



Approved: September 27, 2021

## Liability Program Committee Meeting

ACWA JPIA Executive Conference Room  
2100 Professional Drive  
Roseville, CA 95661  
(800) 231-5742

**August 24, 2020**

This meeting consisted of a simultaneous Zoom teleconference meeting at the ACWA JPIA, 2100 Professional Drive, Roseville, CA 95661 and remote sites.

### MEMBERS PRESENT

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Chair: Melody McDonald, San Bernardino Valley Water Conservation District  
Vice-chair: Pamela Tobin, San Juan Water District  
Terri Daly, Yuba Water Agency  
Paul E. Dorey, Vista Irrigation District  
Marc Limas, Alta Irrigation District  
S.R. "Al" Lopez, Western Municipal Water District  
Tammy Rudock, Mid-Peninsula Water District  
Jace Schwarm, San Dieguito Water District

### MEMBERS ABSENT

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None.

### STAFF PRESENT

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Chief Executive Officer/Secretary: Walter "Andy" Sells  
Kristan Brown, Administrative Assistant II (Recording Secretary)  
David deBernardi, Director of Finance  
Robert Greenfield, General Counsel  
Debbie Kyburz, Lead Member Services Representative  
Jennifer Nogosek, Liability/Property Claims Manager  
Patricia Slaven, Director of Human Resources and Administration  
Sandra Smith, Employee Benefits Manager  
Dan Steele, Finance Manager  
Dianna Sutton, Special Projects Manager  
Karen Thesing, Director of Insurance Services  
Nidia Watkins, Member Services Representative II  
Bobbette Wells, Executive Assistant to the CEO

### OTHERS IN ATTENDANCE

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Fred Bockmiller, Mesa Water District  
Thomas A. Cuquet, South Sutter Water District  
Stewart Dillingham, Western Municipal Water District  
David Drake, Rincon del Diablo Municipal Water District

E.G. “Jerry” Gladbach, Santa Clarita Valley Water Agency  
Brent Hastey, Yuba Water Agency  
Randall J. Reed, Cucamonga Valley Water District  
Bruce Rupp, Humboldt Bay Municipal Water District  
Alex Tokar, Aon Risk and Insurance Services

## **WELCOME/INTRODUCTION**

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Chair McDonald welcomed everyone in attendance.

## **CALL TO ORDER AND ANNOUNCEMENT OF QUORUM**

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Chair McDonald called the meeting to order at 1:17 p.m. She announced there was a quorum.

## **ANNOUNCEMENT RECORDING OF MINUTES**

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Chair McDonald announced that the meeting would be recorded to assist in preparation of minutes. Recordings are kept 30 days following the meeting, as mandated by the California Brown Act.

## **PUBLIC COMMENT**

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Chair McDonald noted that, as the agenda stated, members of the public would be allowed to address the Executive Committee on any agenda item prior to the Committee’s decision on that item. Comments on any issues on the agenda, or not on the agenda, were also welcomed. No comments were brought forward.

## **INTRODUCTIONS**

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Chair McDonald welcomed all in attendance. She then introduced the Committee members.

## **ADDITIONS TO OR DELETIONS FROM THE AGENDA**

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Chair McDonald asked for any additions to, or deletions from, the agenda; none requested.

## **CONSENT AGENDA**

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Chair McDonald called for approval of the minutes.

M/S/C (Schwarm/Tobin) (Daly-Yes; Dorey-Yes; Limas-Yes; Lopez-Yes; McDonald-Yes; Rudock-Yes; Schwarm-Yes; Tobin-Yes): That the Liability Program Committee approve the minutes of the September 9, 2019 meeting, as presented.

## **MEMBERSHIP**

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### Review of Program Membership

Ms. Thesing reported on the new members that joined the Liability Program during the 2019-20 coverage year. She stated that membership continues to grow with four new agencies joining, for a total of 336 members enrolled in the program and an estimated annual payroll exceeding of \$750,000,000.

Otay Water District (138 employees) and Tuolumne Utilities District (79 employees) were noted to be the two largest new agencies that joined the 2019-20 Liability Program policy year.

#### Notices to Withdraw

There had been two notices to withdraw for the 2021-22 Liability Program year, which include Yorba Linda Water District and Twentynine Palms Water District.

Ms. Thesing concluded that JPIA will have stable growth within our membership, but not at the same substantial magnitude as seen in recent years.

### **NEW BUSINESS**

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#### Covered and Non-Covered Claim Tenders

Similar to last year's Liability Program Committee meeting, JPIA discussed concerns about unanticipated costs impacting the pools' deposit premium for these types of claims. JPIA would like to continue to provide service to our Member Districts and look for ways to cover these claims. However, there is a need to review possible long term implications. The Committee agreed JPIA should continue to handle these claims on a case by case bases because each claim is subjective. The Committee asked for JPIA to identify and categorize these types of claims, both covered and non-covered. The JPIA and Liability Program Committee proposed to revisit the frequency and severity of these claims in future Committee meetings.

#### Historical and Current Claims Trends

Mr. Sells reported that JPIA's Liability Program continues to perform well and have a favorable claims history with minimal pooled losses. The graphs and data provided an overview of the claims history. Within the past ten years, there have only been two claims that have passed JPIA's retention of \$5 million. In addition, one of those claims would no longer be covered under the current Memorandum of Liability Coverage (MOLC). Moreover, in the last forty years, JPIA has only had three claims over \$10 million.

With JPIA's noteworthy claims history, Mr. Sells indicated there is an opportunity to mitigate costs of the excess insurance even further by increasing the self-insured retention through California Water Insurance Fund (CWIF). The Committee Chair concluded it was a wise investment for JPIA to change from a \$2 million self-insured retention to a \$5 million self-insured retention in the 2016-17 policy year to the current policy year.

#### Memorandum of Liability Coverage

Ms. Thesing reported that each year the JPIA staff reviews the Memorandum of Liability Coverage (MOLC) to access current Liability trends/matters that might affect the JPIA and its members. If necessary, the MOLC is amended on an annual basis. Ms. Thesing discussed a proposed exclusion to be added to JPIA's MOLC in Section VI – Exclusions, Section D.2 which will now read as follows:

D. Liability arising out of:

1. The Covered Party's delivery or non-delivery of Member Agency's product, based on any decision made by the Covered Party's with respect to either obtaining a supply of water or electricity for, or allocating the available supply of water or electricity, among the Covered Party's water or electricity users.
2. Any claim based upon taxes, fees, service charges, rates or assessments charged by the Covered Party for delivery of the Member Agency's product.
3. The Covered Party's claim to, right to or ownership of any supply of Member Agency's product.

Mr. Sells stated that the proposed exclusion to the MOLC will clarify and reinforce the existing policy.

M/S/C (Tobin/Rudock) (Daly-Yes; Dorey-Yes; Limas-Yes; Lopez-Yes; McDonald-Yes; Rudock-Yes; Schwarm-Yes; Tobin-Yes): That the Liability Program Committee recommends that the Executive Committee approve the proposed revisions to the Memorandum of Liability Coverage, effective October 1, 2020.

Renewal of Excess General Liability Reinsurance

Ms. Thesing reviewed the JPIA's Liability Program renewal of the reinsurance/excess insuring agreements, stating that the current outlook continues to be a challenge, and the tower of reinsurers has not been built. However, JPIA has been working diligently with AON to assemble a variety of carriers and multiple excess layers to build the \$55 million tower of coverage. Conversations will be ongoing up until the Liability Program renewal date of October 1, 2020.

Mr. Tokar with AON expressed that it has been the most difficult Liability marketplace in 35 years, and the industry has not seen a cycle like this since the mid 1980's. There are several factors contributing to the tightening of excess carriers' available coverage, specifically for the public sector, and reinsurers are cautious.

Ms. Thesing stated Safety National will be JPIA's first reinsurer in the excess carrier tower. In addition, Ms. Thesing proposed California Water Insurance Fund (CWIF) possibly take the next layer in the tower, 10X of 10. Mr. Tokar noted if JPIA decided to implement CWIF for the 10X of 10 layer, it would provide more flexibility for reinsurers to compete and find placement for the upper layers of the tower.

Mr. Sells also discussed the excess carrier layers and the potential solutions to counterbalance the reinsurers increased pricing for both short term and long run planning. Mr. Sells stated that from a financial standpoint, CWIF appears to be viable option for the 10X of 10 layer and possible additional layers in the tower, thereafter, with a feasible return on investment.

There was much discussion among the Committee Members, JPIA staff, and meeting attendees in regards to CWIF and possible placement within the reinsurance tower. Ultimately, the Liability Committee Members agreed that due to a multitude of factors, CWIF should be placed within the tower of reinsurers.

M/S/C (Schwarm/Tobin) (Daly-Yes; Dorey-Yes; Limas-Yes; Lopez-Yes; McDonald-Yes; Rudock-Yes; Schwarm-Yes; Tobin-Yes): That the Executive Committee accept the recommendation of the Liability Program Committee to approve the reinsurance terms, conditions, and premiums presented with a “not to exceed” price of \$7,250,000; that the California Water Insurance Fund to cover the 10X10 layer of the tower; effective for the policy year beginning October 1, 2020.

#### Renewal Pricing

Mr. deBernardi reviewed the Liability Program renewal pricing and funding requirements for the 2020-21 Liability Program policy year. He discussed that the Liability Program pricing for the JPIA Members has been trending downward over the years.

Mr. deBernardi then presented two options on pricing for a point of reference. The rates were assumed to be around a twenty percent increase. After receiving more data from reinsurers, rate increases will be dramatically higher due to the difficulties occurring in the Liability marketplace.

The 1st option Mr. deBernardi presented was pricing with no change. In this scenario the Rate of Deposit Premium to Payroll (line 16) remains the same. Under this option Retrospective Premium Adjustments (line 3) would result in \$1.48 million additional funds being assessed to members at the illustrated 20% pricing increase rate.

The 2nd option nets the Retrospective Premium Adjustments (line 3) to zero. In implementing this option, the Ratio of Deposit Premium to Payroll (line 16) shows a 5.56% increase to the members – an increase to pricing, displayed at the 20% pricing increase rate.

Staff recommends approval of Option 1 – no price change. Mr. deBernardi stated that this year has been challenging for a number of our members with the pandemic, and feels it would be a good gesture to keep prices the same. In addition, historically losses usually end up being less than projected by the actuary. If such negative funding did come to fruition, many members are sufficiently funded in their rate stabilization accounts to minimize future billing to members for such assessments.

M/S/C (Tobin/Dorey) (Daly-Yes; Dorey-Yes; Limas-Yes; Lopez-Yes; McDonald-Yes; Rudock-Yes; Schwarm-Yes; Tobin-Yes): That the Liability Program Committee recommends that the Executive Committee approve no change in billing rate to members, effective October 1, 2020, as presented.

### Captive Insurance Company

At the November 26, 2018 meeting, the Board of Directors approved a resolution to proceed with forming the California Water Insurance Fund (CWIF), a Captive Insurance Company. Implementation of the CWIF Investment policy began January 2020. JPIA follows an investment portfolio of roughly 65% in an equity position and 35% at a fixed income position.

For the 10/1/19-20 Liability Program year, JPIA has ceded approximately \$16 million of projected losses to the CWIF, effective October 1, 2019. In addition, JPIA anticipates implementing this process for the 2020-21 policy years in the Liability and Workers' Compensation Programs. CWIF funding is underway and projected to consist of the Liability and Workers' Compensation premiums, Liability Catastrophic Reserve Fund, and Liability excess carrier funds.

### Liability Claims Department

Ms. Nogosek stated that due to the office closure from COVID-19 pandemic on March 16, 2020, the Liability Claims Department staff was able to transition to working from home seamlessly. The Claims Department has continued to provide the great service our members have become accustomed to.

Staff was able to onboard two new members Otay Water District and Tuolumne Utilities District and hold refresher claims handling meetings through Zoom and GoToMeeting video conferencing. Additionally, JPIA Claims Department staff go into the JPIA office weekly on Tuesday and Thursday to process and send claims checks.

## **MISCELLANEOUS**

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### Availability for Upcoming Meeting(s)

There are no other Liability Program Committee meetings scheduled for this year.

Mr. Sells proposed scheduling the Liability Program Committee meeting closer to the October 1, 2021 program renewal.

The Liability Program Committee meeting adjourned at 3:09 p.m.