

June 17, 2009

MEMORANDUM

TO: EL DORADO LOCAL AGENCY FORMATION COMMISSION
FROM: GENERAL COUNSEL
RE: COMPARISON OF COUNTY AND SDRMA INSURANCE POLICIES

BACKGROUND

The Commission is considering whether to continue procuring insurance through the County's shared risk pool or whether to obtain insurance primarily through the Special District Risk Management Authority (SDRMA) with supplemental coverage through other carriers. You have asked that we compare the County coverage with the coverage offered by SDRMA.

BRIEF ANSWER

It is difficult to assess the County's basic coverage because the County apparently does not have a policy form or any other document that describes the coverage and exclusions. SDRMA's coverage appears to apply to the types of claims and liabilities that will be most important to LAFCO, including injunctive relief and Commissioner errors and omissions. The County's excess coverage (which applies to liabilities over \$1 million) is somewhat narrower than SDRMA's coverage.

DISCUSSION

As noted above, we have not been able to obtain any documents that describe in detail precisely what the County's basic insurance policy will cover and what it will exclude. It may be the case that there is no policy form or other document along these lines, because the County insurance pool may simply be run differently than most insurance carriers. The County has arranged for excess coverage to be available through the California State Association of Counties (CSAC). Because the County's basic coverage applies to claims of up to \$1 million, the vast majority of potential LAFCO claims would be covered by the County, rather than by the CSAC excess coverage. However, the lack of details concerning the County's coverage makes it extremely difficult to compare with the SDRMA coverage. We also do not have a copy of the County's excess coverage through CSAC, although we do have a long memo provided by Larry Costello at the County that compares the CSAC coverage with the SDRMA policy.

The SDRMA policy appears to be standard insurance, covering LAFCO, the Commissioners, and LAFCO employees. With respect to Commissioner errors and omissions (E&O) coverage, SDRMA covers this, in Section II.C of the "Memorandum of Coverage". SDRMA's policy does have an exclusion for claims for injunctive and declaratory relief, which are the kinds of claims LAFCO is most likely to face. The County's excess coverage through CSAC apparently excludes these claims, according to page 23 of Mr. Costello's memo.

However, the supplemental coverage Alliant can provide does cover these claims. This is a significant weakness of the CSAC coverage as compared to the combined SDRMA/Alliant policies. Another disadvantage of the CSAC coverage is that it can apparently be canceled under some conditions according to page 57 of the memo, although it is not clear what these conditions are.

Other than these important distinctions, Mr. Costello's memo suggests that the CSAC coverage and SDRMA's coverage are extremely similar. There are some small differences, but they are largely irrelevant to LAFCO. Examples of irrelevant distinctions include claims involving personal watercraft, soil subsidence, and war.

ANDREW MORRIS