

Water diversion berms - the unintended consequences

By Tanya Crites

As we approach the rainy season, members may be considering installing water diversion berms to direct rainwater runoff into storm drain catch basins either along roadways or in member owned or maintained parking lots. Even though the installation could be as simple as creating a raised ridge of asphalt to channel water, the unintended consequences could create liability for a member entity.

One unintended consequence of channeling water with a diversion berm is surface water flooding due to a catch basin, or area in which the water is directed, not having the capacity to handle the increased water flow.

Risk Management Recommendation: As with any other roadway treatment, the installation of a water diversion berm should be approved by a roadway engineer and meet engineering standards and guidelines. A member should avoid the pressure of citizen requests to install a water diversion berm without approval from a roadway engineer.

A possibly more significant unintended consequence of a water diversion berm is injury to cyclists or pedestrians encountering the berm along the side of a roadway or in a parking lot. WCIA members have received bodily injury claims from cyclists allegedly not seeing a diversion berm, riding over it, losing control, and crashing. At least two of these claims resulted in life-changing injuries, including quadriplegia.

Risk Management Recommendation: Whether installing a new water diversion berm, or maintaining the existing ones, this recommendation applies. WCIA and our defense counsel recommend making water diversion berms along roadways, and in parking lots owned or maintained by the member, as visible as possible to cyclists and pedestrians. This is particularly important in or near bike lanes, multi-use paths, and all other areas that cyclists or pedestrians frequent. One relatively simple technique is painting the berm a color that stands out against the pavement on which it is installed. Once painted, the member has a duty to maintain the paint as long as the berm exists.

WCIA recommends members take inventory of all their existing water diversion berms, and consider which ones are in high bicycle/pedestrian use areas then determine if the berm is still necessary. If not, it is recommended the berm is removed.

For more discussion about water diversion berms, please contact a WCIA Risk Services Department Risk Management Representative.