

ANATOMY OF A CLAIM:

Lessons Learned



Kayla Villa,
Litigation
Manager



Robin Flint,
Risk Control
Manager



Dan Steele,
Finance
Manager

Legal Disclaimer

The following claims have been creatively modified to protect the identities of our valued members—and some instances, to protect us from too many raised eyebrows. Any resemblance to real property or real persons, living or litigating, is purely coincidental... mostly. No actual member reputations or legal strategies were harmed in the making of this presentation.

Preview of Claims

Infrastructure Failures

- Challenges with aging infrastructure
- Failures leading to Third-Party Property Damage
- Importance of early reporting to ACWA JPIA
- Risk Management & Best Practices

Dangerous Conditions

- Non-Employee Personal Injuries at District owned facilities
- Importance of Risk Transfer where Independent Contractor Employees on are District property
- Risk Management & Best Practices
- Financial Impacts & Implications

Property Damage to Member Facilities

- Damages arising from third-party conduct/natural disasters
- Claims Handling/Adjusting
- Subrogation Efforts
- Risk Management & Best Practices
- Financial Impacts & Implications

Claim #1: Infrastructure Failures

- Issue: Irrigation Canals built in rural areas
- Challenge: Urban Sprawl
- Allegations: Seepage from unlined canal caused damage to nearby new construction
- Damages: Real Property



Claim #1: Infrastructure Failures

- Unlined Irrigation Canals constructed in late 1800's
- Developers building residential homes along canals
- Unlined canals subject to seepage



Claim #1: Infrastructure Failures

- Development built in 2017
- 19 Homeowners filed suit alleging seepage and damage to homes along canal
- Claimed damages – water seepage, foundation movement, erosion of grading at foundations, cracked floor tiles



Claim #1: Infrastructure Failures



Cracked flooring due to foundation movement



Cracked flooring due to foundation movement

Claim #1: Infrastructure Failures

Liability & Litigation Department

Initial Claim
Intake –
Assigned to
Claims Adjuster

Report Incident
to Risk
Management

Assignment of
Defense
Counsel, as
needed

Investigation
and Retention of
Consultants

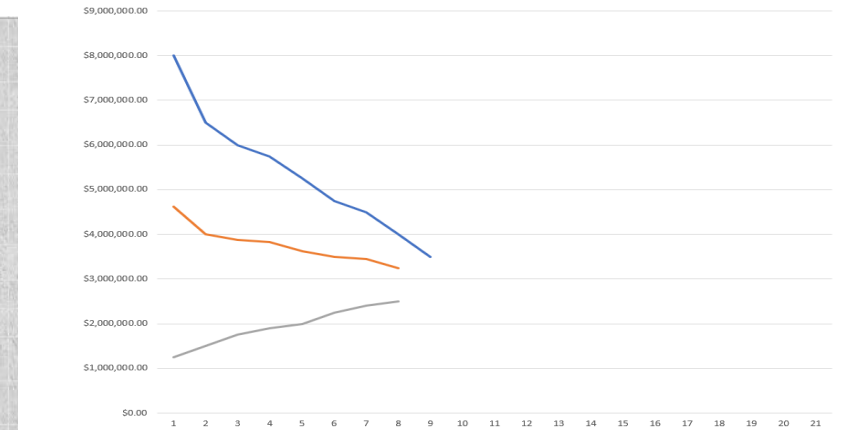
Set Reserves

Report to
Excess, as
needed

Claim #1: Infrastructure Failures

RESOLUTION STRATEGIES

Date	3-Dec-24				
Mediator	Judge Davidian				
Plaintiff	John & Jane Doe		Defendant	Member District	
				Carrier Representatives Kayla Villa	
Plaintiff Attorney	McLawyer		Defense Counsel	Panel Counsel	
Hypo	Demand	Midpoint	Offer	Final Settlement Terms	Time
				\$3,000,000	5:30 PM



Time	Demand	Bracket High	Bracket Low	Demand/Bracket Midpoint	Midpoint	Time	Offer	Bracket High	Bracket Low	Offer/Bracket Midpoint	Demand Decrease	Offer Increase
10:00 AM	\$8,000,000.00			\$8,000,000.00	\$4,625,000.00	10:45 AM	\$1,250,000.00			\$1,250,000.00		
11:15 AM	\$6,500,000.00			\$6,500,000.00	\$4,000,000.00	11:45 AM	\$1,500,000.00			\$1,500,000.00	18.75%	20.00%
12:00 PM	\$6,000,000.00			\$6,000,000.00	\$3,875,000.00	12:20 PM	\$1,750,000.00			\$1,750,000.00	7.69%	16.67%
12:50 PM	\$5,750,000.00			\$5,750,000.00	\$3,825,000.00	1:25 PM	\$1,900,000.00			\$1,900,000.00	4.17%	8.57%
2:00 PM	\$5,250,000.00			\$5,250,000.00	\$3,625,000.00	2:45 PM	\$2,000,000.00			\$2,000,000.00	8.70%	5.26%
3:30 PM	\$4,750,000.00			\$4,750,000.00	\$3,500,000.00	3:45 PM	\$2,250,000.00			\$2,250,000.00	9.52%	12.50%
4:05 PM	\$4,500,000.00			\$4,500,000.00	\$3,450,000.00	4:35 PM	\$2,400,000.00			\$2,400,000.00	5.26%	6.67%
4:45 PM	\$4,000,000.00			\$4,000,000.00	\$3,250,000.00	5:00 PM	\$2,500,000.00			\$2,500,000.00	11.11%	4.17%
5:15 PM	\$3,500,000.00			\$3,500,000.00	#N/A					#N/A	12.50%	#N/A
				#N/A	#N/A					#N/A	#N/A	#N/A
				#N/A	#N/A					#N/A	#N/A	#N/A
				#N/A	#N/A					#N/A	#N/A	#N/A
				#N/A	#N/A					#N/A	#N/A	#N/A
				#N/A	#N/A					#N/A	#N/A	#N/A
				#N/A	#N/A					#N/A	#N/A	#N/A
				#N/A	#N/A					#N/A	#N/A	#N/A

Loss Reduction Focus	Best Practices Menu
→ WATERLINE FAILURE	<input type="checkbox"/> Asset Identification <input type="checkbox"/> Valve Exercising/Flushing <input type="checkbox"/> Preventive Maintenance <input type="checkbox"/> H ₂ O Loss Monitoring <input type="checkbox"/> Emergency Response
SEWER BACKUP	<input type="checkbox"/> Inspection – Lift station/Pipe <input type="checkbox"/> Inspections – Lift station <input type="checkbox"/> Inspections – Entire Sewer System <input type="checkbox"/> Lateral Responsibility <input type="checkbox"/> Preventive Maintenance <input type="checkbox"/> Asset Identification <input type="checkbox"/> Emergency Response
→ CANAL FAILURE/FLOODING	<input type="checkbox"/> Rodent Control <input type="checkbox"/> Operations <input type="checkbox"/> Inspection/Maintenance <input type="checkbox"/> Construction/Design <input type="checkbox"/> Vegetation/Weed Control
THEFT/VANDALISM	<input type="checkbox"/> Security/Alarms/Cameras <input type="checkbox"/> Equipment ID <input type="checkbox"/> Fencing/Enclosures
FIRE	<input type="checkbox"/> Hot Work <input type="checkbox"/> Controlled Burns <input type="checkbox"/> Defensible Space
EQUIPMENT FAILURE	<input type="checkbox"/> Electric Surge <input type="checkbox"/> Preventive Maintenance <input type="checkbox"/> Animals/Insects/Bugs <input type="checkbox"/> Lightning <input type="checkbox"/> Backup Equipment <input type="checkbox"/> Emergency Response
→ UNMANNED AERIAL DEVICES (DRONES)	<input type="checkbox"/> Planning and Coordination <input type="checkbox"/> Certified Operators <input type="checkbox"/> Drone Coverages

Claim #1:

Infrastructure Failures

Risk Management Department

- Risk Advisor is alerted to the claim and monitors claims adjusting process
- Shares C2E Program best management practices and resources
- RAS visit walkthrough

Claim #2: Dangerous Conditions



- Identification of potential safety hazards on District property
- Risk of injury to independent contractor employees
- Risk Transfer documentation, including AI endorsements
- Managing high-value personal injury claims

Claim #2: Dangerous Conditions



View of skylight from inside pump room



Rooftop accessible from inside conference room

Claim #2: Dangerous Conditions

Personal Injuries Claimed by Plaintiff:

- Traumatic Brain Injury (TBI)
- Memory loss
- Visual disturbance, double vision
- Hearing loss
- Fractures in neck, back, ribs, and shoulder
- Medical Bills and Disability Payments – exceeded \$1M

Claim #2: Dangerous Conditions

Liability & Litigation Department

Initial Claim Intake – Assigned to Claims Adjuster

Report Incident to Risk Management

Early Assignment of Defense Counsel

Investigation and Retention of Consultants

Set Reserves

Report to Excess (as needed)

Defense strategies – defenses to mitigate exposure


- Tender to Independent Contractor and Carrier
- Assess liability defenses

Claim #2: Dangerous Conditions

- Certificate of Liability Insurance Does NOT create a binding contract with insurance company
- Reference to Additional Insured status requires copy of the actual endorsement

ACORD®		CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 12/3/2024		
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.						
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).						
PRODUCER Broker Information		CONTACT Broker Name NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL: ADDRESS:				
		INSURER(S) AFFORDING COVERAGE		NAIC #		
INSURED Independent Contractor Information		INSURER A: Insurance Company				
		INSURER B:				
		INSURER C:				
		INSURER D:				
		INSURER E:				
		INSURER F:				
COVERAGES		CERTIFICATE NUMBER:		REVISION NUMBER:		
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY) / POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY			POLICY123456	12/3/2024 / 12/3/2025	EACH OCCURRENCE \$ 2,000,000
<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
<input type="checkbox"/>	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person) \$ 20,000
						PERSONAL & ADV INJURY \$ 2,000,000
						GENERAL AGGREGATE \$ 4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					PRODUCTS - COM/OP AGG \$ 4,000,000
	POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/>					\$
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident) \$
	ANY AUTO					BODILY INJURY (Per person) \$
	ALL OWNED AUTOS					BODILY INJURY (Per accident) \$
	HIRED AUTOS					PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB					\$
	EXCESS LIAB					EACH OCCURRENCE \$
	DED. RETENTION \$					AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					\$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)					WC STATU-TORY LIMITS \$
	If yes, describe under DESCRIPTION OF OPERATIONS below					OTH-ER \$
						E.L. EACH ACCIDENT \$
						E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)						
Certificate holder, the District, its officers, officials, employees, agents and volunteers are named additional insured as per written contract and policy forms attached.						
CERTIFICATE HOLDER				CANCELLATION		
District name and address				SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.		

Claim #2: Dangerous Conditions

	CERTIFICATE OF LIABILITY INSURANCE	DATE (MM/DD/YYYY) 12/3/2024
<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p>		
<p>IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).</p>		

<p>DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)</p> <p>Certificate holder, the District, its officers, officials, employees, agents and volunteers are named additional insured as per written contract and policy forms attached.</p>

Claim #2: Dangerous Conditions

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
WHERE REQUIRED BY WRITTEN CONTRACT, BUT ONLY WHERE THE CONTRACT SPECIFIES COVERAGE FOR COMPLETED OPERATIONS.	ALL LOCATIONS WHERE REQUIRED BY WRITTEN CONTRACT.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

- **Best Practices:** Obtain physical copy of AI Endorsement
- If AI based on general contract, ensure subject contract is fully executed and properly identifies the project(s)
- If possible, request District be named specifically on the AI endorsement

Claim #2

Risk Management Department

Risk Transfer

Fall Prevention

Contractor Qualification

Multi-Employer Exposures

ERGONOMICS/FALLS PROGRAM BEST PRACTICES (Falls)

Loss Reduction Focus	Best Practices Menu
Work Environment	<ul style="list-style-type: none"><input type="checkbox"/> Housekeeping<input type="checkbox"/> Work area debris management<input type="checkbox"/> Worksite access<input type="checkbox"/> Lighting
Fall Protection Personal Protective Equipment (PPE)	<ul style="list-style-type: none"><input type="checkbox"/> Footwear/boots<input type="checkbox"/> Guardrails/walkways<input type="checkbox"/> Fall prevention/arrest systems<input type="checkbox"/> Ladders/stairs/ramps<input type="checkbox"/> Climbing systems<input type="checkbox"/> Maintenance and storage
Fall Protection Training	<ul style="list-style-type: none"><input type="checkbox"/> Training for all personnel<input type="checkbox"/> PPE maintenance and inspection training<input type="checkbox"/> VectorSolutions usage



- Skylight screens or covers

Liability Losses – Finance's Role

Finance Department

Monthly tracking of claim costs and reserves

Subrogation recoveries recorded (if any)

Receivable booked when a claim exceeds pool retention

Claims Department is notified when the recovery check is received

Claims Department records the recovery as a reduction in claims expense

Loss History Impact on E-MOD/Contributions

ACWA/JOINT POWERS INSURANCE AUTHORITY LIABILITY
PROGRAM
E-MOD/CONTRIBUTION CALCULATION WORK SHEET
AT 9/30/20XX

Dan's Special Irrigation District

10/1/20XX-20XX ANNUAL ESTIMATED PAYROLL: \$10,000,000

LOSSES FOR PERIOD 10/1/20XX THRU 9/30/20XX

RETRO ALLOCATION POINT: \$25,000

YEAR	CLAIM #	TOTAL LOSS	RAP	CLAIMS OVER RAP (or \$15,000)*	AMOUNT USED IN E-MOD CALC (Capped at \$75,000)
10/1/20XX-20XX	01-XXXX	\$2,754.47	\$25,000	\$0.00	\$0.00
10/1/20XX-20XX	No Claims	\$0.00	\$0	\$0.00	\$0.00
10/1/20YY-20YY	02-XXXX	\$1,175,000.00	\$25,000	\$1,175,000.00	\$75,000.00
10/1/20YY-20YY	02-XXXX	\$5,112,261.32	\$25,000	\$5,112,261.32	\$75,000.00
10/1/20ZZ-20ZZ	03-XXXX	\$720.00	\$25,000	\$0.00	\$0.00
10/1/20ZZ-20ZZ	03-XXXX	\$9,566.07	\$25,000	\$0.00	\$0.00
THREE YEAR LOSS TOTAL		\$6,300,301.86		\$6,287,261.32	\$150,000.00

HOW DO PROGRAM LOSSES IMPACT FUTURE CONTRIBUTION CALCULATIONS?

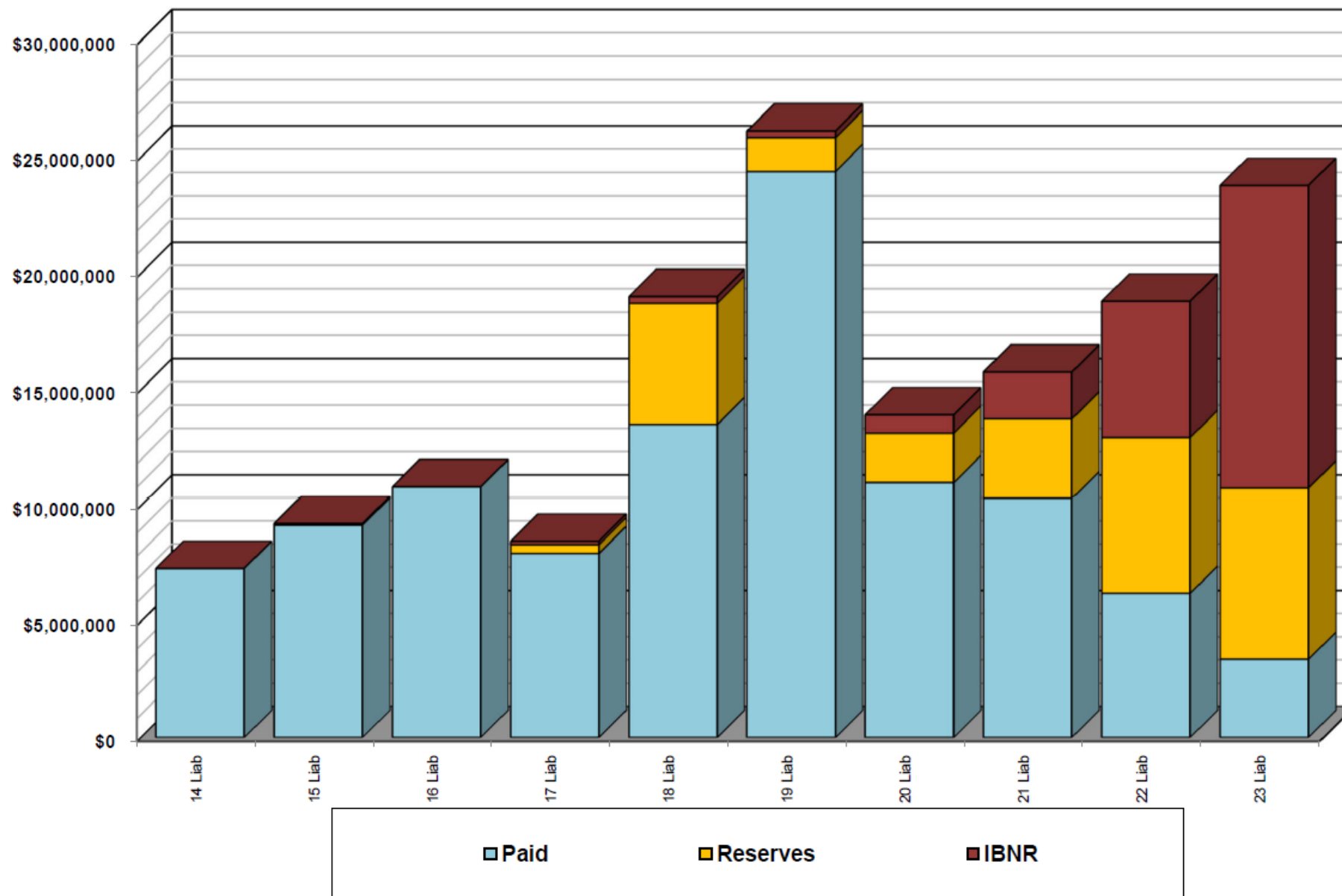
Actuary Analyzes All Historical Data Annually to Assist with Projection of Future IBNR

As Claims are Resolved, Updated Loss Data Provided to Actuary and is Then Reassessed and Adjusted for Prior Program Years

IBNR Projection Assists with Determining Total Pool Contributions for Upcoming Program Year

Individual Member Contributions Assessed

**ACWA JPIA
Liability Claims Development
Last Ten Years**



Claim #3: 1st Property Damage/ Subrogation



- Issue: Outside emergencies causing damage to member facilities
- Challenge: Preparing facilities and operations for emergencies
- Damages: Significant damage to real property and potential business interruption losses
- Importance of Subrogation

Claim #3: Property Damage/ Subrogation



Flood waters approach facility



Flooding inside Powerhouse

Claim #3: Property Damage/ Subrogation

Liability & Property Department

Loss reported to the Claims Department

Confirm damaged property listed on District property schedule

Hire third party investigator to inspect and assess damages

Pay District for loss less deductible

Investigate cause and determine whether ability to subrogate
against at-fault third party

ACWA JPIA

**Commitment to Excellence Program
(C2E) Best Practices**



Wildfire Prevention



Claim #3: Property Damage/ Subrogation

Risk Management Department

- Planning, Coordination and Communication
- Staff Training
- Facility Protection and Readiness
- Response and Recovery

Claim #3: Property Damage/ Subrogation

RISK CONTROL MANUAL

Risk Management Department

- Emergency Preparedness and Response
 - JPIA Sample ER Action Plan
 - SWCRB Small Systems Disaster Plan
 - EPA Incident Action Checklists
 - Cal/WARN Portal
 - SEMS/NIMS Training Resources

Claim #3: Property Damage/ Subrogation

Risk Control Grant Program

- Beaumont-Cherry Valley Water District
 - Handheld two-way radios with Motorola Digital License
- SCV Water
 - Two-way radios for trucks
- Montague Water District
 - Fire suppression trailer



Claim #3: Property Damage/ Subrogation

Finance Department

- When recovery funds are received, Accounts Receivable Department sends a copy of the check to the Claims Adjuster
- Claims Adjuster records the recovery in the Claims System
- Total claims cost reduced
- Subsequent loss runs reveal updated claims costs
- Actuary projects lower costs total for Program year
- JPIA Finance Department adjusts IBNR accordingly

Summary: Key Takeaways

1. Collaborative Efforts



ACWA JPIA departments work together to resolve claims and assist members with the implementation of best practices to reduce future risk



Continual communication between departments and member agencies

Summary: Key Takeaways

2. Best Practices for Members



Commitment to Excellence Program

Select best practices your Agency wishes to add to, or enhance, its existing loss reduction programs.



Risk Control Manual

A resource that Members can use when developing policies for their Safety and Loss Control Programs.



Risk Control Advisor

Support, collaborate, resource.

Summary: Key Takeaways

3. Future Outlook

Continue identifying potential risks and hazards

Continual analysis of ongoing challenges with claims resolution and litigation challenges

Continue focusing on best practices and risk reduction

Successfully managing losses will positively impact future contributions

Summary: Key Takeaways

4. Lessons Learned

1

Prompt
notification of a
claim to ACWA
JPIA

2

Document
management –
contracts,
endorsements,
best practices

3

Follow through with
corrective action,
preventive
maintenance,
routine inspections,
and documentation
of measures taken

4

Ensure
Emergency
preparedness
plans are in place

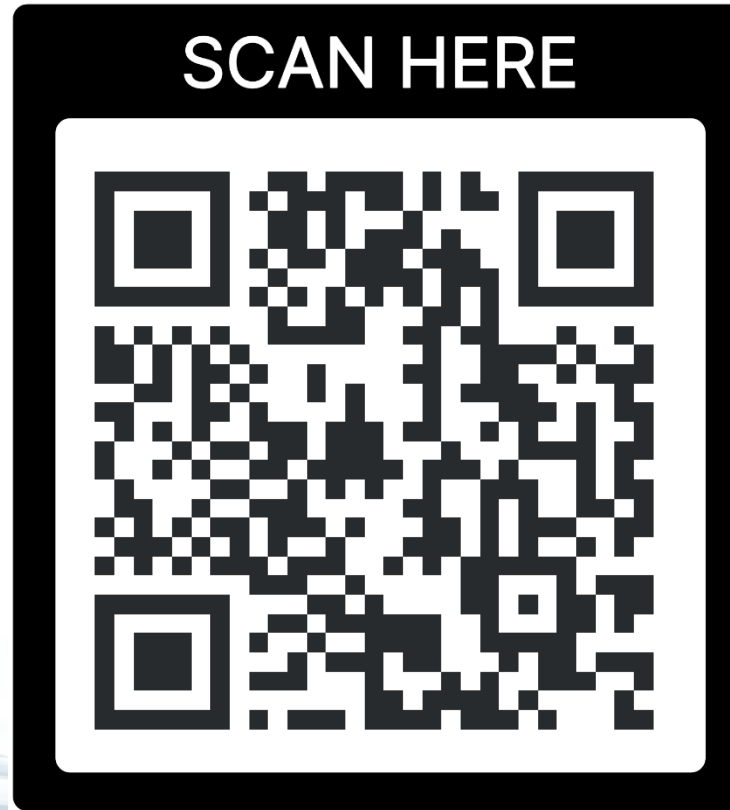
5

Apply Best
Practices as an
Agency where
practicable

QUESTIONS?



Session Feedback



OR, use your browser to go to:
<https://app.meet.ps/attendee/anatomyofaclaim>

End of the Anatomy of a Claim Educational Session

Next @ 9:45 AM

Cyber Chronicles: Lessons Learned from the Frontlines