



 Insurance

# Construction claims scenarios

Getting the protection  
you need against whatever  
might happen.





Is your business protected against construction liabilities?



### Professional Claims Scenarios

#### Insuring Agreements

- Professional
- Rectification
- Protective Loss

### Pollution Claims Scenarios

#### Insuring Agreements

- Jobsite
- Transportation
- Non-owned Disposal Site
- Named Insured's Location
- Emergency Remediation Response

**The liabilities associated with construction projects have the potential to devastate your business.**

AXA XL's Construction team is here to help. We can help you understand and protect against your construction exposures and when something goes wrong, our claims team is ready to respond.

Our claims team is comprised of customer-focused professionals, who have decades of experience. They partner with you to successfully investigate and resolve your covered claims fairly and accurately.

The following claims scenarios demonstrate some of the many ways that Construction Professional and Pollution coverage can protect your business when something goes wrong.



# Professional claims scenarios

## Professional Insuring Agreements

Professional  
Rectification  
Protective Loss

### Pipe problems

**Type of Project:** Fire Sprinkler System  
**Claims Impact:** Design error leads to failure and requires system replacement that costs \$2 million  
**Insuring Agreement:** Professional Liability

A construction manager retained a subcontractor to design and build a fire sprinkler system for a commercial building. The project's specifications required Schedule 10 Pipe, but the subcontractor designed and installed a system using Schedule 5 Pipe. This discrepancy was not identified until the construction manager was contacted several years later due to leaking pipes. At that time, the error in the design was identified and due to the failure of the system, it required replacement that cost \$2 million.

### Water gone wild

**Type of Project:** Irrigation Dam  
**Claims Impact:** \$2 million+ losses filed  
**Insuring Agreement:** Professional Liability

A state government agency retained an architect and a construction manager to provide engineering, design, and construction oversight necessary for an irrigation dam. The design firm underestimated the volume of water flowing through the channel during the rainy season. As a result, a downstream neighborhood is flooded and a golf course is forced to shut down for six months. Bodily injury, property damage and loss of use claims in excess of \$2 million are filed against both the architect and construction manager of the project.

### What a waste!

**Type of Project:** Industrial Waste Conveyance System  
**Claims Impact:** Redesign/rework leads to ~\$2 million expense  
**Insuring Agreement:** Rectification

Insured was an industrial specialty design/build contractor responsible for design/construction of an air powered waste conveyance system at an industrial facility. During bench scale design and testing the insured failed to factor in elevation changes and the number of turns required in the piping system. This led to underpowered blowers being utilized and a failure of the system to properly clear waste during commissioning. The resulting re-design and re-work of the project led to approximately \$2 million in additional expense.

**\$20M** in damages  
**\$2M** in Professional Liability insurance



### HVAC hold up

**Type of Project:** Class "A" Office Space  
**Claims Impact:** \$3 million loss  
**Insuring Agreement:** Professional Liability

A Contractor was hired to construct a class "A" office building with both residential and commercial retail space with the HVAC system to be provided under a design/build delivery method by the contractor. The project was completed but within weeks of opening there were many complaints regarding the temperature and comfort within the building. Several weeks following that, mold was discovered in a few sections of the commercial building, and then ultimately throughout most sections of the building, including the residential sections. The claim was litigated, involving the contractor, as well as numerous subcontractors engaged in the project. It was determined that a portion of the loss which resulted from deficiencies in the design-builder's oversight, including system installation and commissioning, resulting in almost \$3 million in damages.

### Costly cracking

**Type of Project:** Senior Living Community  
**Claims Impact:** \$5 million paid towards global settlement  
**Insuring Agreement:** Professional Liability

A General Contractor was retained to construct a senior living community project which included residential units, a dining area, and a health care center. Approximately one year after construction, the insured was requested to investigate the cause of excessive cracking of the walls. Eventually, all occupants of the healthcare center had to be evacuated while the general contractor reconstructed the areas of concern under a \$2.5 million change order. The contractor indicated that the cause of the problem had been inadequate soil characterization by the geotechnical engineer resulting in the need for corrective actions to the foundation. After almost two years the general contractor received a complaint by the client for damages exceeding \$25 million. A global settlement of approximately one-half of the demand was made, with the contractor's professional liability policy contributing its policy limits of \$5 million.

### Survey says!

**Type of Project:** Condominium  
**Claims Impact:** \$20 million allegation  
**Insuring Agreement:** Protective (if it had been purchased)

A general contractor (GC) was hired to construct a residential condominium complex. Phase Two of the project included a community center with fitness facility and pool. When work began on the community center, it was discovered that original survey was off and the community center footprint was beyond the property line. This caused a significant delay in construction while the project was re-designed and re-permitted. It was alleged that the delay in construction of the community center caused a loss of income for the owner as they could not sell the units as early as anticipated because there was no fitness center or pool. It was determined that significant portion of the liability fell on the surveying firm; however, they only carried \$1 million in professional liability coverage. This resulted in liability for the GC since they hired the surveyor and they only carried \$2 million in professional liability limits. Damages were alleged to be over \$20 million. If either the GC or the owner (if they had hired the surveyor) had purchased Protective coverage, they could have triggered this policy for the loss once the surveyor's limits had been exhausted.

### Mold madness

**Type of Project:** Convention Center HVAC System  
**Claims Impact:** ~\$5 million due to damages and loss of income  
**Insuring Agreement:** Protective Loss

A General Contractor was hired to construct a convention center with the HVAC system to be provided under a design/build delivery method by the Contractor. The project was completed but within weeks there were many complaints regarding the temperature and comfort within the building. Several weeks later mold was discovered in a few sections of the building, and then ultimately throughout most sections of the building. The claim was litigated and the total professional liability for the mechanical system including legal expenses was almost \$5 million dollars due to damages and loss of income of events planned at the facility. The mechanical designer hired by the contractor had professional liability coverage but with insufficient limits to cover the loss. Therefore, the Contractor's Protective Indemnity endorsement coverage responded.

# Pollution claims scenarios

## Pollution Insuring Agreements

Jobsite

Transportation

Non-owned Disposal Site

Named Insured's Location

Emergency Remediation Response

### What a shock

**Type of Project:** Utility pole installations  
**Claims Impact:** Contractor forced to pay \$900,000  
**Insuring Agreement:** Job site

A Utility Contractor was installing new overhead electrical lines. They retained a subcontractor to sink the new utility poles. The subcontractor hit an underground sewer line with their auger while installing the new poles. The utility contractor was held responsible for the actions of their subcontractor through contractual liability. The utility contractor paid \$900,000 for the cleanup of the spilled sewage and repair of the sewer line.

### Fume and dust damage

**Type of Project:** Airport terminal renovation  
**Claims Impact:** \$2 million+ claims filed  
**Insuring Agreement:** Job site

A General Contractor was awarded a 28-month, \$5 million airport terminal renovation project that required 90% of all gates to remain open during construction. The contractor closely monitored all subcontractors, enforcing the project requirements of enclosed workspaces and maintaining a negative pressure environment to ensure there is no impact to terminal workers and passengers. When one of the many sections was completed, a few deficiencies were identified. The subcontractor returned to complete the deficiencies utilizing a generator to run equipment. Although the area was still enclosed the area was no longer under negative pressure, resulting in fumes and dusts entering into the active terminal. The contractor received several claims of bodily injury from both airport workers and passengers with demands of over \$2 million.

### A costly spill

**Situation:** Refueling vehicle in accident  
**Claims Impact:** \$500,000+ claims filed  
**Insuring Agreement:** Transportation

Contractor's refueling vehicle was in an accident while in route to a construction site to refuel equipment. The resulting fuel spill flowed into a storm sewer which discharged into a wetlands area. Claim costs were in excess of \$500,000, plus expenses associated with the restoration of the wetlands.

### What lies beneath...

**Situation:** Groundwater contamination  
**Claims Impact:** EPA implemented significant remediation; Insured identified as a potentially responsible party  
**Insuring Agreement:** Non-Owned Disposal Site

A Construction Manager received a CERCLA Section 106(a)/107(a) letter from the USEPA in which the Construction Manager is alleged to be potentially responsible party for the release of hazardous substance, pollutants, and contaminants at a non-owned disposal site. Volatile organic compounds and metals were detected in the groundwater. The disposal facility was listed on the National Priorities List and had to stop accepting waste. The EPA has implemented significant remediation and identified the insured as a potentially responsible party.

### Going against the grain

**Situation:** Citizen Action Group claims contamination  
**Claims Impact:** Clean Water Act violation  
**Insuring Agreement:** Named Insured Location

A General Contractor was sued by a citizen action group claiming grease and other contaminants from a grain silo conveyor system migrated from the insured's property into adjacent waterway. Claimants contend the insured violated the Clean Water Act and failed to adhere to terms of its storm water discharge (NPDES) permit.

### A toxic flow

**Situation:** Underground tank punctured  
**Claims Impact:** \$1.2 million+ remediation costs  
**Insuring Agreement:** Emergency Remediation Expense

A former shopping center was demolished and redeveloped into a commercial business park. During site preparation a UST was discovered after an excavator preparing for the installation of new electrical lines punctured the tank. The smell of petroleum odors was immediate as was the observation of the unknown material in the tank flowing from the tank to the surrounding soils. A surface water body was located adjacent to the site. Although spill prevention measures were on site and an emergency response contractor was notified almost immediately, the cost to remediate exceeded \$1.2 million as both groundwater and soils were impacted by the material, and on-going monitoring was required to ensure contaminants did not reach the adjacent surface water body.

**The cost to remediate exceeded \$1.2 million as both groundwater and soils were impacted by the material, and on-going monitoring was required to ensure contaminants did not reach the adjacent surface water body.**





**To learn more how AXA XL's Construction Professional and Pollution Coverage can protect your business, please contact your Construction Underwriter.**

The information contained herein is intended for informational purposes only. Insurance coverage in any particular case will depend upon the type of policy in effect, the terms, conditions and exclusions in any such policy, and the facts of each unique situation. No representation is made that any specific insurance coverage would apply in the circumstances outlined herein. Please refer to the individual policy forms for specific coverage details.

AXA XL is a division of AXA Group providing products and services through three business groups: AXA XL Insurance, AXA XL Reinsurance and AXA XL Risk Consulting. In the US, the AXA XL insurance companies are: AXA XL Insurance Company Americas, Greenwich Insurance Company, Indian Harbor Insurance Company, XL Insurance America, Inc., XL Specialty Insurance Company and T.H.E. Insurance Company. In Canada, insurance coverages are underwritten by XL Specialty Insurance Company - Canadian Branch. Coverages may also be underwritten by Lloyd's Syndicate #2003. Coverages underwritten by Lloyd's Syndicate #2003 are placed on behalf of the member of Syndicate #2003 by Catlin Canada Inc. Lloyd's ratings are independent of AXA Group. Not all of the insurers do business in all jurisdictions nor is coverage available in all jurisdictions. Information accurate as of February 2025.