

MINUTES

ACWA/JOINT POWERS INSURANCE AUTHORITY

Unapproved 12/14/09

Approved 1/21/10

WORKERS' COMPENSATION PROGRAM SUBCOMMITTEE MEETING

Town & Country Resort and Convention Center
Town & Country Room
500 Hotel Circle North
San Diego, CA 92108

Monday, November 30, 2009

SUBCOMMITTEE MEMBERS PRESENT

Chair: W.D. "Bill" Knutson, Yuima Municipal Water District
Vice Chair: Lou Reinkens, Tahoe City Public Utility District
Steve Curnow, Suisun-Solano Water Authority
Rick Gilmore, Byron-Bethany Irrigation District
Boyd Lypka, Orange County Water District
Robert Moore, South Coast Water District
Wayne Nygaard, Palm Ranch Irrigation District
Andy Rutledge, Antelope Valley-East Kern Water Agency

SUBCOMMITTEE MEMBERS ABSENT

William Kassis, Scotts Valley Water District

STAFF PRESENT

Chief Executive Officer/Secretary: Daniel N. Klaff
Chief Financial & Operations Officer: Walter "Andy" Sells
Dick Damon, Liability & Property Claims Manager
David deBernardi, Director of Finance
John Gilstrap, Director of Member Services
Peter Kuchinsky II, Sr. Risk Management Consultant
Terry Lofing, Administrative Assistant II
Lee S. Patton, Sr. Risk Management Consultant
Sylvia Robinson, Publications & Web Editor
Dianne Salvador, Workers' Compensation Claims Manager
Nancy Stangel, Director of Administration
Jeanette Waterstradt, Executive Assistant to the CEO

OTHERS PRESENT

(See List of Attendees)

CALL TO ORDER

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

PUBLIC COMMENT

No visitors requested public comment.

INTRODUCTION OF SUBCOMMITTEE MEMBERS AND GUESTS

Chairman Knutson introduced the Subcommittee members and JPIA staff present. Mr. Knutson announced that Steve Curnow, Suisun Solano Water Authority, will retire from his agency in February 2010.

ADDITIONS TO OR DELETIONS FROM THE AGENDA

None.

EVACUATION PROCEDURES

Chairman Knutson provided instructions to exit the conference room.

CONSENT CALENDAR

The consent calendar consisted of the minutes of May 18, 2009.

M/S/C (Gilmore/Nygaard) (Ayes-8, No-0): That the minutes of May 18, 2009 Workers' Compensation Program Subcommittee meeting be approved as submitted.

ADMINISTRATION

Report on Meetings Attended on Behalf of the JPIA

None reported.

MEMBERSHIP

New Members Approved and in the Pipeline

Mr. Gilstrap, Director of Member Services, reported that two new members joined since the last Subcommittee meeting: Joshua Basin Water District and Kings River Conservation District.

The interest in our Program remains high due to the rates being lower than the rest of the industry. Twenty applications were requested; half of those have submitted applications and are in the process of being quoted.

Kirkwood Meadows Public Utility District will join the Program effective January 1. Laytonville County Water District will be presented to the Executive Committee today. The risk assessment has been completed for Lake Arrowhead Community Services District, with recommendations to be completed and a July 1 renewal date. The risk assessment for Sunnyslope County Water District is in progress.

The Program currently has 153 members with an estimated annual payroll of \$388,161,244.

LOSS REPORTS

Reported Losses Per \$1 Million of Payrolls

Mr. Sells, Chief Financial & Operations Officer, noted that since the 2000-2001 policy year, the Workers' Compensation Program has seen a very favorable downward trend in reported losses, while the number of members increased, suggesting that the JPIA is making significant progress. The legislative changes that passed in 2004 are showing very positive results throughout the state of California. The JPIA has benefited from the changes in the law. Over the last four years, the JPIA has reduced the rates charged to members by more than 50 percent. The rates for the 2009-2010 policy year remain unchanged.

Claims Per \$1 Million of Payrolls

Mr. Sells reported that over the last eight years the number of claims per \$1 million of payrolls has steadily decreased. In 2008-2009 and the current policy year, claims have leveled-off but remain manageable.

Training and Risk Management have focused heavily over the last several years on workplace safety and management training. This has had a positive effect on the amount and severity of claims.

Significant Large Claims

Ms. Dianne Salvador, Workers' Compensation Claims Manager, reported that from the inception of the Workers' Compensation Program in July 1984, until the Program became fully insured in July 1995, there were 16 claims in excess of \$100,000. Three of those claims remain open; two are life pension cases and one involves on-going treatment pursuant to a lifetime medical award. Lifetime benefits are paid until the individual passes away.

Since bringing the Workers' Compensation Program in-house in July 1998, 93 significant large claims have been incurred, 52 are closed. Of the 41 open claims, 17 are settled but remain open due to on-going medical awards, life pensions, or other outstanding issues.

NEW BUSINESS

Workers' Compensation Market Conditions

Mr. Gilstrap explained that the last several years have seen a reduction in Workers' Compensation rates due to the legislative reforms implemented in 2002 and 2004. Over the last year the rates have begun to rise. Recently, the Workers' Compensation Rating Bureau (WCIRB), filed for a 22.8 percent increase to be effective January 1, 2010. This increase was based on actuarial studies indicating increased claims costs, especially for medical expenses. The two *en banc* decisions (*Ogilvie and Almarez/Guzman*) made by the Workers' Compensation Appeals Board (WCAB), will likely permit more challenges to the process of settling permanent disability payment amounts based on the extent of workers injuries. Several insurance carriers have filed for January 1 rate increases.

The JPIA's rates will be determined in January 2010.

Legislative Update and WCAB En Banc Decisions

There were no big legislative changes in Workers' Compensation in 2009. There were four bills Governor Schwarzenegger signed into law: Assembly Bill 1093, Senate Bill 186, Assembly Bill 361, and Assembly Bill 483. Senate Bill 186 has the most impact on the JPIA. This Bill continues to allow employees to pre-designate their personal physician for treatment in case of an industrial injury. That right was set to expire on December 31, 2009.

With the passage of Senate Bill 899, the California Legislature implemented a new permanent disability rating system (PDRS), which became effective in 2005. The 2005 PDRS requires that doctors utilize the American Medical Association (AMA) guidelines to establish the injured worker's level of permanent disability. Last February, the Workers' Compensation Appeals Board (WCAB) Commissioners, issued two *en banc* decisions which effectively repealed the permanent disability provisions of SB 899. The commissioners declared in these two decisions *Almaraz/Guzman and Ogilvie*, that the PDRS established by SB 899, can be rebutted if the injured worker can show that the permanent disability awarded, would not be a fair and accurate measure of his/her disability, or a true reflection of his/her diminished future earnings capacity.

In September, the WCAB issued new opinions in *Alvarez/Guzman and Ogilvie*. There was some small improvement in the reconsidered *Alvarez/Guzman* decision but the commissioners basically reconfirmed their earlier decision in *Ogilvie*. The State Legislative Analyst's Office has reported that these reconsidered decisions will still lead to increased costs to employers. The Workers' Compensation Insurance Rating Bureau appears to concur with that finding since it has not backed away from its recommended increase in the State's premium rate.

Currently, all three cases are under appeal. At this time, the WCAB's second opinion after reconsideration is the law.

Actuary Reports

Mr. Sells reported that Bay Actuarial Consultants performed the actuarial review as of September 30, 2009. The report makes projections for future policy year loss amounts. The data in the report is used for loss projections, funding estimates and excess insurance retention level considerations. The data is also used to calculate the Incurred But Not Reported (IBNR) liabilities for the financial statements.

The current actuary report shows an increase in the projected loss rate of approximately nine percent over the current rates.

Mr. Sells explained that the JPIA will be setting its rates in January 2010. Setting the rates earlier in the year should help with the application process.

AVAILABILITY OF SUBCOMMITTEE MEMBERS FOR UPCOMING MEETING

The next scheduled meeting will be January 21, 2010 at the JPIA. No conflicts were noted at this time.

There being no further business to discuss and no additional questions, the meeting was adjourned at 9:15 a.m.

GUESTS ATTENDANCE LIST

<u>District/Association</u>	<u>Name</u>	<u>Title</u>
ACWA	Barbara Duggen	Member Benefits
Alta ID/Kings River CD	Norm Waldner	Director
Antelope Valley-East Kern WA	Andy Rutledge	Director
Antelope Valley-East Kern WA	Russell Fuller	Alternate Director
Byron Bethany ID	Rick Gilmore	General Manager
Calleguas MWD	Bill Seaver	Director
Carmichael WD	Sandy Kozlen	Director
Castaic Lake WA	Jerry Gladbach	Director
Citrus Heights WD	Joe Dion	Director
Elsinore Valley MWD	Phil Williams	Director
Fresno Metropolitan FCD	Bob Van Wyk	General Manager
Georgetown Divide PUD	Bob Diekon	Director
Golden Hills CSD	Bud Sargent	Board Member
Goleta WD	Jack Cunningham	Director
Helix WD	Chuck Muse	Director
Helix WD	John Linden	Director
Helix WD	Tina White	Director of Admin. Services
Hi-Desert WD	Roger Mayes	Director
Humboldt CSD	Kevin McKenny	Director
Kern Delta WD	Bryan Duncan	Controller
Kronic, Moskovitz, Tiedemann & Girard	Robin Leslie Stewart	ACWA/JPIA Counsel
LaMore, Brazier, Riddle & Giampaoli	Jeffrey Oneal	Panel Lawyer
Madera ID	Carl Janzen	Director
Mission Hills CSD	Jim MacKenzie	Director
Montecito WD	Richard Shaikewitz	President
Orchard Dale WD	Bob Noonan	Director
Palm Ranch ID	Wayne Nygaard	Director
Palmdale WD/Antelope Valley State WCA	Curtis Paxton	Asst. GM/General Manager
Pico WD	Rick Mercado	Director
Purissima Hills WD	Ernest Solomon	Director
Rancho California WD	Dave Morrison	Safety Officer
Rancho California WD	John Hoagland	Director
Rancho California WD	Pat O'Neil	H.R. Manager
Rincon Del Diablo MWD	David Drake	Director
San Bernardino Valley WCD	Manny Aranda, Jr.	Alternate Director
San Gabriel Basin WQA	Bob Kihn	Director
San Geronio Pass WA	John Jeter	Director
Scotts Valley WD	Dave Hodgin	Director
Sierra Lakes CWD	Ulrich Luscher	Director
South Coast WD	Robert Moore	Vice President/Director
South Sutter WD	Tom Cuquet	Director
Suisun Solano WA	Steve Curnow	Alternate Director
Tahoe City PUD	Lou Reinkens	Director
Tehachapi-Cummings CWD	Jonathan Hall	Director

<u>District/Association</u>	<u>Name</u>	<u>Title</u>
Three Valleys MWD	Brian Bowcock	Director
Valley Center MWD	Merle Aleshire	Executive Committee Member
Vandenberg Village CSD	Chris Brooks	Director
Vista ID	Eldon Boone	JPIA Auditor/Controller
Vista WD	Paul Dorey	Director
Walnut Valley WD	Edwin Hilden	President
Walnut Valley WD	Ted Ebenkamp	Vice President
Westborough WD	Janet Medina	Director
Wheeler Ridge-Maricopa WSD	Mark Gardner	Alternate Director