property damage, the Insured would have incurred the same BI loss.

EXAMPLE





BI Cover - Standard Gross Profit wording

- *in respect of Reduction of Turnover: the sum produced by applying the Rate of Gross Profit to the amount by which the Turnover during the Indemnity Period shall fall short of the Standard Turnover in consequence of the Incident*
- *to which such amendments shall be made as may be necessary to provide for the trend of the Business and for **variations in or other circumstances either before or after the Incident or which would have affected the Business had the Incident not occurred**, so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the Incident would have been obtained during the relative period after the Incident*
- Suppliers and Customers Extension
- Prevention of Access Extension

-
- First week - Some of the Insured's suppliers were flooded as well as various customers.
 - Second week - Flood waters prevent the Insured from accessing its premises and utilities were cut off.
 - Third week - Undamaged supplier cannot supply due to its own suppliers being flooded
 - Eighth week - Flood water recedes and Insured is able to access its plant and begin repairs.
 - Weeks 9 to 14 – Insured working on clean-up and repairs but supplier /customer problems continue. Power available from week 11
 - Week 15 - All damaged suppliers are restored.
 - Week 16 - Normal operation resumes.

-
- First week – although no damage – suppliers extension operates to provide coverage and damage at covered supplier.
 - Second week – concurrent causes operate failure of utilities (not insured) – therefore arguably no cover
 - Even though access to the plant available from week 8 theoretically but loss is assessed at nil until week 15 because supplier not able to supply due to uninsured peril (failure of tier 2 supplier).

COVERAGE ISSUES



-
- Orient Express Hotels v Assicurazioni Generali
 - Appeal from Arbitration
 - Appeal limited on a question of law
 - The issue of Fair and Reasonableness was not raised in the arbitration

 - Arbitration response in line with the technical response from CILA (SIG paper 2007 on Meadowhall Shopping Centre)

-
- No prior legal decision in Thailand
 - No binding precedent in Thai Courts – therefore each decision on own merits.
 - Thai courts do not regularly rely on or cite Foreign Court judgments
 - This is particularly where the Court can see that application of *Orient Hotels* would result in a substantially lower award of compensation for a claimant than if the case was not applied.
 - Thai courts are generally reluctant to adopt a strict or technical approach to contract interpretation and tend to avoid deciding cases based largely or solely on technical grounds.
 - The courts may then apply a “fair and reasonable” attitude to the cover,

REINSURANCE ISSUES



-
- Is the Insurance and Reinsurance Back to Back
 - What is the onus under the Follow the settlement clause?
 - Is it fair and reasonable
 - Does it fall under the underlying and reinsurance contract terms and conditions
 - Lexington v Wasa (2009) UKHL

“no identifiable system of law applicable to the insurance contract which could have provided a basis for construing the contract of reinsurance in a manner different from its ordinary meaning in the London insurance market”
 - Would a UK Court overturn a Thai court decision?



- The issue of wide area damage must be addressed if we are dealing with an International Market.
- We cannot rely on the English Courts to do our “dirty” work
- Resolution rather than conflict is a preferable solution for the industry to maintain and enhance our brand reputation.

THANK YOU FOR LISTENING

ANY QUESTIONS



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