



## Why do design-build projects need professional liability and pollution coverage?



Protect your firm from potential costly claims like these.

### Failure to Meet Environmental Regulations

A design-builder in the South faced a liability claim for failing to meet environmental regulations during the construction of a highway expansion project. The claim alleged that the design-builder failed to correctly install a retaining wall which led to stormwater runoff issues, causing pollution of nearby waterways. This resulted in fines from regulatory agencies and legal action from environmental groups. The total amount paid to remediate the situation and resolve the claim was \$5.5 million.

### Delay in Project Completion

On a highway project in the Northeast, a design-builder was sued for delays in project completion, resulting in increased costs and inconvenience to the public. The claim alleged that the design-builder failed to properly schedule subcontractors and coordinate construction activities, leading to inefficiencies and missed deadlines. As a result, the project faced legal action from project stakeholders. The total amount paid to resolve this claim was \$1.6 million.

### Design Flaws Causing Drainage Issues

In a highway project in the South, a design-builder faced legal action for design flaws that caused drainage issues along the roadway. The claim alleged that the design-builder failed to properly assess drainage requirements and design effective stormwater management systems, leading to flooding and erosion problems during heavy rain events. This resulted in claims for property damage and disruptions to traffic flow, as well as disputes over responsibility for remediation costs. The total cost to remediate the situation and resolve the claim was \$8.6 million.

### Survey Error Leads to Overpass Rebuild

A design-builder was constructing a highway overpass from both approaches toward the median. The respective sections of the overpass did not successfully align with one another, with the roadway beds several inches offset from one another, because the respective surveying on either approach was done inappropriately. The contractor was held responsible for the site surveying error, and half of the overpass had to be redone at great expense. The total amount paid globally to resolve this matter was \$68.4 million.





### Defective Design Leading to Traffic Congestion

In a highway project in the Midwest, a design-builder faced a liability claim for defective design that led to traffic congestion and safety hazards. The claim alleged that the design-builder failed to properly design merge lanes and intersections, resulting in traffic bottlenecks and increased accident rates. This led to claims for negligence and damages from affected motorists and local authorities. The total amount paid to resolve the claim was \$7.3 million.



### Improper Survey Leads to Exit Ramp Replacement

A design-build highway project involved building an exit ramp. The exit ramp was built with a curve that was too sharp, and semi-trucks couldn't navigate the curve. The exit ramp had to be ripped up and replaced, all because the surveying was done inappropriately, which led to the wrong curvature. The design-builder was responsible for \$18.5 million in costs to remedy the error.

### High Stakes for Highway Survey Error

A design-build contractor involved in the construction of a new roadway runs into problems in the process of site surveying. The contractor improperly laid out stakes, improperly placed excavation marks, and failed to determine the correct amount of land that should be excavated. A professional claim resulted from the contractor's negligence in the amount of \$1.7 million.

### Inadequate Safety Measures

A design-builder in the Southeast was sued for inadequate safety measures on a highway construction site, leading to accidents and injuries. The claim alleged that the design-builder failed to design proper traffic control measures, resulting in collisions between vehicles and construction equipment. This led to claims for negligence and violations of occupational safety regulations. The total amount to resolve this claim was \$5.5 million.

## Design-Build/Heavy Civil At-A-Glance Claim Scenarios

### About Berkley Construction Professional

Berkley Construction Professional provides professional and pollution liability as well as protective professional indemnity insurance for contractors and project owners. Our experienced underwriters are industry specialists who are passionate about delivering tailored and innovative solutions to brokers and policyholders and have the authority and autonomy to act quickly. We offer practical risk management guidance and our in-house claims professionals advocate on clients' behalf, seeking to protect deductibles and offering support throughout the process.

Berkley Construction Professional is a division of Berkley Alliance Managers, a member of W. R. Berkley Corporation, a Fortune 500 company that is listed on the New York Stock Exchange, is part of the S&P 500 and whose insurance company subsidiaries are rated A+ (Superior) by A.M. Best.

The claim scenarios described here are offered solely to illustrate the types of situations that may result in claims. These scenarios should not be compared to an actual claim. The precise coverage afforded by any insurer is subject to the terms and conditions of the policies as issued. Products and services are provided by one or more insurance company subsidiaries of W. R. Berkley Corporation.

Information provided is for general interest and risk management purposes only and should not be construed as legal advice nor confirmation of insurance coverage. The user of the information should consult with an attorney experienced in the laws and regulations of the appropriate jurisdiction, and practice management recommendations should be carefully reviewed and adapted for the particular project requirements, firm standards and protocols established by the design professional.

Products and services described above are provided through various surplus lines insurance company subsidiaries of W. R. Berkley Corporation and offered through licensed surplus lines brokers. Not all products and services may be available in all jurisdictions, and the coverage provided by any insurer is subject to the actual terms and conditions of the policies issued. Surplus lines insurance carriers do not generally participate in state guaranty funds and insureds are therefore not protected by such funds.

### Contact us

**Ed Sheffele**

Executive Vice President  
esheffele@berkleycp.com  
973.775.7492

**Dennis Baez**

Senior Vice President  
dbaez@berkleycp.com  
347.813.1074

**Peter Brooks**

Senior Vice President  
pbrooks@berkleycp.com  
720.360.7500

**Chris McQueen**

Senior Vice President  
cmcqueen@berkleycp.com  
770.910.1015

**David Pacifici**

Senior Vice President  
dpacifici@berkleycp.com  
818.291.6231

**Colleen Kennedy**

Vice President  
ckennedy@berkleycp.com  
267.532.6346

**Sean Brown**

Assistant Vice President  
sebrown@berkleycp.com  
973.775.3368

**Annie Buelow**

Assistant Vice President  
abuelow@berkleycp.com  
312.705.1128

**Ashley Harrell**

Assistant Vice President  
aharrell@berkleycp.com  
312.340.3458

**Courtney Preston**

Assistant Vice President  
cpreston@berkleycp.com  
770.910.1020

**Lauren Taylor**

Senior Underwriter  
lataylor@berkleycp.com  
212.822.3396

**Vaishali Desai**

Underwriter  
vdesai@berkleycp.com  
770.910.1026

**Nick Johnston**

Underwriter  
njohnston@berkleycp.com  
973.775.3374

**Peter Clarke**

Executive Vice President  
W/R/B Underwriting  
peclarke@  
wrbunderwriting.com  
+44.0.203.943.9062

### Berkley Construction Professional

412 Mt. Kemble Avenue | Suite G50  
Morristown, NJ 07960  
berkleycp.com

In California:  
a division of Berkley Managers Insurance Services, LLC  
CA License #OH05115

BCP:24-113:PDF:10/24

