

LIABILITY PROGRAM SUBCOMMITTEE MEETING

ACWA/Joint Powers Insurance Authority
5620 Birdcage Street, Suite 110
Citrus Heights, CA 95610-7632
(800) 231-5742

Friday, July 20, 2007

COMMITTEE MEMBERS PRESENT

Chairman: E. G. "Jerry" Gladbach, Castaic Lake Water Agency
Vice Chairman: Joseph Dion, Citrus Heights County Water District
Roy Coox, Vista Irrigation District
Don Groundwater, Bella Vista Water District
Bob Van Wyk, Fresno Metropolitan Flood Control District

COMMITTEE MEMBERS ABSENT

Gary Enos, Provident Irrigation District

STAFF PRESENT

Chief Executive Officer/Secretary: Daniel N. Klaff
Chief Financial & Operations Officer: Walter "Andy" Sells
Dick Damon, Liability and Property Claims Manager
John Gilstrap, Director of Member Services
Debbie Kyburz, Member Services Representative II
Harve LaBounty, Director of Risk Management, Arrived 8:08 a.m.
Nancy Stangel, Director of Administration
Michelle Stites, Administrative Assistant II
Jeanette Waterdstradt, Executive Assistant to the CEO
Nidia Watkins, Member Services Representative II

OTHERS PRESENT

Merle J. Aleshire, Valley Center Municipal Water District
Wes Bannister, Orange County Water District
Eldon Boone, Vista Irrigation District, Arrived 8:12 a.m.
Tom Cuquet, South Sutter Water District, Arrived 9:07 a.m.
Joan C. Finnegan, Municipal Water District of Orange County
Mary Gibson, Mission Springs Water District
W.D. "Bill" Knutson, Yuima Municipal Water District, Arrived 9:49 a.m.
William Malone, Metro/Risk Inc., JPIA Insurance Broker
Mike McNulty, Metro/Risk Inc., Vice President and Managing Director
Lou Reinkens, Tahoe City Public Utility District, Arrived 9:49 a.m.

CALL TO ORDER

A quorum being present, Chairman Gladbach called the meeting to order at 8:02 a.m.

PUBLIC COMMENT

Chairman Gladbach stated that members of the public would be allowed to address the Liability Program Subcommittee on any agenda item prior to the Subcommittee's decision on the item and would also be allowed to comment on any issue they wish, which may not be on the agenda. No one requested to be heard.

INTRODUCTION OF NEW COMMITTEE MEMBERS AND GUESTS

Chairman Gladbach introduced himself as the new Chairman of the Liability Program Subcommittee and announced Mr. Joseph Dion as the new Vice Chairman.

Mr. Klaff, Chief Executive Officer, noted that a quorum is present and that post packet production, there were two new handouts to be discussed where appropriate.

ADDITIONS TO OR DELETIONS FROM THE AGENDA

There were no additions or deletions from the agenda.

CONSENT CALENDAR

The consent calendar consisted of the minutes of July 24, 2006 Liability Program Subcommittee Meeting.

M/S/C (Groundwater/Coox) (Yes - 5/No - 0): That the minutes of the July 24, 2006 Liability Program Subcommittee Meeting be approved as submitted.

MEMBERSHIP

New Members Approved and in the Pipeline

Mr. Gilstrap, Director of Member Services, provided a status of membership. He indicated that currently there are 284 members with payrolls of \$401,322,546 in the Liability Program.

Santiago Aqueduct Commission joined the Liability Program October 1, 2006.

Colusa Basin Drainage District withdrew effective October 1, 2006.

Riverview Water District merged with Lakeside Water District November 16, 2006.

Broadview Water District will merge with Westlands Water District. Currently, there is no target date for completion.

Sierra County (Calpine) Waterworks District No. 1 was approved March 30, 2007. They will join upon completion of the risk management recommendations.

Update of Letters to Withdraw/Rescind

In accordance with Article 22 (d) of the Joint Powers Agreement, Sierra Cedars Community Services District and Yolo County Flood Control & WCD rescinded their intent to withdraw from the Liability Program effective October 1, 2007.

Tehama-Colusa Canal Authority did not rescind its intent to withdraw; therefore, the original notice is considered as final notice of withdrawal from the Liability Program effective October 1, 2007.

In accordance with Article 22 (d) of the Joint Powers Agreement, San Diego County Water Authority advised the ACWA/JPIA of its intent to withdraw from the Liability Program effective October 1, 2008. San Diego County Water Authority has a payroll of \$27,764,946 and they constitute 6.91836 percent of the program.

LOSS REPORTS

Reported Losses Per \$1 Million of Payrolls

Mr. Sells, Chief Financial and Operations Officer, reviewed the graph showing the actual dollars incurred in losses for each million dollars of payroll.

From 1991 through 1995, the JPIA loss figures showed an adverse trend going from a low of \$20,465 to \$44,115 per \$1 Million of Payrolls. From 1995 to 1999 that number declined for all but the 1997 year. Since that time, Reported Losses Per \$1 Million of Payrolls have remained relatively constant. The 2004 policy year currently has several large claims that remain open and reserves currently exceed \$4 million. The year may finish with an atypical high amount of losses. The 2006 policy year is off to a good start but with only nine months data it is too early to make any predictions.

Mr. Damon, Liability and Property Claims Manager, noted that in the '04-'05 year, there were 15 days of rain in the Los Angeles area, which may have contributed to the large number of claims. There were also heavy rains in the '94-'95 year.

Mr. Sells stated that with land saturation there will be landslides which are out of ACWA/JPIA's control.

Mr. Klaff expressed that what we are able to do is mitigate these types of claims by immediately hiring consultants and engineers to gather data such as testing lines and water chlorination levels, so that we can take proactive steps to minimize any possible claims arising from heavy rainy seasons.

Occurrences Per \$1 Million of Payrolls

Mr. Sells reviewed the occurrences per \$1 Million of Payrolls graph next. This graph tracks the frequency of claims activity; generally speaking, the lower the frequency rate, the lower the severity.

Looking at the same time period discussed in reported losses, a decrease in frequency is shown. The five-year average from 1993 to 1998 was 1.12. The current five year average, omitting '06, is down to .80. The decrease in frequency is obviously significant when compared to losses for the same period. The overall trend for the past ten years is gradually decreasing severity and that is a very favorable trend.

Average Claim Sizes

This graph reflects the amount spent per claim.

Mr. Sells stated that the average claim size peaked in the 1994/1995 policy year. The average claims size for the last ten years has been right around \$20,000. The average claim size for the current year is \$9,266; that represents only nine months of activity and may erode somewhat as the losses are more fully realized.

Significant Large Claims

Mr. Sells then reviewed the Significant Large Claims data.

NEW BUSINESS

Renewal of Liability Program Excess Insurance

Mr. Gilstrap noted that the JPIA's Liability Program will renew on October 1, 2007. The JPIA purchases excess insurance for the Program that renews on the same date. The excess insurance is arranged in "layers" and is written on an occurrence basis with limits totaling \$50 million. An occurrence limit is the most that will be paid by a carrier for any one loss. There are also some general policy aggregate limits that apply. An aggregate limit is the most that will be paid by a carrier for all losses in a policy year.

Currently the JPIA Liability Program is arranged as:

- \$1,000,000 per occurrence, no aggregate limit
 - JPIA Pooled Layer or Self-insured Retention (SIR)
- \$19,000,000 per occurrence, no aggregate limit
 - Excess of \$1 million SIR
 - Insurance Company of the State of Pennsylvania (ISOP)
- \$20,000,000 per occurrence, \$60,000,000 aggregate
 - Excess of \$20 million
 - Lexington Insurance Company
- \$10,000,000 per occurrence, \$30,000,000 aggregate
 - Excess of \$40 million
 - Arch Insurance Company

The current excess carriers have all proposed an "as expiring" renewal as respects pricing. The first layer has an adjustable premium based on a rate charged against payrolls. The rate is the same as expiring; however, the premium is higher due to the increase in payroll. The second and third layers have a flat premium and have not changed from last year, despite the increased payroll. There is an improvement in coverage provided by Arch for the third layer: Employment Practices Liability Insurance (EPLI) will no longer be excluded.

Staff requested Mr. Malone of Metro/Risk, Inc., to explore the possibility of obtaining “Stop Loss” coverage for this renewal. Stop Loss coverage is triggered when the JPIA pays a predetermined number or amount of losses within its self-insured retention. Previously, the JPIA had two different Stop Loss programs. One was an Aggregate Stop Loss that reduced the JPIA’s retention to \$50,000 once the aggregate of all primary (pooled) losses for the policy year exceeded 62.5 percent of the deposit premium. The second Stop Loss also reduced the JPIA’s retention to \$50,000 when there were more than three occurrences in a policy year “emanating from the same general causation”. Neither of these provisions was available following the 2005 renewal. At the time the summary was written, no proposals for a “Stop Loss” were available.

Mr. Malone advised that while ISOP was willing to provide a standard aggregate Stop Loss, the pricing that was indicated by their actuary was not likely to be acceptable. Mr. Klaff pointed out that the JPIA has other mechanisms in place to deal with catastrophic losses. The committee’s consensus was to not pursue the Stop Loss at this time.

Staff recommends advising the Executive Committee to accept the excess insurance proposals for the first three layers, totaling \$49 million excess of the JPIA’s \$1 million retention.

M/S/C (Van Wyk/Groundwater) (Yes - 5/No - 0): To recommend to the Executive Committee to accept the excess insurance proposals for the first three layers, totaling \$49 million excess of the JPIA’s \$1 million retention.

There is an option to increase the total limits of liability provided by the Program to \$60 million per occurrence. That proposal includes a 4th layer of \$10 million excess of \$50 million, with a \$10 million aggregate. The carrier is Arch Insurance. The quoted premium for this layer is \$81,000.

Staff recommends advising the Executive Committee to accept the proposed 4th layer of \$10 million excess of \$50 million; with a \$10 million aggregate providing that Arch Insurance will reduce the price to the \$60,000 range.

M/S/C (Coox/Van Wyk) (Yes – 5/No – 0): To recommend to the Executive Committee to accept the proposed 4th layer of \$10 million excess of \$50 million, with a \$10 million aggregate providing that Arch Insurance will reduce the price to the \$60,000 range.

New Excess Liability Exclusions

Mr. Gilstrap introduced a handout pertaining to new Excess Liability Exclusions. The handout details that Insurance Company of the State of Pennsylvania (ISOP) provides the first layer of excess coverage for the Liability Program, \$19 million excess of the JPIA’s \$1 million retention.

Although ISOP has previously agreed to renew the excess coverage on the same terms as expiring, that offer has been conditioned on the acceptance of two new exclusions. Copies of those exclusions were reviewed.

The first, Violation of Communication or Information Law Exclusion, eliminates coverage for any act that violates any law or regulation that limits the communication of material or information. The primary intent is to exclude coverage for HIPAA violations, although there are likely some other laws that also limit communication of certain information. HIPAA is the federal Health Insurance Portability and Accountability Act of 1996. HIPAA includes provisions regulating the privacy of medical records and information.

The second, Economic or Trade Sanctions Exclusion, eliminates coverage for claims that are in violation of federal economic or trade sanctions, including those administered by the United States Treasury Department's Office of Foreign Assets Control (OFAC). Specifically, OFAC prohibits payments of any kind to certain countries, corporations and individuals for foreign policy and national security reasons. Even if a claim or suit is legitimate, no payment can be made to parties on the Specially Designated Nationals and Blocked Persons list maintained by OFAC.

Mr. Gilstrap introduced the Crisis Management Coverage handout as a supplement to its liability excess insurance renewal proposal. AIG has offered to include coverage for costs of managing certain types of crisis events. Staff was provided with information on this coverage after the Subcommittee packet was prepared.

There is no additional charge for the coverage. There is no deductible or retention applicable. AIG would pay from first dollar for any covered costs. The limits are \$250,000 for costs such as medical and funeral expense, counseling, travel or temporary living arrangements. An additional \$50,000 is available to pay the fees of certain pre-approved crisis communications management firms (i.e., public relations).

Staff recommends including the crisis management coverage as a supplement to the Memorandum of Liability Coverage. The AIG coverage form would need to be edited and formatted to conform with the MOLC.

M/S/C (Groundwater/Coox) (Yes - 5/No - 0): To recommend advising the Executive Committee to accept the crisis management coverage as a supplement to the Memorandum of Liability Coverage. The AIG coverage form would need to be edited and formatted to conform with the MOLC.

Deposit Premium Pricing

Mr. Sells then reviewed Deposit Premium Pricing. He referred to a worksheet showing the funding requirements for the Liability Program. Invoices for the 10/1/07-08 policy year are to be mailed to the members at the end of July.

The proposed rate for the 10/1/07-08 policy year remains virtually unchanged. A slight increase in the actuary projected loss rate is offset by an increase in projected interest earnings. An increase of 11.72 percent in premiums is a result of an estimated increase in payrolls of 12.18 percent.

Staff recommends approval of the \$3.71 billing rate (line 16) subject to changes in the final excess insurance costs.

M/S/C (Groundwater/Van Wyk) (Yes - 5/No - 0): To recommend that the Executive Committee accept the \$3.71 billing rate subject to changes in the final excess insurance costs.

RPA Stabilization Fund

Mr. Sells reviewed the RPA Stabilization Fund, which is used to help stabilize retrospective premium adjustments (RPA) for prior policy years. It is funded with future RPAs and refunds of the Catastrophic Reserve Funds of each of the pooled programs. Each member's "account" is maintained separately from other members and each "account" is allowed to grow to 50 percent of one year's basic liability premium; the amount over that point is refunded to the members on an annual basis.

The RPA Stabilization Fund (RSF) has been very successful, refunding over \$1 million in each of the last four years. Last year 186 members received refund checks. Approximately 250 members have positive balances in their "accounts." After the last round of refunds, the current balance in the RSF account is over \$4.7 million. At their March 30, 2007 meeting, the Executive Committee approved expanding the use of the RSF to include allowing members to use their RSF funds to pay for the portion of any increase in their current year's Liability Program deposit premium (net of the portion of increase attributable to increasing payrolls) that exceeds ten percent of the prior year's deposit premium. Additionally, the committee approved increasing the attachment point for refunds from 50 percent of the Liability Program's basic premium to 60 percent and reducing the point at which a member would receive an additional invoice from 50 percent to 40 percent.

AVAILABILITY OF SUBCOMMITTEE MEMBERS FOR UPCOMING MEETING(S)

There is no additional meeting scheduled for the remainder of this year.

ADJOURN

There being no further business, the meeting was adjourned at 9:45 a.m.