

## THE IMPORTANCE OF BEING SEWER SMART

### “Be Sewer Smart - Prevent Sewer Backups,”

a web-based sewer backup homeowner awareness campaign, was launched on November 5<sup>th</sup>, just in time for the year’s first rainfall. The campaign was kicked off with a proclamation by ABAG President Gwen Regalia, Mayor of Walnut Creek (currently ABAG Immediate Past President). It has registered with the public with more than 250,000 people visiting the website during the first few weeks of operation.

“This campaign is part of our ongoing efforts to reduce one of PLAN’s biggest liabilities, sewer backflow incidences,” stated Marcus Beverly, ABAG PLAN Risk Manager. “The new website, [www.sewersmart.org](http://www.sewersmart.org), provides yet another way to reach homeowners to promote awareness of backup risks and to distribute free BPDs (Backup Prevention Devices),” he added.

Featured by consumer reporter Tom Vacar on Oakland-based KTVU Channel 2 evening and morning news and other area television stations, radio and newspapers, this program has much to offer Bay Area homeowners. More importantly, it can improve the bottom line of Bay Area cities and towns. The campaign’s goal is to reduce the frequency of backups thereby protecting a family’s major asset - their home. In 2002 ABAG PLAN paid out \$2,400,000 in sewer claims.

### Backup Prevention Resources and Free BPDs

The campaign consists of an informational website, [www.sewersmart.org](http://www.sewersmart.org), offering homeowners a wide variety of information regarding sewer



connections, responsibilities, and “Be Sewer Smart” Do and Don’t Tips for maintaining a problem-free sewer connection. The website also includes a simple, five-question backup-risk assessment test designed to help homeowners evaluate their risk of backup.

For select ABAG PLAN member homeowners, the campaign also offers a free backup prevention device (BPD), along with self-installation instructions. Homeowners

### What's Inside

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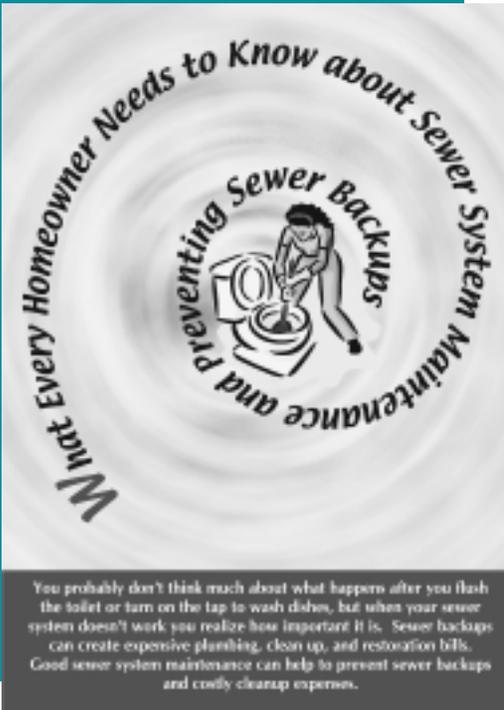
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# Risk Management

An analysis of recent efforts to minimize risk and prevent losses

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who prefer not to install the device themselves can visit [www.sewersmart.org](http://www.sewersmart.org) to find links to their licensed and insured contractors in conjunction with local contractor



associations, the Peninsula Builders Exchange, and the Plumbing-Heating-Cooling Contractors of Contra Costa and Alameda Counties. They have agreed to make typical installations of backup prevention devices for agreed, low ABAG-negotiated rates.

For a homeowner in the 94010 zip code, when selecting the ABAG Sewer Smart Installation button on the contractor association site, three different contractors were identified.

## Message to Local Governments

If your city or town is not participating in the free BPD distribution, residents can still gather useful tips from the website that may prevent sewer backups and save dollars and cents. Provide your residents with easy access by linking them to the sewer smart site from your homepage, publicize the site on community bulletin boards and public access stations, or in utility bills. This valuable resource needs to be shared to work. Pass the word along.

## Additional Winter Storm Flooding Prevention Efforts

The following are some tips gathered from the Federal Emergency Management Agency (FEMA) and an ABAG 1998 Flood Workshop.

### Preventative Measures

- Install backup prevention devices.
- Map the floodplain to identify areas of likely and/or historic flooding and then contact property owners to inform them of the potential. FEMA is currently updating regional flood maps to provide additional information.
- Establish a uniform flood control policy.
- Install rain gauges in streams.
- Remove debris from storm drains, culverts, streams, and other channels.
- Pre-position necessary equipment around flood-prone areas.
- Share information between communities.

### Public Education

- Work with the media to present emergency information to homeowners.
- Develop an educational campaign that uses newspapers, utility bill mailers, and other sources to inform residents in flood zones.
- Create, test, and publicize a warning system.

If winter flooding and/or mud/landslides do occur, get pre-approved with FEMA and keep the agency notified during cleanup efforts.

For more information about “Be Sewer Smart — Prevent Sewer Backups,” visit [www.sewersmart.org](http://www.sewersmart.org). Or contact Marcus Beverly, Risk Manager via email, [marcusb@abag.ca.gov](mailto:marcusb@abag.ca.gov) or via phone, 510/464-7969. Sewer backup educational brochures are also available for distribution to city/town residents.

### ABAG PLAN Corporation A Pooled Liability Assurance Network

*Providing self-insured coverage to cities in the San Francisco Bay Area*

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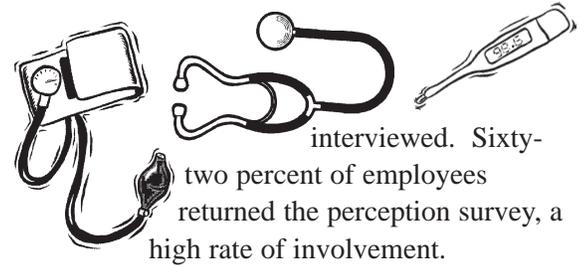
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## The Risk Management Checkup

Over the past five years, ABAG PLAN has paid out more than \$13 million in claims - some of which may have been avoidable. To help reduce these losses, the ABAG PLAN Board of Directors has authorized checkups - member risk management assessments.

The City of South San Francisco was the first member assessed. Jim Steele, Finance Director, said that the city didn't know what to expect, but that the experience was a positive one and targeted areas for improvement.



interviewed. Sixty-two percent of employees returned the perception survey, a high rate of involvement.

The major finding for the City of South San Francisco centers on closing the feedback loop. Steele described the problem and the resolution as, "our departments get information to ABAG PLAN examiners on claims, but don't typically get information back about how the incident was resolved. One way we are implementing the report is to get our finance department involved to give that feedback. Another opportunity for us is to use our existing citywide safety committee, which now focuses on workers' compensation issues, to get periodic liability claim updates, review it, and get feedback to departments. In any case, we found we need to have more communication between departments to close the information loop on claims."

After issuing its report, Bickmore has briefed the department heads. The City of Morgan Hill is next for review. By June 2005, Bickmore Risk Services will have completed the process for each ABAG PLAN member. A schedule by fiscal year is shown below.

### COMPLETE PROCESS



#### INFORMATION GATHERED INCLUDES

- Claims analysis
- Safety perception survey
- Key department head interviews
- Facility surveys
- City/Town policy and procedures review.

#### REPORT AND PRESENTATION INCLUDES

- Perception gap analysis of staff compared with management and between departments
- Best practices matrix weighted towards impacts and suggestions
- Sample policies and procedures.

Steele found that the process was smooth, due to two things: a knowledgeable City employee who knew who to contact and where to get the necessary information, and the professionalism and positive attitude of the consultant. "The consultant, Cathie Bigger-Smith of Bickmore Risk Services, understands how cities operate and her evaluation and presentation reflected this, making her analysis on-target and recommendations easy to accept," according to Steele.

The report is based in part on interviews with key department heads and a safety perception survey, completed by city employees. South San Francisco's human resources director, police captain, traffic coordinator, assistant fire chief, battalion chief, recreation director, maintenance services director, and maintenance supervisors were all

### RISK MANAGEMENT ASSESSMENT SCHEDULE

#### Year One (July 1, 2003-July 1, 2004)

- Milpitas
- San Bruno
- Burlingame
- Saratoga
- Morgan Hill
- Millbrae
- Suisun City
- East Palo Alto
- South San Francisco
- San Carlos
- Colma
- Tiburon
- Benicia
- American Canyon
- Dublin

#### Year Two (July 2, 2004 - July 1, 2005)

- Atherton
- Newark
- Pacifica
- Ross
- Hillsborough
- Woodside
- Los Altos Hills
- Half Moon Bay
- Los Gatos
- Gilroy
- Cupertino
- Los Altos
- Campbell
- Foster City
- Portola Valley
- Belvedere

## MEMORANDUM OF COVERAGE CHANGES

The ABAG PLAN member Memorandum of Coverage (MOC) spells out the extent and type of coverage the ABAG PLAN provides for membership. This document is under review to:

- Address new risks and coverage changes
- Solicit member input
- Condense and simplify language
- Align language with understanding and practices
- Inform members of coverage nuances and gap analysis of excess coverage.

The majority of proposed changes are based on the comparison of definitions and coverage between the two documents, the Memorandum of Coverage (MOC) and the Excess Liability Policy (XS).

The MOC provides for \$5 million per loss and covers General and Auto Liability, Bodily Injury, Property Damage, Personal Injury, and Public Officials Errors and Omissions. The MOC does not cover attorney fees or emotional distress unless the emotional distress is due to Personal Injury. XS coverage provides an additional \$5 million per occurrence, wrongful act, or employee benefit wrongful act for Bodily Injury, Property Damage, Personal Injury, Public Officials Errors and Omissions, and Employee Benefit Liabilities.

At the Board meeting of October 8, 2003, additional discussion took place regarding a process for resolving disputes, defense provisions, and how the MOC will be interpreted. A special committee of Board members will review these issues and provide direction to staff to prepare a revised MOC for the Executive Committee and Board to consider at their next meetings.

The differences between the two coverage documents are outlined below:

### MEMORANDUM OF COVERAGE

- Additional covered entities are included in the declarations.
- Limit is \$5 million per loss.
- Definition of Personal Injury Offense includes violation of civil rights.
- Excludes Employee Practices Liability.
- Employee Benefits Liability is not specifically addressed.
- There is no binding arbitration provision.

### EXCESS LIABILITY POLICY

- Declarations include ABAG PLAN Corporation and each member as a named insured on the policy.
- Limit is \$5 million per occurrence, wrongful act, or employee benefit wrongful act.
- Aggregate limits are \$5 million for Public Officials Errors and Omissions.
- Definition of Dam is broader.
- Dam exclusion is broader.
- Definition of Bodily Injury includes emotional distress.
- Definition of Personal Injury Offense is in some respects broader and includes advertising injury, wrongful eviction, and assault and battery.
- Pollutants definition is broader but also includes a sudden & accidental exception to the Pollution exclusion.
- Land subsidence is excluded.

**MEMORANDUM OF COVERAGE -- LIABILITY**

DECLARATIONS

ENTITY COVERED: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

COVERAGE PERIOD: \_\_\_\_\_

PREMIUM: \$ \_\_\_\_\_

DEDUCTIBLE: \$ \_\_\_\_\_

LIMIT OF COVERAGE: Five million dollars (\$5,000,000) per Loss.

FROM: 12:01 A.M., Pacific Standard Time

TO: 12:01 A.M., Pacific Standard Time

# ABAG PLAN Members Offered Assistance with Workers Compensation Crisis

The ABAG PLAN membership expressed an interest in finding alternatives to private insurance after receiving additional increases or settling for a higher Self-Insured Retention Fund (SIR) and its higher costs. ABAG PLAN now offers other options to assist members with a limited workers compensation market.

For most members there are at least three options for coverage next year. These options are: Shared Risk Pool, Local Agency Workers Compensation Excess Fund, and California Public Entity Insurance Authority. These programs are described below.

## Shared Risk Pool

Shared Risk Pool (SHARP) is the ABAG pool providing first-dollar coverage up to \$150,000, with the excess coverage provided by Local Agency Workers Compensation

Excess Fund (LAWCX). This is an option for those who are currently with State Fund, or want to have either no, or a relatively low SIR (up to \$100,000). This is also an option for those members with higher SIRs that want to transfer the risk of unexpectedly large losses to pool.

Losses are pooled among the members up to \$1 million, with excess coverage provided by California Public Entity Insurance Authority up to \$50 million per accident. Like SHARP, this pool requires a three-year commitment and is designed for long-term funding of member exposure.

## California Public Entity Insurance Authority

The California Public Entity Insurance Authority (CPEIA) is a county-associated joint powers authority that offers a primary and an excess coverage option to public entities. CPEIA participation requires a one-year commitment.

## Other Opportunities

It is possible that other markets may decide to offer workers compensation coverage next year to public entities in California. If so, information will be made available. There is no indication that the commercial market will return aggressively any time soon.

## Next Steps

The ABAG PLAN broker, Driver Alliant, has offered to assist PLAN members in obtaining quotes from the above entities and evaluating their options. Please contact Dennis Mulqueeney at Driver Alliant, 415/371-5421 or [DMulqueeney@driveralliant.com](mailto:DMulqueeney@driveralliant.com) for additional information. This process will provide members with the research and information to make an appropriate decision regarding workers' compensation renewals.

**Need Relief from High Rates?**

Workers' Compensation Pooling Offers an Alternative

**SHARP**  
(Shared Agency Risk Pool)

Association of Bay Area Governments

## Local Agency Workers Compensation Excess Fund

Local Agency Workers Compensation Excess Fund (LAWCX) is an excess pool offering SIRs from \$150,000 to \$500,000.

# ABAG PLAN Board of Directors Meeting Highlights

The ABAG PLAN Board of Directors meeting on October 8, 2003, focused on strategic planning; including organization objectives, governing document review, and retained fund management.

Meeting topics included the status of claims policy changes, documentation review, and Memorandum of Coverage (MOC) gap analysis revision. All of these

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# Claims Management

An analysis of recent efforts to minimize risk and prevent losses

## SMALLER CLAIMS COLLECTION PAYS OFF

**D**id the driving school student run into a stop sign and knock it over? If so, that student (or his/her parents) is responsible for the city's time and costs for replacing that sign even if the costs are less than the ABAG PLAN deductible. With tight city/town budgets, ABAG PLAN can assist by collecting on all property and vehicle damages.

### Recent Successes

- While a stolen car was being towed, it detached and collided with a police car. All of the repair costs were collected along with loss of use, for a total of \$5,212.65.
- A traffic signal was damaged by a car and repairs cost \$6,832. The entire amount was collected from the vehicle owner's insurance company.
- A fire hydrant was knocked over by tree service truck. The hydrant repair, the 100,000 gallons of water lost in the accident, and a small administrative fee were all recovered for a total of \$522.77. The city provided the hourly labor cost breakdown given to the tree company's insurance carrier.
- A car damaged a traffic controller box and a total of \$7,550.35 in repair costs was collected from the vehicle owner's insurance carrier.
- \$233.07 was collected for a sprinkler damaged by a car.
- A truck damaged a guard rail and the repair cost and city administrative fee were recovered, totaling \$1,724.54.
- A damaged traffic sign cost \$63.69 for the repair and an administrative fee for a total of \$73.24 - recovery of all fees.
- For a pedestrian sign pole damaged by an uninsured driver, \$177.27 was collected.
- For a damaged tree, \$841.98 was collected - the full amount of replanting.

*With tight city/town budgets, ABAG PLAN can assist by collecting on all property and vehicle damages.*

- Sound wall was damaged by a car and \$7,841.96 was collected - the total cost of repair.
- Driver caused greenbelt to catch fire and damaged landscaping. Collected \$1,000 towards the cost of putting out the fire.
- A vehicle lost control and hit a parked police car. \$3,641.29 was collected, covering the cost of the repairs to the police car, loss of use for 14 days, and a 15% administrative fee.
- Police motorcycle totaled by other driver. For a totaled motorcycle, ruined motorcycle boots, uniform shirt, pants, helmet, radio box, appraiser's fee, and loss of use of the motorcycle, collected \$22,523.76.



Collecting on these claims adds up - \$49,313.67, to be exact. Just submit that claim to save your city or town bottomline.

## PROCESS AND PROCEDURE

**T**he "how to" of claims submittal has changed. Instead of accepting claims submitted on the backs of napkins, which has happened, claimants are now required to submit their claim on a city-provided claim form. If the claim is not submitted on a city claim form, the claim may be returned because it fails to comply with Govt. Code Section 910.4(a).

To improve communications, the PLAN claim letter #2 has been revised to reflect this change and is available on our web site. If a claim is returned, it should be stated that it fails to comply with Government Code Section 910.4(a). Cities and towns do not have to provide any additional information to claimants.

Please contact Marcus Beverly, Angela Salsbury, or your assigned Claims Examiner with any questions or concerns.

## TRAINING OPPORTUNITIES

The best way to prevent claims from taking over city budgets is to give city staff the tools they need to recognize, limit, and avoid risks—in other words, risk management. In support of these efforts, ABAG PLAN provides both training grants and courses to meet identified member needs.

### Grants

A program providing up to \$500 for members to take training courses is available. Several members are going to the Public Agency Risk Managers Association (PARMA) conference courtesy of this fund. To find out if a training course meets the requirements, please contact Marcus Beverly, PLAN Risk Manager.

### Upcoming ABAG Programs - Police Risk Management

Two separate Police Risk Management training courses will be held February 23 & 24, 2004, from 8 a.m. to 5 p.m., in the auditorium of the Joseph P. Bort MetroCenter in Oakland. Conducted by Randy Means of



Thomas & Means, LLP, the session on the 23rd will cover *Police Officers as Risk Managers* and is designed for

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## THE NORTHERN CALIFORNIA CLAIMS CONFERENCE

Eileen Barr

ABAG PLAN not only values continuing education for members, but for PLAN employees too. In September, Lori Hardacre, Angela Salsbury, and I attended the 10th annual Northern California Claims Conference in Sacramento. This conference provided two days of educational workshops, trade shows, and great networking opportunities.

We learned about subjects almost from A - Z: *Alternative Dispute Resolution to Your Claim File on Trial*. The 18 different workshops were geared to meet the needs of adjusters throughout the industry. One of the more lively classes was *Dealing with Difficult People*, presented by David Brown, Esq. Many of the problems adjusters encounter in dealing with claimants are universal and learning better strategies is useful on the job and in all aspects of life.

According to his review of current literature, difficult people exhibit the following negative traits: Know-It-All, Critical, and Irresponsible. These are particularly challenging when these are expressed together. Brown commented that “the best counter to a negative person is to start recognizing the reactions you have and learn new behaviors that are a healthier response.”

Other workshop sessions included *California Catastrophes*, *What Adjusters Wish Vendors Knew About Earthquake Insurance*, and *Anatomy of Chiropractic Claims Management*.

The conference also had a tradeshow with a variety of vendors providing services. While many of the vendors are located in Sacramento, there are a number of them with offices in the Bay Area. ABAG PLAN is always looking for additional vendors to help provide quality services, especially in sewer-related losses.

Every year the ABAG PLAN Board approves money in our budget for conferences and meetings. We appreciate the funding, providing opportunities for continuing education and professional growth, which in turn, allows us to provide better services for ABAG PLAN members.

officers and first level supervisors. The session on February 24th will cover *Implementing Risk Management Systems in a Police Agency* and is designed for police managers and others, such as attorneys, city managers, or HR personnel, who contribute to or control part of the system.

Both sessions will be POST certified and there is no charge for PLAN members. Please mark your calendars and advise your staff to save the appropriate date for attending the training. The registration brochures will be mailed out soon. More information about the instructor is available at <http://www.thomasandmeans.com/index.html>.

### On-site Courses

Other courses have been developed to target specific areas. Defensive driving continues to be of interest. The city of South San Francisco and Town of Los Gatos recently participated. New programs currently offered include *Public Entity Liability* and *Limiting Your Liabilities*. Additional programs are available upon request.

*Public Entity Liability* training is designed to help staff recognize and respond to potential conflicts and to develop a commonsense approach to heading off claims for employees on the front lines. This program was recently held for the City of Gilroy and provided staff members from the community services department with the basic

### Meeting cont. from page 5

issues are still being reviewed with the claims committee looking at coverage determination and how disputes will be resolved and committee roles and documentation responsibilities being evaluated. Progress will be reported at the next Board of Directors Meeting.

<b>2/11</b>	<b>Loss Prevention Committee</b> 10:30 a.m. to 1:30 p.m. ABAG
<b>2/18</b>	<b>Finance Committee</b> 10:30 a.m. to 1:30 p.m. ABAG
<b>3/17</b>	<b>Actuary &amp; Underwriting Committee</b> 10:30 a.m. to 1:30 p.m. ABAG
<b>4/14</b>	<b>Executive Committee</b> 10:30 a.m. to 1:30 p.m. ABAG

understanding to prevent incidents and related claims.

An introduction to applied risk management - *Limiting Your Liabilities* - was given to City of Cupertino staff. The course introduced staff from various city departments to the principles of risk management and demonstrated the value of such activities. It also provided simple ways of implementing risk management principles.

For more information about these and other training courses, please contact Marcus Beverly at 510/464-7969 or [marcusb@abag.ca.gov](mailto:marcusb@abag.ca.gov).

Strategic planning guides the growth and development of any organization. As ABAG PLAN continues to evolve and change, these strategic plans provide a roadmap, which will change over time. ABAG PLAN is looking at five and ten year goals as well. Periodic updates will continue be announced in *Risk Matters*.

