Liability Program Committee Meeting

ACWA JPIA Executive Conference Room
2100 Professional Drive
Roseville, CA 95661

Wednesday
July 26, 2023
12:30 p.m.

Chair: Randall Reed, Cucamonga Valley Water District

Vice-Chair: Chris Kapheim, Kings River Conservation District

Jack Burgett, North Coast County Water District

Terri Daly, Yuba Water Agency

Brenda Dennstedt, Western Municipal Water District

Dennis Gambs, Zone 7 Water Agency

Peter Kuchinsky, Vista Irrigation District

Marc Limas, Alta Irrigation District

Jace Schwarm, San Dieguito Water District

LIABILITY PROGRAM COMMITTEE MEETING

AGENDA

JPIA Executive Conference Room
2100 Professional Drive, Roseville, CA 95661
(800) 231-5742 - WWW.ACWAJPIA.COM

Wednesday, July 26, 2023, 12:30 p.m.

Zoom Link Meeting ID: 661 516 2566; Password: 1234; Telephone No.: 1 (669) 900-6833

This meeting shall consist of a simultaneous Zoom teleconference at the ACWA JPIA, 2100 Professional Drive, Roseville, CA 95661 and the following remote sites:

- Schwarm, 505 S. Vulcan Ave, Encinitas
- Burgett, 2400 Francisco Blvd, Pacifica CA

WELCOME

CALL TO ORDER AND ANNOUNCEMENT OF QUORUM

ANNOUNCEMENT RECORDING OF MEETING This meeting may be recorded to assist in preparation of minutes. Recordings will only be kept 30 days following the meeting, as mandated by the California Brown Act.

EVACUATION PROCEDURES

PUBLIC COMMENT Members of the public will be allowed to address the Liability Program Committee on any agenda item prior to the Committee's decision on the item. They will also be allowed to comment on any issues that they wish which may or may not be on the agenda. If anyone present wishes to be heard, please let the Chair know.

INTRODUCTIONS

ADDITIONS TO OR DELETIONS FROM THE AGENDA

Presenter			Page#
		I. CONSENT AGENDA	
Reed	*	A. Approve the minutes of the meeting of September 28, 2022.	**4**
All		B. Report on meetings attended on behalf of the JPIA.	

Preliminary Agenda-date issued: June 19, 2023
Final Agenda-date issued: July 20, 2023

Presenter			Page#
Cruz	*	C. Membership report.	**12**

II. NEW BUSINESS

Greenfield	*	A. Review of General Liability historic and current claims trends.	**22**
Greenfield	*	B. Review of biennial claims audit.	**27**
Watkins	*	C. Review of the Recreation and Special Events Policy.	**36**
Beatty	*	D. Review and make recommendations on amendments to the 2023-24 Memorandum of Liability Coverage. (MOLC)	**55**

III. MISCELLANEOUS

Nogosek	*	A. Liability Claims Department update.	**88**
Sells	*	B. CEO update.	**89**

IV. UPCOMING MEETINGS

Reed		A. The next Liability Program Committee meeting is scheduled for September 27, 2023 at 1:00 PM.	**90**

ADJOURN

*Related items enclosed.

Americans With Disabilities Act – *The JPIA conforms to the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 and the Federal Rules and Regulations adopted in implementation thereof. A request for disability-related modification or accommodation, in order to participate in a public meeting of the JPIA, shall be made to: Kristan Brown, Administrative Assistant II, ACWA JPIA, PO Box 619082, Roseville, CA 95661-9082; telephone (916) 786-5742. The JPIA's normal business hours are Monday – Friday, 7:30 a.m. to 4:30 p.m. (Government Code Section 54954.2, subdivision. (a)(1).)*

Written materials relating to an item on this Agenda that are distributed to the JPIA's Liability Program Committee within 72 hours before it is to consider the item at its regularly scheduled meeting will be made available for public inspection at ACWA JPIA, 2100 Professional Drive, Roseville, CA 95661-3700; telephone (916) 786-5742. The JPIA's normal business hours are Monday – Friday, 7:30 a.m. to 4:30 p.m.

Unapproved Minutes

Liability Program Committee Meeting

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

September 28, 2022

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

MEMBERS PRESENT

Chair: Randall Reed, Cucamonga Valley Water District
Vice-Chair: David Drake, Rincon del Diablo Municipal Water District
Jack Burgett, North Coast County Water District
Terri Daly, Yuba Water Agency
Brenda Dennstedt, Western Municipal Water District
Marc Limas, Alta Irrigation District
Jace Schwarm, San Dieguito Water District (arrived at 10:40 a.m.)

MEMBERS ABSENT

Tammy Rudock, Mid-Peninsula Water District

STAFF PRESENT

Chief Executive Officer/Secretary: Walter "Andy" Sells
Adrienne Beatty, Assistant Executive Officer
Kristan Brown, Administrative Assistant II (Recording Secretary)
Chimene Camacho, Executive Assistant to the CEO
Sarah Crawford, Training Manager
Linda Craun, Administrative Assistant III
Debbie Cruz, Lead Member Services Representative
David deBernardi, Director of Finance
Robin Flint, Risk Control Manager
Robert Greenfield, General Counsel
Kyle Hutchings, Senior Accountant
Erik Kowaleski, System/Network Administrator
Chris Light, Business Data Analyst
Jennifer Nogosek, Liability/Property Claims Manager
Sylvia Robinson, Publications & Web Editor
Patricia Slaven, Director of Human Resources and Administration
Sandra Smith, Employee Benefits Manager
Dan Steele, Finance Manager
Nidia Watkins, Member Services Representative II
Cece Wuchter, Lead Senior Claims Adjuster

Chuck Wagenseller, Cost Estimator/Risk Control Advisor

OTHERS IN ATTENDANCE

Melody McDonald, San Bernardino Valley Water Conservation District
Fred Bockmiller, Mesa Water District
Brent Hastey, Yuba Water Agency
Chris Kapheim, Kings River Conservation District
Bruce Rupp, Humboldt Bay Municipal Water District
Alex Tokar, Aon Risk and Insurance Services

WELCOME

Chair Reed welcomed everyone in attendance.

CALL TO ORDER AND ANNOUNCEMENT OF QUORUM

Chair Reed called the meeting to order at 10:31 a.m. He announced there was a quorum.

PLEDGE OF ALLEGIANCE

Chair Reed led the Pledge of Allegiance.

ANNOUNCEMENT RECORDING OF MINUTES

Chair Reed 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

Chair Reed noted that, as the agenda stated, members of the public would be allowed to address the Liability Program 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

Chair Reed welcomed all in attendance. He then introduced the Committee members.

ADDITIONS TO OR DELETIONS FROM THE AGENDA

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

CONSENT AGENDA

Approval of the minutes
Chair Reed called for approval of the minutes of the September 27, 2021 meeting.

> M/S/C (Burgett/Daly) (Burgett-Yes; Daly-Yes; Dennstedt-Yes; Drake-Yes Limas-Yes; Reed-Yes): That the Liability Program Committee approve the minutes of the September 27, 2021 meeting, as presented.

Meetings attended on behalf of the JPIA
Mr. Greenfield reported that he attended the CAJPA Conference. During the Employment Practices Law Session, changes in the State's employment practices laws were discussed. Mr. Greenfield noted that the Department of Fair Employment and Housing is changing its name to the Civil Rights Department.

MEMBERSHIP

Review of Program Membership
Ms. Beatty discussed that eight new members have joined since the previous 2021 Liability Program Committee Meeting. Four of these members are considered paper districts, which means districts that have no employees or assets. She stated that membership continues to grow strategically and carefully with Rainbow Municipal Water District being the largest of the new districts added.

Rainbow Municipal Water District was a member of the JPIA around 20 years ago. Since that time, they have undergone a restructuring of their organization and made several improvements. JPIA wholeheartedly welcomes them back to the JPIA, as well as all our new member agencies.

JPIA's current membership is at 344 members. At this time, we do not have any potential new members that have expressed a serious interest in joining the JPIA. However, staff regularly speaks with prospective new members and expects applications to be forthcoming in the new year.

Since the distribution of this packet, Rio Linda/Elverta Community Water District has submitted a Notice of Intent to Withdraw from the Liability and Property Programs effective October 1, 2023. They are currently enrolled in the JPIA's Liability, Property, and Employee Benefits Programs. There have been no Liability Program withdrawals for the 2022-23 policy year.

NEW BUSINESS

Historical and Current Claims Trends
Mr. Greenfield noted that JPIA's Liability Program continues to perform strong and exhibited graphs showing correlations and the progression of each program year. An ongoing trend provided on the Liability Program Relationship Chart was that property damages, which includes pipe breaks, flooding water intrusion, and damage to crops, etc., are the largest contributing factor to Liability claims. In addition, a positive aspect the chart revealed was that expenses relative to payout on Liability claims have decreased over the past few years.

Even with the increase of Liability Program members, claim occurrences and inflation continuing to rise, the actual cost per million of payroll has steadily declined over the life of the program. Mr. Greenfield attributes the continued success of the Liability Program to the hard work and dedication of JPIA's Claims, Human Resources, Risk Management, and Training Departments, as well as the safety and risk control efforts of our members.

Changes to Small Claims Settlement Option

Ms. Nogosek reported that currently around 15 members participate in the Small Claims Settlement Option. In order to provide clarification to this option, the Claims Department suggested the words "Small Claims" should be removed because it may be confused with Small Claims court, and the policy should be renamed as the "In-House Claims Resolution Option."

In addition, staff recommended that the time to settle a claim for the In-House Claims Resolution Option would go from the current ninety (90) day policy to six (6) months. An increase in an administrative fee was also suggested, which would pay the member $150 instead of the current $100 administrative fee.

Committee Members advised of additional verbiage revisions (highlighted in red) that should be made to items 6 and 9 of the policy, as follows:

6. Any claim that cannot be settled within ~~ninety (90) days~~ six (6) months shall be referred to the JPIA for handling;

9. Within thirty (30) days of the receipt of a Member's report, the JPIA will issue a check to the Member for reimbursement of the settled and paid claims plus a ~~$100~~ $150 administrative fee for each claim settled. Any settlement not reported within six (6) months are not eligible for the ~~$100~~ $150 administrative fee.

> M/S/C (Schwarm/Burgett) (Burgett-Yes; Daly-Yes; Dennstedt-Yes; Drake-Yes Limas-Yes; Schwarm-Yes; Reed-Yes): That the Liability Program Committee recommends that the Executive Committee approve the proposed updates to the Small Claims Settlement Option, as presented.

Memorandum of Liability Coverage

Ms. Beatty stated that each year JPIA has multiple departments and staff review the Memorandum of Liability Coverage (MOLC) to evaluate current Liability trends that might affect the JPIA and its members. In addition, JPIA collaborates with excess carriers and reinsurers for recommendations to our MOLC. Even if no changes are made to the MOLC, it must be brought forth for approval on an annual basis. For the 2022-23 policy year, the following recommendations to the MOLC were presented to the Committee Members:

Section I – Definitions – Claim(s): The definition of "Claim(s)" has been revised to include additional explanation for the triggering event for employment practices coverage, which will provide an expansion of coverage to our members. By identifying the triggering event as existing "upon first notice from the Department of Fair Employment and Housing (newly named, Civil Rights Department) and/or Equal Opportunity Commission," members will obtain coverage earlier in the defense and investigation process.

Section I – Definitions – Occurrence: The definition of “Occurrence” with regard to bodily injury and property damage has been revised to mirror the language in the Employment Practices Liability found in Section I, Occurrence 3. The section more clearly defines the triggering event for continuous or repeated exposure occurring over multiple policy periods.

Ms. Beatty indicated this change was a recommendation from our reinsurers and will add clarification and consistency to the MOLC.

Section III – Limit of Liability: Language has been added to clarify intent.

Section VI – Exclusions: Added an exclusion limiting coverage for “failure to have a written contract” or “failure to include risk transfer in a written contract.”

The Committee Members discussed this change with one Committee member expressing concern about this limitation of coverage having unintended consequences for members attempting to exercise proper risk transfer. The member expressed concern that when a claim is processed for a member who has not adequately implemented or secured risk transfer in the agreement, there will be no coverage or recourse for the member.

Ms. Beatty clarified that the language added has been specifically crafted by legal counsel to not limit coverage for any member with a contract in place that includes any element of indemnification language. The coverage limitation will only apply to members who refuse to contract with a third party at all, or fail to include any indemnification language in the contract. Ms. Beatty confirmed that the JPIA does have some members that are resistant to contracting with third parties and because this action can put the pool at a higher risk for loss, which could have been circumvented or prevented if a contract or any indemnification language were in place, staff felt it prudent to limit coverage, and therefore the pool’s exposure, from claims related to members not implementing the most basic of risk transfer principles. By initiating this exclusion, JPIA hopes to negate some of the risks involved with agencies who might not have done their due diligence to protect the pools’ assets.

Section VII – Conditions: As per agenda item II.B., the name of the “Small Claims” program has been changed to “In-House Claims Resolution Option” and the deadline by which a claim must be settled has been extended from ninety (90) days to six (6) months.

Coverage Schedule: This section has been revised to clearly delineate between self-insured, reinsured, and excess layers, reflect the new, lower sublimit for Perfluoroalkyl and Polyfluoroalkyl (PFAS), and clarify that the sublimits identified in the coverage summary are not exhaustive.

Crisis Management Coverage Addendum: This section will be removed and was added at a time when the coverage was being provided by an excess carrier that no longer provides coverage to the JPIA.

> M/S/C (Burgett/Drake) (Burgett-Yes; Daly-Yes; Dennstedt-Yes; Drake-Yes Limas-Yes; Schwarm-No; Reed-Yes): That the Liability Program Committee recommend that the Executive Committee approve the Memorandum of Liability Coverage, as revised, to be effective October 1, 2022.

Renewal of Excess General Liability Reinsurance

Ms. Beatty reviewed JPIA's Liability Program renewal of the reinsurance/excess insurance agreements. JPIA has been working diligently with its Liability Broker, Aon. The 2022-23 policy year is very similar to last year's tower of coverage with all the incumbent carriers agreeing to recommit to the program with moderate rate changes applied. JPIA will continue to self-insure the first $5 million pooled retention layer and also fund the $10 million excess of $10 million position in the tower through JPIA's Captive, the California Water Insurance Fund (CWIF). Safety National, the lead carrier for the Liability and Workers' Compensation Programs, will continue to provide coverage for the $5 million excess of $5 million layer. A variety of reinsurers and excess carriers will provide the remaining layers of coverage in the tower, with current coverage limit of $55 million.

Ms. Beatty stated that JPIA is extremely fortunate to have all incumbent carriers agree to renew coverage and offer rate increases below market averages, between 5%-10%. Other public entities are seeing an increase of 30%-50% in reinsurance and excess carrier pricing due to the hardened market. Overall, the Liability Program rates have increased this year by approximately 13%. Last year CWIF's layer cost $1.4 million, whereas it will cost $2 million, which is a 31% increase. This increase was due to adverse loss development since the prior actuarial study was completed. JPIA considered other reinsurers taking on this layer; however, it would cost approximately $2.4 million to fund this layer with another reinsurer. Therefore, JPIA concluded that it continues to make the most sense to utilize CWIF in the $10 million excess of 10 million layer.

> M/S/C (Schwarm/Burgett) (Burgett-Yes; Daly-Yes; Dennstedt-Yes; Drake-Yes; Limas-Yes; Schwarm-Yes; Reed-Yes): That the Liability Program Committee recommends that the Executive Committee approve the reinsurance and excess terms, conditions, and premiums as presented. Coverage to be effective October 1, 2022.

Renewal Pricing

Mr. deBernardi reviewed the Liability Program renewal pricing and funding requirements for the 2022-23 Liability Program policy year and presented three options, for point of reference.

Prior to presenting the options, Mr. deBernardi reviewed some of the fundamental elements of the Liability Program funding requirements. He stated that net investment income was projected a 5% return, due to the higher returns expected as a result of the formation of the Captive – California Water Insurance Fund. It was anticipated the Captive will reinsure the risks for each occurrence up to the first $5 million and for the layer of $10 million in excess of $10 million (from $10 million to $20 million per occurrence). There has been an increase in the paid claims and claims reserves (line 6) of 18.83%. This is due to the increase in the estimated loss rate from the actuary of 9.1% ($2.335 vs $2.14). Payrolls for the 10/1/22-23 policy year have also increased by approximately 8.91% (line 14). The proposed excess insurance costs have increased 7.25% (line 7). This would have been a much larger increase had not the cyber liability coverage (just under $1 million in policy year 21/22) been excluded this year. The Committee may recall that cyber liability coverage is now funded separately from the Liability Program and current Liability program members were given the option to opt in or out of the program, effective July 1.

Mr. deBernardi then presented the 1st option, pricing with no change. In this scenario, the Rate of Deposit Premium to Payroll (line 16) would remain the same. Under this option, Retrospective Premium Adjustments (line 3) would result in $2.4 million in additional funds being assessed to members.

The 2nd option was presented with a 10% increase to the Rate of Deposit Premium to Payroll (line 16). Under this option, Retrospective Premium Adjustments (line 3) would result in $556 thousand in returned funds to members.

Lastly, the 3rd option was presented with a 5% increase to the Rate of Deposit Premium to Payroll (line 16). Under this option, Retrospective Premium Adjustments (line 3) would result in $928 thousand in additional funds being assessed to members.

During the presentation, Committee Members asked about the incurred losses to payroll and if that number was subjective. Mr. deBernardi explained that number is a projected measurement from the actuaries to gauge potential losses and remains identical in all 3 pricing options. In addition, it was also noted that payroll is an exposure unit for the Liability Program and does affect the pricing rate.

Staff recommended approval of option 2 – 10% rate increase. There were several factors discussed that substantiate a raise in rates. Losses and excess insurance rates continue to rise globally and for the Program. JPIA’s membership has increased from 336 members in policy year 2020-21 to 342 for policy year 2022-23 (line 13), which has increased the pool’s exposure. In addition, staff have been recommending a rate increase of 10% to members all year when assisting with budgeting.

M/S/C (Burgett/Schwarm) (Burgett-Yes; Daly-Yes; Dennstedt-Yes; Drake-Yes Limas-Yes; Schwarm-Yes; Reed-Yes): That the Liability Program Committee recommends that the Executive Committee approve option 2 – a 10% rate increase, effective October 1, 2022, as presented.

Liability Claims Department

Ms. Nogosek announced changes in the Liability Claims Department. A new Senior Claims Adjuster, Paula Christy, has been hired, and she has assisted in the consistent and excellent claims service provided to our members. In addition, two attorneys will be retiring and succession planning for JPIA's defense counsel will be a priority in the Department.

Next Ms. Nogosek showed a graph which demonstrated a dramatic increase in claims over the past 3 years. Water Pipe breaks, canal failures, and environmental hazards have all compounded the increase in claims.

Lastly, she stated that the Claims Department will be creating a claims manual.

CEO Update

Mr. Sells gave an overview of the different departments within the JPIA.

In the Employee Benefits Department, Ms. Smith and her team are working on open enrollment and health benefits pricing.

For the Liability Program, JPIA staff will be invoicing the members and securing the documentation between the JPIA and CWIF for the primary layer and the $10 million excess of $10 million layer in the Liability tower.

The Property Program increased its pool retention, as of July 1, from $100,000 to $10 million, largely due to undesirable costs to reinsure this layer due to two large wildfire losses in the Program's recent history. Thankfully, this year's wildfire season seems to have not contributed any significant claims to the program. JPIA continues to do its due diligence in researching sound alternatives to the current coverage structure of the Property Program.

The Human Resources Department has been recruiting for a few new positions. JPIA's dedicated and valued staff members, Peter Kuchinsky and Sylvia Robinson, will be retiring in the new year.

MISCELLANEOUS

Availability for Upcoming Meeting(s)

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

The Liability Program Committee meeting adjourned at 12:02 p.m.

ACWA JPIA
Membership Report
July 26, 2023

BACKGROUND
In order to review the membership progress, a list of new and potential members is provided at each Liability Program Committee meeting.

CURRENT SITUATION
For the 2023-24 coverage year, the following agencies have joined the Liability Program:

Member	Payroll	Join Date
Merced Subbasin Groundwater Sustainability Agency (GSA)	$0	3/27/2023 (joined)
Olivenhain Municipal Water District	$8,289,798	7/1/2023 (joined)

Projected Program Membership Status for October 1, 2023:

Total number of program members:	345
Total estimated annual payroll:	$941,895,198

Potential New Members:
For the 2024-25 coverage year, the following agencies have expressed an interest in joining the JPIA Liability Program:

Member	Payroll	Join Date
Reclamation District No. 784	$456,802	TBD
Bear Valley Water District	$305,000	TBD

The Liability Program remains stable, and staff are regularly in discussions with potential new members and expect applications to be forthcoming in the new year.

Notices to Withdraw:
For the 2022-23 policy year, Kaweah River Power Authority and Deer Creek & Tule River Authority have dissolved; they are no longer JPIA members.

Rio Linda/Elverta Community Water District has rescinded their intent to withdraw for the October 1, 2023, Liability Program renewal.

Grassland Basin Water Authority has reported an intent to withdraw for the 2024-25 policy year.

Included with this report, for the Committee's reference is a detailing of current Liability Program members, listed in order of size, largest to smallest, by payroll.

RECOMMENDATION
None, informational only.

Prepared by: Debbie Cruz, Lead Member Services Rep. Date prepared: July 11, 2023

Member Name	Estimated Payroll
Alameda County Water District	$ 34,121,239
Orange County Water District	$ 30,321,707
Santa Clarita Valley Water Agency	$ 25,206,286
El Dorado Irrigation District	$ 24,829,794
Western Municipal Water District	$ 22,753,000
Moulton Niguel Water District	$ 22,564,183
Water Employee Services Authority	$ 19,106,680
Rancho California Water District	$ 18,366,751
Merced Irrigation District	$ 18,262,315
Helix Water District	$ 17,285,700
Otay Water District	$ 16,548,181
Alameda County Flood Control & WCD, Zone 7 Water Agency	$ 15,602,752
Sweetwater Authority	$ 14,559,239
South Tahoe Public Utility District	$ 14,398,974
Cucamonga Valley Water District	$ 14,083,585
Yuba County Water Agency	$ 12,208,048
Vallecitos Water District	$ 12,042,000
Calleguas Municipal Water District	$ 11,988,010
Calaveras County Water District	$ 11,805,700
Truckee Donner Public Utility District	$ 11,715,400
South Coast Water District	$ 11,241,337
Palmdale Water District	$ 10,943,000
Desert Water Agency	$ 9,834,274
San Luis & Delta-Mendota Water Authority	$ 9,665,482
West Valley Water District	$ 9,659,578
Yorba Linda Water District	$ 9,538,699
Goleta Water District	$ 9,520,600
Vista Irrigation District	$ 9,520,000
Solano Irrigation District	$ 8,985,300
Kern County Water Agency	$ 8,311,000
Olivenhain Municipal Water District	$ 8,289,798
Valley Center Municipal Water District	$ 8,270,000
Tuolumne Utilities District	$ 7,813,665
Oakdale Irrigation District	$ 7,757,900
West Basin Municipal Water District	$ 7,616,776
Sacramento Suburban Water District	$ 7,504,743
El Toro Water District	$ 7,467,391
Mesa Water District	$ 7,431,680
Tahoe City Public Utility District	$ 7,415,529
Fresno Metropolitan Flood Control District	$ 7,180,749
Antelope Valley-East Kern Water Agency	$ 7,039,802
South Feather Water & Power Agency	$ 7,017,721
Fresno Irrigation District	$ 6,921,774
Rainbow Municipal Water District	$ 6,848,404
Walnut Valley Water District	$ 6,684,700
Fallbrook Public Utility District	$ 6,657,128
San Juan Water District	$ 6,553,000

Member Name	Estimated Payroll
San Bernardino Valley Municipal Water District	$ 6,318,594
Soquel Creek Water District	$ 6,269,312
Water Replenishment District of Southern California	$ 6,106,984
Santa Fe Irrigation District	$ 5,658,265
Marina Coast Water District	$ 5,655,248
Municipal Water District of Orange County	$ 5,567,922
Laguna Beach County Water District	$ 5,514,697
Hi-Desert Water District	$ 5,139,617
Mojave Water Agency	$ 5,124,842
Mission Springs Water District	$ 5,074,071
Mammoth Community Water District	$ 5,057,000
Ramona Municipal Water District	$ 4,921,175
Stockton East Water District	$ 4,870,401
Monte Vista Water District	$ 4,778,800
Friant Water Authority	$ 4,716,542
Central California Irrigation District	$ 4,682,800
Kings River Conservation District	$ 4,663,356
Arvin-Edison Water Storage District	$ 4,500,000
Beaumont-Cherry Valley Water District	$ 4,356,000
Amador Water Agency	$ 4,115,845
Citrus Heights Water District	$ 4,114,371
Glenn-Colusa Irrigation District	$ 4,079,160
Central Coast Water Authority	$ 4,059,253
Three Valleys Municipal Water District	$ 3,995,759
Camrosa Water District	$ 3,935,359
Palo Verde Irrigation District	$ 3,911,416
Madera Irrigation District	$ 3,809,585
Florin Resource Conservation District	$ 3,766,919
Wheeler Ridge-Maricopa Water Storage District	$ 3,675,985
Semitropic Water Storage District	$ 3,619,340
Montecito Water District	$ 3,562,600
Rowland Water District	$ 3,562,297
Valley County Water District	$ 3,536,650
Diablo Water District	$ 3,535,553
Paradise Irrigation District	$ 3,492,193
Joshua Basin Water District	$ 3,269,377
Solano County Water Agency	$ 3,140,257
Coastside County Water District	$ 3,136,997
Carmichael Water District	$ 3,105,735
Trabuco Canyon Water District	$ 3,092,363
Crescenta Valley Water District	$ 3,028,897
Kern Delta Water District	$ 3,012,260
Westside Water Authority	$ 3,010,000
Fair Oaks Water District	$ 2,923,300
Rincon Del Diablo Municipal Water District	$ 2,863,482
Humboldt Bay Municipal Water District	$ 2,809,051
Reclamation District No. 108	$ 2,743,054

Member Name	Estimated Payroll
San Benito County Water District	$ 2,682,767
Mid-Peninsula Water District	$ 2,635,500
Lower Tule River Irrigation District	$ 2,622,840
Carpinteria Valley Water District	$ 2,566,663
North Coast County Water District	$ 2,450,400
La Puente Valley County Water District	$ 2,324,150
Santa Ynez River Water Conservation District Improvement District No. 1	$ 2,289,807
Yolo County Flood Control & Water Conservation District	$ 2,226,364
Scotts Valley Water District	$ 2,189,719
Georgetown Divide Public Utility District	$ 2,188,161
East Contra Costa Irrigation District	$ 2,120,557
Bella Vista Water District	$ 2,076,784
Pebble Beach Community Services District	$ 2,062,739
Tulare Irrigation District	$ 1,987,600
Big Bear Municipal Water District	$ 1,976,395
East Orange County Water District	$ 1,947,555
Cachuma Operation and Maintenance Board	$ 1,887,534
Pajaro Valley Water Management Agency	$ 1,887,175
Tehachapi-Cummings County Water District	$ 1,878,694
San Dieguito Water District	$ 1,877,511
Valley of the Moon Water District	$ 1,779,713
Humboldt Community Services District	$ 1,777,625
San Bernardino Valley Water Conservation District	$ 1,775,575
Buena Vista Water Storage District	$ 1,765,000
Consolidated Irrigation District	$ 1,695,178
Twentynine Palms Water District	$ 1,664,500
Kirkwood Meadows Public Utility District	$ 1,662,873
Upper San Gabriel Valley Municipal Water District	$ 1,638,600
Rosedale-Rio Bravo Water Storage District	$ 1,610,040
Kaweah Delta Water Conservation District	$ 1,588,768
Chowchilla Water District	$ 1,573,681
Panoche Water District	$ 1,515,333
Regional Water Authority	$ 1,510,060
Chino Basin Water Conservation District	$ 1,495,572
Banta Carbona Irrigation District	$ 1,478,316
Woodbridge Irrigation District	$ 1,463,372
San Gabriel County Water District	$ 1,453,005
Byron-Bethany Irrigation District	$ 1,424,556
Orchard Dale Water District	$ 1,417,000
Foothill Municipal Water District	$ 1,412,003
Southern San Joaquin Municipal Utility District	$ 1,365,043
San Luis Water District	$ 1,353,917
Kern Water Bank Authority	$ 1,342,000
Pico Water District	$ 1,334,386
San Gorgonio Pass Water Agency	$ 1,319,375
Crestline Village Water District	$ 1,317,984
Delano-Earlimart Irrigation District	$ 1,280,202

Member Name	Estimated Payroll
James Irrigation District	$ 1,263,767
San Gabriel Valley Municipal Water District	$ 1,257,316
Lakeside Water District	$ 1,243,438
Serrano Water District	$ 1,239,198
Lindsay-Strathmore Irrigation District	$ 1,223,259
Patterson Irrigation District	$ 1,207,575
La Habra Heights County Water District	$ 1,201,278
Quartz Hill Water District	$ 1,200,000
West Stanislaus Irrigation District	$ 1,199,493
Main San Gabriel Basin Watermaster	$ 1,198,868
Borrego Water District	$ 1,174,259
Thermalito Water and Sewer District	$ 1,150,172
Clearlake Oaks County Water District	$ 1,124,608
Purissima Hills Water District	$ 1,109,000
Terra Bella Irrigation District	$ 1,075,774
Browns Valley Irrigation District	$ 1,044,596
Alta Irrigation District	$ 1,033,400
Kern-Tulare Water District	$ 1,012,000
Stinson Beach County Water District	$ 992,790
Vandenberg Village Community Services District	$ 989,800
Westborough Water District	$ 975,146
San Gabriel Basin Water Quality Authority	$ 974,847
Bard Water District	$ 965,000
Crestline-Lake Arrowhead Water Agency	$ 962,000
Calaveras Public Utility District	$ 961,000
Shafter-Wasco Irrigation District	$ 942,000
South Montebello Irrigation District	$ 926,519
Yuima Municipal Water District	$ 901,149
Pajaro/Sunny Mesa Community Services District	$ 895,300
La Canada Irrigation District	$ 890,522
Golden Hills Community Services District	$ 890,000
Western Canal Water District	$ 883,000
Bodega Bay Public Utility District	$ 881,000
Corcoran Irrigation District	$ 871,500
American River Flood Control District	$ 869,094
Del Puerto Water District	$ 866,463
North Yuba Water District	$ 857,000
Rio Linda/Elverta Community Water District	$ 855,000
Tranquillity Irrigation District	$ 850,450
South Sutter Water District	$ 841,771
Utica Water & Power Authority	$ 832,908
Tulare Lake Basin Water Storage District	$ 793,625
Channel Islands Beach Community Services District	$ 793,018
Mission Hills Community Services District	$ 782,783
Clear Creek Community Services District	$ 768,912
San Joaquin River Exchange Contractors Water Authority	$ 729,199
Richvale Irrigation District	$ 707,838

Member Name	Estimated Payroll
Idyllwild Water District	$ 689,010
Forestville Water District	$ 688,587
Kinneloa Irrigation District	$ 674,000
Chino Basin Desalter Authority	$ 671,449
Mojave Public Utility District	$ 665,702
San Mateo County Flood and Sea Level Rise Resiliency District	$ 662,088
Castroville Community Services District	$ 629,522
Butte Water District	$ 620,447
Bolinas Community Public Utility District	$ 610,470
Laguna Irrigation District	$ 606,000
Littlerock Creek Irrigation District	$ 587,600
San Andreas Sanitary District	$ 574,506
Grassland Basin Authority	$ 550,675
Rio Alto Water District	$ 548,667
Friant Power Authority	$ 538,312
Madera-Chowchilla Water & Power Authority	$ 532,000
Sutter Extension Water District	$ 531,322
Reclamation District No. 2068	$ 526,200
Aromas Water District	$ 513,636
Alpaugh Irrigation District	$ 474,000
Pinedale County Water District	$ 468,734
Reclamation District No. 1004	$ 465,800
Los Alamos Community Services District	$ 464,792
Centerville Community Services District	$ 449,687
Del Paso Manor Water District	$ 449,573
Central Water District	$ 440,940
Palm Ranch Irrigation District	$ 427,214
Mountain Gate Community Services District	$ 421,644
Pleasant Valley County Water District	$ 414,500
Ivanhoe Irrigation District	$ 396,556
Kings County Water District	$ 395,500
Sierra Lakes County Water District	$ 363,930
Angiola Water District	$ 346,622
Weaverville Community Services District	$ 341,242
Fall River Valley Community Services District	$ 328,500
Boron Community Services District	$ 327,867
Frazier Park Public Utility District	$ 319,237
Midway Heights County Water District	$ 318,292
Pixley Irrigation District	$ 309,581
Kanawha Water District	$ 290,963
Princeton-Codora-Glenn Irrigation District	$ 289,001
Provident Irrigation District	$ 269,461
Cottonwood Water District	$ 259,306
Saucelito Irrigation District	$ 237,721
Maine Prairie Water District	$ 227,543
Pescadero Reclamation District No. 2058	$ 227,000
Tri-County Water Authority	$ 225,995

Member Name	Estimated Payroll
Porterville Irrigation District	$ 223,260
Tri-District Water Authority	$ 217,000
Majestic Pines Community Services District	$ 209,495
Laton Community Services District	$ 206,569
Berrenda Mesa Water District	$ 200,000
Orosi Public Utility District	$ 184,195
Mariana Ranchos County Water District	$ 180,321
Feather Water District	$ 179,608
Laytonville County Water District	$ 179,405
Riverdale Irrigation District	$ 172,000
Apple Valley Heights County Water District	$ 144,378
Alpaugh Community Services District	$ 142,000
Corning Water District	$ 136,550
Reclamation District No. 999	$ 134,611
Madera Water District	$ 133,951
Central San Joaquin Water Conservation District	$ 132,000
Rand Communities Water District	$ 131,063
Elsinore Valley Municipal Water District	$ 130,189
Montague Water Conservation District	$ 130,000
North Delta Water Agency	$ 124,301
Circle Oaks County Water District	$ 104,940
Gravelly Ford Water District	$ 63,000
Kings River Water District	$ 58,800
Apple Valley Foothill County Water District	$ 54,600
Dunnigan Water District	$ 51,030
Sierra Highlands Community Services District	$ 38,148
Sierra Cedars Community Services District	$ 32,760
Free Water County Water District	$ 28,825
Dudley Ridge Water District	$ 28,000
Sonoma Mountain County Water District	$ 26,250
Pinyon Pines County Water District	$ 26,000
Scott Valley Irrigation District	$ 16,330
Suisun-Solano Water Authority	$ 14,400
Root Creek Water District	$ 8,820
South Bay Irrigation District	$ 8,500
Reclamation District No. 2047	$ 7,300
Belridge Water Storage District	$ 6,000
Lost Hills Water District	$ 6,000
Brophy Water District	$ 5,500
Omochumne-Hartnell Water District	$ 3,150
Calpella County Water District	$ 1,440
Reclamation District No. 1606	$ 560
Antelope Valley State Water Contractors Association	$ 0
Antelope Valley Watermaster	$ 0
Arroyo Santa Rosa Basin Groundwater Sustainability Agency	$ 0
Atwell Island Water District	$ 0
Bear Valley Basin Groundwater Sustainability Agency	$ 0

Member Name	Estimated Payroll
Bedford-Coldwater Groundwater Sustainability Agency	$ 0
Camp Far West Irrigation District	$ 0
Deer Creek Storm Water District	$ 0
Delano-Earlimart Irrigation District - Groundwater Sustainability Agency	$ 0
Devil's Den Water District	$ 0
Ducor Community Services District	$ 0
East Turlock Subbasin Groundwater Sustainability Agency	$ 0
Eastside Water District	$ 0
El Rico Groundwater Sustainability Agency	$ 0
Empire West Side Irrigation District	$ 0
Fresno Slough Water District	$ 0
Glide Water District	$ 0
Green Valley Water District	$ 0
Groundwater Banking Joint Powers Authority	$ 0
Kings River East Groundwater Sustainability Agency	$ 0
Knights Landing Ridge Drainage District	$ 0
Le Grand-Athlone Water District	$ 0
Lower Tule River Irrigation District Groundwater Sustainability Agency	$ 0
McMullin Area Groundwater Sustainability Agency	$ 0
Merced Integrated Regional Water Management Authority	$ 0
Merced Irrigation-Urban Groundwater Sustainability Agency	$ 0
Merced Subbasin Groundwater Sustainability Agency	$ 0
Mid-Kaweah Groundwater Subbasin Joint Powers Authority	$ 0
Mid-Valley Water District	$ 0
Millview County Water District	$ 0
Monroeville Water District	$ 0
North Kings Groundwater Sustainability Agency	$ 0
North San Joaquin Water Conservation District	$ 0
Pacheco Water District	$ 0
Panoche Drainage District	$ 0
Pixley Irrigation District Groundwater Sustainability Agency	$ 0
Pomona-Walnut-Rowland Joint Water Line Commission	$ 0
Puente Basin Water Agency	$ 0
Ramirez Water District	$ 0
Reclamation District No. 1500	$ 0
Reclamation District No. 307	$ 0
Reclamation District No. 744	$ 0
Redwood Valley County Water District	$ 0
Rural North Vacaville Water District	$ 0
Sacramento Groundwater Authority	$ 0
Sacramento River West Side Levee District	$ 0
San Joaquin River Exchange Contractors Groundwater Sustainability Agency	$ 0
San Juan Ridge County Water District	$ 0
Santa Clarita Valley Groundwater Sustainability Agency	$ 0
Santa Cruz Mid-County Groundwater Agency	$ 0
Santa Margarita Groundwater Agency	$ 0
Santa Rosa Regional Resources Authority	$ 0

Member Name	Estimated Payroll
Santiago Aqueduct Commission	$ 0
Sierra County Waterworks District No. 1 (Calpine)	$ 0
Sites Project Joint Powers Authority	$ 0
Solano Subbasin Groundwater Sustainability Agency	$ 0
South Valley Water Resources Authority	$ 0
South Yuba Water District	$ 0
Southern California Water Bank Authority	$ 0
Southwest Kings Groundwater Sustainability Agency	$ 0
Tri-Valley Water District	$ 0
Upper San Luis Rey Groundwater Management Authority	$ 0
Upper Santa Clara Valley Joint Powers Authority	$ 0
W.H. Wilbur Reclamation District No. 825	$ 0
West Orange County Water Board	$ 0
Wheeler Crest Community Services District	$ 0
Wynola Water District	$ 0
Yolo Subbasin Groundwater Agency	$ 0

ACWA JPIA
Liability Program Data Trends
July 26, 2023

BACKGROUND
The claims history for the JPIA Liability Program has been overall favorable for the past several years. Claims tend to be decreasing in the overall impact versus payroll. However, there has been an increase in the number of large claims. The graphs represent the recent history in the program.

CURRENT SITUATION
The bar/line charts compare the number of occurrences to the reported payroll of the pool members. The scatter charts show that the vast majority of claims fall in the smaller range.

We are always interested in how to best present data to this Committee and welcome any comments and suggestions.

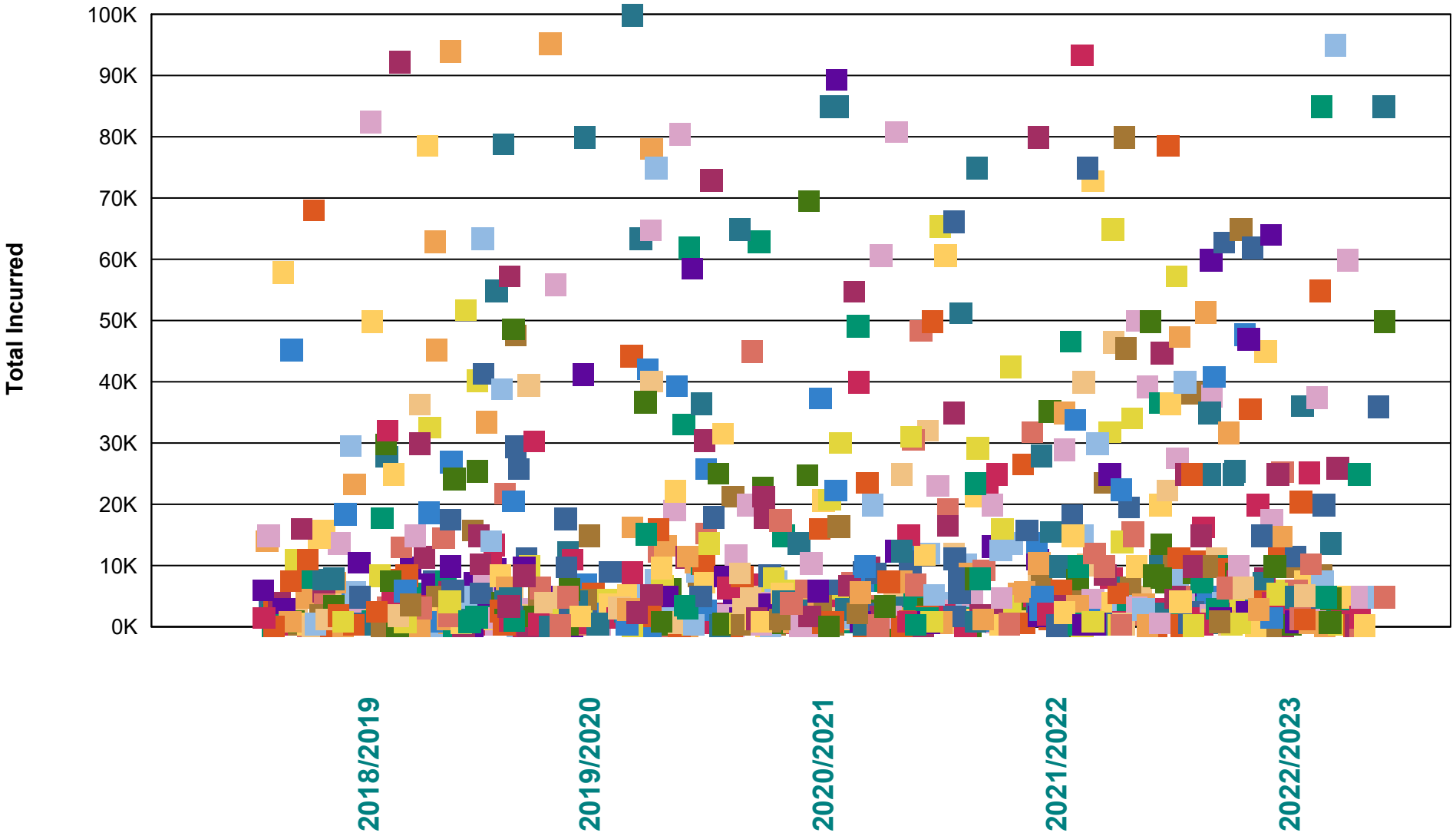
RECOMMENDATION
None, informational only.

Prepared by: Robert H. Greenfield, General Counsel Date prepared: July 13, 2023

ACWA JPIA - Liability Program

Losses Up to $100,000

2018-2023 Policy Years

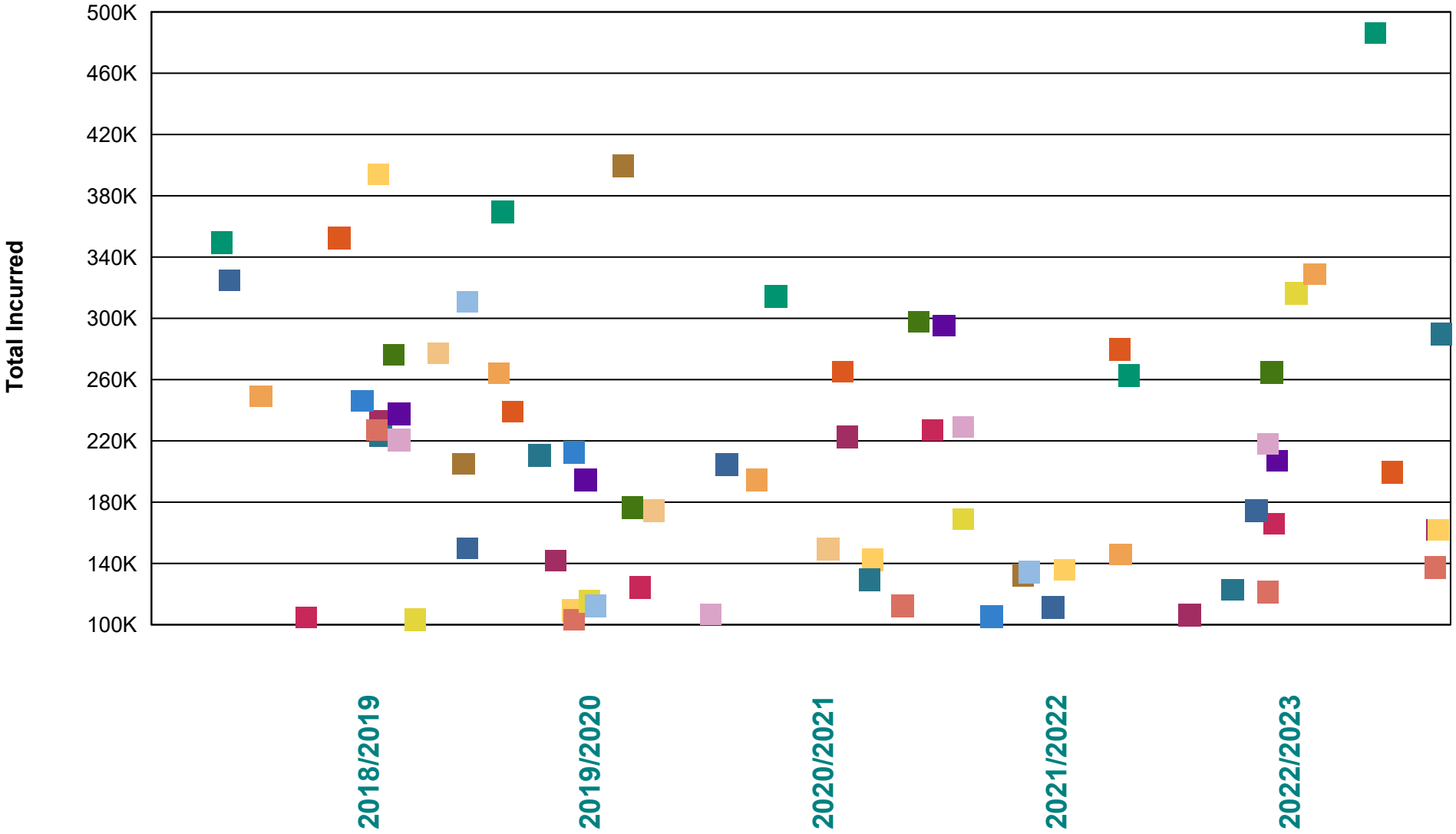


As of: 07/18/2023

ACWA JPIA - Liability Program

Losses between $100,000 and $500,000

2018-2023 Policy Years

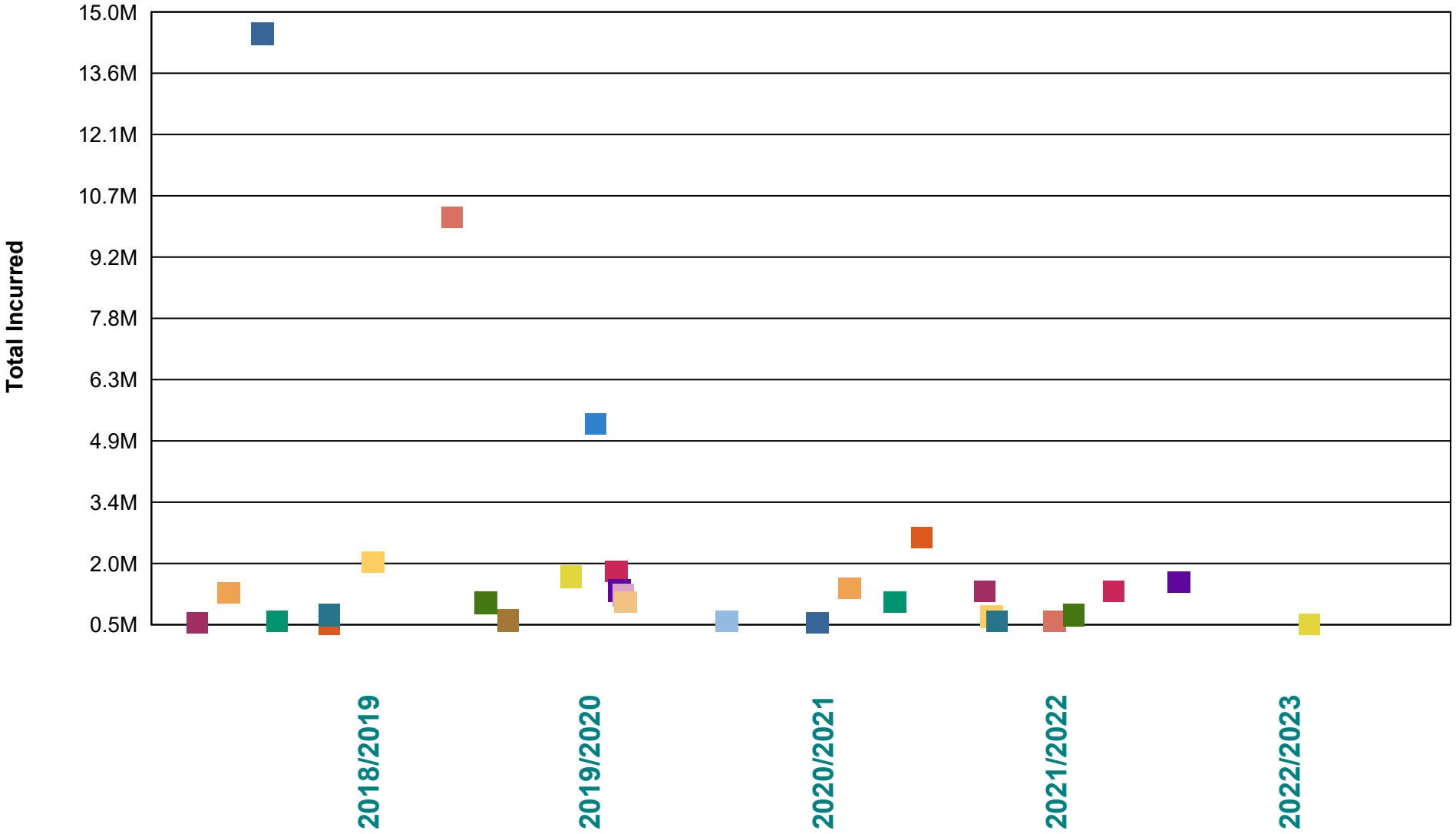


As of: 07/18/2023

ACWA JPIA - Liability Program

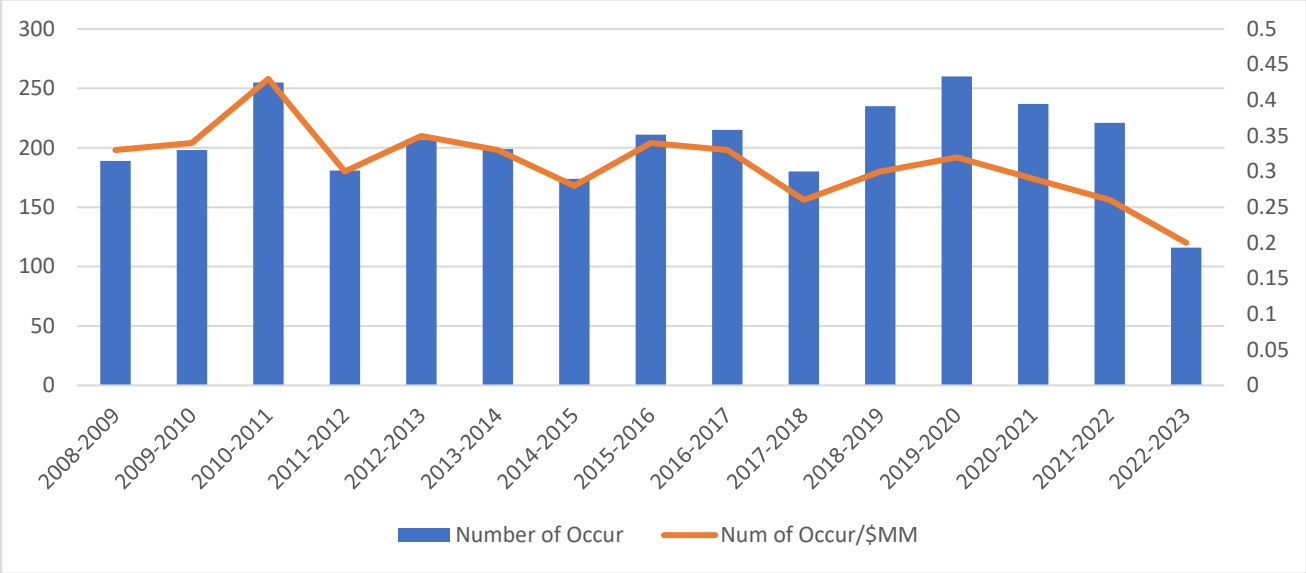
Losses between $500,000 and $15,000,000

2018-2023 Policy Years

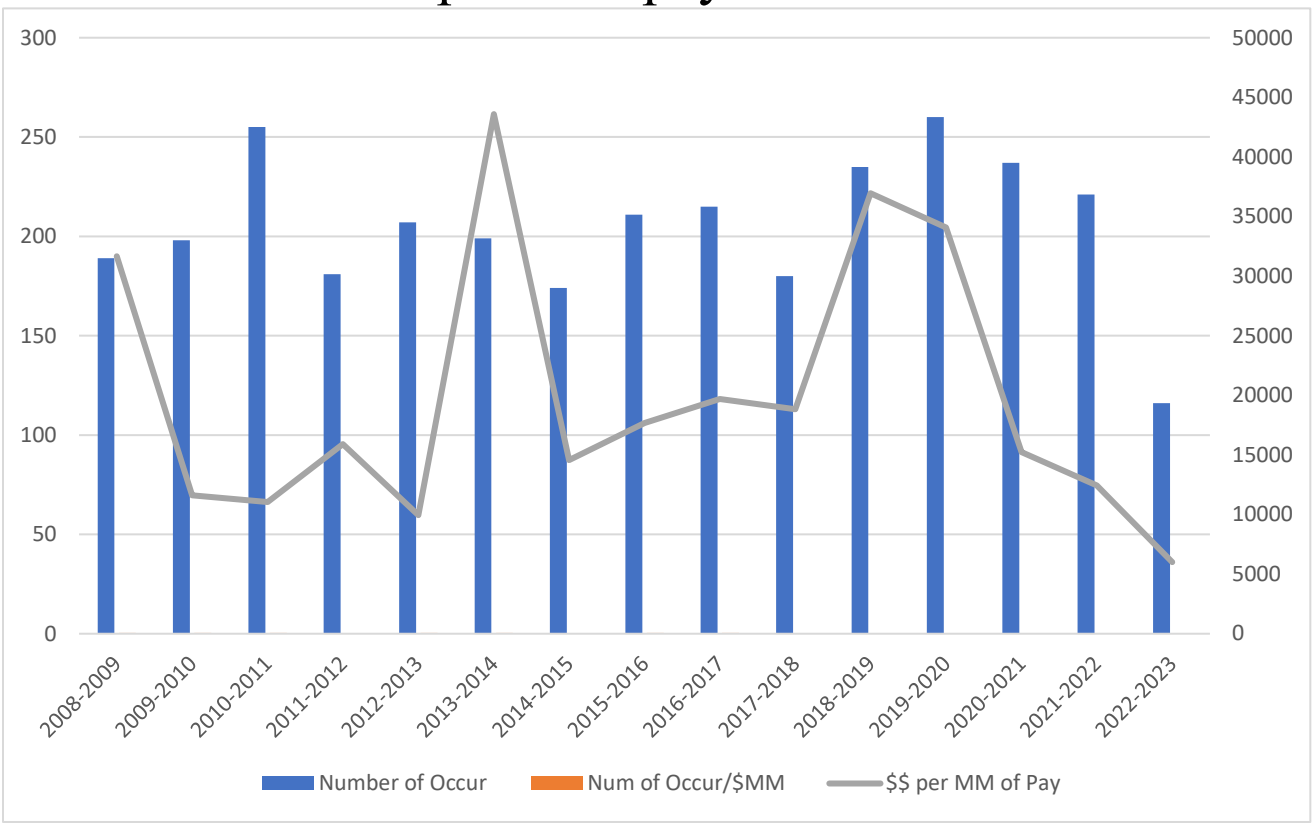


As of: 07/18/2023

Occurrences compared to payroll



Dollar losses compared to payroll



ACWA JPIA
Review of Biennial Claims Audit
July 26, 2023

BACKGROUND
Every two years, the JPIA retains an independent auditor to review the claim files of the Liability, Property and Workers' Compensation programs. The auditors review selected files and provide an evaluation of the department.

CURRENT SITUATION
The combination of members' continual efforts toward claim reductions, JPIA Risk Management, JPIA Training and the excellent work of the JPIA Liability Claims Department have resulted in a strong Liability Program.

RECOMMENDATION
None, informational only.

Prepared by: Robert H. Greenfield, General Counsel Date prepared: July 13, 2023

Praxis
Claims Consulting

36 East Mountain Road
Peterborough, NH 03458
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Toll free & Fax: (800) 651-7021
www.praxisclaims.com

SENT VIA E-MAIL- October 18, 2022

Jennifer Nogosek, ARM
Liability & Property Claims Manager
Association of California Water Agencies JPIA
2100 Professional Drive
Roseville, CA 95561-3700

RE: ASSOCATION OF CALIFORNIA WATER AGENCIES
JOINT POWERS INSURANCE AUTHORITY
CLAIM FILE REVIEW

Audit Dates: September 12-15, 2022
Remote Audit

Ms. Nogosek:

This narrative will serve as Praxis' report of findings following the remote audit and claims handling review for the Association of California Water Agencies Joint Powers Insurance Authority (ACWA JPIA). The claim files reviewed were handled by ACWA JPIA's in-house claims team.

EXECUTIVE SUMMARY

Observations:

- The initial set-up and contacts are made timely.
- Claims are evaluated for sufficiency and timeliness.
- Potential coverage issues are documented and addressed.
- There is evidence of a proactive and comprehensive investigation in the majority of claim files reviewed. Praxis identified three files that do not fully outline the investigation.
- With two exceptions, liability assessments are timely and comprehensive taking into consideration government codes, immunities, case law, etc.

- Overall, the claim activity notes outline interactions with claimants, insured contacts, and legal counsel. Praxis identified three claim files with significant gaps in documentation as well as two claim files with minimal notes.
- With three exceptions, claim file documentation outlines current status and plan of action.
- Claim files are actively managed with appropriate diary spans. Praxis identified two claim files with overdue diaries.
- Supporting documents are stored within iVOS claims management system and have descriptions with sufficient detail to determine content.
- With three exceptions, damage evaluations are present within the claim files and take into consideration both compensatory and general damages.
- Initial reporting of claims to excess is generally in accordance with excess reporting requirements. Praxis identified one claim file involving a traumatic brain injury that required reporting.
- Status reports are submitted to excess in accordance with reporting requirements.
- The management of litigation in terms of assignment, defense strategy, and disposition is appropriate.
- Overall, the reporting and communication with defense counsel is in accordance with best practices. There is one file with delayed receipt of an initial case evaluation by defense counsel, one file with no updated status report since the initial case evaluation in May 2022, as well as another file where an answer to the complaint could not be located.
- Praxis noted four claim files in which the independent adjuster assigned by the excess carrier has not been responsive to ACWA JPIA or the insured. There is also one file with an independent adjuster assigned by ACWA JPIA in which an interim report is overdue.
- Co-defendants are identified and cross complaints are filed when appropriate. The pursuit of tender of defense & indemnity is pursued in all applicable files reviewed.
- Reserves are established taking into account the liability and damage evaluations to reflect the expected outcome. Praxis recommends one loss reserve increase.
- Reserves are re-evaluated when new facts are presented. There is no evidence of stair-stepping or suppression of reserves.
- Negotiations and settlements are proactively pursued which helps mitigate damages.
- There is evidence of supervisory involvement and review of claim files.

Recommendation:

- To assist in identifying claim files which contain gaps in documentation, Praxis recommends the implementation and distribution of off-diary and overdue diary reports that are generated out of iVOS, the claims management system. The reports should be distributed to all members of the claims team either biweekly or monthly.

AUDIT LOGISTICS

A pre-audit introductory virtual meeting was conducted with Jennifer Nogosek, ARM, Liability and Property Claims Manager, and Robert Greenfield, Esq, General Counsel on July 5, 2022.

Erik Kowalewski, Network/Systems Administrator, facilitated the remote set-up and credentials to access ACWA JPIA's environment and iVOS, the claims management system.

Ms. Nogosek provided the following information as supporting documentation for the claim review audit:

- Loss run of property and liability claim files for two years
- 2022 Organizational Chart
- Authority limits effective 6/21/22
- Claims staff bios
- Defense Attorney Rates
- Coverage documents 2019- current

Praxis remotely reviewed 46 claim files. The files were reviewed by Timothy Vincent, CPCU, of Praxis.

EXHIBITS

The following exhibit is included with this report:

Audit review spreadsheet - Exhibit 1.

TECHNICAL REVIEW

Government Codes:

It is evident in the files reviewed that each case being brought against the JPIA is analyzed to determine that proper claim reporting procedures are followed to ensure that files are timely and sufficient.

The initial set-up and contacts are made timely. Claims are evaluated for sufficiency and timeliness.

Coverage:

This category evaluates the assessment of coverage, potential exclusions, available immunities, limitations, and sub-limits. Praxis also assesses whether reservation of rights letters are drafted timely to address potential coverage concerns.

Each claim file reviewed showed an appropriate assessment of coverage.

Potential coverage issues are documented and addressed. Reservation of rights letters are issued when appropriate.

Liability Determination/Investigation:

The liability determination takes into consideration government codes and immunities as well as case law. Following that initial assessment, the claim handler needs to evaluate the duties owed as well as the duties breached. In determining comparative aspects, the importance of each duty is also evaluated. If there is evidence of a breach of a duty owed, the claims handler then evaluates whether there was notice, either actual or constructive. Each of these components make up the overall liability assessment.

This category evaluates two aspects. There is the investigation process itself, then the actual documentation of the assessment of liability.

There is evidence of a proactive and comprehensive investigation in the majority of claim files reviewed. Praxis identified three files that do not fully outline the investigation.

With two exceptions, liability assessments are timely and comprehensive taking into consideration government codes, immunities, case law, etc.

File Documentation/Diary:

Throughout the life of the claim or litigated case, the file should contain chronological documentation of activities, and the cause and effect of these activities as they relate to exposure. Received and generated correspondence should be uniformly stored and identified for ease of access.

A properly documented claim file or litigated case, as applicable, should contain at a minimum:

- A clear, detailed description of the claim being made.
- An initial analysis of coverage and any applicable immunities.
- Known facts and unknown information needed.
- An initial plan of action.
- A prompt and detailed initial investigation with documented results.
- An assessment of that investigation as it relates to liability and damages.
- A detailed documented rationale supporting the loss reserve and as needed, expense reserves.
- An updated assessment of liability, damages and reserve changes as needed, and a revised detailed plan of action based on the results of any new or developing information.
- Files in litigation should contain an initial case evaluation report from defense counsel that details initial case analysis, a litigation budget, and a proposed litigation plan.
- Defense counsel should provide a meaningful updated status every ninety days depending on the stage in the life of the file.
- The file should contain a summary and analysis of all documents received. The file should reflect that the document has been read and its effect on the exposure.
- A diary span that is set at an interval commensurate with the needs of the file.

- A summary of any roundtable discussions or supervisory direction as applicable.

Overall, the claim activity notes outline interactions with claimants, insured contacts, and legal counsel. Praxis identified three claim files with significant gaps in documentation as well as two claim files with minimal notes.

To assist in identifying claim files which contain gaps in documentation, Praxis recommends the implementation and distribution of off-diary and overdue diary reports that are generated out of iVOS, the claims management system. The reports should be distributed to all members of the claims team either biweekly or monthly.

With three exceptions, claim file documentation outlines current status and plan of action.

Claim files are actively managed with appropriate diary spans. Praxis identified two claim files with overdue diaries.

Supporting documents are stored within iVOS claims management system and have descriptions with sufficient detail to determine content.

Damage Evaluation:

This category measures the evaluation and potential financial impact of each claim and the documentation within the claim file to support the evaluation. Industry claims handling practices require the claims handler to develop and document liability probabilities together with an estimate of reasonable economic and general damages. Further, the claims handler must adjust the evaluation as additional facts are developed. The claims handler, as early as possible, should form an opinion as to liability by applying the facts to the law, and estimate the probable outcomes to reach a reasonable range for settlement value. This process should also form the basis for ultimate reserve development. Evaluations should be properly documented to clearly explain and convey the claim handler's view of liability, damages and other factors that may influence the settlement value.

With three exceptions, damage evaluations are present within the claim files and take into consideration both compensatory and general damages.

Reporting to Excess/Reinsurance:

ACWA JPIA's required excess reporting triggers for property and liability are in accordance with industry standard practices. Claims handlers must report all claims that meet the reporting criteria to excess carriers per the reporting requirements.

Initial reporting of claims to excess is generally in accordance with excess reporting requirements. Praxis identified one claim file involving a traumatic brain injury that required reporting.

Status reports are submitted to excess in accordance with reporting requirements.

Litigation Management:

This category evaluates whether files being litigated are being handled in accordance with industry best practices. Assessment includes client communication, initial case evaluation, litigation plan, litigation reports, interim reporting, pleadings, discovery, and billing.

The management of litigation in terms of assignment, defense strategy, and disposition is appropriate.

Overall, the reporting and communication with defense counsel is in accordance with best practices. There is one file with delayed receipt of an initial case evaluation by defense counsel, one file with no updated status report since the initial case evaluation in May 2022, as well as another file where an answer to the complaint could not be located.

Vendor Management:

ACWA JPIA utilizes independent adjusters for claim investigations. This includes on-site evaluation of the loss location, assessment of liability and damages, as well as interviewing of insureds, claimants, and witnesses.

Cases were assigned to independent adjusters on a very prompt basis. Receipt of initial and follow up reports were generally timely and comprehensive. . There is one file with an overdue interim report.

Praxis noted four claim files in which the independent adjuster assigned by the excess carrier has not been responsive to ACWA JPIA or the insured.

Contribution/Subrogation:

This category measures whether opportunities for subrogation, third party contribution and indemnity are identified and pursued.

Subrogation potential is appropriately identified and pursued.

Co-defendants are identified and cross complaints are filed when appropriate. The pursuit of tender of defense & indemnity is pursued in all applicable files reviewed.

Reserves & Reserve Adequacy:

This category confirms that initial reserves are posted timely and in accordance with the claims handler's best estimate of exposure at the time the loss is received.

Loss reserves should reflect neither the best nor worst possible result, but a realistic assessment of the most likely outcome with any unresolved or disputed factors considered. The loss reserve should always reflect the analyzed ultimate value of the case.

Expense/Legal reserves should be based on defense counsel's proposed budgets, costs associated with independent adjuster involvement, as well as any claims adjudication expenses.

Reserves are established taking into account the liability and damage evaluations to reflect the expected outcome. Praxis recommends one loss reserve increase. The specific reserve recommendation can be found in the audit review spreadsheet.

Reserves are re-evaluated when new facts are presented. There is no evidence of stair-stepping or suppression of reserves.

Disposition/Settlement Factors:

This category evaluates the claims handler's evaluation of the liability and damages evaluation, potential for dismissal through motion practice or a defense verdict, and their communication with the claimant/plaintiff/counsel. In matters of adverse liability, we look to see if the claims handler is proactive in attempting to settle cases versus having prolonged litigation and increased defense expenses.

Negotiations and settlements are proactively pursued which helps mitigate damages.

Supervision:

The role of the manager and/or supervisor is to guide the process from claim receipt through resolution to ensure consistent claim management processes are implemented and to act as a "second set of eyes" specific to the claim handler actions and decisions. The supervisor should document the claim file notes with any supervisory activity and instruction for future claim handling.

There is evidence of supervisory involvement and review of claim files.

Wrap-up Discussions:

Upon completion of the claim file review, the scoring matrix spreadsheet was provided to Jennifer Nogosek for review and comment.

A wrap-up meeting was conducted on October 5, 2022, attended by Jennifer Nogosek and Timothy Vincent. Praxis' findings and recommendations were discussed.

CONCLUSION:

The ACWA JPIA claims team demonstrates the technical expertise and sophistication necessary to properly handle the Authority's liability and property claim exposures to proper resolution.

Sincerely,





Brian D. Stiefel, CPCU
President & Founder
Praxis Claims Consulting
brian@praxisclaims.com

Timothy Vincent, CPCU
Managing Partner
Praxis Claims Consulting
tim@praxisclaims.com

ACWA JPIA
Recreation and Special Events Policy
July 26, 2023

BACKGROUND
The Risk Management Committee reviewed, and the Executive Committee approved revisions to The Recreation and Special Events Policy at the January 2023 meetings. Prior to the 2023 revision, the Recreation policy was originally adopted by the JPIA's Executive Committee on May 4, 1998, and revised on October 9, 2008.

CURRENT SITUATION
Recreational activities and special events are desirable in nearly all communities served by JPIA members. Special events include member-hosted holiday parties, annual employee health fairs, recognition celebrations, and facility rentals by the public.

The Recreation and Special Events Policy addresses the appropriate risk management practices and depending on the risk level presented, the Policy guides members on when to report the activities/events to the JPIA.

Following is the final version for review.

RECOMMENDATION
None, informational only.

Prepared by: Nidia Watkins, Member Services Representative II Date Prepared: July 11, 2023

JPIA RECREATION~~/~~ AND SPECIAL EVENT POLICY

Introduction

This policy was adopted by the JPIA's Executive Committee on May 4, 1998~~,~~ and applies when others use a ~~member's~~member's facilities or when the member itself is engaging in recreational activities or special events.~~-~~ The policy is based on the premise that the public use of a member's facilities for recreation and special events may be an integral part of a member's operations. ~~-~~Furthermore, such use of a member's facilities is ~~necessitated~~needed by public policy considerations. ~~-~~The goal of this policy is to give JPIA ~~member~~ members flexibility in managing and facilitating recreation and special events while keeping losses from these activities to a minimum. ~~-~~This can be accomplished through effective risk management.~~–~~

The JPIA ~~does not consider~~considers that recreational activities and special events ~~to be significantly different~~add more risks than other exposures presented by a member's operations or activities.~~-~~ As such, the individual members are given considerable discretion on what type of activities/events to allow and on the level of risk management needed for low-risk events/activities, but concurrence by JPIA staff and/or Executive Committee approval may be required for higher risk events/activities as detailed in these guidelines.

The JPIA is available as a resource to help educate members on effective risk management of recreational activities/special events.

Policy

The extent of appropriate risk management and the reporting of recreational activities/events to the JPIA will depend on the risk level presented. ~~-~~The Recreational Activity/Special Events Hazard Classification System and Risk Matrix ~~is~~are provided as a guideline to make these determinations. ~~-~~Any changes in the classes will be reviewed by the Risk Management ~~Subcommittee~~Committee.

Members can engage in Class I & II activities/events without prior approval of the JPIA. ~~-~~The members undertaking these activities are expected to implement good risk management practices. ~~-~~This includes effective contractual risk transfer when ~~the~~ recreational activities or special events are held by outsiders.~~-~~ The Recreation/Special Event Matrix should be used as a guide to determine the level of risk management needed.

Class III activities/events are to be reviewed with JPIA staff (and possibly the JPIA's excess liability carrier) in advance. ~~-~~These may require special risk management efforts; for activities/events being held by an outside entity, ~~special~~ risk transfer provisions may be needed. ~~-~~~~These~~**Class III activities/events require the concurrence of the JPIA** ~~in order~~ **for liability coverage to be afforded**. Without approval from the JPIA, any and all losses stemming from the event will not be covered.

Once concurrence is granted for a specific activity/event, the member may hold it in the future

~~activity/event, the member may hold it in the future~~ without going through the process again, unless significant changes in activities are anticipated or claims activity suggests a reassessment. JPIA Risk Management staff may assist members staff to practice good safety and to actively seek to reduce risk.

~~The JPIA~~Member staff will implement best practices and ~~members share the responsibility for effective risk management in this area. The~~ inform JPIA of any activities or concerns that may lead to losses.

The Executive Committee has ~~set policy for JPIA staff on~~approved the following Condition of Coverage for specific Class III activities in the Memorandum of Liability Coverage. The Condition describes the type of Class III activities/events that will not be covered.

Coverage for ~~It has also determined the procedures to be followed when there are disagreements between~~ the ~~JPIA staff and the member concerning whether coverage will~~following types of events/activities will not be granted ~~and on~~by the JPIA unless approved by the ~~level of risk management needed.~~

Executive Committee:

Swimming Pools
Water Parks
Water Playgrounds – not including splash pads
Water Slides

Agreements reached between the member and the JPIA staff for coverage ~~for~~of activities/events will be reported to the Executive Committee as a matter of information and documented for future reference.

This policy applies to all new and existing activities~~, i.e., those in place prior to the policy's adoption.~~. All existing member recreation and special event activities should be evaluated by the ~~member~~members following the policy. ~~Staff will review existing Class III activities, including those already authorized by the JPIA when the policy is adopted.~~ Any changes recommended by the JPIA will ~~take into account~~apply to existing agreements, including insurance requirements.

~~**TULIP Program**~~

~~If a special event holder cannot meet the JPIA insurance requirement, the JPIA TULIP (Tenant's, User's Liability Insurance Program) Program is available. This program provides insurance coverage for one-time special events. For more information regarding this coverage, contact JPIA Member Services.~~

Facility Rental

Members who offer facilities to rent should establish guidelines to manage the safe use of a water agency's facilities while maintaining minimal liability impact on the Agency.

Members should make sure that their liability concerns are addressed by requiring safety inspections of facilities, by requiring good housekeeping and maintenance of facilities, and by requiring appropriate insurance requirements as recommended in the JPIA Model Facilities Use Agreement.

Development of a Facility Use Approval and Authorization Process
Members should develop an approval and use process that includes:

1. The acceptability and availability of the facility for the proposed use.
2. Considerations associated with the type of user (i.e., commercial, community group, or public entity, etc.).
3. The acceptability of the proposed use.
4. The costs and cost allocations (i.e., who pays for each itemized cost - the user or the Agency's) associated with the proposed use.

Use of a Standard Facility Use Agreement

Members should develop and utilize standard facility use agreements.

- Application for agreement for the use of facilities.
- Rental authorization process.

Recreation/Special Event Classification System

Class I - These represent low--severity liability exposures and/or activities normal to a water member's operation; these represent low--risk activities or are activities inherent to water members. -There is no or little participant physical activity with no anticipated exposure to spectators;, and no alcohol use is anticipated. ~~Crowds are~~Attendance is in the 0-~~500~~250 range. Based on the type of event, an Agency needs to ensure one or more of the following: facility rental process, participant waiver form, or assumption of risk public posting.

Art Festivals/Shows
Auctions
Ballets
Banquets
Bazaars
Beauty Pageant
Bingo Games
Body Building Contests
Charity Benefits, Auctions & Sales
Cinemas
~~Circus (0-500 people)~~
Community Health Fairs
Community Recycling Days
Conventions in Buildings
Craft Shows
Dog Parks
Drill Team Exhibitions
Easter Egg Hunts
Educational Exhibitions
Election Polling Place
Exhibitions (In & Out)
Expositions
Fund Raisers run by Member:
– (Bake Sales, Car Washes)
Graduation/Promotion Ceremonies
Harvest Festivals
Job Fairs
Lectures & Seminars
Luncheons
Meetings (Small Groups Indoors~~)~~
~~Meetings (Small Groups~~
/Outdoors)
Nature Study Hikes-
—(Bird Watching, Plant Studies)
~~Outings~~
~~Overnight Camping~~
~~Parades (0 - 500 people)~~
Parks
(including athletic fields/court; not including water parks, nor skate parks.)
Picnics
Plays-
~~Proms~~
Religious Assemblies
Rummage Sales
School Bands
~~Scouting Jamborees~~
Seminars
Social Gatherings
Teleconferences
Tours
~~Theatrical Stage Performances~~
Trade Shows in Buildings
Water Awareness Carnivals

Class II - These represent medium--severity liability exposures; these are considered to be moderate hazards. There may be physical activity by participants; there is minimal to moderate spectator exposure; no alcohol use is anticipated. ~~Crowds are in the 500-5,000 range~~Attendance is in the 251-1,500 range. Based on the type of event, an Agency needs to ensure one or more of the following: facility rental process, participant waiver form, or assumption of risk public posting.

Aerobics & Jazzercise Classes
~~Animal Acts or Exhibits~~
~~Animal Training~~
Arcades
~~Block Parties/Street Closures~~
Circus (0-1,500~~-5,000~~ people)
Concerts (other than rock, rap, heavy metal)
Dances & Parties
Disc Golf
~~Dog Parks~~
~~Dog Trials & Retrieval (Retrieving Birds)~~
Field Sports—In & Out (e.g., baseball, softball, soccer, football, lacrosse, rugby, track & field)
Film Production
Fishing Events (~~on shore~~onshore)
Food and Beverage Concessions
~~Graduations~~
Gymnastics Competitions
~~Hawking (Birds of Prey on Smaller Birds)~~
Kite Flying
Musical Performance
Organized Sporting Events NOC* (In or Out)
~~Livestock Shows~~

Overnight Camping
Pageants
Parades (0 – 1,500 people)
Parking of Vehicles

~~Organized Sporting Events NOC* (In or Out)~~
~~Pageants~~
~~Parades (500 - 5,000 people)~~
~~Parking of Vehicles~~
Political Rallies (0-1,500~~-5,000~~ people)
Proms
Recreational Events NOC*
Reunions
Runs/Walks (5K, 10K, Marathons)
Scouting Jamboree
Shows (e.g., antique, auto, boat, consumer, craft, dance, fashion, flower, garden, gun & knife, home/housing, ice skating, livestock, night clubs, RV, vacation)
Soap Box Derbies
Street Fairs
~~Ski Events (Nordic)~~
~~Street Fairs~~
Swap Meets
Tennis, Handball & Racquetball Courts
Theatrical Stage Performance
Watercraft (non-motorized), no rentals
Weddings & Receptions

*NOC - Not otherwise classified.

Class III - These represent high severity liability exposures and are considered to be the highest risk. There are potentially significant spectator exposures, large crowds greater than 1,500 in congested areas, and in some cases, the potential for crowds to get out of control. These are generally activities that are unusual to a water member's operation. Based on the type of event, an Agency needs to ensure one or more of

Coverage for the following types of : facility rental process, participant waiver form, or assumption of risk public posting.

Some Class III events/activities will be grantedmay require an onsite Risk Assessment and are subject to agreement with JPIA staff on the level of appropriate risk management (including risk control and risk transfer).approval by the JPIA's Chief Executive Officer or the Assistant Executive Officer

Airborne Devices (except Kite Flying)
Aircraft Operations
Airsoft
Amusement Rides/Parks
Animal Riding
/Acts or Exhibits/Training Archery
Backhoe Rodeo
Bicycle/Mountain Races/Jumping *(Terrain is moderate, complex, rough, off-road)*
Block Parties/Street Closures
Boxing
Bounce Houses
Circus (5,0001,500 + people)
Civil War Reenactments
Concerts (rock, rap, heavy metal; other 5,000
Crowds (1,500+ people)
Crowds (5,000+ people)
Dog Trials & Retrieval (retrieving birds)
Fireworks Display
Fishing Events (off shore)
offshore) Golf Courses
Hang Gliding
Hawking (birds of prey or smaller birds) Horse Shows (including jumping)
Horseback Riding - Trails
Hot Air Balloon Rides and Shows
Hunting
Inflatable Amusement Devices
Jet Skiing
Karate Meets
Livestock Shows
Mechanical Bull Riding
Off-Road Vehicles
Obstacle Course/Runs/Races
Paint Ball
Parades (1,500+ people)
Parasailing
Pistol & Rifle Shoots
Playgrounds
Political Rallies (5,0001,500+ people)
Rentals - Boating, etc.
River Rafting
Rock
Climbing
Rocketry
Rocketeering
Rodeos
and Roping Events Rollerblading
Skateboarding
Ski Events (Alpine)
Skateparks
Speed Boat Racing
Spelunking
Surfing
Swimming (other than Swimming Pools, Water Parks, Water Playgrounds, Water Slides)
Tractor and Tractor/Truck Pulls
Trails
Trails
Trampolines
Tree Climbing Contests
Tree Rope Swinging
Water Skiing
Water Sports NOC*

Motorized Sporting Events ~~(Non-Racing)~~
~~Motorized Sports Events (Racing)~~
Mud Races
~~Off-Road Vehicles~~
~~Parades (5,000 + people)~~

Watercraft (Motorized)
Windsurfing

Winter Sporting Events
Zip Lines

*NOC - Not otherwise classified.

~~Coverage for the following types of events/activities will not be granted by the JPIA unless approved by the Executive Committee and its excess liability carrier:~~

~~Swimming Pools~~
~~Water Parks~~
~~Water Playgrounds~~
~~Water Slides~~

Recreation/Special Event Matrix

Event Parameter	Class I & II	Class III
No Fee	A	AC
Fee	A, B	BC
Crowds	B	C
Alcohol (use anticipated)	☼C	☼C
Firearms	B,CN/A	C
Watercraft	B,C	C
Aircraft	B,CN/A	C
Water Sports	B,C	C

Level of Risk Transfer

NOTE: Refer to the JPIA's Risk Transfer ManualTools for the appropriate Model Facilities Use Agreement or Model Clauses.

A= No risk transfer unless outside group has existing insurance (JPIA Model Facilities Use Agreement - $1 million liability limit).

B= Use - Utilize the JPIA Model Facilities Use Agreement – $1– minimum of $2 million liability limitGeneral Liability limits.

C= UseB - Utilize the JPIA Model Clauses: Facilities Use – No Liquor – $1Agreement – Minimum $5 million liabilityGeneral Liability limit.
See Section 6 of the JPIA Risk Transfer Manual.

C - Consult with JPIA staff. These activities/events may require concurrence with JPIA staff, an onsite risk assessment, and/or approval of the Executive Committee.

This matrix is a guide that agencies can use to decide on the extent to which risk management (including risk transfer) is needed for special events and recreational activities for Class I and Class II categories. Agencies can consult with the JPIA for assistance in determining the level of risk management needed for these categories.

If more than one event parameter applies, use the highest class indicated.

☼ Treat as Class III – consult with JPIA staff.
E Consult with JPIA staff.

Note: Where multiple levels of risk transfer are shown, the member should choose the appropriate level based on an exposure evaluation.

One Day Special Event Program

If a special event holder cannot meet the JPIA recommended insurance requirements, the JPIA makes available a One-day Special Event Program provided by JPIA Brokers

with an additional premium.

Members should also consider procuring a Special Event Policy for Agency-hosted events/activities both on and offsite (such as annual picnics, retirement celebrations, holiday parties, etc.).

For more information, contact JPIA Member Services.

JPIA RECREATION AND SPECIAL EVENT POLICY

Introduction

This Policy was adopted by the JPIA's Executive Committee on May 4, 1998 and applies when others use a member's facilities or when the member itself is engaging in recreational activities or special events. The Policy is based on the premise that the public use of a member's facilities for recreation and special events may be an integral part of a member's operations. Furthermore, such use of a member's facilities is needed by public policy considerations. The goal of this Policy is to give JPIA members flexibility in managing and facilitating recreation and special events while keeping losses from these activities to a minimum. This can be accomplished through effective risk management.

The JPIA considers that recreational activities and special events add more risks than other exposures presented by a member's operations or activities. As such, the individual members are given considerable discretion on what type of activities/events to allow and on the level of risk management needed for low-risk events/activities, but concurrence by JPIA staff and/or Executive Committee approval may be required for higher risk events/activities as detailed in this policy.

The JPIA is available as a resource to help educate members on effective risk management of recreational activities/special events.

Policy

The extent of appropriate risk management and the reporting of recreational activities/events to the JPIA will depend on the risk level presented. The Recreational Activity/Special Events Hazard Classification System and Risk Matrix are provided as a guideline to make these determinations. Any changes in the classes will be reviewed by the Risk Management Committee.

Members can engage in Class I & II activities/events without prior approval of the JPIA. The members undertaking these activities are expected to implement good risk management practices. This includes effective contractual risk transfer when recreational activities or special events are held by outsiders. The Recreation/Special Event Matrix should be used as a guide to determine the level of risk management needed.

Class III activities/events are to be reviewed with JPIA staff (and possibly the JPIA's excess liability carrier) in advance. These may require special risk management efforts; for activities/events being held by an outside entity, risk transfer provisions may be needed. **Class III activities/events require the concurrence of the JPIA for liability coverage to be afforded**. Without approval from the JPIA, any and all losses stemming from the event will not be covered. Once concurrence is granted for a specific activity/event, the member may hold it in the future

without going through the process again, unless significant changes in activities are anticipated or claims activity suggests a reassessment. JPIA Risk Management staff may assist members staff to practice good safety and to actively seek to reduce risk. Member staff will implement best practices and inform JPIA of any activities or concerns that may lead to losses.

The Executive Committee has approved the following Condition of Coverage for specific Class III activities in the Memorandum of Liability Coverage. The Condition describes the type of Class III activities/events that will not be covered.

Coverage for the following types of events/activities will not be granted by the JPIA unless approved by the Executive Committee:
Swimming Pools
Water Parks
Water Playgrounds – not including splash pads
Water Slides

Agreements reached between the member and the JPIA staff for coverage of activities/events will be reported to the Executive Committee as a matter of information and documented for future reference.

This Policy applies to all new and existing activities. All existing member recreation and special event activities should be evaluated by the members following the Policy. Any changes recommended by the JPIA will apply to existing agreements, including insurance requirements.

Facility Rental

Members who offer facilities to rent should establish guidelines to manage the safe use of a water agency's facilities while maintaining minimal liability impact on the Agency.

Members should make sure that their liability concerns are addressed by requiring safety inspections of facilities, by requiring good housekeeping and maintenance of facilities, and by requiring appropriate risk transfer elements such as indemnification and insurance requirements as recommended in the JPIA Model Facilities Use Agreement.

Development of a Facility Use Approval and Authorization Process
Members should develop an approval and use process that includes appropriate risk transfer elements, such as:

1. The acceptability and availability of the facility for the proposed use.
2. Considerations associated with the type of user (i.e., commercial, community group, or public entity, etc.) and the proper indemnification and insurance requirements for that type of user and facility use,
3. The acceptability of the proposed use, and
4. The costs and cost allocations (i.e., who pays for each itemized cost - the user or the Agency's) associated with the proposed use.

Use of a Standard Facility Use Agreement

Members should develop and utilize standard facility use agreements.

- Application for agreement for the use of facilities.
- Rental authorization process.

Recreation/Special Event Classification System

Class I - These represent low-severity liability exposures and/or activities normal to a water member's operation; these represent low-risk activities or are activities inherent to water members. There is no or little participant physical activity with no anticipated exposure to spectators, and no alcohol use is anticipated. Attendance is in the 0-250 range. Based on the type of event, an Agency needs to ensure one or more of the following: facility rental process, participant waiver form, or assumption of risk public posting.

Art Festivals/Shows
Auctions
Ballets
Banquets
Bazaars
Beauty Pageant
Bingo Games
Body Building Contests
Charity Benefits, Auctions & Sales
Cinemas
Community Health Fairs
Community Recycling Days
Conventions in Buildings
Craft Shows
Dog Parks
Drill Team Exhibitions
Easter Egg Hunts
Educational Exhibitions
Election Polling Place
Exhibitions (In & Out)
Expositions
Fund Raisers run by Member:
(Bake Sales, Car Washes)
Graduation/Promotion Ceremonies
Harvest Festivals
Job Fairs
Lectures & Seminars
Luncheons
Meetings (Small Groups
Indoors/Outdoors)
Nature Study Hikes
(Bird Watching, Plant Studies)
Parks (including athletic fields/court; not including water parks, nor skate parks.)
Picnics
Plays
Religious Assemblies
Rummage Sales
School Bands
Seminars
Social Gatherings
Teleconferences
Tours
Trade Shows in Buildings
Water Awareness Carnivals

Class II- These represent medium-severity liability exposures; these are considered to be moderate hazards. There may be physical activity by participants; there is minimal to moderate spectator exposure; no alcohol use is anticipated. Attendance is in the 251-1,500 range. Based on the type of event, an Agency needs to ensure one or more of the following: facility rental process, participant waiver form, or assumption of risk public posting.

Aerobics & Jazzercise Classes
Arcades
Circus (0-1,500 people)
Concerts (other than rock, rap, heavy metal)
Dances & Parties
Disc Golf
Field Sports—In & Out (e.g., baseball, softball, soccer, football, lacrosse, rugby, track & field)
Film Production
Fishing Events (onshore)
Food and Beverage Concessions
Gymnastics Competitions
Kite Flying
Musical Performance
Organized Sporting Events NOC* (In or Out)
Overnight Camping
Pageants
Parades (0 – 1,500 people)
Parking of Vehicles
Political Rallies (0-1,500 people)
Proms
Recreational Events NOC*
Reunions
Runs/Walks (5K, 10K, Marathons)
Scouting Jamboree
Shows (e.g., antique, auto, boat, consumer, craft, dance, fashion, flower, garden, gun & knife, home/housing, ice skating, livestock, night clubs, RV, vacation)
Soap Box Derbies
Street Fairs
Swap Meets
Tennis, Handball & Racquetball Courts
Theatrical Stage Performance
Watercraft (non-motorized), no rentals
Weddings & Receptions

*NOC - Not otherwise classified.

Class III - These represent high-severity liability exposures and are considered to be the highest risk. There are potentially significant spectator exposures, crowds greater than 1,500 in congested areas, and in some cases, the potential for crowds to get out of control. These are generally activities that are unusual to a water member's operation. Based on the type of event, an Agency needs to ensure one or more of the following: facility rental process, participant waiver form, or assumption of risk public posting.

Some Class III events/activities may require an onsite Risk Assessment and are subject to approval by the JPIA's Chief Executive Officer or the Assistant Executive Officer

Airborne Devices (except Kite Flying)
Aircraft Operations
Airsoft
Amusement Rides/Parks
Animal Riding/Acts or Exhibits/Training
Archery
Backhoe Rodeo
Bicycle/Mountain Races/Jumping *(Terrain is moderate, complex, rough, off-road)*
Block Parties/Street Closures
Boxing
Bounce Houses
Circus (1,500 + people)
Civil War Reenactments
Concerts
Crowds (1,500+ people)
Dog Trials & Retrieval (retrieving birds)
Fireworks Display
Fishing Events (offshore)
Golf Courses
Hang Gliding
Hawking (birds of prey or smaller birds)
Horse Shows (including jumping)
Horseback Riding - Trails
Hot Air Balloon Rides and Shows
Hunting
Inflatable Amusement Devices
Jet Skiing
Karate Meets
Livestock Shows
Mechanical Bull Riding
Motorized Sporting Events
Mud Races
Off-Road Vehicles
Obstacle Course/Runs/Races
Paint Ball
Parades (1,500+ people)
Parasailing
Pistol & Rifle Shoots
Playgrounds
Political Rallies (1,500+ people)
Rentals - Boating, etc.
River Rafting
Rock Climbing
Rocketry
Rodeos and Roping Events
Rollerblading
Skateboarding
Skateparks
Speed Boat Racing
Spelunking
Surfing
Swimming (other than Swimming Pools, Water Parks, Water Playgrounds, Water Slides)
Tractor and Tractor/Truck Pulls
Trails
Trampolines
Tree Climbing Contests
Tree Rope Swinging
Water Skiing
Water Sports NOC*
Watercraft (Motorized)
Windsurfing
Winter Sporting Events
Zip Lines

*NOC - Not otherwise classified.

Recreation/Special Event Matrix

Event Parameter	Class I & II	Class III
No Fee	A	C
Fee	A, B	C
Crowds	B	C
Alcohol (use anticipated)	C	C
Firearms	N/A	C
Watercraft	B	C
Aircraft	N/A	C
Water Sports	B	C

Level of Risk Transfer

NOTE: Refer to the JPIA's Risk Transfer Tools for the appropriate Model Facilities Use Agreement.

A - Utilize the JPIA Model Facilities Use Agreement – minimum of $2 million General Liability limits.

B - Utilize the JPIA Model Clauses: Facilities Use Agreement – Minimum $5 million General Liability limit.

C - Consult with JPIA staff. These activities/events may require concurrence with JPIA staff, an onsite risk assessment, and/or approval of the Executive Committee.

This matrix is a guide that agencies can use to decide on the extent to which risk management (including risk transfer) is needed for special events and recreational activities for Class I and Class II categories. Agencies can consult with the JPIA for assistance in determining the level of risk management needed for these categories.

One Day Special Event Program

If a special event holder cannot meet the JPIA recommended insurance requirements, the JPIA makes available a One-day Special Event Program provided by JPIA Brokers with an additional premium.

Members should also consider procuring a Special Event Policy for Agency-hosted events/activities both on and offsite (such as annual picnics, retirement celebrations, holiday parties, etc.).

For more information, contact JPIA Member Services.

ACWA JPIA
2023-24 Memorandum of Liability Coverage
July 27, 2023

BACKGROUND
The Liability Committee meets annually to discuss the overall program and any required adjustments. Staff has reviewed the Memorandum of Liability Coverage (MOLC) for revisions needed for the program year October 1, 2023 – September 30, 2024.

CURRENT SITUATION
Staff recommends the below revisions to be effective October 1, 2023:

Section I – Definitions – Administrative Relief: Liability arising out of administrative relief is not covered in the MOLC; therefore, a definition of "Administrative Relief" has been added for clarity.

Section I – Definitions – Defense costs: The definition of "Defense costs" has been revised to remove reference to "claims" as defense costs are specific to fees charged by an attorney, which only applies to "suits" not "claims."

Section I – Definitions – Employment Practices: The definition of "Employment Practices" has been revised to clarify that the lack of coverage for wages includes lost wages, regardless of whether they arise from a covered offense. This is not a change in coverage, just a clarification of existing coverage.

Section I – Definitions – Subsidiary: A definition of "Subsidiary" has been added to clarify the coverage intent for subsidiary organizations wholly owned and controlled by a Member Agency, as noted in Section IV – Who is Covered.

Section II – Coverage: This section has been expanded to memorialize and mirror language in the Recreation and Special Events Policy, reviewed by the Risk Management Committee and approved by the Executive Committee in January 2023.

Section V – Defense of the Member Agency: A reference made to another section of the document has been corrected.

Section VI – Exclusions: Added an exclusion for Perfluoroalkyl and Polyfluoroalkyl (PFOS/PFAS). Upon the advice of coverage counsel, because our excess and reinsurance policies specifically exclude coverage for PFOS/PFAS, our omission of a specific exclusion could be viewed as acceptance of coverage. Staff believes that the existing exclusion for "pollutants" includes PFOS/PFAS; however, adding an explicit exclusion for PFOS/PFAS ensures that the intent to exclude coverage is clear.

Section VI – Exclusions: Added an exclusion relative to “your product” or “your work.” This exclusion will refine the definition to property damage to another to exclude coverage for a project that was not completed and accepted by the member district.

Section VII – Conditions, Item F – Resolution of Disputes: Staff has reviewed the dispute resolution sections for the liability, property, and workers’ compensation memoranda of coverage and is universally recommending this language be approved to simplify the dispute resolution process and bring the process across programs into alignment. Upon review of this change at the Property Program Committee meeting on June 20, suggested revisions were offered by the Committee. Those revisions have been incorporated into this section in the MOLC and will be added to the MOWC and MOPC with next year’s renewal.

Coverage Schedule: This section has been revised to remove the sublimit for PFOS/PFAS. As per Coverage Counsel, in identifying a sublimit for PFOS/PFAS, it may unintentionally imply that coverage is available at lower levels of the tower.

RECOMMENDATION

That the Liability Program Committee recommend that the Executive Committee approve the Memorandum of Liability Coverage, as revised, to be effective October 1, 2023.

Prepared by: Adrienne Beatty, Assistant Executive Officer Date prepared: July 7, 2023

MEMORANDUM OF LIABILITY COVERAGE

For The

Association of California Water Agencies
Joint Powers Insurance Authority

DECLARATIONS

FORM NUMBER: MOLC-100123~~2~~

MEMBER AGENCY: Member Agency

MAILING ADDRESS: P.O. Box 123
Anytown, CA 95432-0123

COVERAGE PERIOD: October 1, 2023~~2~~ to October 1, 2024~~3~~

12:01 A.M. Pacific Standard Time

LIMIT OF LIABILITY: $5,000,000 per occurrence

Signed by: _____ Date: _____
(Authorized Representative)

MEMORANDUM OF LIABILITY COVERAGE

TABLE OF CONTENTS

Section I
Definitions....2

Section II
Coverage....9

Section III
Limit of Liability....10

Section IV
Who is Covered....10

Section V
Defense of the Member Agency....11

Section VI
Exclusions....12

Section VII
Conditions....16

Coverage Schedule....27

ASSOCIATION OF CALIFORNIA WATER AGENCIES
JOINT POWERS INSURANCE AUTHORITY (ACWA JPIA)

MEMORANDUM OF LIABILITY COVERAGE

FORM NO. MOLC-100123~~2~~

This is a **Memorandum** of understanding between all of the **Member Agencies** of the Association of California Water Agencies Joint Powers Insurance Authority (ACWA JPIA), a California public entities risk pool operating under Sections 990.4 and 990.8 of the Government Code and other provisions of law. The purpose of this **Memorandum** is to set forth the terms on which the ACWA JPIA's **Member Agencies** have agreed to pool certain third-party liability risks among their membership, and have agreed to purchase excess liability insurance (or reinsurance) above the limit of coverage provided by the **Member Agencies'** pooled funds. This **Memorandum** shall be applied according to the principles of contract law, giving full effect to the intent of the **Member Agencies** of the ACWA JPIA in adopting this Memorandum of Liability Coverage. None of the parties to the Memorandum are entitled to rely on any contract interpretation principle which would require the interpretation of ambiguous language against the drafter of an agreement. The **Member Agencies** participating in the pool understand and acknowledge that their risk-pooling arrangement governed by this **Memorandum** is not insurance nor is it subject to regulation under the Insurance Code. As the ACWA JPIA is not an insurer, it has no obligation to issue reservation of rights letters, nor does it have any obligation to provide *Cumis* counsel to a **Covered Party** in a disputed coverage situation, as an insurer might have under Civil Code Section 2860.

Throughout this **Memorandum**, words and phrases that appear in bold have special meaning. They are defined in Section I - Definitions. Words that appear in CAPITAL LETTERS have reference to the like titled section in the **Memorandum**.

Neither the terms nor conditions of this **Memorandum** may be changed, except by addendum issued by us to become part of this **Memorandum**.

In consideration of the premium paid by the **Member Agency**, and subject to all terms and conditions herein, the **Authority** and the **Member Agency** agrees as follows:

SECTION I - DEFINITIONS

Administrative Relief means a non-judicial remedy provided by an agency, board, commission or any other like organization.

Aerial application means the delivery of herbicides and/or pesticides by use of an agricultural **aircraft** including but not limited to airplanes, helicopters, and/or **unmanned aircraft**.

Aircraft means a vehicle designed for the transport of persons or property principally in the air.

Authority means the Association of California Water Agencies Joint Powers Insurance Authority.

Automobile means a land motor vehicle, trailer or semi-trailer.

Bodily injury means physical injury, sickness, disease, or emotional distress sustained by a person, including death resulting therefrom, and also includes care and loss of services by any person or persons.

Claim(s) means a demand for money. An Employment Practice claim is deemed to exist upon first notice from the Civil Rights Department and/or Equal Opportunity Commission.

Covered Party means any person or entity set forth in Section IV of this **Memorandum**.

Cyber Liability means any liability arising out of or related to the acquisition, storage, security, use, misuse, disclosure, or transmission of electronic data of any kind, including, but not limited to, technology errors and omissions, information security and privacy, privacy notification cost, penalties for regulatory defense or penalties, website media content, disclosure or misuse of confidential information, failure to prevent unauthorized disclosure or misuse of confidential information, improper or inadequate storage or security or personal or confidential information, unauthorized use, unauthorized access to computer systems containing confidential information, or transmission or failure to prevent transmission of a computer virus or other damaging material.

Dam means any artificial barrier, together with appurtenant works, which does or may impound or divert water, and which either: (a) is 25 feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier, if it is not

across a stream channel or watercourse, to the maximum possible water storage elevation; or (b) has an impounding capacity of 50 acre-feet or more.

Any such barrier which is not in excess of 6 feet in height, regardless of storage capacity, or which has a storage capacity not in excess of 15 acre-feet, regardless of height, shall not be considered a **dam**.

No obstruction in a canal used to raise or lower water therein or divert water therefrom, no levee, including but not limited to, a levee on the bed of a natural lake the primary purpose of which levee is to control floodwaters, no railroad fill or structure, tank constructed of steel or concrete or of a combination thereof, no tank elevated above the ground, and no barrier which is not across a stream channel, watercourse, or natural drainage area and which has the principal purpose of impounding water for agricultural use shall be considered a **dam**. In addition, no obstruction in the channel of a stream or watercourse, which is 15 feet or less in height from the lowest elevation of the obstruction and which has the single purpose of spreading water within the bed of the stream or watercourse upstream from the construction for percolation underground shall be considered a **dam**.

Regardless of the language of the above definition, however, no structure specifically exempted from the jurisdiction of the State of California Department of Water Resources, Division of Safety of Dams, shall be considered a **dam**, unless such structure is under the jurisdiction of any agency of the Federal Government.

Damages means monetary compensation legally recoverable from a **Covered Party**, for past injury caused to a claimant by the unlawful acts or omissions of said **Covered Party**, except for the following:

1. Punitive or exemplary damages, statutory multiples of damages, civil fines or penalties, or any other liability over and above actual damages, by whatever name called, irrespective of whether the **Covered Party's** governing board has taken any action or passed any resolution electing to pay such damages;

2. Criminal fines or penalties;

3. Back-pay awards or any other restitutive relief awarded to compensate a claimant for services rendered to, or financial benefit otherwise conferred upon, a **Covered Party**; and any FLSA Wage and Hour or any CA Wage Order or any similar

Federal or State law claims or suits against, either the **Member Agency** or **Covered Party**; and

4. Injunctive and/or **Aa~~a~~dministrative R~~r~~elief**.

Defense costs means reasonable fees charged by an attorney appointed by the **Authority** to defend the ~~**claim** or~~ **suit** and all other reasonable fees, costs and expenses attributable to the investigation, defense or appeal of a ~~**claim** or~~ **suit** that is within the scope of coverage afforded by this **Memorandum**, and that has been, and remains, duly tendered to the **Authority** for defense and indemnity under this **Memorandum**, except salaries of employees of the **Covered Party**, the office expenses of the **Member Agency**, and expenses of any claims servicing organization the **Member Agency** has engaged.

Employee means any person whose labor or services is engaged and directed by a **Covered Party**, whether past or present, including a volunteer, official, or applicant for employment. This includes part-time, seasonal, and temporary labor or services, as well as any person employed in a supervisory, managerial, or confidential position. **Employee** shall not include leased employees, independent contractors or subcontractors, agents, or servants of any **Covered Party**, unless the **Covered Party** has the right to and does control and direct the details of their work rather than the result of that work. **Employee** also shall not include spouse, child, unborn fetus, parent, brother, or sister of the **employee**.

The exclusion of independent contractors or subcontractors from the definition of **employee** shall not apply to a **claim** for sexual harassment specifically authorized under California Government Code 12940(j)(4) and (5).

Employment Practices Liability means liability of the **Covered Party** for compensatory damages payable to any prospective, present or former **employee** on account of a violation by **Covered Part**y of any federal or state **Employment Liability Statute** or conduct held to be in violation California public policy, arising from:

1. Refusal to employ such person; or

2. Termination of such person's employment; or

3. Coercion, discrimination, retaliation, harassment, demotion, reassignment, discipline or other employment-related practice, policy, act or omission, provided such practice policy act omission does not include the willful commission of a crime or intentional infliction of **bodily Injury**.

Liability to the **employee** shall include liability to any spouse for economic damages or emotional distress incident to any of the acts 1 through 3 above.
Employment Practices Liability excludes anything not enumerated above, specifically excluding liability for breach of any employment contract, including without limitation any liability for lost wages and interest thereon, prejudgment interest, salaries, bonuses, stipends, expenses, overtime, retirement, medical or disability benefits, back pay, or any severance or other amount payable ~~on termination.~~as a result of and arising from any of the enumerated offenses, 1 through 3 above.

Employment Liability Statute shall include the following:

> Title VII of the Civil Rights Act of 1964 and amendments thereto; the Americans with Disabilities Act; the Age Discrimination in Employment Act; the Equal Pay Act; the Pregnancy Discrimination Act of 1978; the Immigration Reform Control Act of 1986; the Family and Medical Leave Act of 1993; the Genetic Information Nondiscrimination Act of 2008; the Health Insurance Portability and Accountability Act of 1996; the California Fair Employment and Housing Act; and any California or Federal statute to the extent it proscribes the same conduct.

Hired automobile means an **automobile** used under contract on behalf of, or loaned to, the **Member Agency**, provided such **automobile** is not owned by or registered in the name of the **Member Agency** or an **employee** or authorized volunteer of the **Member Agency**.

Member Agency means the local public agency, designated in the DECLARATIONS, which is a party signatory to the Joint Powers Agreement creating the Association of California Water Agencies Joint Powers Insurance Authority and is a participant in its Liability Program.

Member Agency's product means any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by the **Member Agency** or by others trading under its name, including, but not limited to, domestic water, agricultural water, recycled water, waste water, or electricity. Member Agency's product also includes containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

Memorandum means this document, the MEMORANDUM OF LIABILITY COVERAGE.

Nuclear material means source material, special **nuclear material**, or byproduct material. "Source material," "special **nuclear material**," and "byproduct material"

have the meanings given to them by the Atomic Energy Act of 1954 or in any law amendatory thereof.

Occurrence means:

1. With respect to the **bodily injury**, **property damage**, or **sudden and accidental pollution**: an accident, including continuous or repeated exposure to substantially the same generally harmful conditions, which results in **bodily injury** or **property damage** neither expected nor intended from the standpoint of the **Covered Party**.

   All allegations by the same injured party in the same claim shall be considered one **occurrence** for the purpose of the Limit of Coverage, and such **occurrence** shall be deemed to exist on the date of the alleged first act, policy, or conduct, in the event of an allegation of multiple acts, policies, or course of conduct.

   Property damage that is the loss of use of tangible property not physically injured shall be deemed to occur at the time of the **occurrence** that caused it.

2. With respect to **personal injury** and **Public Official's errors and omissions** respectively: an offense described in the definition of those terms in this **Memorandum**.

3. With respect to **Employment Practices Liability:** an act, policy, or course of conduct by a **Covered Party** during the coverage period which results in a claim for wrongful employment if the first act, policy or course of conduct occurred during the coverage period.

   All allegations by the same **employee** in the same claim shall be considered one **occurrence** for the purpose of the Limit of Coverage, and such **occurrence** shall be deemed to exist on the date of the alleged first act, policy, or conduct, in the event of an allegation of multiple acts, policies, or course of conduct.

Owned automobile means an **automobile** owned by or under long term lease to the **Member Agency**.

Personal Injury means: (a) false arrest, malicious prosecution, or willful detention; (b) libel, slander or defamation of character; (c) invasion of privacy; (d) wrongful entry or eviction, or other invasion of the right of private occupancy; (e) assault and battery; and (f) discrimination or violation of civil rights prohibited

by law or violation of federal civil rights laws, not intentionally committed by or at the direction of a **Covered Party**.

Pollutants means any solid, semi-solid, noise, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, mists, fumes, acids, alkalis, chemicals, biological and other etiologic agents or materials, genetically engineered materials, teratogenic, carcinogenic and mutagenic materials, waste materials, and any irritant or contaminant. Waste material includes materials which are intended to be or have been recycled, reconditioned or reclaimed. **Pollutants** does not include domestic water, agricultural water, recycled water, waste water, or water furnished to commercial users, nor include waterborne asbestos.

Products hazard includes **bodily injury** or **property damage** arising out of the **Member Agency's products** or reliance upon a representation or warranty made at any time with respect thereto, but only if the **bodily injury** or **property damage** occurs away from premises owned by or rented to the **Member Agency** and after physical possession of such **Member Agency's products** has been relinquished to others.

Property damage means physical injury to or destruction of tangible property, including the loss of use thereof at any time resulting therefrom; or loss of use of tangible property which has not been physically injured or destroyed.

Public Official’s errors and omissions means any and all breaches of duty by any **Covered Party** arising from mistake, misstatement, misleading statement, error, neglect, inadvertence, omission or negligent action or inaction, in the discharge of his/her duties for the **Member Agency** including service with any other entity at the direction of any **Member Agency**, except for the following:

1. Willful commission of crime or other dishonest, fraudulent or malicious act;

2. Obtaining financial gain to which the **Covered Party** is not legally entitled;

3. Faulty preparation or approval of maps, plans, reports, surveys, designs, bid documents, or specifications unrelated to the operations of a **Covered Party**; but this exception does not apply to reports provided to any other water purveyor or to services provided by a **Covered Party** for another **Covered Party**; or

4. Adoption or administrative application of any ordinance, resolution or regulation.

Sexual Abuse or Molestation means any actual or alleged negligent or intentional act, error or omission, amounting to or resulting in sexual abuse or molestation or threatened sexual abuse or molestation of any minor.

Subsidence shall mean earth movement including, but not limited to, landslide, mudflow, earth sinking, earth rising or earth shifting.

Subsidiary shall mean a public entity that is wholly or partially owned and controlled by a **Member Agency**~~member agency, known as the Parent Member~~. The **Member Agency**~~Parent Member~~ typically has the same Board of Directors as the subsidiary and those Board members are the same as the **Member Agency**~~Parent Member~~ not independently elected. The **Member Agency**~~Parent Member~~ makes all decisions over the subsidiary's operations and decision-making processes. The subsidiary operates as a separate legal entity but is subject to the control and influence of the **Member Agency**~~Parent Member~~.

Sudden and accidental pollution means the sudden and accidental discharge, dispersal, release, or escape of **pollutants**, resulting in **property damage** or **bodily injury** neither expected nor intended from the standpoint of the **covered party**, onto or upon land, into the atmosphere, into or under the ground, or into any watercourse, whether natural or man-made, or body of water or aquifer, but does not include any discharge, dispersal, release, or escape of **pollutants**, whether sudden or accidental or gradual or intentional from any fixed or stationary contained, vessel, or tank of any description whatever, when located above ground or underground.

Suit(s) means a civil proceeding in which **damages** are alleged because of **bodily injury, property damage, personal injury,** or **Public Official's errors and omissions** to which this **Memorandum** applies. **Suit** includes:

1. An arbitration proceeding in which such **damages** are claimed and to which a **Covered Party** must submit or does submit with the consent of the **Authority;** or

2. Any other alternative dispute resolution proceeding in which such **damages** are claimed and to which a **Covered Party** submits with the consent of the **Authority.**

Terrorism means an act, including but not limited to the use of force or violence and/or threat thereof, of any person or group(s) of persons, whether acting alone

or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

Ultimate net loss means the sum actually paid or payable in cash in the settlement or satisfaction of **claims** or **suits**, for which the **Covered Party** is liable either by: (1) adjudication, or (2) compromises with the written consent of the **Authority**, after making proper deduction for all recoveries and salvages collectible, and includes **defense costs**, court costs and interest on any judgment or award, but excludes all unallocated loss adjustment expenses and all salaries of employees and office expenses of the **Covered Party** and **Authority**.

Unmanned Aircraft means an **aircraft**, aerial system or device that is not designed, manufactured, or modified after manufactured to be controlled directly by a person from within or on the **aircraft**, aerial system or device.

SECTION II – COVERAGE

The **Authority** shall pay on behalf of any **Covered Party** the **ultimate net loss** which that **Covered Party** shall become legally obligated to pay to a third party by reason of liability (1) imposed by law, or (2) assumed by contract, for **damages** because of:

1. **Bodily Injury** Liability;
2. **Property Damage** Liability;
3. **Public Official's Errors and Omissions** Liability;
4. **Personal Injury** Liability; or
5. **Employment Practices** Liability

to which this **Memorandum** applies, caused by or arising out of an **occurrence** during the coverage period.

This coverage applies only to **claims** for **damages** arising out of those activities the **Member Agency** was engaged in at the inception date of this **Memorandum**, and not to **claims** arising out of any activity or service which the **Member Agency** added to its operations after the inception date of this **Memorandum**, unless such new activity or service is reported by the **Member Agency** to the **Authority** at least 60 days prior to commencing the new activity or service.

This coverage does not apply to **claims** for **damages** which are either expected or intended by the **Covered Party**.

Any increase in the **Member Agency's** exposure with regard to levee maintenance, hydroelectric generation, fire, police or ambulance services must have prior approval of the Executive Committee in order to have coverage under this **Memorandum**.

Coverage for Class III events/activities requires the concurrence of the JPIA. Without the approval from the JPIA, any and all losses stemming from the event will not be covered.

Coverage for the following types of events/activities will not be granted by the JPIA unless approved by the Executive Committee:

- Swimming Pools
- Water Parks
- Water Playgrounds – not including splash pads
- Water Slides

SECTION III – LIMIT OF LIABILITY

Regardless of the number of (1) **Covered Parties** under this **Memorandum**, (2) persons or organizations who sustain injury or damage, or (3) **claims** made or **suits** brought, the **Authority's** liability for the **ultimate net loss** for any one **occurrence** shall be the greater of:

1. $5,000,000 Aggregate Any one **occurrence**, arising out of **bodily injury**, **property damage**, **Public Official's errors and omissions**, **personal injury** or **Employment Practices** Liability, or any combination thereof; or

2. The total limit for all **Covered Parties** provided by any purchased excess insurance or reinsurance, subject to the **Authority's** ability to recover from those excess insurers or reinsurers.

SECTION IV –WHO IS COVERED

Each of the following is a **Covered Party** to the extent set forth below:

1. The **Member Agency** and any **subsidiary** or special district or agency totally governed by the **Member Agency**;

2. Any director of the **Member Agency** while acting within the course and scope of his/her duties;

3. Any **employee** or authorized volunteer of the **Member Agency** while acting within the course and scope of his/her duties; and

4. Any party designated in the foregoing paragraphs 1 through 3 while acting within the course and scope of his/her duties with respect to the use of an **automobile** not owned by the **Member Agency** and then only excess over any other insurance specifically insuring said **automobile**. Any person while using any **owned** or **hired automobile** and any person legally responsible for the use there of, provided the actual use of the **automobile** is with the permission of the **Member Agency**.

SECTION V - DEFENSE OF THE MEMBER AGENCY

On causes of action covered by this **Memorandum** and only those causes, the **Authority** shall have the right and duty to defend any **suit** against any **Covered Party**, even if all allegations are groundless, false or fraudulent. The **Authority** may make such investigations, negotiations or settlement of any **claim** or **suit** as it deems expedient. The **Authority** shall not be obligated to pay any **claim** or judgment or to defend any **suit** after any of the **Authority's** limits of liability have been exhausted.

The **Authority** shall have no duty to defend any **suit** against a **Covered Party**, nor to pay any costs or expenses incurred by any **Covered Party**, at any time before the **suit** is tendered to the **Authority**, nor shall the **Authority** have any duty to pay any costs or expenses incurred by any **Covered Party** at any time after the **Covered Party** withdraws its tender of the **suit** to the **Authority** for any reason.

This coverage applies only to claims for **damages** caused by an **occurrence**, for damage or injury that occurs during the coverage period of this **Memorandum**, and then only if, prior to the first day of the coverage period of this **Memorandum**, no person or party authorized by any **Covered Party** to give or receive notice of an **occurrence** or claim knew that the injury or damage had occurred, in whole or in part. If such an authorized person or party knew, prior to the first day of the coverage period of this **Memorandum**, that the injury or damage had occurred, then any continuation, change or resumption of such injury or damage during or after the coverage period of this **Memorandum** will be deemed to have been known prior to the coverage period. Injury or damage will be deemed to have been known to have occurred at the earliest time when any

person or party authorized by any **Covered Party** to give or receive notice of an **occurrence** or **claim**: (1) reports all, or any part, of the injury or damage to the **Authority** or to any other risk pool, any insurer, or any other indemnitor; or (2) receives a written or verbal demand or **claim** for **damages** because of the injury or damage; or (3) becomes aware by any other means that injury or damage has occurred or has begun to occur.

With respect to any covered claim or suit against the **Covered Party**, the **Authority** shall select and assign counsel to defend the **Covered Party(s)** against the claim or suit. The **Authority** will consider the wishes of a **Covered Party** with respect to the assignment of counsel; however, the **Authority** retains the sole right to make the assignment of counsel. If the **Covered Party** refuses to be defended by the counsel assigned by the **Authority** then this **Memorandum** shall not provide any defense or indemnity to such **Covered Party** for such claim or suit, and the **Authority** shall not be required to contribute to any defense costs, settlement or judgment arising from such claim or suit.

Any claim for damages by one **Member Agency** against any other **Member Agency**, if otherwise covered by this **Memorandum,** shall be submitted to binding arbitration pursuant to Section VII. – Conditions, F. RESOLUTION OF DISPUTES~~, (6) Arbitration Procedures for Resolving Disputes~~.

SECTION VI – EXCLUSIONS

This **Memorandum** does not apply to any defense or indemnification for the following items, whether the act or **occurrence** is alone, or is concurrent with other, covered matters:

A. Liability arising out of the ownership, maintenance, loading, unloading, use or operation of any airfield, or similar aviation facility; or

Liability arising out of the ownership of **aircraft**, or the maintenance or use of owned **aircraft**.

This exclusion does not apply to claims arising out of the ownership, operation, use, maintenance or entrustment to others of any **unmanned aircraft** owned or operated by or rented to or loaned by or on behalf of any **Member Agency** if operated in accordance with all applicable federal, state, and local laws, rules, and regulations, including but not limited to Federal Aviation Administration (FAA) Rules and Regulations for **unmanned aircraft** detailed in part 107 of Title XIV of the Code of Federal Regulations.

B. Any obligation for which any **Covered Party**, or any carrier as insurer therefore, may be held liable under any workers' compensation, unemployment compensation or disability benefits law, or under any similar law; or

Liability of any **employee** or authorized volunteer with respect to **bodily injury** of another **employee** or authorized volunteer.

C. Liability for **property damage** to:

1. Property owned by the **Covered Party**;

2. **Aircraft** in the care, custody or control of the **Covered Party**.

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**; or

3. The **Covered Party's** claim to, right to or ownership of any supply of **Member Agency's product**.

E. Liability for:

1. **Bodily injury, property damage, personal injury** or **Public Official's errors and omissions** which would not have occurred or taken place in whole or in part except for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time; or

2. Any loss, cost or expense arising out of any:

a. Request, demand, or order that a **Covered Party**, or any others, test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants;** or

b. **Claim** or **suit** by or on behalf of a governmental authority for **damage**s because of testing for, monitoring, cleaning, removing, containing, treating, detoxifying or neutralizing, in any way responding to, or assessing the effects of **pollutants.**

c. **Aerial application** of weed abatement or spraying or pest abatement or spraying.

However, this exclusion shall not apply to **bodily injury, property damage, personal injury,** or **Public Official's errors and omissions** arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** that:

a. Was sudden and accidental, and neither expected nor intended by a **Covered Party**; or

b. Resulted from the use, handling, storage, discharge, dispersal, release or escape of chlorine or any other chemical used in the water treatment process or waste water treatment process; or

c. Arose out of explosion, lightning, windstorm, vandalism or malicious mischief, collapse, riot and civil commotion, flood, earthquake or the collision, upset or overturn of an **automobile** or equipment; or

d. Arose out of the heat, smoke or fumes from a hostile fire; a hostile fire is defined herein as a fire that becomes uncontrollable or breaks out from where it was intended to be; or

e. Arose out of weed abatement or spraying, unless by and/or through **aerial application**; or

f. Arose out of pest abatement or spraying, unless by and/or through **aerial application**; or

g. Arose from propane or natural gas; or

h. Arose from the **products hazard**, **or**

~~h.~~ i. Arose from Perfluoroalkyl and Polyfluoroalkyl (PFOS/PFAS) in all variations including but not limited to all definitions in the reinsurance and/or excess policies.

F. Liability arising out of:

1. Estimates of probable costs, or cost estimates being exceeded, or failure to award contracts in accordance with statute or ordinance which under law must be submitted for bids; or

2. Failure to perform or breach of a contractual obligation; or

3. Settlement Agreements. Claims alleging breach of a settlement agreement involving a **Covered Party** in an underlying matter that was afforded coverage under this **Memorandum** will be covered for no more than $25,000.00 reimbursement by the **Authority** to the **Covered Party** for indemnity and defense as a combined total.

G. Liability at any time arising out of the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to asbestos, asbestos products, asbestos fibers, or asbestos dust; or

To any obligation of the **Covered Party** to indemnify any party because of damage arising any time as a result of the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to asbestos, asbestos products, asbestos fibers, or asbestos dust; or

To any obligation to defend any **suit** or **claim** against the **Covered Party** seeking **damages**, if such **suit** or **claim** results from or is contributed to, by any or any combination of the following: manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to asbestos, asbestos products, asbestos fibers, or asbestos dust.

H. Property damage to impaired property or property that has not been physically injured arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in " your product" or "your work"; or
(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use. ~~I~~

~~I~~H. Liability for past, present, or future **claims** arising in whole or in part, either directly or indirectly, out of selenium, or any compound containing selenium.

JI. Liability for punitive or exemplary damages, statutory multiples of damages, civil fines or penalties, or any other liability over and above actual **damages**, by whatever name called, irrespective of whether the **Covered Party's** governing board has taken any action or passed any resolution electing to pay such damages.

KJ. Liability arising out of the hazardous properties of **nuclear material**.

LK. Liability arising out of the partial or complete structural failure of any **dam**.

ML. Liability arising out of or in connection with land use regulation, or land use planning, the principles of eminent domain, condemnation proceedings, or inverse condemnation by whatever name called, to the extent that such liability is alleged to, or does, result from deliberate, decision-making conduct by the governing body of the **Covered Party**, and whether or not liability accrues directly against any **Covered Party** by virtue of any agreement entered into by or on behalf of any **Covered Party**.

This exclusion does not apply to inverse condemnation liability arising from accidentally caused physical injury to or destruction of tangible property, including all resulting loss of use of such property, for which the **Covered Party** may be legally responsible.

NM. Liability imposed by any “No-Fault,” “Uninsured Motorist” or “Underinsured Motorist” law, or any similar law.

ON. Liability arising out of any claim for **Cyber Liability** or by any name by which it is called.

PO. Liability arising out of injunctive and/or **Aadministrative Rrelief**.

QP. Liability arising out of the actual or threatened abuse or **molestation** of any minor, including but not limited to physical abuse, corporal punishment, **sexual abuse**, or sexual **molestation** by any **Covered Party**, or anyone acting on behalf of the **Covered Party**.

RQ. Liability arising out of the adoption or administrative application of any ordinance, resolution or regulation.

This exclusion shall not apply to the physical enforcement of an ordinance, resolution or regulation, such as liability arising from the act of delivering a fine, citation, warning, notice or inspection.

SR. Liability arising out of or by reason of:

1. The purchase, sale, offer of sale, or solicitation of any security, debt, bank deposit, or financial interest or instrument;

2. Any representations made at any time in relation to the price or value of any security, debt, bank deposit or financial interest or instrument;

3. Any depreciation or decline in price or value of any security, debt, bank deposit, or financial interest or instrument; or

4. Employee Retirement Income Security Act of 1974 or any law amendatory thereof, or any similar law, or arising out of fiduciary activities with respect to employee benefit plans.

TS. Failure to have a written contract or failure to include risk transfer in a written contract will result in a sublimit equal to the policy limits of the other party to the contract.

SECTION VII - CONDITIONS

A. PREMIUM/DEPOSIT PREMIUM

All premium payments required by this **Memorandum** shall be computed in accordance with the Joint Powers Agreement and the cost allocation plan adopted by the **Authority's** Board of Directors. The Deposit Premium is an estimate to be credited against the amount of Retrospective Premium determined under the cost allocation plan.

B. INSPECTION AND AUDIT

The **Authority** shall be permitted, but not obligated, to inspect the **Member Agency's** property or operations at any time. The **Authority** shall have the right to examine and/or audit any data provided by the **Member Agency** which affects or may affect the **Member Agency's** financial obligations under this **Memorandum**.

C. SEVERABILITY OF INTEREST

The term **Member Agency** is used severally and not collectively.

D. **MEMBER AGENCY'S** DUTIES IN THE EVENT OF **OCCURRENCE**, **CLAIM**, OR **SUIT**

1. The **Covered Party**'s duties in the event of an occurrence, **claim**, or **suit** reasonably likely to involve the **Authority** are as follows. These provisions are conditions precedent to coverage afforded under this **Memorandum**.
Written notice containing particulars sufficient to identify the **Covered Party** and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of the available witnesses, shall be given by or for the **Covered Party** to the **Authority** or any of its authorized agents.

    a. The **Covered Party** shall immediately notify the **Authority** upon receipt of notice of a claim involving:

        i. One or more fatalities;

        ii. Loss of limb or amputation;

        iii. Loss of use of any sensory organ;

        iv. Spinal cord injuries (quadriplegia or paraplegia);

        v. Third degree burns involving 10% or more of the body;

        vi. Serious facial disfigurement;

        vii. Paralysis;

        viii. Closed head injuries;

        ix. Serious loss of use of any body functions;

        x. Long-term hospitalization;

        xi. Class action suits; or

        xii. Sexual abuse or molestation.

2. If **claim** is made or **suit** is brought against the **Covered Party**, and the **Covered Party** seeks defense or indemnity against the **claim** or **suit** from the **Authority**, the **Covered Party** shall immediately

forward to the **Authority** every demand, notice, summons or process received.

3. The **Covered Party** shall cooperate with the **Authority** and with defense counsel appointed by the **Authority** and, upon the **Authority's** request, assist in making settlements, in the conduct of **suits** and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the **Covered Party** because of injury or **damage** with respect to which coverage is afforded under this **Memorandum**; and the **Covered Party** shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The **Covered Party** shall not, except at the **Covered Party's** own cost, voluntarily make any payment, assume any obligation, or incur any defense attorney's fees or costs or any other expense other than for first aid or damage mitigation.

4. With respect to "In-house **Claims** Resolution" as defined below, the **Member Agency** may elect to make investigations and settlements. At the request of the **Member Agency**, however, the **Authority** shall investigate, handle, deny, accept or otherwise settle any such **claim** or **claims** on behalf of the **Member Agency**.

   “In-house **Claims** Resolution” within the meaning of this condition:

   a. Must be for **property damage** only, with no apparent potential for related **bodily injury** allegations;

   b. Must not have estimated **damages** for all **claims** arising out of the **occurrence** exceeding the **Member Agency's** applicable Retrospective Allocation Point; and

   c. Must be settled within six (6) months of the date of receipt of the claim.

   If a **Member Agency** incurs a loss which meets the above constraints, it may use the following procedures:

   a. Negotiate settlement of the **claim** up to the specified limits;

   b. Issue a check to claimant or otherwise compensate claimant for the agreed upon **damages**; and

c. Report the settlement to the **Authority** with a copy of the **claim** report, along with a copy of any release taken, and receive reimbursement for the amount of the settlement.

5. The **Authority** shall not be liable for **occurrences**, **suits** or **claims** with regard to which the **Member Agency** fails to comply with this subsection D.

E. ACTION AGAINST THE **AUTHORITY**

No action shall lie against the **Authority** unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this **Memorandum**, nor until the amount of the **Covered Party's** obligation to pay shall have been finally determined either by judgment against the **Covered Party** after actual trial or by written agreement of the **Covered Party**, the claimant and the **Authority**.

No person or organization shall have any right under this **Memorandum** to join the **Authority** as a party to any action against any **Covered Party** to determine the **Covered Party's** liability, nor shall the **Authority** be impleaded by the **Covered Party** or the **Covered Party's** legal representative. Bankruptcy or insolvency of the **Covered Party** or of the **Covered Party's** estate shall not relieve the **Authority** of any of its obligations hereunder.

F. RESOLUTION OF DISPUTES

Review by Executive Committee and Arbitration

This shall be the sole and exclusive method of review of the Memorandum of Coverage and any decisions based thereon.

Any claim, dispute or controversy arising out of or relating to this Coverage Agreement shall first be submitted to ACWA JPIA to be reviewed by the Executive Committee of ACWA JPIA. The Executive Committee shall consider all written submissions by either party, and, if requested by either party, provide both parties equal opportunity for oral argument. Unless otherwise agreed by the parties and ACWA JPIA, the Executive Committee shall determine if ACWA JPIA's position should be upheld or if the **Member Agency** should be granted coverage according to its position, and the Executive Committee shall issue its decision in writing within thirty (30) days of submission of such claim, dispute or controversy to the Executive Committee. Such written opinion shall briefly state the reasons for its decision and the basis for such decision, including but not limited to the documents, witness statements, and oral presentations made to the Executive Committee.

If a **Member Agency** disagrees with the written decision of the Executive Committee, then the **Member Agency** may submit, in writing, such claim, dispute or controversy to arbitration to be held in Placer County, California or such other location as the parties may agree upon, in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The review by the arbitrators shall be limited to a determination of the sufficiency of the basis of the decision of the Executive Committee and may not include any documents, testimony, legal theories, oral evidence, or other materials that was not previously presented to the Executive Committee when rendering its written opinion.

There shall be three arbitrators, the **Member Agency** and ACWA JPIA each selecting one arbitrator; the third arbitrator shall be selected by the two previously appointed arbitrators. The party demanding arbitration shall name its arbitrator in the demand for arbitration. The responding party shall name its arbitrator within fifteen (15) days after receipt of demand for arbitration. The third arbitrator shall be named within fifteen (15) days after the appointment of the second arbitrator. A Commissioner or Judge in the Placer County Superior Court shall be empowered to appoint any arbitrator not named in accordance with the procedure herein. The decision of the arbitrators shall be final and binding upon the parties.

Any award rendered by the arbitrators shall be final and judgment thereon may be entered by any court having jurisdiction thereof. The panel of arbitrators shall have the discretion to apportion the costs and expenses of the arbitration (including reasonable attorneys' fees) in accordance with the merits of the arbitration. The panel must render its decision by a majority of the panel within ninety (90) days of the appointment of the third arbitrator, following reasonable opportunities for presentation of evidence, law and argument.

The parties to this agreement hereby waive any right to a jury trial.

These arbitration provisions are intended to bind only the **Authority** and its **Member Agencies**. They are not intended to be binding upon any of the **Authority's** re-insurers or excess carriers.

~~1. General~~

~~The following procedures shall be followed in resolving any dispute, **claim**, or controversy arising out of or connected with the agreements set forth in this **Memorandum**. Such disputes shall be resolved by either administrative proceedings or binding arbitration as provided for herein. The parties in these proceedings shall be the **Authority** and the **Member Agency** and are hereinafter referred to as "party" or "parties".~~

2. Initiation of Proceedings

Either party shall give written notice to the other party of its intent to initiate proceedings to resolve any dispute covered by this SECTION VII – Conditions, E. Such notice shall contain a statement setting forth the nature of the dispute, the amount involved, and the remedy sought.

3. Administrative Procedures for Resolving Disputes

a. All disputes subject to these proceedings shall first be submitted to the following designated committee, depending upon the amount in dispute, to determine whether the dispute can be resolved by administrative proceedings without having to be submitted to binding arbitration.

Level and Committee	Amount in Dispute
1. Liability Program Committee	Not in excess of $50,000, per **occurrence**
2. The **Authority's** Executive Committee	Over $50,000, but not in excess of $200,000, per **occurrence**
3. Ad Hoc Board Committee	Over $200,000 and up to the attachment point of re-insurance or excess coverage, per **occurrence**

b. A separate Ad Hoc Board Committee shall be formed for each dispute as follows:

i. Upon initiation of the dispute, the entire Board roster shall be randomly prioritized.

ii. The first seven Board members on the prioritized list agreeing to serve on the Ad Hoc Committee, or to have their alternates serve, shall comprise the pool. At least five members of the pool shall be required to convene the Committee.

iii. No Board member representing a **Member Agency** that is a party to the arbitration, nor

his/her alternate, shall serve on the Ad Hoc Committee.

4. Administrative Hearings

Administrative hearings before committees shall be conducted in an informal manner with the Chair of the Committee presiding at the Liability Program Committee and the Executive Committee and the Chief Executive Officer of the **Authority** presiding, without a vote, at the Ad Hoc Committee. They shall be conducted in accordance with procedures determined by the Committee except as follows:

a. List of Witnesses and Documents

If either party wishes a list of the other party's witnesses and documents, it may demand it in accordance with the procedures set forth in California Code of Civil Procedure, Section 1282.2. However, the failure to list a witness or a document shall not bar the testimony of the unlisted witness or the introduction of an undesignated document, provided that good cause for the omission is shown as determined by the Committee.

b. Presentation of Evidence

Each party shall present its evidence in an informal manner. The Chair of the Committee shall rule on the admission and exclusion of evidence, but the Chair need not follow the rules of evidence and rules of judicial procedures.

c. Cross-Examination

Each party shall be permitted to cross-examine witnesses.

d. Testimony Under Oath

The testimony of witnesses shall be given under oath, with oaths to be administered by a Notary Public.

e. Representation by Counsel

Parties have the right to be represented by counsel.

f. Stenographic Record

Either party wishing a stenographic record shall make arrangements directly with a stenographer and shall notify the other party of such arrangements in advance of the hearing. The requesting party shall pay the cost of recording the hearing if no transcript is ordered. If a transcript is ordered, the cost of the transcript and of recording the hearing shall be prorated equally among the parties ordering copies.

g. Place of Hearing

Unless otherwise agreed to by the parties, administrative hearings shall be held at the general office of the **Authority**.

h. Time of Decisions

Decisions shall be made promptly by the Committee in writing and, unless otherwise agreed by the parties or specified by law, no later than ten (10) days from the date of the close of the hearing.

i. Costs and Expenses

Each party shall bear its own expenses.

5. Time and Method of Appealing Administrative Decisions

Either party may appeal the decision of the Committee to which the dispute was first referred pursuant to paragraph (3) above. Notice of such appeal shall be submitted in writing within ten (10) days of receipt of the Committee's decision. If the initial decision was by the Liability Program Committee or by the Executive Committee, the parties shall confer within ten (10) days of receipt of the Notice of Appeal to determine if they are both willing to submit the appeal to one of the committees set forth in paragraph (3) above having greater jurisdiction than the Committee that made the initial decision. If they agree to submit it to such a committee for final binding determination, the parties shall indicate this in writing and the matter shall be submitted to that committee and heard in accordance with the procedures set forth in paragraph (4) above. If either party is not willing to have the appeal heard by another committee, or the initial decision was by the Ad Hoc Board Committee, the appeal shall be submitted to binding arbitration in accordance with the procedures set forth in paragraph (6) below.

6. Arbitration Procedures for Resolving Disputes

a. Selection of Arbitrators

If an appeal of an administrative decision is submitted to arbitration, each party shall, within ten (10) days, select one arbitrator and submit his or her name in writing to the other party. Within ten (10) days after their selection, these two arbitrators shall select a third independent arbitrator. If the two parties cannot agree on the selection of the third arbitrator within ten (10) days, either party may petition the Placer County Superior Court for the appointment of the third arbitrator pursuant to the provisions of Section 1281.6 of the California Code of Civil Procedure. The third arbitrator shall preside as the Chair of the arbitration panel. Except for notification of appointment and as provided in the California Code of Civil Procedure, there shall be no communication between the parties and the arbitrator(s) relating to the subject of the arbitration other than at oral hearings.

b. Discovery

The procedures set forth in California Code of Civil Procedure Section 1283.05 relating to depositions and discovery shall apply to any arbitration pursuant to this paragraph (6).

c. Testimony Under Oath

The testimony of witnesses shall be given under oath, with oaths to be administered by a Notary Public.

d. Stenographic Record

Either party wishing a stenographic record shall make arrangements directly with a stenographer and shall notify the other party of such arrangements in advance of the hearing. The requesting party shall pay the cost of recording the hearing if no transcript is ordered. If a transcript is ordered, the cost of the transcript and of recording the hearing shall be prorated equally among the parties ordering copies.

e. Place of Hearing

Unless otherwise agreed to by the parties, arbitration hearings shall be held at the general office of the **Authority**.

f. Closing the Hearing

Each arbitration hearing shall be completed within one (1) day; provided, however the arbitrators may, for good cause shown, schedule such additional hearings as are necessary to ensure that all evidence material to the controversy is presented.

g. Time of Decisions

Decisions shall be made promptly by the arbitrators in writing and, unless otherwise agreed by the parties or specified by law, no later than ten (10) days from the date of the close of the hearing.

h. Costs and Expenses

Each party shall pay its own expenses, including the expense of the arbitrator appointed by it and the expense of any witnesses which it calls. Except as otherwise provided herein, the expenses of any witness or the cost of any proof produced at the direct request of the arbitrators, and all other expenses of the arbitration, including the travel and the other expenses of the third arbitrator chosen by the first two arbitrators shall be borne equally by the parties.

i. Interpretation and Application of Rules

With respect to any procedure not herein expressly provided for, the arbitration shall be governed by the California Code of Civil Procedure provisions relating to arbitration (Section 1280 et seq.). The arbitrator(s) shall interpret and apply these rules insofar as they relate to the arbitrator's powers and duties. All decisions of the arbitration panel shall be decided by a majority vote.

7. Funding of Defense and Payment of **Claims** Pending Resolution of Dispute

During the course of the administrative and arbitration proceedings provided for herein, the **Authority** may fund any defense to the **claim** against the **Member Agency** and any settlement of that **claim** approved by the **Member Agency**, subject to the right of the **Authority** to recover from the **Member Agency** any amounts paid out by the **Authority** for such defense or settlement which are finally determined not to be owed by the **Authority** under this **Memorandum**, with interest thereon at the legal rate of interest on judgments.

8. Effect of Arbitration Decisions

All decisions on appeals, whether by an administrative committee pursuant to paragraph (5) above or by an arbitration panel, shall be final and binding upon the parties.

9. Not Applicable to Excess Carriers

These arbitration provisions are intended to bind only the **Authority** and its **Member Agencies**. They are not intended to be binding upon any of the **Authority's** re-insurers or excess carriers.

G. OTHER COVERAGES

The coverage afforded in this **Memorandum** shall be excess of, and shall not contribute with, any valid and collectible insurance or self-insurance or other coverage, other than any excess, or umbrella insurance, or reinsurance procured by the **Authority** or the **Member Agency**.

Any and all payments made by others on behalf of the **Member Agency** towards defense costs, settlement, or satisfaction of a claim or suit to which this **Memorandum** applies, including but not limited to payments made by any valid and collectible insurance or self-insurance or other coverage but not including payments made by any excess insurance, umbrella insurance or reinsurance, procured by the **Authority** or the **Member Agency**, shall serve to satisfy the **Authority's** liability for **ultimate net loss** and shall be treated as though paid by the **Authority** hereunder. Such payments shall not be considered "recoveries and salvages collectible" under the definition of **ultimate net loss** set forth under Section I. – Definitions of this **Memorandum**.

H. SUBROGATION

In the event of any payment under this **Memorandum**, the **Authority** shall be subrogated to all the **Covered Party's** rights of recovery therefore against any person or organization, and the **Covered Party** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Covered Party** shall do nothing after an **occurrence** to prejudice such rights and shall do everything necessary to secure such rights.

I. WITHDRAWAL/CANCELLATION

The **Member Agency** may withdraw from the **Authority** and cancel this coverage only:

1. At the end of one of the **Authority's** Liability Program Coverage Years;

2. After three or more years following its first day of coverage by the **Authority's** Liability Program; and

3. After twelve months' advance written notice of such intent to withdraw is given by the **Member Agency** and received by the **Authority**.

The **Authority** may cancel the **Member Agency's** participation in the **Authority's** Liability Program upon a two-thirds vote at any duly constituted Board of Directors' meeting of the **Authority**. However, any canceled **Member Agency** shall be permitted a reasonable time to obtain other basic liability coverage before such cancellation becomes effective.

COVERAGE SCHEDULE

FOR COVERAGE PERIOD 10/1/2023~~2~~ - 10/1/2024~~3~~

COVERAGE LIMIT	COVERAGE TYPE	CARRIER
$5,000,000*	Self-funded	ACWA JPIA~~/California Water Insurance Fund~~
$5,000,001 to $10,000,000*	Reinsurance	Safety National Casualty Corporation
$10,000,001 to $20,000,000	Reinsurance	California Water Insurance Fund
$20,000,001 to $29,500,000	Reinsurance	Everest Reinsurance Company/ Continental Indemnity Company/ Upland Specialty Insurance Company
$29,500,001 to $35,000,000	Reinsurance	Great American Insurance Company
$35,000,001 to $45,000,000*	Excess Insurance	Allied World National Assurance Company
$45,000,001 to $50,000,000	Excess Insurance	Hallmark Specialty Insurance Company
$50,000,001 to $55,000,000	Excess Insurance	General Security Indemnity Company of Arizona

*SUBLIMITS:
$ 5,000,000 **Terrorism**
$10,000,000 **Communicable Disease**
~~$10,000,000 **Perfluoroalkyl and Polyfluoroalkyl (PFOS/PFAS)**~~
$45,000,000 **Subsidence**
$45,000,000 **Lead**
$45,000,000 **Mold**
**It should be noted this is not an exhaustive list of all reinsurance/excess sublimits.*

All coverage renews at 12:01 a.m. Standard Time at Roseville, California.

ACWA JPIA
Liability Claims Department Update
July 26, 2023

BACKGROUND
At the July 26, 2023, Liability Program Committee Meeting, the Liability Claims Department Manager, Jennifer Nogosek, will provide an update.

CURRENT SITUATION
Over the last 18 months, the Liability Claims Department has added two additional positions - a Senior Claims Adjuster on January 31, 2022 and a Claims Adjuster on November 15, 2022. There are now a total of five (5) employees in the Liability Claims Department.

We continue to see an increase in the claims received, due to the addition of new members and the required handling.

RECOMMENDATION
None, informational only.

Prepared by: Jennifer Nogosek, Liability/Property Claims Mgr. Date prepared: June 27, 2023

ACWA JPIA
CEO Update
June 20, 2023

BACKGROUND
This will be a standing item on Committee agendas.

CURRENT SITUATION
The JPIA's Chief Executive Officer, Andy Sells, will update the Committee on relevant current issues, potential future opportunities and challenges.

RECOMMENDATION
None, informational only.

Prepared by: Walter "Andy" Sells, Chief Executive Officer Date prepared: July 13, 2023

ACWA JPIA MEETINGS & CONFERENCE CALENDAR – 2023

Meeting Dates	Board of Directors	Executive	Personnel	Finance & Audit	Programs				Risk Mgmt	CWIF
					Emp. Benefits	Liability	Property	Work Comp		
Jan 23			2:00 PM COSTA MESA							
Jan 30									2:00 PM	
Jan 31		8:00 AM								
Mar 22				1:00 PM			3:00 PM			
Mar 23		8:00 AM								
Apr 26					8:30 AM					
May 8	1:00 PM	9:45 AM						8:30 AM		
May 9-11 ACWA Spring Conference – Monterey										
May 25										9:00 AM Utah
June 8			11:00 AM							
June 14-15 Executive Committee Onboarding Meeting										
June 20							3:00 PM	1:00 PM		
June 21		8:00 AM								1:00 PM
July 26					2:00 PM	12:30 PM				
July 27		8:00 AM								
Sept 6			11:00 AM							
Sept 27				3:00 PM		1:00 PM				
Sept 28		8:00 AM								1:00 PM
Oct 25		8:30 AM								
Nov 27	1:30 PM	10:15 AM								
Nov 28										8:30 AM
ACWA Fall Conference – November 29 – December 1 – Indian Wells										

- CICA Conference, Rancho Mirage – March 5-7, 2023
- AGRiP Governance Conference, Orlando, FL – March 5-8, 2023
- CAJPA Conference, Lake Tahoe – September 12-14, 2023