Business Interruption Challenges

Obtaining Appropriate Insurance
- Direct physical damage
- Time element losses
- Contingent/dependent property losses
- Civil authority
- Increased building costs
- Ingress/Egress
- Service interruption
- Preservation of property
- Valuable papers
- Loss adjustment consultant coverage
- Soft costs

Coverage Obligations
Don’t lose coverage because of an oversight!
- Timely notice
- Protect evidence, including computer information and e-mails
- Responding to insurers/outside adjusters
- Proof of claim compliance
- Preservation of property (sue and labor)
- Avoidance of voluntary payments
- Independent appraisal (sometimes)
- Statutory/contractual limitation of action periods

Preparing For The Undpredictable - Ensuring That Losses Are Fully Covered:

Step One
- How accurate are your reported values for property and business interruption?
- Test your business income limits, and calculate your anticipated maximum business interruption loss amount for key locations
- Are deductibles too high (flood, earthquake, wind)?
- Are limits and sublimits sufficiently high (property, BI, service interruption)?
- Are contingent business interruption (CBI) coverages in place for both direct CBI and indirect CBI events?
- Consider exclusions, waiting periods, valuation considerations

Step Two
- In-house Team
  - Risk Manager, Claims Manager, Safety Manager, Corporate Counsel, Operations, Finance, IT
- Outside Experts
  - Brokers/Claims Advocacy (consultants), Forensic Accounting, Claims Engineering, Legal
Types of Coverage - Civil Authority and Service Interruption

Losses caused by acts of civil authority that impact access to insured facilities
• May apply when government acts prohibit access to property of suppliers, providers, or vendors
• Some policies require a prohibition of access
• Often limited to 30 days from date of civil action prohibiting access

Damage to utility (electric, gas, data) interrupts service to your location
• Damage to overhead transmission and distribution lines sometimes excluded
• Caused by covered peril (flood/storm exclusions may negate)
• Usually contains a waiting period
• What happens when utility intentionally shuts down grid to prevent further damage?

Contingent Business Interruption
• Direct physical loss or damage to a dependent property (supplier or customer)
• The loss or damage is caused by a covered cause of loss
• The loss results in a suspension of operations at a location of supplier and customer

Issues That Impact Settlement
• Period of Indemnity
• Multiple Perils
• Consequential Loss
• Nuclear Exclusions
• Rolling Blackout
• Actual Loss Sustained
• Loss of Market/Market Conditions
• Idle Period
• Concurrent Causation
• Contingent Business Interruption

Measurement of the Loss - Maximize Recovery by Allocating to the Right Coverage Buckets

Physical Damage
• Buildings, equipment, inventory
• Sublimits: debris removal, expediting expense
• Exclusions: nuclear, environmental

Time Element Losses
• Business interruption/mitigating costs
• Inefficiencies and additional costs to operate = extra expenses
• The loss results in a suspension of operations at a location of supplier and customer

Time Element Extensions
• Extended period of indemnity
• Contingent time element/CBI
• Service interruption
• Ingress/egress, (civil and military authority)

Soft Costs
• Delay
• Loss of Use
• Loss of Market

Key Takeaways
You will be faced with an event... it’s just a matter of time:

Be prepared
• Review coverage
• Have your team in place
• Have your facts and evidence in place

Be Proactive
• Take charge of the claims process

Differences are inevitable
• Assess your options