

**Fill in this information to identify the case:**

Debtor 1 Blue Earth, Inc.  
 Debtor 2 \_\_\_\_\_  
 (Spouse, if filing)  
 United States Bankruptcy Court Northern District of California  
 Case number: 16-30296

FILED

U.S. Bankruptcy Court  
 Northern District of California

5/23/2016

Edward J. Emmons, Clerk

## Official Form 410

### Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents**; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

1. Who is the current creditor?		<u>American Home Assurance Company</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor <u>American Home Assurance Company, Insurance Company of that State of Pennsylvania, National Union Fire Insurance Company of Pittsburgh, PA</u>	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____		
3. Where should notices and payments to the creditor be sent?  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent?		Where should payments to the creditor be sent? (if different)
	<u>American Home Assurance Company</u>		_____
	Name	Name	
	<u>AIG Property Casualty</u> <u>Michelle A. Levitt</u> <u>175 Water Street, 15th Floor</u> <u>New York, NY 10038</u>		_____
	Contact phone <u>212-458-6777</u>	Contact phone _____	
Contact email <u>Michelle.Levitt@aig.com</u>	Contact email _____		
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____			
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ <div style="text-align: right;">MM / DD / YYYY</div>		
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____		



**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

<b>6. Do you have any number you use to identify the debtor?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
<b>7. How much is the claim?</b>	<div style="display: flex; justify-content: space-between;"><div>\$ unknown _____</div><div><b>Does this amount include interest or other charges?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).</div></div>
<b>8. What is the basis of the claim?</b>	<p>Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as healthcare information.</p> <p style="text-align: center;">Insurance – See Attached</p> <p>_____</p>
<b>9. Is all or part of the claim secured?</b>	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property.</div> <div><b>Nature of property:</b> <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410–A) with this <i>Proof of Claim</i>. <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____</div> <div><b>Basis for perfection:</b> _____</div> <div>Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)</div> <div style="display: flex; justify-content: space-between;"><div><b>Value of property:</b></div><div>\$ _____</div></div> <div style="display: flex; justify-content: space-between;"><div><b>Amount of the claim that is secured:</b></div><div>\$ _____</div></div> <div style="display: flex; justify-content: space-between;"><div><b>Amount of the claim that is unsecured:</b></div><div>\$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)</div></div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div><b>Amount necessary to cure any default as of the date of the petition:</b></div><div>\$ _____</div></div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"><div><b>Annual Interest Rate</b> (when case was filed)</div><div>_____ %</div></div> <div style="margin-top: 10px;"><input type="checkbox"/> Fixed <input type="checkbox"/> Variable</div>
<b>10. Is this claim based on a lease?</b>	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____</div>
<b>11. Is this claim subject to a right of setoff?</b>	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____</div>

<b>12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. <i>Check all that apply:</i>	<b>Amount entitled to priority</b>
A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.	<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). <input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)( <u>  </u> ) that applies	\$ _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____
* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.		

### Part 3: Sign Below

**The person completing this proof of claim must sign and date it. FRBP 9011(b).**

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

**A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157 and 3571.**

Check the appropriate box:

- ☒ I am the creditor.  
☐ I am the creditor's attorney or authorized agent.  
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.  
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this Proof of Claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this Proof of Claim and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 5/23/2016  
MM / DD / YYYY

/s/ Michelle A. Levitt  
\_\_\_\_\_  
Signature

Print the name of the person who is completing and signing this claim:

Name	Michelle A. Levitt		
	First name	Middle name	Last name
Title	Authorized Representative		
Company	AIG		
Address	Identify the corporate servicer as the company if the authorized agent is a servicer		
	175 Water Street, 15th Floor		
	Number Street		
	New York, NY 10038		
Contact phone	City	State	ZIP Code
	212-458-6777	Email	Michelle.Levitt@AIG.com

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

-----	:	
In re:	:	
	:	<b>Chapter 11</b>
	:	
Blue Earth, Inc.	:	
	:	<b>Case No. 16-30296</b>
	:	
Debtor.	:	
-----	:	

**ATTACHMENT TO PROOF OF CLAIM OF AMERICAN HOME ASSURANCE  
COMPANY, INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA,  
NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, AND  
CERTAIN OTHER ENTITIES RELATED TO AIG PROPERTY CASUALTY, INC.**

1. This proof of claim is filed on behalf of American Home Assurance Company, Insurance Company of that State of Pennsylvania, National Union Fire Insurance Company of Pittsburgh, PA and certain other entities related to AIG Property Casualty, Inc. (collectively, “Claimant”) that provide or provided insurance, insurance services and/or surety bonds to Blue Earth, Inc. (the “Debtor”).

2. As of March 21, 2016 (the “Petition Date”), the Debtor is indebted to Claimant for premiums, deductibles, and other related fees, expenses and obligations for, among other things, insurance coverages and services provided and to be provided by Claimant to the Debtor as more fully described below.

3. **The Insurance Program.** Claimant provided the Debtor with certain insurance coverages, including, without limitation, Directors’ and Officers, World Risk, Workers’ Compensation and other services (the “Insurance Program”) for varying periods commencing March 10, 2002 and ending 12:01 a.m., February 19, 2017. Attached hereto is a list of the policies issued by Claimant to the Debtor and certain related documentation. Claim is made for all obligations of the Debtor arising under the Insurance Program whether or not the relevant insurance policies and related agreements are specifically listed or described in the attached list or documents. Moreover, the documents which evidence the Insurance Program are voluminous and it is not practical to attach and/or list all of them. Nothing in this description of the Insurance Program or any of the attached documents is intended to vary, amend or alter in any way the terms, conditions, coverages, limitations, exclusions or dates of coverage of any policy or coverage.

4. **Fidelity and Surety Bonds.** Claimant may have provided the Debtor with various surety, fidelity and other bonds for the account of the Debtor. Claim is asserted for all such bonds issued or outstanding and for all premiums, fees and expenses due thereunder, whether or not specifically listed or described in the attached documents. Nothing in this description of the bond programs is intended to vary, amend or alter in any way the terms, conditions, coverages, limitations, exclusions or dates of coverage of any bond. Should Claimant be called upon to pay on any such bond, Claimant may amend this proof of claim to assert a claim on account of such payment.

5. **Components of this Claim.**

(a) **Unliquidated Claim for the Insurance Program.** Pursuant to the Insurance Program, the Debtor entered into certain agreements and are obligated to pay to Claimant, among other things, certain premiums, deductibles, self-insured retention, reimbursement obligations, fees, expenses and related costs. Such amounts constitute the Claimant's unliquidated claim. When the amount of premiums, deductibles, fees, expenses and other costs due under the Insurance Program, including, without limitation, damages that may arise from the rejection of the Insurance Program or any part thereof, are liquidated or determined, such amounts shall become a liquidated claim. Claimant reserves the right to amend this proof of claim as such amounts become liquidated.

(b) **Other Insurance or Services.** To the extent Claimant provides or provided any other or different insurance (including excess coverages or renewals of the Insurance Program), or other services to the Debtor, either included within or in addition to the Insurance Program, Claimant hereby asserts a claim for all obligations of the Debtor to Claimant arising thereunder, including, without limitation, premiums, deductibles, self-insured retention, reimbursement obligations, fees, expenses and other costs arising from such transactions, or from funds advanced or to be advanced on the Debtor's behalf. Additionally, Claimant reserves the right to amend this proof of claim to assert further amounts due or particulars in connection therewith.

(c) **Bond Obligations.** To the extent of any bonds outstanding, the Debtor agreed to pay to Claimant, among other things, any and all loss and expense, including, without limitation, attorneys' fees, incurred by Claimant by reason of having issued any such bonds, and losses incurred as a result of the issuance of any bonds. The amount presently due Claimant with respect to any bonds is unliquidated and untabulated.

(d) **Quantum Meruit.** To the extent any Debtor received a benefit from insurance or from bonds provided by Claimant, such Debtor is obligated to pay Claimant for the value of the benefits received.

(e) **Joint Liability.** Should it be established in these bankruptcy cases or otherwise that any of the Debtors have liability for the obligations of any of the other Debtors, then this claim asserts the same claim as Claimant asserted against each such Debtor against such other Debtor.

(f) **Indemnity Obligations.** In the event Debtors have entered into any agreement with Claimant pursuant to which Debtors have a duty to indemnify Claimant, claim is made herein for such right to indemnity.

(g) **Other.** In connection with the foregoing, the Debtor also may be liable to Claimant by virtue of relevant principles of contract and common law relating to, among other things, subrogation, suretyship, indemnification or contribution.

6. **Right of Recoupment.** Claimant asserts the right to use funds paid to it on account of, among other things, the Insurance Program to recoup obligations of the Debtor arising from, among other things, the Insurance Program.

7. **Security.** To the extent Claimant holds any cash or other collateral as security for its claim, regardless of whether such cash or collateral is property of the Debtor' estates, Claimant asserts a secured claim and/or a right of setoff and reserves its rights to collect against same by recoupment and/or setoff. Alternatively or in addition, to the extent Claimant holds an interest in any property of the Debtor, Claimant asserts a security interest in same.

8. **Interest.** Claimant claims all rights to claim interest to the extent permitted by law, including post-petition interest to the extent such interest is secured. To the extent this claim is unliquidated, appropriate interest (if any) remains unliquidated at this time. In preparing any attached tabulation of a liquidated claim, we will endeavor to include a tabulation of applicable interest to the extent dates of accrual of obligations can be readily ascertained. Claimant reserves the right to amend such calculations and to claim additional interest as facts are learned, data compiled, and/or unliquidated claims become liquidated.

9. As indicated above, supporting documents for this claim are voluminous and certain such documents, including policies of insurance, are not attached.

10. Claimant also asserts an administrative expense claim for all services provided, risks insured or occurrences occurring after the Petition Date, all or a portion of which may be set forth in this proof of claim. To the extent any amounts set forth herein are entitled to administrative expense status, Claimants reserve the right to assert such status.

11. The filing of this Proof of Claim is not intended to waive any right to arbitration. Claimant(s) expressly reserve the right to seek arbitration of any dispute arising in connection with this claim. To the extent of any pre-existing arbitration agreement, this court's jurisdiction to resolve disputes should be limited to referring such disputes to arbitration and enforcing any arbitration award.

12. In executing and filing this proof of claim, Claimant: (i) does not submit itself to the jurisdiction of this Court for any purpose other than with respect to said claim; (ii) does not waive any right or rights that it has or may have against any other persons liable for all or part of the claim set forth herein; (iii) expressly reserves the right to the extent permitted by law to amend or supplement this proof of claim in any respect; (iv) expressly reserves the right to assert all claims, causes of action, defenses, offsets or counterclaims; and (v) expressly reserves the right to contest insurance coverage in the event of each or any claim that may be tendered by Debtors for Coverage.

Dated: May 23, 2016

**PENALTY FOR PRESENTING FRAUDULENT CLAIMS: Fine of not more than \$500,000.00 or imprisonment for not more than five years, or both. Title 18, U.S.C. §§152 and 3571.**

### Debtors' List

16-30296	Blue Earth, Inc. <i>fdba</i> Genesis Fluid Solutions Holdings, Inc. <i>fdba</i> Cherry Tankers, Inc.
16-30297	Blue Earth Tech, Inc.



**Blue Earth, Inc. fdba Genesis Fluid Solutions Holdings, Inc. fdba Cherry Tankers, Inc.**  
**Petition Date: 03/21/2016**  
**Policy List Date: 03/23/2016**

Policy #	Profit Center	Branch	Major Class	Ultimate D&B	Account #	Insured Name	Writing Company	Effective	Expiration	Underwriter Last Name	Underwriter First Name
00000454947	82 - PRIMARY C	05 - LOS ANGEL	WORKMENS COM	0	0	BLUE EARTH	AMERICAN HOME ASSURANCE CO	2002-03-10	2002-11-01		
00000666511	82 - PRIMARY C	05 - LOS ANGEL	WORKMENS COM	0	0	BLUE EARTH	AMERICAN HOME ASSURANCE CO	2002-11-01	2003-02-01		
00015467019	04 - CORPORAT	01 - NEW YORK	D & O - CLAIMS M	69426224	69426224	BLUE EARTH, INC	NATIONAL UNION FIRE INS.CO.	2013-11-03	2015-05-03		
00013020084	04 - CORPORAT	01 - NEW YORK	D & O - CLAIMS M	69426224	69426224	BLUE EARTH, INC	NATIONAL UNION FIRE INS.CO.	2015-05-03	2016-09-15	ZESSIS	COLIN
WS11000880	22 - MIDDLE MA	574 - PHOENIX	UNKNOWN	3909088	3909088	BLUE EARTH	UNKNOWN	2010-05-20	2017-02-19	EMIG	ALAN