CITY OF SACRAMENTO
COMMISSION ON CATASTROPHIC WILDFIRE
COST AND RECOVERY MEETING

Sunday, June 7, 2019
10:07 a.m.
Sacramento City Hall Council Chambers
915 I Street, 1st Floor
Sacramento, CA 95814

PUBLIC MEETING

APPEARANCES

CHAIRMAN:
CARLA PETERMAN

STAFF:
EVAN JOHNSON
EDITH HANNIGAN

COMMISSIONERS:
PEDRO NAVA
MICHAEL WARAN
MICHAEL KAHN
DAVID JONES
PROCEEDINGS

CHAIRMAN PETERMAN: Good morning, everyone. I would like to call to order our meeting of the Commission on Catastrophic Wildfire Cost and Recovery. I am Carla Peterman; Chair of the Commission and we thank the City of Sacramento for hosting us in their beautiful city facility.

Welcome, everyone in the room, as well as everyone who's joining us by video and phone today.

We'll begin with the roll call. Commissioner Pedro Nava.

COMMISSIONER NAVA: Here.

CHAIRMAN PETERMAN: Commissioner Michael Wara.

COMMISSIONER WARA: Here.

CHAIRMAN PETERMAN: Commissioner Michael Kahn.

COMMISSIONER KAHN: Here.

CHAIRMAN PETERMAN: Commissioner Dave Jones.

COMMISSIONER JONES: Here.

CHAIRMAN PETERMAN: And I am here, so we're all accounted for. Let me turn things over to our executive officer. Welcome.

MR. JOHNSON: Thank you. I just want to mention a couple of minor agenda changes. One is that we will not be voting on the minutes today. They will be provided within the next week, and they will be approved by the Commission following this -- actually I don't think they'll be through
that process, but they'll be posted following this next week. And I also wanted to add that executive director of OPR, Kate Gordon, is going to join us for a few opening comments here at the beginning. And I think we should probably do that now. So if I can welcome up Kate Gordon, the executive director of the Office Planning Research, as well as the senior advisor on climate to the governor.

MS. GORDON: Thank you so much (indiscernible). I'm going to assume these are on. Here we go. Thank you so much, Evan and Commissioners. I really just wanted, as you know, I was here at the beginning of the first meeting. I wanted to come back at the beginning of this meeting just to say again how grateful I am to everyone on this Commission. This has been honestly a truly Herculean task. This -- the issue that we're facing with wildfires, intersection with utility infrastructure, the intersection with insurance issues is a problem that is probably bigger than anyone can solve with any one answer.

And this process has been the one process of all of those going forward that has been truly public, open to the public, deliberative, expert based and really just thoughtful. And I want to just thank you all for all of the time you've taken out of your lives to spend thinking about this problem, to listen to public input, to listen to experts, to bring your own expertise and thought and
deliberation to these questions and to come up with, you know, your best set of recommendations on what to do with all of that information coming at you. I know that this has been challenging and time-consuming and just really, really wanted to thank you and say that I don't think anybody is expecting a perfect answer. But what we're all expecting and I think you have given us is your best thoughts and recommendations on this huge, huge issue that's facing the state.

The only other thing I wanted to say is a special thanks first to Evan and Edith and the OPR staff, who have just done an enormous amount of work to support the commission. And I think has been really, you know, just incredibly -- I've been very pleased. I hope you've been pleased with how that's gone. And I know they've been incredibly impressed by all of you. So -- so thanks to them.

And finally, you know, just on the recommendation themselves, I'm really looking forward today to hearing kind of -- because of the process we're all subject to, this is the first time you'll be able to talk to each other about some of those recommendations. I'm really looking forward to that conversation. And I will say, just in my role as the head OPR and part of the staff of the Commission, we end up, you know, being on the receiving end
of a lot of people talking to us as well about the draft recommendations. And one thing I wanted to point to that I think has gotten less attention maybe in the media, but it's really important -- and this goes to Commissioner Jones, the insurance recommendations are something probably the single largest set of things that I've had questions about from the public and from legislators. And I think it's just incredibly important that we went into that set of recommendations in so much detail that that is -- insurance is where this is hitting people every day right now. And it's top of mind for many people.

And I don't want to get that -- I don't think that should be lost in the larger conversations about liability and fund and structures, because the insurance piece is singularly important to so many Californians. So thank you in particular for your work on that and to all of you for all of your incredibly hard work on the Commission. And with that, I will leave it to Evan.

MR. JOHNSON: Thank you very much. As I mentioned, the next item on the agenda is, is the consent calendar, and the only item we had on that was the meeting minutes. As I said, they'll be posted next week. They're not available yet today. Now, I think we move on to the executive officer report, which is where I get to blather on about our process. And I would appreciate everybody's
indulgence for a minute on that, because this is at least
our first -- at the moment, our last scheduled meeting of
the Commission. So I want to take a minute to thank
everybody who has been part of this process. In
particular, I want to thank Edith Hannigan who is over here
to my right and who has been just an incredible support to
this process, an integral part of the team. So thank you
very much. Karen Akiyama, Beth Hotchkiss, Jeannie Lee, New
Antakya (ph.), both of whom are sitting in the front row
here. A host of other people at OPR who have all been at
the Office of Planning and Research, who have been very
supportive, as well as Director Kate Gordon, who's been
very supportive through this process. Thank you to that
excellent team.

I also want to thank our consultative agencies with
SB. Not only required us to consult with the California
Public Utilities Commission and the Department of
Insurance. As we developed these recommendations and they
were willing and able partners in that. So I appreciate
their input and thoughts as we went through this process
that was often asking for last-minute, input and feedback.
So I appreciate their responsiveness on this.

I also want to thank all of the hosts that we had. We
traveled the state. We went to Redding, Ventura, Santa
Rosa, Sacramento here twice now. And we've had gracious
hosts throughout being hosted at the city or county
chambers every time. And everybody's been willing to put
up with our hassles of posting agendas and, you know,
running over time.

And I particularly thank Santa Rosa for being tolerant
of us for running over time. So thank you, everybody on
that process and being patient and tolerant. I think most
importantly, though, and Kate touched on this a little bit,
I want to thank the public because the public so far today
has been an incredibly valuable and integral part of this
process. We've received forty plus public comments,
including I think we got ten in yesterday alone in response
to a report that was released ten days ago. So that was
really remarkable and I appreciate everybody's willingness
to do that.

And those comments are reflected in the drafts that
were put together by the Commissioners in the workgroups as
well as by the staff. That input was incredibly valuable,
the testimony we got from the public. And, you know, I
know that the Commissioners are reflected on this in the
past, but at times very heart wrenching stories of
devastation and loss of life. And just the impacts to
people and their homes and their livelihoods and their
communities of these wildfires. That was very impactful
and influential in our process. And I really appreciate
it's not easy to dredge up those thoughts and feelings. And I really appreciate everybody being willing to take the time and the emotion to do that and everybody else who's sat there and taken in those stories and taken them to heart. We have also, as I said, we've had five -- we were required to have four public meetings. And proud to say we had five very extensive public meetings. We've also, as I said, had a rolling public comment period and gotten extensive written comments and really appreciate that, especially when we put out requests for comments.

And we got thirty some really thoughtful responses to that request for comments and answers to questions we put forward, very difficult questions that we put forward. So thank you for that. I won't belabor this process, but I just finally, I want to thank the Commissioners and their time and their expertise. It's really a remarkable group. And the way you all conducted this process as well as you took to heart all the public input. So the public truly had a seat at the table in this process I think is incredibly valuable. And some of you are new to the Bagley-Keene process and it's not an easy adjustment and everybody was willing to take that to heart and in stride. And I really appreciate that. It's been very meaningful.

I think, Carly, you're going to go through the rest of the process for the day. Is that right? Unless there's
anything else you want me to cover?

CHAIRMAN PETERMAN: At a high level just got through the agenda.

MR. JOHNSON: Sure. So we are going to move on to agenda item, I believe 7 right after this. Is that correct? Or Chair support next. Carla will give you an overview here and then we'll move on to the discussion Item 7, which is the discussion of the work of the workgroups and the executive summary. That's before the discussion draft that's before the commission today. As you all know, the work -- at our last meeting, we split the Commissioners up into what we are affectionately calling Bagley-Keene pairs to work in workgroups on specific issues.

Those workgroups produced three sections, appendices of this report, and they're all available on the website and in hardcopy in the back on the main table, as well as all the public comments received. So if you need to look at them there, they're back there. So they produced those. And we, the staff, took that material and we tried to synthesize it into an executive summary that represented the thinking of all the Commissioners and in particular, the findings and recommendations within those.

And I want to be clear that executive summary and the full set of recommendations that were in the appendices were not seen by the commission, the full commission before
they went out publicly. So you all saw them at the same
time they saw them. And you know, I'm hopeful that we were
able to catch most of what the intent was in those sections
within the executive summary. But I think I'll find out
today whether we did a good job. So that process led us to
this executive summary.

So today we're going to hear from those Bagley-Keene
workgroups on the specific sections that they worked on.
High level recommendation, the high-level findings, and
recommendations and where they as their workgroups saw an
opportunity for change in the executive summary. And then
there'll be an opportunity for the Commissioners to ask
questions of each other regarding those sections and how
it's represented in the executive summary. I imagine at
that point we will probably take a break for lunch and then
once we come back, we will take -- we will still be in that
discussion item, discussion Item 7. We'll take comment on
those, the executive summary and the workgroup sections,
public comment.

And following that public comment, we'll bring it back
to the commission to have further discussion and look at
line edits or discuss line edits that need to be made
within the executive summary to get to a point at the
end -- get to the appropriate point at the end of this
meeting. So the intent there is to make sure that the
Commissioners are hearing all the public feedback before having that final discussion. And then once that discussion item's over, we will have a final opportunity for public comment at the end of the day on issues not directly related to these recommendations, but I would anticipate that most of it will be covered in advance in discussion Item 7. So that hopefully walks through the day, probably in more detail than you needed. Thank you.

CHAIRMAN PETERMAN: Thank you. And I also want to sincerely thank you, Evan, for your leadership and work as executive officer. You just described what your role is and you described it kindly, but having to coordinate all of us without our input at times is not an easy task. So thank you to you and the OPR staff for your work. Thanks to everyone who has participated in our meetings, the expert testimony has been valuable and we appreciate you taking your time. Each meeting after meeting to come before us as well as to work together, I've seen a real evolution even from when we first had our first meeting in February in terms of where individual positions were. Not so much that people's positions have changed, but I think there has been more openness to the fact of a need to find some common ground to move a solution forward. And one thing that I think is notable across all the subsections and recommendations is that we all acknowledge that in
various ways we are in crisis now and it is the time to act
and that the status quo is the least favorable
recommendation that we would bring forward today. So I
look forward to our discussion. Commissioners also wanted
to first and foremost thing each and each and every one of
you for the amount of effort and work that you put in to
the workgroups and the subchapters. That was really
evident from the products that came before us. And I want
to go over briefly how I see today's meeting proceeding in
terms of our discussion.

At the end of the meeting after the time for
discussion and public comment we will take a vote to
transmit the executive summary and all the recommendations
within to the legislature and the governor. Our respective
workgroups have spent significant time analyzing these
issues, and so I do think it's helpful if necessary, for
each workgroup to acknowledge and address, if they think
the executive summary could better reflect the work and
intention of their workgroup. And then also,
Commissioners, to the extent that you see significant gaps
in the recommendations or product of some of the other
workgroups, I ask that you consider additional language
that might be helpful to further clarify those
recommendations. I want to acknowledge and recognize that
there is a lot of detail in each recommendation and each
workgroup. And so I don't think it's our task today to individually endorse every word and every idea at the end of the day. I think our task is to evaluate which set of recommendations we think are worth transmitting to the legislature for their further consideration and review. We know that there are challenges and unknowns associated with every recommendation, and I expect and anticipate that stakeholders will make us aware and make the legislature aware of which challenges they think are insurmountable and what are ways to work through some of these challenges to make all these recommendations actionable. So we look forward to that comment. And again, this process and consideration doesn't end here. We're transmitting this to the legislature and I know they look forward to your input as well, and we'll make sure that they have available to them our full record, including your testimony today. So with that, we'll begin now with the summary presentations from our workgroups. And we'll begin with the workgroup that was led by Commissioner Kahn and Commissioner Nava on strict liability and a legal framework. Welcome.

COMMISSIONER KAHN: Thank you very much. Or I begin I'd like to observe that what Carlos said is right. We're in a crisis and we are not going to resolve anything. We are transmitting information to the legislature and the
governor and our conduit for doing that has been OPR and the work of Evan and the people who work with him. And had that work not been excellent and evidence-based. What we pass on to legislature and the governor would not be of much -- would be of not much value. And so I think the first thing we should acknowledge is what a terrific job. Kate, your group and OPR did and what a fantastic job Evan did, because the most important thing about our commission is that we are completely independent people who gathered independent information and evidence and we're presenting it to the legislature, the governor and without the great work of OPR and the really superb activity of Evan, we wouldn't be able to do that.

Second thing I'd like to say, and I'm sure Pedro's thinking I'm stealing his thunder because I'm sure he would do it, is that we've had a wonderful chair. She has just done a terrific job leading us. And those of us who had the opportunity to watch her represent us to the legislature and in other forums, I think were honored by her representation of us. And so I think that this was with the -- any decision we made was right. That was the one right decision, we for sure made.

CHAIRMAN PETERMAN: Thank you.

COMMISSIONER KAHN: Our workgroup made an effort to look at the evidence that was presented to us and capture
that evidence in findings and recommendations. We recognize that there is a lot of political views and a lot of stakeholders who will or will not make money. And we don't want to wade into any of that. What we wanted to do was gather the evidence, evaluate it and transmit it to the legislature and the governor so that they would have the facts so they could make their decisions based on facts and evidence. And we couldn't have done that without the input of the public and the stakeholders and the experts that were before us. And so Commissioner Nava and I want to thank the public and the stakeholders and the experts for doing just a terrific job, responding in virtually no time flat, giving us sufficient information to present an evidence-based set of facts and an evidence-based set of recommendations. Before I review briefly the findings and recommendations, I want to make three observations about our recommendations because I think there may be misconceptions about them.

First, we are not in any way, shape or form letting the utilities off the hook for doing anything wrong. It is our workgroup's view that the utilities, when they are negligent or when they are imprudent or when they do not protect the interests of the citizens, should be held fully in account. Part of our view of that is reflected in our liability finding, and part of that is reflected in our
recommendation that maybe we should have another organization that looks after safety, as it were, a new sheriff. But I don't think that anybody reviewing our recommendations should be misled into the notion that somehow we are letting the utilities off the hook. The only instance we think the utility should not pay is where they did absolutely nothing wrong. And all they were doing is following the orders of the PUC or their other superiors where they did nothing wrong, we think that having the cost of the effect of the activity borne by the utilities and ratepayers is dysfunctional, as I'll talk about.

But point number 1 to make clear is we want to hold the utilities accountable. The second thing that I think is important and embedded in what we said was that we put the victims first. There is some notion that the victims were not taken into account. And I'd want the record to be absolutely clear. We heard from the victims. The victims touched our hearts. We understand, I think, again, I will echo what Ms. Gordon said about the insurance part. I think the insurance part is a special reflection of the frustrations of the victims. And what we learned in our hearing was the victims are victims of inverse condemnation. They are harmed perhaps more than anybody else. I'll give you some examples so you understand our thinking. In a situation in which a utility did something
wrong and you are a victim of that and a situation in which utility did nothing wrong at all. If you are a victim and both of those situations, you're treated the same. You have no superior rights because of the fact that the utility did something wrong to hurt you. And moreover, when you are a victim of a very bad situation like the PG&E bankruptcy has shown, the utility goes into bankruptcy and then victims, that we are not even supposed to be talking about, the victims -- the death victims, the victims of personal injury, they are thrown in a process in which all of their rights are stripped and they're treated just as if it was a strict liability situation. And their claims are rendered almost worthless by the bankruptcies. So we not only didn't fail to consider victims, one of the ramifications of inverse that we were trying to fix is the horrible way victims are being treated in this situation. And we fear for the future of victims who are thrown into situations where utilities are bankrupt and all the victims are treated in a way that's unfair.

The third thing that I want to point out before we talk about these specific findings is the notion that somehow in any way, shape, or form, we are advocating a bailout of the utilities. We are not advocating a bailout of utilities at all. Our position is very simple. Inverse condemnation results in a tremendous amount of increased
cost, increased cost, billions of dollars of new cost. That cost has to be borne by somebody. The utilities can only pay so much. After the utilities can pay no more, like PG&E, and I think we're going to hear from others, then who should pay. Almost every single suggestion points to the ratepayers paying more money. If the ratepayers in this state pay more money, they will be forced to pay more money on top of the money that they already have to pay to harden the system and to make the utilities get the system safer and the capital costs and all of the costs of our ambitious climate goals and on energy needs. And so we are not bailing out the utilities.

What we are doing in suggesting a form of inverse is we are bailing out the ratepayers. What are we bailing them out from? Lest there be no mistake. The effective inverse condemnation is ratepayers write their checks to insurance companies. That's the effect. And what we are saying is that where the utility is not at fault for causing the fire, not at fault at all, it makes no sense for the ratepayers to pay insurance companies. It's as simple as that. The other workgroups address the issue and I'll say it this way, we address the cause of the problem. The cause of the problem is this enormous cost. The cause of the problem is inverse causing the cost. Michael and Carla addressed the question of the effect and what they
could do about the effect if we don't do deal with the cause. But regardless, the lesson which we convey here is having inverse in a no-fault situation results in billions of dollars of cost and that is stressing the system in a way that we find inequitable and problematic. Now going to our specific findings, the findings follow pretty clearly. We found that there is a big crisis, as Carla indicated. That's our first finding.

And we can't emphasize enough that the evidence was overwhelming, that this is a huge problem that's not going away. But I don't have to tell any of you that. Just turn on the local news. The local news now contains a component of warning you that we're now in fire season. It's a new season. We've now gone from spring, fall, summer and winter. We've now gone into fire; it's an additional season. It's a new normal in our lives. This is a real crisis.

Second observation we make in our findings is that there are a lot of different people attacking this problem in utilities, that it's a decentralized system. We were worried about duplication and we're worried about the scarcity. Everybody told us all of the evidence was we need more resources. And so it occurred to us that if we need more resources, why are we having fifty-six different people think about this. Why aren't we centralizing.
The third finding pertains to inverse. The important pining about inverse is what we say: the impact. The impact of inverse is it is hurting not only the victims, it is hurting our energy goals; it is hurting our clean water goals; it is hurting our climate goals; and it is not fairly allocating the costs of wildfires. Interestingly, we received tremendous amount of input from stakeholders and from experts.

We did not receive any evidence or any testimony that the current application of inverse is fair. The people -- the defenders of inverse simply said it's constitutional; you can't deal with it. This is our right; don't take it away from us. But no one was advocating. There is a fairness to have the ratepayers or the taxpayers pay this. And I'll come back to that in a second.

The fourth finding is the -- pertains to the costs of capital and the risks of bankruptcy and the fact that inverse is specifically hurting the victims, the ratepayers, and the utilities.

The fifth finding is that the process of determining cost recovery is a real problem, and we're going to hear more about this in the fund section so I won't be labor it, but everybody told us it's not working now. The status quo of how we're even implementing inverse is not working. I want to make one other observation from the morning papers
about the application of inverse. The way inverse -- we heard this morning that Cal Fire is determined -- the Mendocino fire was caused by an individual person who took a hammer and was fixing something on his farm and took the hammer and he slammed the hammer onto the -- to a piece of metal. And the metal caused a spark and the spark lit some straw on his property and he couldn't control it. As a result, four hundred and ten thousand acres burned and Cal Fire said appropriately, it's an accident. That happens and they're not going to sue the farmer for billions and billions of dollars of damage.

Well had the farmer taken that hammer and hit the nail and the hammer jumped up and hit a utility line and it caused a spark, one hundred percent of the liability of that fire would be on whoever put the utility line here. You should think about that when you're advocating the notion of inverse, the notion that the hammer hits and causes the spark directly on the ground, that doesn't cause liability, but the notion that the hammer jumps up and hits a utility line that causes liability. That was the origin of our thinking. That's not an equitable distribution of liability.

And so our three recommendations and I'll finish quickly -- our three recommendations follow from our findings that the current application of strict liability
for inverse condemnation for the electric and water utilities should be changed. I'll make one observation -- Carla was right; we learned a lot in this process.

One of the things we learned is this is not just a problem of the three investor-owned utilities. This is a problem of the fifty-six municipal utilities and the 3000 water utilities. It is the problem screaming out for help by July 12th is obviously a problem relating to the three investor-owned utilities. But the legislature and the governor must find eventually a solution for all the water utilities and all the publicly owned utilities, or we are going to have a terrible problem with the bankruptcies of these entities. And we're going to have energy shortages for those energy -- those entities or some other problem. And we're going to have, according to the water companies uncontradicted testimony, we're going to have clean water problems with the water entities that are forced into bankruptcy.

The second recommendation also follows. And that is we have to fix the prudent manager standard. The prudent manager standard is not working. It is not supplying the basis for capital being invested and no one is satisfied with it. In that regard, I'd like to comment on the chairman's observation about our work. As to some things, at least our workgroup, and I would hope the commission
thinks that the conclusions are incontrovertible. It is
incontrovertible, the prudent manager standard is not
working. As to whether the three options we've laid out
are the only options or the best options, we don't lay
claim to knowing the answer. And because of the process,
we've not had an opportunity to discuss it among ourselves.
So I think the chairman's great wisdom in the notion of
transmitting these recommendations on the recommendation is
you have to fix it. The ideas we've embedded are ideas for
you to consider. And that is the third recommendation.
It's the spirit in which we ask you to receive the third
recommendation.

It was our view in listening to the testimony that the
current method of governance is not working. The strike
force recommended that the PUC change its processes and
procedures, and that may be a solution, but we were not
convinced. Our workgroup thought that a bolder and a more
robust solution would include a new entity that would
govern safety but lest anybody is confused, we are not
wedded to the specifics of our recommendation. We
understand that we haven't had a chance to discuss it. We
realize that there may be problems with the jurisdiction of
the PUC. We recognize that there may be difficulties in
applying this. The important part of our recommendation is
that governance must be fixed to make the citizens safer.
And we offer an idea because it seems logical to us and we transmit it to the legislature and the governor in a spirit that we believe we must address the governance issues. And this is one proposal for handling it. So I'll close with the following.

The legislature in 901 asked us to assess the issues surrounding catastrophic wildfire costs and damages and to make recommendations for changes to law that would ensure equitable distribution of costs among affected parties.

Our workgroup report discharges part of that responsibility. Our assessment in our findings is that the current utility, wildfire liability and governance system does not equitably distribute costs among the affected parties. And we've made recommendations for changes to law to rectify that situation.

Thank you.

COMMISSIONER NAVA: Thank you, Madam Chair.

When I was an elected official, I would sometimes attend events and I'd receive an introduction by whoever was hosting the event. And many times I thought the introduction was so good that I couldn't do anything except ruin it by speaking. And I'm feeling the same way now. I think what Commissioner Kahn has done has summarized the work that we did as part of our workgroup, I agree with what Commissioner Kahn has said and how he has presented
it. I think it might have been the very first meeting where we were asked to make a brief statement about our participation and I recall -- But I said what it was going to be very important for us in our work to ensure that we relied on science and data.

And I think we have done that. I think the stories that we heard from electeds in counties where they suffered wildfires were extremely illuminating. And it was very emotional to try to understand the depth of the loss that people had suffered and how their lives had been changed forever. And to learn that many of those folks would suffer from post-traumatic stress disorder as though they had been in a war. And we also learned that for many people, it takes a year to two years for them to feel emotionally competent to deal with the everyday sorts of things that we take for granted.

What we've tried to do in our section is keep -- is be very mindful of those experiences and put that together with the science and the data to create our analysis and recommendations. I'm grateful that I had the opportunity to work with Commissioner Kahn on this and I'm going to shut up before I ruin my introduction.

CHAIRMAN PETERMAN: Commissioners, now is an opportunity to make comments or ask questions about what you heard. I'm happy to start off with a couple. And
first of all, thank you, Commissioner Kahn, first off for going first. And particularly for laying out how the recommendations as a package are intended and how we've thought about as principle, holding utilities accountable, putting victims first, and not advocating for a bailout. I think those are both all statements you and I have heard recently in legislative discussions that we want to be clear about what our intent is.

We're not going through all specific recommendations now, but I would recommend that in our conclusion we add some lines getting at these three points and just acknowledging that these are important for us. And so that there's an opportunity to come back and ask how does each recommendation tie to these. So that's one observation.

The second observation is I also appreciated your further detailing about the relationship between different victims' claims and how that plays out in a bankruptcy proceeding. As a nonlawyer, that was helpful for me. I think the reality is with these subchapters we were only able with given time to put so much in there. And so I think you did a good effort making the point for inverse confirmation reform. But there's some of these additional details that are helpful. So I'd also it's not necessary, but would think about adding a finding, particularly around that victim's relationship and acknowledging that with
those -- how this relates to some of those other claims in
bankruptcy court.

As you know from the record that we've received, there
are differences of view about kind of the legal ability to
change the interpretation of strict liability. So I'll let
others if they have thoughts on this opine, but I think it
could be worthwhile somewhere in the findings to note or
that there are some differences of legal view on this
matter.

One kind of more nuanced observation is on the finding
on cost recovery. I think I'm finding five -- I think it
is accurate, but there's a corollary and the finding really
highlights that the uncertainty around the cost recovery
process leads to higher perceived risk for utilities and
that can lead to additional borrowing costs, et cetera. I
think the corollary to that is that the discretion inherent
in the current cost recovery process also provides benefits
to ratepayers by not automatically assigning costs to them.

And so I think there could be a maybe another line and
I can recommend an edit to that finding five that
highlights that other aspect as well and the importance of
maintaining the benefits for the ratepayers as well as for
the investors. And then my last observation is I
appreciate the recommendations around a new wildfire board
and particularly you highlighting that there are different
rules across these fifty-six utilities. And having had a role where I had some oversight responsibility for POUs use and another with IOUs. I can tell -- I can say that having some conformity of standardization across all those entities can be really challenging. And there are laws that work to streamline the rules and regulations, but they're not perfect. And I think what you've highlighted is in this particular situation, the crisis is so big that we might need to go an extra step to make sure that we're having harmonization across POUs and IOUs.

So I really appreciate the intent and the focus of that recommendation. I do, and you've acknowledged this, I think we might want to in that discussion, just acknowledged one or two of the potential implementation challenges. The PUC is the constitutional economic regulator for setting rates for utilities. So making sure that there is coordination, across -- if one entity is doing specific cost recovery recommendations, that is not inconsistent with what the PUC has, we would hate for there to be two kind of economic regulators there.

And then the second that the PUC -- there are these broader safety initiatives happening, looking at how did utilities categorize all of their risk. And so we want to make sure that by pulling out the wildfire safety risk, that we're still thinking about those in the context of the
broader risk. And so, again, I think those are all things that are workable. But I just wanted to highlight those. And I think there's one or two lines to that finding that might support that.

COMMISSIONER KAHN: So I'm going to not step on Commissioner Nava's lines, but my reaction is to those are all five very friendly amendments and I would accept all of them. I think they're very good ideas. And I'm sorry we didn't think of them before.

CHAIRMAN PETERMAN: You thought of a lot. And I would say I had more suggestions, than questions because honestly, in your presentation, you answered my questions. So thank you both. And then in the afternoon, I'm happy to find more specific recommendations.

Commissioner Wara, would you like to go next?

COMMISSIONER WARA: Push the wrong button. There we go.

I thought the liability chapter made a compelling argument, and I think all of us recognize the problematic interaction between the situation we find ourselves, the liability regime that exists today, and the cost recovery regime that exists today. And the chapter laid out a compelling argument for why the legislature might consider changing one or both of those systems. I guess I have I have two main -- two suggestions for additions to the
chapter that I hope would strengthen the argument made therein.

One, is that the chapter more forthrightly acknowledge that changing the allocation of liability does not change the risk and that the liability is going to go somewhere else. In particular, as you discussed in your description, Commissioner Kahn, that the liability will go to an insurance regime which is also under stress and fragile. And I think that's a conclusion that Commissioner Jones and I drew from the testimony that we heard and then I think is relevant.

And this goes -- this is part of the complication of Bagley-Keene, is that we couldn't talk to you while you were both writing this chapter. But that's certainly something that we would have said, I think if we could have talked to you, is that we need to think about how these changes might interact. And it's not that we shouldn't make a change to inverse condemnation, but if we do, we need to think very carefully about how it might alter an insurance situation, which is at best fragile and at worst deteriorating for many homeowners in California. Risk doesn't go away, it is allocated essentially is what I'm saying.

And I'd love some finding -- or finding and perhaps a recommendation that acknowledges that reality. If that's
possible, if you can see to doing that.

The second thing I would say is that I think that this chapter makes what is in effect, a novel legal argument. And, you know, we heard testimony and there was substantial and extensive testimony last year in the 901 committee regarding the legality of changes to inverse condemnation. And there are people for it and there are people against it. And there are people who think that it would be unconstitutional.

And there are people who think that there is room for reinterpretation by the legislature. I would love -- I think it would be helpful to the legislature to have a more developed discussion of those issues and in particular, how the changes you suggest attempt to step around the dynamic that I think is commonly perceived to exist, because I think there is a novel legal argument going on implicitly in this chapter. But I would like to see it explicitly stated so the legislature can consider it, because I think that's an important piece of what of the work that you did. And I'd like to see it forthrightly put forward for consideration. So I think that requires discussion of the contentious legal issues. Thank you.

COMMISSIONER KAHN: Not to make a commercial against Bagley-Keene, but this points out the deficiencies in Bagley-Keene quite well. As to your first point, I again,
think that it's a good suggestion and I think we should do it. I do think just to staff that it is very important that we be evidence-based to the extent we had evidence. So on the -- as to insurance, I during the testimony pushed very hard for evidence that if we changed inverse, the insurance companies would behave differently. And the evidence was that at least as presented to us, when we should check the record, that there is no evidence that in making the rates the insurance carriers are taking into account their ability to collect the money so that this in effect will be a windfall that may not be right or may be right.

I think your point is really well taken. And that goes to the second thing we learned and I agree completely. If not in crisis, the insurance market is really fragile. And I know the people at OPR and are very sensitive to this about what the effect of what we do is. But I just think that what we have to do is separate bombast from reality.

Everybody's going to say, well, this bad thing will happen or that bad thing will happen and we can say it has been suggested, but we need to be evidence-based.

I believe that the way the current situation is, the insurance industry is not factoring in their ability to recover the inverse money. And what they're doing is it just going to their bottom line, but I could be wrong. But
your point is well taken and I think we should include it.

As to your second point. I tried very hard in my activity here not to play lawyer and I take your point. I think that your point is not any right. It's prescient when Chair Peterson (sic) and I were at the committee hearing in the assembly yesterday. To my great surprise, at least to assembly, people wanted to discuss the legal theory in depth and how it played out and what the terms of it were.

I felt like I was being cross-examined in law school and they wanted citation from me. So this engagement by the legislature into how this can happen, it was an optimistic sign and healthy, and I would be happy to amend this to include some thoughts in that regard. Also, I would commend everybody to the Edison Electric attachment to their filing in which they went into great detail about one theory. And lest I be accused of plagiarism, some of the creative thoughts that I have in this I borrowed from you, Ms. Davora, when you suggested the legislators ability to interpret the Constitution.

I thought that was something I didn't have an understanding of. So I'm more than happy to do this in the level of detail that -- everybody thinks is appropriate and OPR thinks is appropriate. Thank you for those suggestions.
CHAIRMAN PETERMAN: I'll just note I will encourage you, as you think about that, to think about not necessarily about the whole argument, but acknowledging the highlight so that at the end we know what we're voting for, but that not all the changes have to happen on the dais today.

Commissioner Jones?

COMMISSIONER JONES: Thank you, Madam Chair. And I want to begin by thanking you and my colleagues for your extraordinary work in the workgroups and the work of the commission. I want to thank, Evan, as well and his team at OPR and Kate for her leadership and join in all my prior colleagues, thanks to the many members of the public who took the time to participate, to testify, to attend, to send written comments. It was all very, very helpful and done in a very serious and thoughtful way and really helped us as Commissioners better understand the scope of the challenge and some of the possible solutions. I appreciate Commissioner Kahn's very thoughtful walkthrough of the working group as well as Commissioner Nava's elaboration as well.

I did say very early on in our proceedings that I think the existing system of inverse commendation associated with utility caused wildfires necessarily has and will lead to utility bankruptcies and utility
bankruptcies will revictimize people that have already
suffered enormous loss, whether it's loss of life, injury,
or loss of property as a result of these wildfires. And
the reason for that is that the bankruptcy court treats the
claims of the wildfire survivors, or those who were injured
or lost their lives, those that are making claims for them,
as an unsecured claim. And the bankruptcy court has the
ability to write that down to zero. That doesn't serve the
interests of wildfire victims. But that is the future that
we're looking at given the existing state of affairs. So I
agree that it's important that we use a touchstone for
these recommendations the way in which wildfire victims
will be treated under the existing system and that we look
for opportunities to try to improve that.

And I think grounding this set of recommendations in
that I support the chair's suggestion that we do exactly
that with regard to the last colloquy about the impact on
the insurance market of eliminating inverse condemnation, I
concur with Commissioner Kahn. I don't believe the
evidence before this commission supports that eliminating
inverse condemnation as a consequence potentially reducing
the amount of proceeds flowing to insurance companies
through subrogation. And let me make a note here,
potentially reducing, because again, what's proposed is not
no liability.
What's proposed is a negligence standard, which given everything we know about PG&E, in all likelihood, they would have been found negligent and as a consequence have to pay damages. And as a consequence, there would be a right of subrogation by the insurers, but in those cases where the utility is not found at fault under a standard other than inverse commendation, strict liability, there's no evidence before us to indicate that that would result in a serious adverse consequence for insurers.

And the reason for that is that the way in which rates are developed, regulated, and approved in California involves the ability of the insurers to seek rate increases to reflect prior losses. So when a catastrophic wildfire occurs, as we heard testimony from the Department of Insurance and others, there are enormous losses by insurers that get paid out to wildfire survivors. And in subsequent years, the companies can come in, or in the same year, come in and seek a rate increase, reflecting their new loss experience.

In addition, as a part of the rate development, they're entitled to have what's called a catastrophic factor, catastrophic load that reflects the fact that this was a catastrophic event and may indicate that these sorts of events are going to become more regular. And so that becomes a part of the rate, too. But nowhere in that rate
development is there a factor for subrogation. In other words, the rate is built with the expectation that premium is going to be collected to give insurers sufficient reserves to pay future claims. It is not built based on some future ability of the insurer to claw that back through subrogation against insurers, who themselves, have successful claims against the utility or any other party. So eliminating inverse commendation which could result in some utility caused fires where the utility was not found negligent could result in an insurers payout not being clawed back is not going to result in an adverse impact because it's not built into the rate in the first instance.

Now, in the event that the insurance company is able, through subrogation, to claw back its losses by requiring those that have suffered directly and who've gotten a payout from the insurance company and prevailed in their lawsuit against the utility in the event the insurance companies able to claw back those losses, then what happens is the Department of Insurance would take that into consideration because they've built the rate now going forward based on the prior losses. If the losses are clawed back by the insurance company, then possibly the Department of Insurance would consider modifying the rate to reflect the fact that, in fact, those losses were recovered by being clawed back by virtue of their
subrogation against the insurers who themselves prevailed in a lawsuit against the utility. So let me put this in a temporal way. Year zero, the fire occurs. Year zero plus six months, the rate filing is made. The insurance company is given a rate increase because under California law, rates have to be adequate and have to reflect their loss experience.

And let's say the insurance company comes in in year one, two, three, four, five seeking additional rate increases, which is very likely under the circumstances we face right now. And they will be granted those rate increases in all likelihood because they'll be able to show that their losses warrant those rate increases. And by year six, the lawsuit is either adjudicated or settled against the utility and those that brought the lawsuit win their claim.

And then the insurance company turns to them and says, hey, pay us back for what we paid you because you just got paid by the utility. So now the insurance company actually has a bunch of money coming in that hadn't been expected before, isn't built into the rate. And at that point, the Department of Insurance can say, you know, you ought to refile with us because we want to take into account the fact that you clawed this money back. And in fact, all of these rate increases we've given you earlier that reflect
the fact that you had these losses, well, maybe we should
modify them a little bit or at least consider that, because
now you've gotten a bunch of money back. So that's how it
works.

So I mean, I appreciate that, you know, the notion
that reflecting that in some way, shape, or form in this
section would be useful. But I don't think we have
evidence that inverse is going to imperil the market. And
I apologize for the length of the explanation, but I think
it warrants some detail. I do have a significant
disagreement with the recommendation to establish an
entirely new entity whose mission it would be to work on
safety. And I share, I think, some of the same concerns
the Chair articulated about the relationship of that entity
with the existing Public Utility Commission and the
potential for conflict where one entity is charged with a
safety mission and setting safety standards that the
utilities have to adhere to, but doesn't have
responsibility for doing any kind of cost benefit analysis
with regard to those safety standards. And then another
entity, the CPUC, is the rate setting entity, which either
has to take as a given what's been mandated by the safety
textity or maybe is given the authority to say no, in which
case the utility is stuck in the middle, because they have
to comply with all of the requirements of the safety
entity, but they're not given rate in order to accomplish that. Now you can have a law that mandates an immediate pass through. But that concerns me because you have one entity whose mission is one hundred percent safety and isn't thinking about cost benefit. And then you have another entity which is trying to do the job of balancing these sorts of things, and I just think that there's an inherent tension there. So I just want to note that for the record, I understand that, you know, we're transmitting these recommendations and that what underlay this recommendation is a concern about the need to have greater CPUC or greater attention somewhere in the system to safety. I personally am more supportive of the recommendations coming out of the Strikeforce report, which talked about reforming the CPUC in significant ways, both in terms of the efficiency of its decision making as well as raising and elevating safety as a criteria. I'm also, I'll just say, a little less convinced about the need for uniformity and I understand that as an important value. But I'm not sure we have evidence that suggests that the lack of uniformity with regard to the publicly owned utilities has resulted in some higher level of risk. So I just note that I mean, I think there's value in uniformity and value in setting a standard and value and consistency. And I guess, notwithstanding my concern about that lack of
evidence, I certainly support the suggestion there should be uniformity. But I think I think there hasn't yet been evidence that the lack of uniformity has caused a problem. And if that's the justification for the safety entity, I'm just not, I'm just not there. So those are some of my comments. But I think overall, I really appreciate the tremendous work. Commissioner Kahn and Commissioner Nava put into this section.

It's very thoughtful, very well-articulated. And I certainly support the additional suggestions that have been made about some minor amendments to it.

COMMISSIONER KAHN: So working backwards, I think that the -- again, I reflect on my comments to Commissioner Wara, I think that these matters need to be discussed and the way we're handling it needs to be discussed on uniformity. There are real implications for different ways of handling. We have gotten evidence that some people think we should underground all the utility lines. We've gotten evidence that some people think we should turn off the electricity when there's a fire coming. We have evidence that some people think we should have certain kind of clearing of the utility lines. And the uniformity notion comes from the idea that having different conclusions on the same subject is confusing to the public and maybe also confusing to the determination of whether
people are behaving properly and the whole negligent standard. So if, for example, some utilities decide that they're not going to turn off the electricity or they're not going to underground, but other utilities decide they're going to is the one that doesn't do it negligent. So I think your issues about what should be uniform, what shouldn't are compelling, but we are -- we need in the state to figure out what behaviors we are going to encourage utilities to engage in. And we can't whipsaw them by having different standards in different places so that they become liable for not following standards of other places. So I think the whole issue should be discussed. Maybe the solution to the problem of having a new board or a new activity is to give it some more thoughtful study. And I certainly think Commissioner Peterman and you have raised good points, but there is another thing going on in our suggestion, and that has to do with the wisdom of the Little Hoover Commission suggesting that we are not applying adequate resources in a number of areas. We are not collecting data in an efficient fashion across our system. We are not applying artificial intelligence or other technologies efficiently. The testimony in Florida is that they have set up statewide agencies to deal with these kind of problems and they address in a collective -- you've seen -- a collective way
of these difficult challenges. So the question is, where is that happening in California for wildfire protection in utilities? And the thought we had was if we created a wildfire board that had a functionality that did -- that collected all of the resources of the state that interacted with OES, that interacted with Cal Fire, that advanced us in data advanced us in technology, advanced us in artificial intelligence, that we be advanced. And so the notion of the wildfire board is not just in governance, but it's also in unifying all these interests. And to the extent there is duplication in these things in the state in a scarce resource environment, that's something that we thought was not a good idea. So those are issues that we think the state must take up. The state must realize it has scarce resources to apply to a crisis and must figure out how it can organize itself in a more efficient way. And that was the part of the thinking behind a wildfire board. Additionally, part of the thinking of the wildfire board was how the applications of a prudence standard would be done. It is clear how an application of a prudence standard is done in the PUC, but who is going to apply a prudence standard to the public utilities if the public utilities are going to be off the hook if they behave prudently. Are they to make the judgments for their own self. How is this going to be done. The notion of having
a wildfire board deciding prudency issues that are uniform across all utilities at least was one suggestion, one thought we had. In the absence of a unified board that deals with prudency issues for the public utilities and the IOUs. The question is, who's going to do the prudently for the public utilities if we are going to try to relieve them of the obligation of this inverse? Commissioner Nava and I don't have all the answers; we don't have a lot of the answers, but we tee up the suggestion of having some kind of wildfire board. For that thought, maybe not a great idea, but we have to solve for the problems that I've just identified.

Additionally, on the question of safety and mandating cost. You're right. It's a very good point. On the other hand, we've had this problem before. We had the problem in acquiring energy and we set up the -- we authorized the DWR are to buy energy and we mandated that DWR pass those costs on to the PUC and the PUC was required to pay for them. And somehow that worked. The DWR acquire the energy and the PUC required paying for it. And at least in that cap -- that instance we solve for the difficulty of having two entities with jurisdiction over one problem.

I don't think that the idea of having two entities deal with overlapping jurisdiction is necessarily fatal. It definitely needs to deal with the issues you're talking
about. But the notion -- the cost aspect of it also can be dealt with. So we don't have all the answers, but we do believe it's not working now. We do believe it's a big problem.

And I will say something about the PUC, criticism of the PUC is very easy. It's low hanging fruit. And it's in some ways it's unfair because the PUC regulations, if we got evidence from former Commissioners and other people, and Ms. Peterman has stayed out of this fray, but other Commissioners have pointed out that the rules and regulations that the PUC operates under are very difficult. They're time honored. They pertain to lots of different other entities. They pertain to railroads, they pertain to telecom. And there are lots of procedures. And it makes it very difficult for PUC Commissioners to have the kind of leadership and the kind of, pardon the pun, energy necessary to get things done.

And I will point a precedent out. When we had the energy crisis in 2001, the legislature held a special session. And there were lots of agencies in charge of developing agency. But the governor and the legislature in 2001 created the California Green Team. And the California Green Team had jurisdiction over all of the problem of getting enough energy in California. And it obviously conflicted with the PUC and the Energy Commission and
everybody else. But the legislature and the governor
decided that this was such a high priority that we couldn't
afford blackouts, that we created the Green Team and it
worked. We bottled enough energy. We never had any
blackouts.

And yes, it was true. And so I know lots about it
because I headed the Green Team. And yes, it was true. I
was talking to Mary Nichols about resource and I was
talking to the PUC and other people. But the point was, we
had a crisis in 2001. We were going to have blackouts, was
going to cripple the state. And we decided that the
highest priority in that instance was to address that
problem. And that wasn't a "we" me that was a "we" the
governor and the legislature. And we did it. And so is
the special wildfire board the only idea; the best idea. I
don't know. But is it necessary for us to address this
problem as a crisis, as an unprecedented one? I think the
answer to that is, yes. So that's the response to all of
your comments.

CHAIRMAN PETERMAN: Thank you both for those comments.
And let me make an observation. It seems that, first of
all, the recommendation related to a board has multiple
objectives and components. And there seems to be support
in agreement for the objectives, but a question about
whether there might be another or multiple vehicles
appropriate for achieving those objectives. And so I think when we turn to specific edits, we might introduce a word or something like a board or another appropriate vehicle or something to give a space for that consideration. And then the last observation I'll make, and then turn again to the subgroup committee member, Commissioner Nava, is that, I do appreciate the idea of highlighting and elevating the work on the data and looking for where we can have conformity on standards. But I don't want to leave anyone with a false hope that there is an objective preferred best approach for wildfire mitigation. I mean, the reason that we are seeing de-energization plans plus system hardening et cetera is because everyone's still trying to figure out what the best approach is. And so we don't want to get so much in conformity that we leave other things off the table. But I do think having a more focused effort can get us there sooner. But there's no secret bullet out there that we haven't brought into the administrative process yet.

Commissioner Nava.

COMMISSIONER NAVA: Thank you. It occurs to me that what we also have to keep in mind that these recommendations are going across the street into the blender. All right. Right, Commissioner Jones?

And you know I love sausage --

COMMISSIONER JONES: I might have described it a
little differently, but yeah, I take your point.

COMMISSIONER NAVA: I mean, I love sausage, but I
don't want to see it made. And in all likelihood,
they're -- because we've been there. There will be a
certain amount of cherry picking of these things. Oh, I
like that one. Oh, my God, I don't like that one. So we
have to keep that in mind as this goes across the street.
And the other point I think about the electric utility, the
wildfire board that the Chair touched upon is it causes a
focus. It will cause policymakers to go, okay, there's a
place where these issues will be centralized and we have to
pay attention to it. As I've been on a Little Hoover since
2013, the Chair since 2014 and over and over and over
again, we find when we're looking at government operations
that they are fractured and they're stovepipes. And you
have the right hand often doesn't really understand what
the left hand is doing.

So many of our recommendations will be to compile,
right -- or put together those elements that we think make
the most sense to have a central focus so if you want your
question answered, you know who to go ask. And that's one
of the benefits of looking at electric utility wildfire
board. There will be plenty of members across the street
who will have the ability to sort of pull this thing apart.
And there will be plenty of advocates for different
positions that will show up at the hearings. And you'll get your three minutes to talk about why what's on the table doesn't make sense. But this gets it on the table.

CHAIRMAN PETERMAN: I appreciate that Commissioner Nava, and I think that's in the spirit of what we're trying to do today. Any other comments on this section? Are we ready to move on?

All right. I thank you that's been constructive and we'll get into some more details in the afternoon. Next, we will turn to the fund and financing section where Commissioner Wara will present. And as Commissioner Kahn teed up within that section, there's also some specific recommendations around cost recovery, which the Commissioner will touch upon.

COMMISSIONER WARA: Thank you, Chair Peterman. So Chair Peterman and I worked together as a team on the section regarding suggestions for a wildfire fund. And I'm going to try to summarize our findings and recommendations and then reflect in my own capacity on some challenges. At the outset, though, I think we both and I imagine many of the other Commissioners we've already heard this around on the dais today, we both begin this work recognizing that the state has much more to do on mitigation. And I want to say that first and foremost, the real solution to this problem is to make the risk smaller.
It is not to socialize the costs as they exist today. And the state needs to be investing much more money in that direction. I'm heartened by the actions the legislature took last session and the actions they are taking and the governor is taking in the May revised budget this session. We need to do more than that and moreover, we need to be doing it at multiple levels of governance, both in the private and the public sector. And that was really apparent from our testimony. It was also apparent from the places that we heard that testimony.

One of the most impactful places for me was to go to Redding, where the car fire struck last year. I read before I went some of the accounts of the first responders that were entrapped in the EF3 fire tornado and visited the site where that occurred. And what was striking to me was how narrowly I mean, it was the car fire was an utter calamity. But the reality is that it could have been much, much worse had the wind not changed when it did. That tornado basically stopped moving before it moved into densely populated areas in downtown Redding. And we were lucky that day as a state. And the community of Redding was terribly unlucky, but it could have been much worse. And that's really apparent when you visit the place and look at what happened.

And, you know, the only solutions that are really
going to work in the long run are investment in the state on the part of local governments, on the part of homeowners, on the part of investor-owned utilities and on the part of the state government in increasing safety. I just want to say that at the outset, I think it's just totally critical.

It's beyond the remit of this commission, but it's definitely not beyond what the folks across the street or a few blocks away, I guess, need to be working on. And I know that they are working on as hard -- as quickly and as hard as they can. So on a wildfire fund, we essentially concur with the statements made by Commissioner Kahn, Commissioner Nava that the current liability situation is unsustainable. We also, after hearing testimony to this effect, reached the conclusion that multiple parties are contributing to the risks of utility caused wildfires. It is a mistake to draw a simple line around IOUs and say that the catastrophes, that the extent of the losses are solely within the control of the IOUs themselves. IOU fault is definitely a factor in ignition. What happens once ignition occurs is a function of a variety of things and it's difficult to isolate, you know, the fraction of cause. Our contribution to liability from different parties, but it's clear that multiple parties are contributing.

It was clear to us that the timeliness of cost
recovery process is a problem in the state of California. The fact that it took seven years to -- or I'm sorry, ten years to get to the final decision on cost recovery in the 2007 fires case. The perspective that these multi-billion-dollar liabilities might be kind of hanging over utilities and ratepayers for many years and causing uncertainty is a problem.

It's also clear that rates are already increasing. There was a very helpful PUC report released during the pendency of this commission's work that illustrated that very clearly. And moreover, that what wildfire costs are going to drive substantial increases in rates if we don't do something and do something that is effective.

Finally, it became clear to us through written and verbal testimony that future liabilities are fundamentally uncertain. We don't know what the future is going to be like. It may be worse than the present, right? It's very hard to know the effects of climate change and incremental additions of housing. It's very hard to know whether IOU wildfire mitigation plans will, in fact, be effective in reducing risk. And it's very hard to know what other actions at this point the state or other entities might take to reduce risk. The future liabilities are unclear. And so we need to build in whatever system we create to manage these liabilities. We need to build in flexibility
that takes account of that uncertainty. Given those findings, we made a number of recommendations that I'm going to divide into two parts.

One, a set of recommendations that concern cost recovery rules and a set of recommendations that concern creation of a wildfire victims fund. On cost recovery -- and we felt these were inseparable, I should just say, because they both involve how the liabilities are managed by the current system and the allocation of liability through the regulatory system. On cost recovery, we made -- we felt that, cost recovery needed to be allowed. There needed to be clear allowance for cost recovery of reasonable, prudent investments in the system and expenses.

And yet clear disallowance for speaking loosely, what is negligent behavior. We also felt that the cost recovery regime, whatever it is, needed to reflect the complexity of the risk situation that the state and investor-owned utilities confront.

So based on that, we outlined three options, and I would second the statement that was made earlier that these are options. They are not the exclusive set, but we made three -- put forward three recommended options and we recommended against a fourth option. One option is burden shift in cost recovery. Currently, utilities have the burden of proving that their costs are reasonable. That's
actually different than the approach taken by the Federal Energy Regulatory Commission, which presumes that utility expenses are reasonable but allows challenge by any party objecting to those proposed expenses. That's one idea.

This would, we felt, increase the level of certainty that utilities have and utility investors have in the financial viability of the utilities, which would provide benefits to ratepayers in the form of lower capital costs. Another idea was to refine the list of factors that were articulated by the legislature in SB 901. In particular, to allow for explicit consideration of the contribution of other risk contributors to the liabilities that utilities are responsible for. The goal of this approach would be to ensure that utilities are held accountable for their actions, but to allow for other factors that contribute to the magnitude and catastrophic nature of wildfires to also be taken into account in the cost recovery process. Lastly, we said we recommended to the legislature consider potential limits on shareholder liability if and only if utilities made a substantial contribution -- utility shareholders made a substantial contribution to a wildfire fund, and we outlined two options. One, a familiar option presently known as the stress test, which is something that the PUC is currently working on with respect to 2017 wildfires was created by SB
901 and another option that would provide a sort of more clear and certain cap on utility liabilities that would still be substantial and would create substantial incentives for utilities to engage in risk mitigation, but would provide some certainty to investors that would lower costs for ratepayers in the long run because capital costs for utilities would be more reasonable.

On a proposal that was made in comments to the commission and has been made in many other fora. The idea that wildfire mitigation plans and compliance with such plans be the basis for prudence determinations on liabilities associated with wildfires. We recommended at this point that that not be a standard for cost recovery.

In the future, it might become possible for that to serve as an important guide for cost recovery utility wildfire mitigation plans. But in our judgment, based on the testimony we received, based on our review of publicly available information regarding the wildfire mitigation plans, we feel that that step would be premature. We don't know enough about whether the plans proposed today will actually be effective. And therefore, we think that the utilities need to engage in further work to refine their models of risk and risk mitigation before that could become a standard. We recommend creation of a substantial wildfire fund, claims paying fund in this chapter, and
that's really the core of the chapter.

And I want to describe some of the motivation for that and then I'll describe some of the contours of our recommendations.

The basic idea of the fund is that -- the motivation for the fund is that the risks the utilities face in California are simply too large for them to manage effectively (indiscernible) and efficiently. A key objective of a fund is to pool risk. To create greater cost efficiencies, greater ability to manage the level of catastrophic risk that we are confronting in this state. At the same time, contributions to a fund from utilities need to reflect the risks that the utilities create. One thing we learned in the commission hearings is that not all utilities are the same when it comes to their mitigation approaches and when it comes to the risks inherent in their system. Given the age and nature of the system, given prior investments that have been made. Utilities need to be differentiated in an actuarial sense based upon the risks. We felt strongly that there need to be limits to risk pooling in the presence of negligence when utilities don't do or fail to do what they should have done. There should be limits to access to a fund, especially a fund that gets substantial contributions from ratepayer dollars or from insurance premiums. A fund needs to focus on and
could enable fair treatment for victims and fairness both in terms of timeliness of payment, especially for underinsured victims who face enormous challenges in the current catastrophes, but also for others.

A fund would also create stability, or a fund of sufficient scale might create stability across time, which is very much a question, as was mentioned earlier, fires in the current context in the PG&E service territory would, if they occur, will place victims from seventeen and eighteen fires at a severe disadvantage in the bankruptcy. That struck us as extremely unfair. A fund would tend to stabilize that outcome.

We felt that a fund should also aim to both improve the liquidity of utilities. The ability of utilities to borrow money and get cash in the current situation so that they can invest in safety and in our clean energy goals and improve their long-term solvency, that both liquidity and solvency were critical issues, that a fund should ideally, if possible, address. Given all these objectives, we -- and the potential magnitude of the dollar amounts involved, we were also concerned to ensure that a fund maintained incentives to lower risk, that utilities not relax in the presence of a state authored solution to the liability crisis facing the state. So given that we recommended that the state create a claims paying wildfire victims fund that
would essentially be authorized to pay third party claims of utilities associated with catastrophic wildfires. We recommended that the fund be authorized to pay insured, underinsured and uninsured claims, but only at values approximating the settlement values that would occur in the absence of the fund.

We recommend that the fund be created as soon as possible, ideally in legislation that would authorize coverage for 2019 fires. The fire season that is currently upon us. Those fires will -- the liabilities from those fires will likely not come due for some time. And so that there would -- we felt that there was time to authorize coverage of those fires, knowing that there would be enough time to establish the mechanisms to pay claims when they came due.

We recommended an approach taken by many states that have catastrophic wind funds, creation of a tower of insurance with lower tiers of the tower pre-funded by contributions from a variety of stakeholders. I'll get to that in a second. With the liability regime authorized to purchase risk transfer, reinsurance or other risk transfer products. In addition, we recommended that the kind of highest levels of potential liability be post-event funded, right? So that there be an ability to pay upfront for the risks that we think are likely to occur. But to have a
mechanism built in so that if worst case scenarios occur,
there's a clear mechanism post-event to bond and pay
claims. But that doesn't involve pre-payment for
liabilities that may not occur.

We remain hopeful that this crisis will not last
forever, that particularly with respect to utility caused
wildfires, actions being taken now by the investor-owned
utilities will bear fruit on the timescales suggested in
the wildfire mitigation plans. Those timescales, those
plans suggest that within about ten years, utility systems
will be substantially hardened relative to today and
practices will be in place and experience will have been
gained.

That will allow for much reduced risk, at least from
utilities for wildfire. Therefore, we think the fund
should be created for only as long as is necessary and that
there should be procedures put in place either to require
reevaluation of the need for a fund at a five- or ten-year
interval or reauthorization of the funds, continued
existence. We felt recognizing the challenges that the
fund needed to be of substantial size. But that also
better modeling, at least better than the modeling that was
available to us in the public record needed to be done to
develop a clear picture of what that size should be.

During the process of the commission hearings, there was
public testimony by the governor's office, I believe before a Senate committee that presented some numbers their own assessment that suggested something on approaching thirty-nine billion dollars might be necessary. But we felt that was informative but not determinative in terms of what the size of a required fund should be and not determinative in terms of what pre-event and post-event funding, how the break between pre-event and post-event should be drawn.

We outline a number of factors that we feel are important in the appendix to be considered in deciding how big a fund is required to serve the interests of ratepayers and of the victims. We felt strongly based on public and written testimony that contribution to the fund needed to be from a set of resources that are broader than just ratepayers. Ratepayers are an important potential contributor. So are investor-owned shareholders. So are publicly owned utility ratepayers that choose or opt in to participation in a fund. So potentially are insurance premium payers, insurance ratepayers in the state of California. We heard input from many stakeholders suggesting one or the other or all of these options as a source of money to seed, to fund and to support its continued existence.

We strongly believe that all options need to be on the table and that contribution, substantial contribution,
shared sacrifice from all sides is required in the present emergency. With that being said, I wanted to outline a number of challenges that the proposal we lay out we feel creates or presents and we want to be honest with the legislature and forthright about what those challenges are. We view the key challenges to creating this kind of a large claims paying wildfire victims fund as first off, the ability to insure or get agreement on utility contributions to the fund. We saw -- we heard written testimony from a variety of utilities that said that they felt that ratepayers alone should pay for the costs of the fund, absent a showing of utility negligence.

We recognized the additional challenge in the current context we find ourselves of the PG&E bankruptcy. Even if PG&E were interested in contributing to such a wildfire fund and seeing it created, it may be difficult to get ratepayer. I'm sorry, shareholder contributions from a bankrupt entity in a timely manner. Our suggestion that insurance rate payers share a piece of the burden is also potentially complex and raises its own unique and complex legal questions. Finally, the determination of what exactly the settlement value of wildfire victims claims should be is not simple. And we recognize that that's a challenge that would have to be confronted in legislation authorizing the creation of such a fund.
It is our understanding that a number of parties are working on solutions to that problem and we are hopeful that solutions might emerge in the legislative conversation. However, we recognize that all of these challenges mean that a fund of the scale that we suggest may simply not be possible, particularly by the deadline set by the governor mid-July. And therefore we acknowledge in our chapter that a smaller, more limited approach might also provide some benefits. In particular, a fund that provided liquidity to utilities during a crisis might show benefits for ratepayers. A liquidity fund is essentially the -- it would essentially provide cash to pay claims and to provide financial stability to utility balance sheets in between the time or during the time after a fire occurs and before cost recovery decisions are made.

Such a fund would has the potential to benefit ratepayers, has the potential to stabilize utility balance sheets and so benefit -- to some degree benefit shareholders as well. However, it does not address the underlying questions around the solvency of utilities, given the liability framework that exists in the state and the level of risk that we have observed over the last two years.

So with that, I'll hopefully take comments from --

CHAIRMAN PETERMAN: Thank you, Commissioner Wara. I
will say the thing about having to work on the fund
section, there's a lot of details and people keep asking us
to put more details. So we put as much detail as we could
understanding that even with those details that it gives
you more -- one more to argue about. I just want to make a
couple comments in particular about at a high-level what
general changes we'd like to see to the executive summary
to be more aligned with the presentation that Mr. Wara made
and what we think is in our chapter. But I do want to
reinforce your first point around the importance of
mitigation and investment. And I also want to highlight
to -- we need to be mindful of a tradeoff between investing
in wildfire mitigation and overall greenhouse gas reduction
and mitigation. When we spend money to reduce wildfires,
there is a greenhouse gas benefit because ultimately you're
not having trees burn and emit carbon into the air. But we
do know that the nature of greenhouse gases is that
wherever we admit them or don't admit them, it contributes
to overall climate change. And so when we talk about
investing more in wildfire mitigation, it's not at the
expense of all the other important investments we're doing
in clean energy and reducing carbon. It's really about
growing the pot overall. So a couple of points about the
executive summary. We appreciate that and the attention to
best connect the recommendations across the subcategories.
Some steps are taken about the relationship between these different proposals, and we do not think that the fund is a direct substitute for inverse condemnation reform. As Mr. Kahn noted, and therefore we would recommend, there are several places where the fund is introduced as an either, if inverse reform happens, then you do this type of fund. If it doesn't do this type of fund, we don't see them as directly related.

And so we would kind of strike those qualifying clauses throughout the executive summary and have the recommendation be on its own right for its merits and challenges. Relatedly, there are qualifiers around the recommendation of a fund that it be modest or large, depending on what happens with inverse condemnation reform. And again, as Commissioner Wara described, we talk about a fund should be sized as big as necessary to deal with the risk. Whether that is modest or large is really in the eye of the beholder. And I'd rather not have those qualifiers. I think there's a few places throughout the document where there are qualifiers on things that are so subjective and hard to interpret that we might as well just kind of eliminate some of those adjectives and let them speak for themselves. Also, the executive chapter describes a sunset clause. That's not the term that we would use or what we are envisioning. Again, we think that the fund should last
as long as necessary, but should not automatically sunset. Over time you'd expect that a fund would decline in size and need, but instead we specifically recommend an evaluation at a certain point, and we like the language to reflect that. We think that it's important, if there is a fund for it to pay before prudency determination, albeit after determination that utility caused a fire. So in that regard, it would pay out.

And if the utility is found at some point in time to be imprudent, then there would be substantial repayment to that fund, although we do not take a position that it has to be one hundred percent repayment. Again, if you think about this in some ways like an insurance product, those types of products cover for loss regardless of prudence. See? But we do think some repayment is appropriate.

We find there's places both within our subchapter as well as the executive summary where there is confusion between the term negligence and prudency and one having more of a legal definition, one being more of a determination through the regulatory process. And so for the most part, where it says negligence associated with cost recovery, prudency standard, we think it should stay imprudence and we'll make a specific line recommendations along those lines.

And lastly, we made additional specific recommendation
around the CPUC Fine Authority, which is not including the executive summary that we think should be surfaced. We get this question about how do we hold utilities accountable, right? And I think we should be as direct as possible about that accountability metric. And one of those is the fine authority that the PUC has. So we recommend increasing that fine authority, as well as being explicit about the revenue generated from that fine authority that it be applied into a fund. If so, one is created or be focused on wildfire mitigation instead of for just general fund purposes.

And then on the final issue on cost recovery. So we got comments along these lines about, well, give me some clarity on what clarity means. And you know, we all try to hedge and be -- yeah, I think, you know, we're ambiguous when we can't be anything but. But I think there's some opportunities for us to be more specific. So I had my recommendation.

There was a couple places in the executive summary where it says cost recovery should be made clearer or modified. I think we can be more specific in terms of what the specific recommendation is and which is to have the cost recovery prudence standard be as specified as possible. You know, acknowledging the importance of the CPUC, maintaining discretion to ensure that rates are just
and reasonable so we can go back -- the executive summary can go back to more of maybe the clunky language in the chapters, but I think that would be helpful, so the legislature knows as much as possible what we mean. And with that, that's the end of kind of my additional comments there. And open up the microphone to take questions.

Commissioner Kahn. Oh, I'm sorry --

COMMISSIONER KAHN: Okay. I think I'm good.

COMMISSIONER JONES: No, no we spoke the last cycle, so you got to clear us off the board and then he can cue up, but maybe it's solved.

COMMISSIONER KAHN: Okay. I have five comments I'd like to make.

First of all, Commissioner Wara, I agree with all your findings. I think that they were well taken and well spoken. If anything, more well-spoken even than it was written. In that regard, I also have a deep respect for the amount of work the two of you did. It's interesting, you said something that I put in my notes and that is we received a lot of suggestions about funds and I wrote, you're the first people that spoke about him honestly. Everybody has come to us with funds with secret agendas about how they were going to game the system. And the two of you dug deep into it to try to honestly figure it out. And I commend the legislature that if they're going to
consider a fund, they ought to use your report as a
guidepost for keeping it honest, because either there's
enormous mischief that can be created in this process in
which people can game it and to their advantage with great
resources applied and overwhelm the decision makers.

The second point I'd like to make is that I personally
am deeply skeptical about a huge fund and I'm deeply
skeptical for three reasons of unfairness. Number 1, every
time I have examined on this podium somebody who proposed a
fund and I drill down hard, it ended up that they were
trying to make the ratepayers pay and especially vis a vis
the utilities. And to the extent that a fund is a
disguised way of increasing utility rates, I am personally
adamantly against it. I think it is absolutely critical
that any fund being considered understand who actually is
going to pay and what the additional ratepayer burden is
going to be, and that the any fund is explicitly honest
about it. We have had suggestions about utility
contributions that turned out to be well, not really
contributions. And really the rate payers are funded. So
my first worry about a fund is that it is going to result
in higher ratepayer cost and I think that's inappropriate.

Second, I am very worried about a fund that results in
rewarding bad behavior. I personally am of the view that
the risk of wildfires in the first instance should be borne
by people buying insurance. That's what all of us do. And
I understand and I again commend you, Commissioner Wara and
Commissioner Jones for addressing the issues of insurance.
We need to work on insurance and we need to provide the
ability to buy insurance. But the idea that somebody, for
whatever reason, decides not to buy insurance and then
turns around and because the hammer didn't hit the nail, it
hit the utility line. They get to recover when they
intentionally didn't buy insurance, strikes me as grossly
unfair.

Secondarily, I know for a fact many people under
insure and they take the risk of the under insurance, but
after they've under insured on purpose or, in fact, didn't
insure some of their assets on purpose. Especially, I will
say, in the more affluent of our communities where people
can afford to not insure so they insure their basic house
what the mortgage requires. But then they don't insure up
to the twenty million or ten million or fifteen million or
they don't insure their book collection or the baseball
card collection and then they come to the fund and they ask
for reimbursement. That strikes me as really unfair.

And so I'm against a fund that has the opportunity for
people who I believe are not worthy of getting -- being
treated as victims because their victimization is their own
self-inflicted wound by not purchasing the insurance that
was available to them. And this creates a big problem. Now, you two have identified a further risk that if we announce an availability of a fund, people will start deciding to not buy insurance in order to be available. And that's a big problem. And so the second reason I'm skeptical and worried about a fund is that problem of people who didn't buy insurance on purpose, not because they couldn't afford it, but because they just decided not to (indiscernible).

Third, Commissioner Jones contribution here again just to be noted. His analysis of the insurance companies. I am against a fund that provides an opportunity for windfalls for insurance companies. I think that a straight up conversation about how we're going to interact between insurance and a fund is important because if you think about it, a fund is just insurance. It's just a way of providing insurance and to provide insurance to the insurance companies so that they can recover for monies that they haven't and assumed they were going to recover, seems to me to be a bridge too far.

So with those three caveats of skepticism, I'll turn to the next problem I have. On this, I think that this is my fourth point -- I think that the report considers issues that are above my ability to comprehend. I just can't figure out whether tax free or not tax free is right. I
can't figure out where voluntary or not voluntary is right. I have no idea whether it should be four years, ten years or twenty years. I just don't know any of the answers. And so I think that the lack of our ability to fully talk these things through and to evaluate them. Handicaps the strength of what we're passing on, and I think we should make clear that just like the wildfire board, these are ideas. And again, I defer to the wisdom of Commissioner Nava. He's right. Teeing this up for them to think about is a good idea. But I think we need to do it with a healthy notion that we're worried about these three things the ratepayers, the people who don't deserve to be paid and the insurance companies.

And that these suggestions we make about the details are just suggestions that we have not had the opportunity to figure this out and we could be wrong. But again, Commissioner Nava's, right. You need to think about it because this is a big problem.

My fifth observation is that merely because we can't figure out all the problems in the big fund and we can't -- and especially I think your observation about PG&E bankruptcy funding is a big problem. I think that the utilities contributions to funds is a big negotiation that needs to happen. And so I think there are real obstacles to certainly do it in the next thirty-four days.
Therefore, I do not think that the perfect should be the enemy, the good. I do think the notions of some kind of liquidity fund that is smaller and is maybe funded by ratepayer DWR charges that has the ability, maybe a reimbursement and coming back. That is good thinking. And I think that when the legislature and the governor tries to figure out this, obviously my best hope would be that they would take the biggest idea and deal with it. But I can read the press releases like anybody else can.

And so if they're not going to deal with the big issue and they can't deal with the fund, they can't do nothing and they're doing something I think should consider the liquidity issue. You've pointed it out. You've discussed it. And I think there's a great deal of wisdom with that and that I can endorse to the extent that absolute caps and limits of ratepayer participation are fully articulated. So with that, I thank you for your hard work and especially for your candor.

COMMISSIONER NAVA: Just let me. Moral hazard. I still remember my service as a chair of the Banking Committee, and when we were trying to craft relief for homeowners who had taken out loans. Some people call them liar loans. They were non-documented required loans where you could just give them an estimate of how much money you going to make and representative of the banking industry
were fierce in pointing out the issue of the moral hazard about those folks that made two thousand dollars a month and bought an eight hundred thousand dollar home. So I think the -- and I think you're right that it's a very delicate and nuanced conversation about issues such as underinsured, because what we heard and this was some of the evidence that we received was that under insurance can occur in instances where the cost of rebuilding per square foot has become high based on a lack of labor. And so that when a person purchased insurance and they figured it was a hundred and twenty-five dollars or two hundred dollars a square foot to rebuild when the contractor shows up and they have to bring in people from other places and there's a labor shortage and crafts people, it's no longer two hundred dollars a square foot.

It's 300 or it's 350. And so there will have to be conversations about there's different kinds of under insurance. There's the deliberate under insurance. And then there is -- and we heard anecdotes about individuals who were -- had the ability to pay cash for their home and weren't required by a lender because there wasn't one to buy insurance. And then we want to make sure that they don't have the same access to this fund as others do. And so I think there's going to be benefit that comes from the legislative process, where there will be advocates for
homeowners who are under insured and there will be representatives from the insurance industry that will go, wait a minute, okay, you have to have some sort of understanding about why they're under insured. Now, remember Commissioner Jones talking about and the insurance representatives talking about how is it and how should a homeowner how often should a homeowner be contacted to be advised that they need to review their coverage and the balance between overselling or educating that particular homeowner as to what it is they should purchase? So I do think that the legislative process will afford the opportunity. It's important for us to point it out. I think it's a good thing for us to do. But I do think the committee hearings and the legislative process will further flesh out the details about how you create a structure so that you're not rewarding bad behavior.

COMMISSIONER JONES: Thank you, and I want to thank Commissioner Wara and Mr. (sic) Peterman, for the thoroughness and depth of analysis and the transparency with regard to the myriad of complications and challenges associated with creating a large wildfire victims fund. I share the same skepticism as some of my colleagues about this. But our charge was to lay on the table as many possible recommendations, the legislature. I think this does that very ably. I think it is important to note that
the sizes of fund or the necessity for a larger fund is
driven in no small part by the question of what the
underlying liability regime is. In some respects, all of
this effort to figure out some way to create a workable and
fundable fund.

(Whereupon, a recess was held)

CHAIRMAN PETERMAN: Everyone, in the room and on the
line, we're going to get started in just a minute, so I ask
you to find your seats. Welcome back.

Good afternoon, everyone, welcome back. I hope you
had a nice lunch.

We are continuing with our Item 7 which is discussion
of the workgroup reports. We are now turning to the
insurance section. I thank Commissioner Jones and
Commissioner Wara for their work on this section. And we
look forward to their presentation.

Thank you. Oh, yes, please.

MR. JOHNSON: Just one point on process so everyone
understands. We'll have this discussion amongst the
Commissioners. The commission here on insurance. And then
we'll move to public comment on the recommendations as a
whole and hear that out. And then we will follow that with
a discussion on the commission here of specific edits we'd
like to see to the recommendations before transmittal to
the legislature is considered. So just so you understand
the process and timing of things. Thank you.

COMMISSIONER JONES: Thank you. And I want to thank my colleague, Commissioner Wara, for all of the work that he did in putting together this working group report and findings and recommendations.

I'm not going to spend a lot of time on the findings because I think they're all there in the working group report other than to say that, you know, based on the volume of evidence the commission heard, we know that in the Wildland-Urban Interface, homeowners are increasingly facing a challenge with regard to home insurance availability and home insurance pricing.

To put that in some context, however, I think it's important to remind ourselves that the evidence is that there are about 3.5 to four million depending on whose figures you use homes in the Wildland-Urban Interface is about one million of those homes that have been rated high or very high risk of suffering from wildfire and that although increasingly homeowners are facing challenges with increased pricing and increased availability, there are only about 34,000 policies that have been sold by the FAIR Plan, which is the fire insurer of last resort that was established by the legislature some seventy or eighty years ago to write fire insurance anywhere in the state regardless of risk.
So 3.6 to four million homes overall in -- about a million at very high risk and only 34,000 policyholders have been forced to the FAIR Plan. Now, those 34,000 policyholders are not happy about being on the FAIR Plan. They would prefer to have a traditional standard homeowner's policy written by admitted carrier. And there's also some number of policyholders that have ended up in the surplus lines market as well. We don't have hard data on that. But maybe it's approximately the same number as the FAIR Plan.

But we know that the numbers that are being forced to the surplus lines market and the numbers that have been forced to the FAIR Plan are going to go up. They're already going up and they're going to continue to go up. And that's because the underlying risk is going up and that is driven in no small part, the experts have told us by drier conditions and higher temperatures and longer periods of drought that are associated with climate change. We also have a contributing phenomenon, which is more development in the WUI, which is putting more homeowners and business into harm's way, which is also increasing the magnitude of the losses that insurers ultimately have to pay out to the extent that they're insuring those homeowners and those businesses.

So our finding was that there's a problem. We're not
in a crisis yet, but directionally, we are marching steadily towards a future where insurance is increasingly going to be unavailable and or unaffordable in the WUI. So let me jump from there to the recommendations. Our first recommendation in the working group report was doing nothing is not an option. As I said a moment ago, the status quo is only going to get worse. And so ignoring it and doing nothing is really not a good idea, but rather in recommendation two, we underscored the importance of preserving our existing risk-based approach to pricing home insurance.

And the reason we have recommended we maintain our existing risk-based approach to pricing on insurance is that the pricing does send important signals with regard to risk and encourages homeowners and businesses and communities to take steps to try to reduce risk and that masking that price signal could result in negative consequences.

Moreover, artificially, arbitrarily restraining prices can also result in a shift of costs in an unfair way to others who are not facing the same risks. So our second recommendations that we should preserve our current risk-based approach to pricing, home insurance and proposition 103, which is our rate regulatory regime for home insurance, allows exactly that. Insurers are entitled to
get rate increases based on their exposure and their losses.

Our third recommendation is to improve the California FAIR Plan. And specifically, we note that the current coverage limit under the FAIR Plan hasn't been increased for a number of decades. And so we recommend that the FAIR Plan coverage limit be increased to three million dollars so that homeowners who do have homes of that value or less who are forced to the FAIR Plan have the ability to get coverage from the FAIR Plan.

We recommend, however, that the FAIR Plan price itself ought to continue to be a risk based, just as with our prior recommendation. However, we do note that the FAIR Plan pricing, because it is a risk base, can be unaffordable for lower income homeowners. And so a part of our recommendation for improving the FAIR Plan is to have a targeted premium subsidy for those purchasing the FAIR Plan who are lower income to be an income eligibility subsidy, and we suggest that as a solution to the affordability problem for those that are forced on to the FAIR Plan. We also suggest that that should be available only to those homeowners who live in the WUI as of a date certain so that by creating this premium subsidy mechanism for lower income FAIR Plan members, we're not encouraging more folks to move into the WUI who can't afford the FAIR Plan policy.
Our fourth recommendation is to improve the California Insurance Guaranty Association. This is a consortium of the home insurers who are writing insurance in California that serves as a backstop in the event that one of their number becomes insolvent and incapable of paying claims. Then the California Insurance Guaranty Association picks up those claims. Currently, though, the cap on claims is five hundred thousand dollars and we know that their homes being destroyed that are considerably higher in value than that.

And so based on the Department of Insurance's recommendation, we believe the claim cap should be raised to a million dollars and then that there be an annual inflation factor applied as well. Our fifth recommendation is to require that the fire risk underwriting models used by insurers be filed and approved by the California Department Insurance.

The testimony we received from the Department and from others is that the current underwriting models that the insurers are using to assign fire risk scores to homes in the WUI do not take into consideration the very things that fire experts and fire officials are telling homeowners to do to make their homes and communities more defensible.

We believe it's very important that the modeling reflect the underlying risk and to the extent that these sorts of home defense ability measures do reduce risk. And
these are some of the very same things that are coming out of the insurance industry's institute, IBHS, on ways to improve home defensibility that they ought to be a part of the models. And to ensure that that happens, we're recommending that the models be filed and approved by the Department

Our sixth recommendation is designed to try to align again the steps that homeowners and communities can take to try to reduce risk with the availability of insurance. And this builds on a successful pilot project in Boulder, Colorado, where in that county of Colorado, homeowners were facing the same challenge in terms of pricing and availability of insurance due to the rising risk of wildfire. And so what was created, there was a pilot project where a standard was set for home defensibility and community defensibility.

And if homeowners met that standard and it was verified by a third party, then a number of insurers agreed to write insurance if that standard was being met. So what that did was it aligned risk reduction measures on the part of homeowners and communities with the availability of insurance. So we recommend that we do the same thing in California, that with input from the insurers, a standard be established for fire risk reduction for homeowners and for communities and homes in communities that meet that
standard would then be able to get insurance because insurers would be required to write that insurance accordingly. So we think that that's a way to better align insurance availability with risk reduction and encourage more homeowner and community risk reduction efforts.

Our seventh recommendation is an alternative recommendation the one that I just mentioned, but one that we acknowledge is a much less effective and less desirable recommendation. But in the spirit of throwing things out there for the legislature and governor to consider what this recommendation is, is to require insurers to implement a tiered mitigation credit based on the level of home hardening. So a standard would be set for home hardening to the extent that that standards met, then the insurer would offer a mitigation credit on the price of the of the insurance.

Now, that sounds great, but if the insurance is not being offered in the first instance, a tiered mitigation credit for hardening home doesn't do you any good. So that's why it's a much less desirable alternative. But it's one that we thought it worthwhile at least to surface.

All right. The recommendation goes to the issue of underinsurance, which we heard a lot about from wildfire victims, from their counsel, from the Department of Insurance, from the insurers. And one of the things that
the Department of Insurance impressed upon us is that currently there is no obligation on the insurers to calculate and provide to a homeowner annually a replacement cost estimate for their home. There was some legislation passed last year that requires every two years that a homeowner be told that they have a right to get that calculation. But there is currently no requirement that that calculation actually be given affirmatively to the homeowner without their asking. Many homeowners don't ask for it.

They don't know that they should be looking at and adjusting the coverage limit on their home insurance policy based on changes in the replacement cost. And as a result, they end up under insured. This goes right at the heart of that issue by making sure that every homeowner annually that has insurance is given replacement cost estimate so that the best possible information to decide how much insurance they should have. And we think that's in the interest of the homeowners, the interest insurers and interest of the community at large.

Our ninth recommendation is that the insurers would have to file annually with the Department of Insurance for review and approval, their insurer's replacement cost estimating models and tools based on a regulation I issued when I was Commissioner. There is a comprehensive
methodology that the insurers have to use to calculate replacement cost with this recommendation would do -- would be require that they file that as well as their tools and inputs and also make comparison of the outputs that are coming out with regard to replacement cost and what their loss experience is historically with regard to homes of the same type. So that better determinations can be made as to whether the replacement cost estimates and methodologies and tools are actually accurately predicting what the replacement costs will be based on the actual loss experience.

So this is another important complement to those recommendations that are designed to try to address the underinsurance issue by making sure that the best possible information is being given -- given to homeowners. And the Department has a chance to review that methodology, and it's available for public review as well.

Our tenth recommendation goes to the need for more data with regard to insurers subrogation claims. So we are recommending that the Department be required to undertake a data call, which is basically a survey to collect information on a frequent basis with regard to subrogation claims.

Our eleventh recommendation is similarly a data call insurers reinsurance costs and availability. We had a lot
of wildly disparate testimony on what insurers are paying for reinsurance. We thought it would be very useful for the Department to collect information, be required to collect information on that so that that would be public available to make sure policyholders have the best information and policymakers have the best information about what reinsurance is costing.

Our twelfth recommendation goes to the challenge that homeowners are facing should be those that have been in long term relations with insurance companies, whether given a forty-five-day notice of nonrenewal. That can come as a great shock to someone who's been with an insurer for quite a period of time. It's a challenge to find home insurance quickly in that period. So our recommendation is that the homeowner's insurance should offer a one-year notice of nonrenewal. When there's no change in the risk presented at the underlying property that's within the homeowner's control or where the insurer has been with the insurer for five years or more. So in those circumstances, we think a one-year notice of nonrenewal is the fair thing to do.

Our thirteenth recommendation goes to the fact the FAIR Plan only covers fire liability or fire damages. The thirteenth recommendation is mandating that all homeowners insurers offer what's called the differences and conditions policy, which is basically a policy that would sit on top
of the FAIR plan policy to cover all the other liabilities you would normally have covered in your home insurance policy. And the reason we think those ought to be required to be provided is so that as we see more people pushed into the FAIR Plan, they will have more options available to them to buy coverage on top of the FAIR Plan. Let's say you have the FAIR Plan to cover all the other liabilities that they might be facing. Only a few insurers are currently doing that.

Currently, the Department has encouraged them to do that, but not all of them are doing it. We think that consumers ought to have more choice so there will be more competition and so that's why we think a mandate makes sense, particularly as we move into this new world of more people having to take up the FAIR Plan policies.

Recommendation 14 goes to the question again of people understanding what they're about to get into when they buy a home in the WUI and what their insurance costs might be. This simply requires that there be a valid quote for insurance coverage before real estate offer is accepted. It does not require that the insurance be bound, does not require that you actually have the insurance. It just says you, you've got to get a quote before you accept an offer so you know what your insurance costs are going to be, so you know what you're about to get into before you buy that
Then the second portion of the working group's effort dealt with the issue of reduction of wildfire risk in California. And each of the working groups has importantly touched on that in their respective ways. Both the Commissioner Wara and I believe, as do the other Commissioners, that's critically important that we focus a lot more on the underlying risk and risk prevention. And that means better collection of data, better modeling, and more expenditure of funds to better manage our forests to try to reduce that risk. Our recommendations in that regard are several. And I want to give credit to Commissioner Wara for Recommendation 15, which is establishing a wildfire vulnerability, risk, and reduction coordinator within the governor's Office of Planning Research.

As we looked across the government, as was pointed to by Commissioner Wara earlier, I'm sorry, by Commissioner Kahn earlier, there really isn't one place within government that's been charged with trying to assess and pull together all the information with regard to wildfire vulnerability risk. And we thought OPR was a good place to house that, since it's within the ambit of the governor and the governor oversees all the agencies. And so hence that recommendation.
Recommendation 16 goes to additional investments in prevention and mitigation efforts, as I alluded to a moment ago, the need to spend more money in that area. And that also includes following what the California Earthquake Authority did with regard to earthquake mitigation and offering seismic retrofit mitigation grants, some sort of program similarly, that would help homeowners address the costs of hardening their homes and reducing the risk there too.

Recommendation 17 goes to a problem we have, which is that as local governments continue to approve new developments in high risk fire areas, they don't necessarily provide adequate local firefighting capacity was sufficiently proximate and timely to fight the fire for those new developments and those costs get shifted elsewhere. So our recommendation is that that ought to be provided when local governments are approving new developments that as a condition of the development, there ought to be a requirement that there be firefighting capacity provided that can in a timely way fight the fire that sadly, inevitably may occur on those developments.

And finally, Recommendation 18 again goes to some of the questions that we've been wrestling with, which is we've got to spend a lot more money in the area of fire risk reduction, and that includes more expenditures and
better forest management and other things. You know, that's going to cost and how do we best allocate that cost? And so Recommendation 18 is a development fee for new construction in the WUI that would be collected and used to help pay for investments in a fire risk reduction. Let me underscore that that fee, our recommendations, that fee not be imposed on people who have lost their homes or businesses as a result of a fire, but rather on new new construction that's coming into the area. And we think that there's a strong nexus associated with that, given that that new development is going to be at risk of a major wildfire, given that it's in the WUI and we know the risk is growing and alarmingly so. And so it ought to be required to contribute towards a state fund that would go towards helping to make investments and reducing that risk.

So I appreciated Kate Gordon's sharing with us that there was a lot of interest in the legislature or elsewhere with regard to the insurance recommendations. I want to thank Commissioner Ricardo Lara for directing the Department of Insurance to make themselves available to us completely and fully. We're most appreciative of the Commissioner's direction in that regard. And we want to thank the Department of Insurance for all of its efforts in responding to our questions and providing testimony and appearing before us. And I want to thank the rest of the
public also whose testimony and written comments we took into consideration when we prepared these recommendations.

CHAIRMAN PETERMAN: Commissioner Wara, do you have any comments?

COMMISSIONER WARA: I just want to briefly emphasize two aspects of what we did, and the first I would say is, is the conclusion that's drawn in the report that -- or in the chapter that the situation is deteriorating, but not yet a crisis. I think in those contexts, the most important thing that the legislature and the governor can do is remain watchful.

And Commissioner Lara and his staff have been incredibly helpful to us. And they are, I know, incredibly helpful to the legislature, as well as keeping them informed if developments as they occur. And I would encourage state government to keep a very close eye on what is occurring in the WUI with respect to home insurance.

The other recommendation I wanted to come back to and Commissioner Jones mentioned it is something that I was excited about, is an idea of someone within state government that is charged with developing quantitative risk estimates of the effectiveness of various mitigation measures across silos.

We heard lots of discussion at the commission from various parties that advocated one mitigation measure or
another, whether it was more prescribed burns or defensible space around homes or home hardening or covered conductor or de-energization, right? That all of these things could be effective. All of them cost money. And I think it's important as a state, as we face lots of resource challenges, that we focus on a balanced portfolio of investments to reduce wildfire risk and a cost-effective portfolio.

And at this point in time, it does not appear that there is any way to develop that portfolio in a rigorous way. And that's why we came forward with this recommendation. We're not necessarily saying that this entity would have authority to make anyone do anything. But if there's no one that is going through the exercise of coordinating all of the -- or thinking about all of the risk mitigation measures that are being undertaken or are potentially undertaken by actors of the state, it's very hard to know whether the investments being made are cost effective.

And so I would emphasize that. And I think that's a critical piece of the state strategy, thinking beyond insurance, thinking beyond even utilities. And I hope that it's taken out by the legislature and the governor.

CHAIRMAN PETERMAN: Commissioner Kahn, would you like to speak next?
COMMISSIONER KAHN: Yes. I have a couple of comments.
The first observation I'll make is that four of us got to
do one and you got to do two, Commissioner Wara. I think
we should rename you Short Straw Wara.

FEMALE SPEAKER: The rest of us are in government so
we knew better.

COMMISSIONER KAHN: Thank you. And those of us who
didn't have to do two appreciate the fact that you carried
it on your back. Thank you very much.

The second observation and I would like to suggest an
amendment to the section and it's -- at the assembly the
other day an assemblyman made the observation that if your
neighbor doesn't get insurance, that's not a crisis. But
if you get it -- don't get insurance, it is a crisis. And
I think that I would be disappointed if the headline of
this was there was no crisis.

I think we can find language that tempers that, so it
doesn't take away because there are people not getting
insurance and they are in crisis.

The third thing I'd like to say and again, offering an
amendment to what we've written here is that there has been
an enormous amount of talk about victims that, oh, we can't
change this because we're so concerned about the victims.

And I would just make the point and I would like us to
make the point that the victimization is most evident in
the insurance area, that the people we heard in -- we went around the state, the legislature told us to go around the state, we heard from people who suffered. And it was astonishing that in their uniformity of how they felt victimized by their insurance companies, they were not getting any satisfaction. They were held in limbo. It was so difficult for them to live with this. And the proposals that Commissioner Wara and Commissioner Jones have suggested here are addressed to the specific problem of dealing with current victims and future victims.

There are going to be more fires; that's for sure. And the bulk of the people who are affected by those fires are going to have insurance. And so the best reforms to specifically target future victims is to do the insurance reform. I think that it's important for us to emphasize, first of all, we've heard from the public in our report. And second of all, to address these, the so-called victim's advocates who are saying, well, we need to address this.

We need to address the concerns of the victims. Well, we heard from the victims and they are unsatisfied with the way insurance works. And they have gotten up and told us that the next fire there's they're vulnerable. So I could not commend the work of Commissioner Jones and Commissioner Wara more, but I'm just going to be very candid, I am fearful that it's going to be treated as a tag and not
integrated into the primary responsibility we had here, where in fact, what the two of you have done is moved the state in the direction of really addressing the specific problems of victims. I think the fundamental just like you folks believe and I agree that mitigation is critical. The fundamental protection for the citizens of California from fires is insurance and it's not working. And if we can fix that, we will at least have done -- moved substantially in the direction of easing the suffering of our citizens. So I just think that our report should try to add a little bit of color and a little bit of emphasis to this point. And I think we should hit directly on the point of this. Our insurance section is a victim's relief section.

CHAIRMAN PETERMAN: I think, Commissioner Kahn, your points are well taken. And just looking at the text of the recommendation insurance around this point about crisis, I think it's very easy just to strike the clause that says while we are not yet in a crisis because the sentence still makes sense and it's just really acknowledging that, as you do in other places, that we have some mechanisms right now from a state perspective to assist, but they may not work long term.

Commissioner Jones, I thought you had a response. I'll wait to offer my comments until you offer your response.
COMMISSIONER JONES: I'm happy to accept both amendments that Commissioner Kahn has offered is from the amendments. I do think, though, that the reason we chose the language we chose is because there is a risk of overreaction, and it's important to contextualize and I think Commissioner Kahn hit it on the head. You know, for the people that are forced to the FAIR Plan, it is a crisis. I mean, they didn't want to be on the FAIR Plan. They're not happy to be on the FAIR Plan. They didn't, you know, they didn't get renewed. They couldn't get insurance from their standard carrier. Well that is a crisis for them, there are still close to a million folks that so far are getting some form of private insurance.

So we just wanted to make sure the legislature and governor understood that and didn't feel the need to overreact, but rather hopefully takes up, you know, eighteen very thoughtful, deliberate, victim-oriented recommendations. But you know, I'm happy to accept the amendment of modifying the crisis terminology and --

MS. HANNIGAN: (Indiscernible).

COMMISSIONER JONES: Yeah, I think that's fine. I think that's fine. Yeah.

CHAIRMAN PETERMAN: Thank you for your recommendations. One in particular, I was pleased to see right from the beginning was the recommendation about
preserving the risk-based pricing. Some of the testimony we heard very early on and then has been reiterated in comments is that the cost of California insurance premiums is relatively low relative to other states in the country, forty-third, I think at this point, once income adjusted and there's nothing fundamentally wrong with having lower rates. But I think it is problematic if those lower rates really don't reflect the risk and therefore not sending that signal about where individuals are to live. And if some people have an affordability problem right now with insurance and we do move to be more aggressive in terms of risk-based pricing, I do worry about that shock in that transition.

It's something we've had to think about on the electric side, for example, as we move to time of use rates about even if from a policy perspective, it's the right call. How do you prepare people for this new normal and pricing? So with that comment, I wanted to get your feedback. Commissioner Jones, Commissioner Wara, on an overarching comment I took away from PIFCs comments that were filed this week where they -- this is a Personal Insurance Federation of California, where they note support for that recommendation, preserve risk-based pricing, and they recommend even going further to say further adopt or improve versus preserve.
And they raise the general point that -- or the belief that several the other recommendations are in conflict with that one. I'll tell you, that's not my impression. My impression is if we want to -- if rates may go up, you know, how do we make sure we have accountability going forward? How do you make sure that people are getting credit for doing things to harden their homes, et cetera. And so I see them as a nice complement. But given that general comment made, I'd love to hear your response.

COMMISSIONER JONES: I appreciate that. And I did read, as I've read the other comments, the Personal Insurance Federation California's comment letter.

California currently does have a risk-based approach to pricing insurance. And we heard testimony here directly, both from the RAND report, which found in two WUI counties twenty-five percent price differential verses the price of home insurance outside of WUI and the Department of Insurance was set on average, home insurance pricing in the WUI is fifty percent greater, than homes outside the WUI.

And so Prop 103 is a risk-based pricing mechanism. And requires that insurers be given adequate rate when they file for it based on their loss experience. So I fundamentally disagree with the assertion of the Personal Insurance Federation California that we don't have it and
we need to have it. And I think we do have it.

I think what we need to fight against is efforts to try to eliminate it or to mask the price signal, which politically is very popular. I mean, if you're a legislator and you're representing people in the WUI and your constituents are having a fifty percent higher price on average than other people. And by the way, it's only going to go up because the risk keeps increasing. The easy political response is to say, let's intervene here and try to mask that price.

And I think that's the bigger challenge we face and why we felt strongly we ought to maintain our existing risk-based approach. So I was not convinced by their assertion that we don't have it and that we need to adopt it. From direct personal experience, I know we have it and I know it's only going to result in higher rates in the WUI, but that's because it's risk-based and so that is going to lead to the kind of shock that you've described, but if you want to maintain a risk-based system, that's what's going to happen and is happening.

MR. JOHNSON: One point of process for the Commissioners and for the public all the comments that we received prior to close -- well, end of the day yesterday are in your folders here for reference and in the binders in the back.
COMMISSIONER WARA: I just had one additional point to what Commissioner Jones just said, which is that --

CHAIRMAN PETERMAN: Please speak more into the microphone.

COMMISSIONER WARA: Sure. Sorry. I just had one additional point, which is that I think we're in a moment. And this was kind of consistent throughout the different workgroups. But we're at a moment where there's tremendous uncertainty about the magnitude of wildfire risk in the state and what the California system of insurance regulation does, it was established by Prop 103 is to create a measured pace of adjustment to as risks are changing. And that may mean that for one year, you know, perhaps rates don't adjust quite as much as the insurance industry would like to I think that over time, rates will adjust to reflect the risks as they are better understood. And one aspect of the process that I think is important is that it guards against overreaction.

And I think that maybe, you know, an issue right now. And it sometimes may lead to challenges for people to get insurance and a desire to manage via underwriting for the primary insurers, but I think it's the system we have and I think it guards -- what it does guard against protectively is a tendency to kind of overreact when risks -- you know, right after a disaster, when risks might seem larger than
they are, in fact, over the long run.

CHAIRMAN PETERMAN: I appreciate the clarification from both of you. Just one other follow point about risk. Can you speak to how and in what way climate risk is raised in the modeling. I know this came up also as well. And given our topic here, I thought it might be relevant.

COMMISSIONER JONES: Sure. Absolutely. So the way that rates are developed and regulated in California is that the loss experience of the insurers is utilized to determine what the rate ought to be going for. So to the extent that we have climate change and climate risk manifesting as we know it is in more severe and frequent wildfires, the insurers are having larger losses and they get to build those losses into the rate, including a catastrophic loss factor, which essentially is on top of the rest of the rate development that captures an additional increment of rate associated with large catastrophes.

Now, conversely what it does not allow is you can't take the twelve billion dollars of losses in year zero and cram them all into year one because then in the WUI you wouldn't have a fifty percent on average increase, you'd have a thousand percent on average increase. So and again, you're talking about the collection of premium over a period of time, too, so that really isn't necessary. So,
you know, I think that's the way in which climate change and climate risk is brought in it's based on experience and empirically so I don't believe we're at a place yet where it would make sense to take forward projections of climate risk related losses and essentially try to prophesies about what those are going to be going forward and then build into rates. I just think there's too much uncertainty about that.

And I do think that our current system allows for thoughtful, deliberate rate adjustments. Now what you didn't hear in the testimony that we had from the insurance industry is one of the reasons why they come in with lower rate increases than they might want is because for increases above seven percent, there has to be a public hearing. And they don't want to have a public hearing. They hate the public hearing. So historically, their rate increases have come in about 6.99 percent. You know, there's many nines out as you want. And so that's a decision on their part to avoid a public hearing.

I think if, in fact, things are as acute as they say they are and they look to be pretty acute, then they're going to be filing for rate increases higher than that threshold. And there's going to be a public hearing, an opportunity for the public to be heard. But that's also an important part of our current rate regulatory structure,
where the public gets to actually have some meaningful
input for rate increases above seven percent. So there's
no arbitrary artificial constraint. They could come in
tomorrow with a twenty-five percent increase, thirty
percent increase. And if they justify it, they'll get
exactly that.

So I do think that our current system works and it is
risk based and it's going to result in higher rates in the
WUI. There's no question. I mean, they're already higher
than they are outside the WUI and they're going to become
even higher. So steel yourselves for that, unfortunately.
But that is the -- and that is why coming back to what we
talked about earlier, all this is why we as a state need to
make more investments in forest management and risk
reduction and adaptation, because at the end of the day, if
we don't reduce that underlying risk, then you are going to
see increases in unavailability and more people pushed into
the FAIR Plan.

CHAIRMAN PETERMAN: Thank you. Are there other
comments or suggestions for the sub group? Well, I
appreciate you taking the time to explain a bit more how
some of that process happens, that CDI. It's not something
that I think most Californians have intimate experience
with. And so that's very helpful to put some context into
some of the input we're getting from stakeholders.
All right, so I heard one minor suggestion there, executive officer. So that is the end of our initial discussion of the Subchapters and proposed recommendations, as I said, after public comment. We'll have a more detailed discussion about what recommendations to include in the executive summary. So at this time I've got a stack of cards for public speakers. Not that many, Mr. Toney, don't get worried. We won't be here for dinner, hopefully together. If anyone would like to speak. The cards are available in the back of the room, and you're welcome to bring them up to Edith on the podium. So I'm going to call three names at a time. Just so you know, you're coming. I'm an ask you to aim to keep your comments under three minutes.

Mr. Toney, why don't you just go first. Just get your card up there. Go ahead. Go ahead. Okay. We are going to have Mark Toney followed by Paul Houser, followed by -- pardon me, I can't fully read, but Steve Campora. I'll have you say your name again, because the card is slightly unclear. Welcome, Mr. Toney.

MR. TONEY: Mark Toney, executive director of Turn the Utility Reform Network. I'm very impressed by the work of this commission. I want to start off by mentioning things that I really like. I really like the commitment to hold the utilities accountable. I really like hearing that this
is not meant to be a bailout of utilities. The
acknowledgement that ratepayers are already paying how
important it is to reduce the risk of wildfires. We've got
to stop these wildfires from starting in the first place
and that we have to look at the cost benefit analysis of
the measures. All very important. Three quick issues that
I would ask the Commissioner to consider revising that I
believe undermined some of these principles. One, do not
weaken the prudent manager standard. That standard is
there for a reason and it places the burden on the utility
company to operate in a prudent manner. They need that.

What we need to do is increase the standards of
behavior, not decrease the standards for performance. Two,
the proposal for burden shifting is completely problematic.
The reason is because utilities have to prove that their
costs are reasonable and just. And that's the only reason
they can then pass the costs along to ratepayers.
Remember, ratepayers have no choice to switch to another
company. That is why we have a regulator, because we are
in a monopoly situation that has to approve any rate
increases, we need to retain that.

The third thing is it's important, as Commissioner
Jones said to make sure that we don't separate safety from
rate making, they go together. Three recommendations that
we would like to see. One is to make sure that we continue
to focus on mitigation, reducing the risk of wildfire ignition in the first place, and hold the utilities accountable for following the regulations on doing so, raising the expectations of utilities rather than lowering the standards. And three to create a wildfire fund that does protect ratepayers.

My final comment is there's a lot of comments in here about how concerned Wall Street is about ratepayers. And if you do this, it's going to be bad for ratepayers. Please let Wall Street represent Wall Street. Let ratepayer advocates represent ratepayers. Thank you.

CHAIRMAN PETERMAN: Thank you, Mr. Toney.

Next, Paul Houser, followed by Steve Campora and then Terry McBride.

MR. JOHNSON: Can I ask one request that when you come up, please spell your last name just so we've got them for the record. That would be great. Thank you.

MR. HAUSER: Okay. And I pronounce it Houser. It looks like Hauser, H-A-U-S-E-R. And I like the previous speaker's comments. I have some optimism at the level of understanding and the work that's gone into this. But I wanted to share a publicly-owned utility perspective and I know publicly-owned utilities have been mentioned here a lot. But it was evident from the previous comments that and maybe rightly so, that there's a real focus on
investor-owned utilities. But I want to share the experience of Trinity Public Utility District. I'm the general manager. Probably most of you have not heard of us. We serve eighty-five percent of Trinity County. Our service territory is 2,200 square miles. So, you know, it is a comparison that's larger than the state of Delaware. But yet there are about 7,300 meters within that 2,200 square miles. Virtually all of the service territory is Tier 2. In August of 2017, we had a fire that you may not be familiar with. It's called the Helena Fire. We have so many in the county, even we can't keep track of all of them.

But it burned about 22,000 acres, which sadly to say, is kind of small by the press that fires get today. It destroyed fifty-four structures. The fire started and occurred almost exclusively on federal land that's managed by the Bureau of Land Management. The United States Forest Service did the origin and cause report for the fire. And it's their belief that a tree, a healthy green tree twenty-eight feet outside of our right of way, a limb from that tree was responsible for the fire as a result of that report.

We as a utility, we currently face roughly a hundred and thirty-nine million in claims against the utilities. And again, you know, with the big numbers, you hear that
can seem like a small number. But to give that some perspective on a revenue comparative basis, if you use the thirty billion number that's used for PG&E, that number is more than five times the size of PG&E's proportional liability because we have less than twelve million in annual rate revenues. And I'd also emphasize that while our board does have the authority -- full authority to set rates and a lot of the discussion around strict liability inverse condemnation has centered on being able to recover these costs, you can easily do the math. Twelve million in annual revenues a 139 million in claims there is no universe in which we can recover that kind of money or anywhere close to it. You know, I might also add that Trinity County, you know, we're kind of trade places first or second most the poorest county in the state. So. While I'm encouraged by a lot of the things that I hear without reform to the strict liability standard a lot of the things that you -- other things you propose become infeasible because financially all of those fixes become overwhelmed. And Commissioner Kahn, I really liked your analogy with a hammer.

I actually use a hypothetical drunk driver that hits one of our poles, knocks it on the ground and we get a hundred-million-dollar bill for the for the fire. I have a very good set of attorneys that unfortunately are having to
represent us through this. And I asked him point blank if we were in another state with the exact same circumstances, would we be facing one hundred thirty-nine million claims? And the simple answer is no, we wouldn't be facing any. It's just because we're in California, and we have this strict liability inverse condemnation interpretation that makes these suits profitable for others to pursue.

So I'll keep it short, but I wanted to bring up just a couple of things that you mentioned from a POU perspective this idea of a safety entity. I totally agree with Commissioner Jone's comments about as it relates to investor owned utilities, why it makes sense to put that in the California Public Utility Commission. But that is really problematic for publicly owned utilities because they don't regulate us.

And while my utility just intuitively, obviously the devil's in the details, it would be an early or one most attracted to a risk pool or a wildfire fund or whatever label you put on it. If that comes with CPUC oversight. It might be -- it might be problematic for us and just recognize that from a publicly-owned utility perspective, you know, there's pros and cons with whatever approach you take. But from POU perspective, having it outside the PUC is certainly beneficial. And the last thing I want to mention, I know there was some talk about underground and
covered conductors. Those might be expensive but feasible solutions for other utilities given our service territory. You know, conservatively, the cost of under underground in our facilities, given a broad, dispersed, rugged, mountainous terrain territory. You know, it's probably four hundred million dollars. Is more unreasonable, actually, than paying one hundred thirty-nine million in claims so while that may be some solution in some areas, it just doesn't work economically for us. So I appreciate the opportunity to provide comments and thank you.

Thank you, Mr. Hauser.

Mr. Johnson, I think that the testimony of Mr. Hauser should be included in our section of the report. Mr. Nava said early on in our deliberations that all our citizens are should be treated fairly and we make a fuss about not leaving any of the citizens behind. The citizens of Trinity ought to be treated with equal dignity of everyone else. And this is as clear an example as you can get of the inequitable distribution of the socialization of the costs of inverse condemnation. The way inverse condemnation is socialized here is to destroy this county's ability to have a utility. So I think that we should cite this an example and it a little bit of a challenge to the legislature and the governor if they come to a solution in July, that leaves the citizens of Trinity behind. The
question is, what's the answer to them? And I don't hear -- you know, I don't hear an answer to them, but maybe we can craft one, but I don't believe that we should leave them behind. I thank you for coming. And I would like to amend our section of the report to cite this testimony as an example of a problem that needs to be addressed. Thank you.

CHAIRMAN PETERMAN: And let me say, sir, also, thank you for making the drive here. Mr. Khan, I'll also acknowledge your unique situation. This presents for a lot of the different recommendations. So, for example, on the fund recommendation we recommend. I think appropriately so that utilities contribute commiserate with their actuarial risk.

And when you think about our restaurant utilities, it's clearer about where that liability falls and with others. But if you take the situation for Trinity there, actuarial risk may be relatively high given the geographic terrain, but they may not have a financial resources to do something commiserate with that. And so there again, I think whatever we're recommending, we need to be mindful there will be exceptions. And how do we make sure that those exceptions are brought forward to the legislature?

So, again, thank you, sir, for your time. Welcome, Steve. My apologies. I'm not even going to try your last
name again, but welcome. He'll be followed by Terry McBride. And then Patrick McCallum.

MR. CAMPORA: My name is Steve Campora. Thank you for your time.

I've had the pleasure of representing fire victims for more than twelve years and I want to go. I may jump around a little bit because I want addressed some of the comments I heard today.

UNIDENTIFIED COMMISSIONER: Could you spell your last name, please?

MR. CAMPORA: C-A-M-P, like Paul, O-R-A.

And first, let me address a comment I just heard because I think we should all be comparing apples to apples. If a drunk driver hits a pole, it's not inverse condemnation. Never has been. Never will be. That's not the way it works. That is not a situation of inverse condemnation. Inverse condemnation is a system operating because it was designed the results of the fire. But that's just not -- that's just not the law. So I won't make sure that's clear.

Also, I heard some comments today about fines and fining the utilities and how that would work. I think we should all look back to 2015. President Picker put out a statement, talked about how much PG&E had been fined over the years and the effect of those fines and the effect of
those fines was essentially nothing. And what he suggested is that we should do something along the lines of Sarbanes-Oxley to allow for some personal responsibility.

Perhaps they can certify that they're following their mitigation measures, because I have taken the deposition of hundreds of PG&E employees, PG&E officers. I've taken the depositions of the president of PG&E, those people, when you ask them what have you done to determine whether these mitigations are being followed? The answer is nothing. They didn't do anything. It's too granular. It goes too far. So they weren't even aware of what was being done.

So that, I suggest, is something that should be considered, which could be having them certify that the mitigation measures are actually being followed. Because I agree wholeheartedly with what's been said here today about mitigation measures and what's the problem? The problem with the (indiscernible) fires isn't inverse condemnation. It's the fact that the utility is not doing the mitigation measures. PG&E is not in bankruptcy because of inverse condemnation. PG&E's in bankruptcy because they paid 4.5 billion dollars and had to borrow the money to do it rather than hardening their system. That was a choice they made. So when we talk about inverse condemnation and putting people in bankruptcy, that's not what's happened.

PG&E is not in bankruptcy because of inverse
condemnation. One of the things that needs to be considered and hasn't been, to my knowledge, is there's a run-to-failure mentality. And let me just speak basically about PG&E because although I'm now involved with some cases in Southern California, my experience has been primarily with PG&E. And PG&E has a run-to-failure mentality. I can give you a classic example. The campfire that just occurred is a failure of a hook, right? So a reasonable engineer does a calculation. What's the material? What's the hardness? What's the weight on the hook? How much is it going to move? How long will it last? A work life expectancy. You say, Okay, it's going to last forty years. If you use a factor of one for safety, you say we'll replace them in twenty. That's not done.

Instead, they use a run-to-failure mentality and try to find it with inspections, which means there's always going to be failure. That's a mitigation issue that has to be addressed. Run-to-failure is not unusual to PG&E. Other utilities do the same thing and that's got to be addressed.

The other issue that I'll just talk about briefly -- two, actually. There was some conversation today about people being uninsured and how that happens. And there was a comment made about somebody would pay cash for housing
and not buy insurance, that's not my experience. People who can pay cash for a house are buying insurance. The people who don't have insurance are the people lived in their homes for thirty or thirty-five or forty years who have now have their mortgage paid and who didn't anticipate the increase in the cost of insurance or who had their policy canceled and didn't get a new -- could not or did not get a new policy.

Those are the people who are homeowners who are uninsured. The other people who are uninsured are basically renters who don't have additional living expense, who can't replace the tools that they use for their work, who can't replace all their belongings because they didn't have renter's insurance either, because they financially weren't able to or weren't even aware of how it worked. So those are the people who are uninsured. It's not people sitting back making a choice not to insure themselves against a wildfire that's not the way it works.

And lastly, I know there's been a lot of talk about the bond market and why we have to have inverse because it changes the bond ratings for the IOUs. And I would suggest to you that something affects PG&E's bond rating a lot more than inverse condemnation. And what it is, is they are a six-time felon. They violate their probation. They're under criminal investigation for the fires they've caused.
I submit to you that's what affects their bond rating. That's what affects their ability to get insurance. A repeat drunk driver can't get insurance. PG&E is at least a repeat drunk driver. So if you take away inverse condemnation or inverse condemnation has changed. And by the way, the public utility was just here, right? The California Constitution would apply inverse condemnation. So if you're going to change it, it has to be a constitutional change. It can't be -- it's not tort law. It's constitutional law. And it's been applied to the IOUs because they have the right to eminent domain and they essentially a public entity. But Trinity is a public entity inverse condemnation applies unless there's a change to our Constitution.

And finally, you take away from the victims when you change inverse condemnation, the one tool they have to get some kind of timely payment because we can make a motion for inverse condemnation. We can have a finding from the court that inverse condemnation applies and we can do something more quickly than we can if it's a negligence claim alone. So people who run out of run out of just living expense, who will become in a financial bind because they're not getting paid, are at the mercy of the utilities, which they will be if you take away inverse condemnation. Thank you.
CHAIRMAN PETERMAN: Thank you, sir. Next, Terry McBride.

COMMISSIONER JONES: While Terry's coming up, just a question for one of the working groups, Mr. Campora suggestion that there be --

CHAIRMAN PETERMAN: He's talking to us.

MR. CAMPORA: Oh, okay.

COMMISSIONER JONES: That's okay, but thank you, Mr. Campora.

Mr. Campora's suggestion that there be personal certification by the executives of the company, as well as personal liability and or maybe criminal liability for noncompliance with whatever safety standards are established, I like that idea. I guess I'm just curious as to the -- I don't know which working group that component fell into, but I'm just wondering what others reaction is to it and whether that's something we might not add to an appropriate part of the report.

CHAIRMAN PETERMAN: I appreciate the sentiment. I want to be conscious about being that specific without further thinking through it. Sarbanes-Oxley has its unique applications and then also these folks are subject to criminal liability. So one potential reason I'm responding is because one potential immediate opportunity I see to include a reference to something like that is we have a
recommendation on increasing the fine authority for utilities. We can make as a part or next to that recommendation, one, to further consider mechanisms to hold utility management criminally, financially accountable or something like that. I'd be comfortable going that far, but maybe not being as explicit.

Would there be support for something in that direction? We'll find out. I mean, I'll turn to the lawyers, actually, but that was my initial --

COMMISSIONER KAHN: Well, I agree that we need to be thoughtful and the idea that the -- there is a certification from the utility executive that he's read the wildlife plan -- wildfire plan and takes all steps he can to be sure it's fulfilled is one thing. The idea that you want to have him certify that he's done everything possible and then a drunk driving utility subcontractor runs into a pole and he's liable for that. That strikes me as a bridge too far. So I don't think we ought to be making recommendations on the fly.

We have all said that we want to hold the utilities accountable and more authority over them. I think that's good enough.

CHAIRMAN PETERMAN: Well we did talk about adding some language to, I think, the conclusion about utility accountability. Maybe there's an opportunity for
additional word there about further exploring these mechanisms. But let's think on that. The whole point, this is a good ideas and really fine finalize are changes in the next session.

Thank you, Mr. Jones for that suggestion as well as Commissioner Kahn for that cautious word.

Terry, welcome.

MS. MCBRIDE: Good afternoon. Terry McBride. I am from Butte Fire. 2015, we're the forgotten ones because all I hear about is '17 and '18, which my heart breaks for them too, but we've been forgotten.

Regarding the underinsured, I totally understand what you saying. But as Mr. Campora, who's from our county, we've got folks up there just don't have the money. You know, some of them inherited the properties from their parents or some, he was saying, intergenerational, and they just don't have it for the underinsured. And so that's going to be a tough one on figuring out that fund. And I'm wondering if you couldn't do like a percentage and also based on a person's income. But if you have full -- best full insurance that you could, then you're covered for the extra because they sure as hey didn't pay for me try and get rid of my dead trees, right? They don't cover that, but neither has PG&E, so we're good because we're almost four years living in a camping trailer and I haven't seen a
Anyway, plus, here's some other issues some things you folks haven't thought of because you're not living in it. And I have the highest regard for you. I have listened -- I saw you in Santa Rosa and you've been just put in your heart into this. And it's very obvious, some one that lost everything. And I lost three rentals. I had five properties affected. The amount they offered me was pathetic. And then they didn't give it to me. So, you know, the cost to rebuild in California is onerous. The regulations have been forced down our throats. I'd like to see a house with an indoor sprinkler system stop a wildfire. How is that going to happen? That's twenty- to twenty-five thousand dollars, so the cost to rebuild isn't just a lack of building crew, because after the Butte fire we had that there weren't -- there just weren't enough contractors or all their equipment burned up, right, because we lost quite a few. But the California has some responsibility here and that is the cost to rebuild has really escalated to the point of insane. When I hear and please don't take this as an insult, Wildlife-Urban (sic) Interface, I hear country.

Well, we're trying to get people out of the country. That's what I hear. I don't like it. You want safety. You think about Oakland. Those roof fires went from one
roof to another. Trees weren't involved. So why don't we say four houses per block? That'll take care of the roofs, not starting each other on fire. How about we move everybody out of the earthquake zone or the tsunami zones? I mean, let's just think about this. Okay. Now let's think about the prevention issues. PG&E spent money on their CEO and on their board members. How's about next time there is a fire that salary is going to go in this here pot. And if you guys responsible because you didn't authorize the type of maintenance it was supposed to been done, that money is going to go towards paying everybody that just lost everything because of your choice, instead of paying a CEO to go ahead and take her long unearned walk away with two and a half million or whatever she got. All right. And all the board members got well paid. I haven't seen a dime. Neither have a thousand other people from Calaveras County, thousands that many of them are still living in camping trailers like us.

I looked at Oregon just for a for instance and they're pretty neat because they list out all the reasons for fires. You know, I didn't see one for utilities.

State of Oregon, ninety pages, maybe ten per page. Because they're like us, they're -- you know, I was trying to think of states that are like California, not one that I saw listed the local utility or any utility was
responsible. That tells you about the prevention issue.

Maintenance is a part of life. If you buy a house, you know, in twenty-five years, you are going to have to replace your roof. If you dink around with your money and you spend on things you don't, that time comes, what PG&E is doing to California is basically going all the neighbors and having the law force them to pay for their incompetence. It's exactly what's happening and they need to be called on this. This is a responsibility issue and being accountable. Also, yeah, I'd like to have -- I just love to see board and CEO if your direction to your staff is not allowing for proper maintenance, we were just going to keep your money. I'll bet the maintenance will be like you never saw before.

I am fifth generation of Calaveras County. We went through the Leonard Fire. It took days for that fire from San Andreas to get up to us, maybe five miles by the crow flies. This fire was insane. Butte Fire, what it did in a day and a half went twice that distance. Okay, so here's my reasoning for that reason -- that problem.

State of California is responsible here because it's not clearing the trees. It is not doing the maintenance on the forests in the public land. I'm responsible for mine. Today was going to be a lovely days. It's ten degrees cooler and I'd be weed eating. But I'm here. So tomorrow
when it's ten degrees hotter I'm going to be weed eating.

When we had that fire I took my gas cans for the weed
eater and the chain saws and everything else. I put them
on what would be considered our lawn because I have a
driveway going back and I was hoping the fire department
might make it. I didn't want to have to worry about the
gas cans. They never burned. Do you know why? Because
this was how high my dirt -- my grass was. And I hung on
the side of my hill, holding on to one tree, cutting the
branches of the other trees. I did everything I could to
prevent my home being burned. They didn't.

I'm living in a camping trailer for almost four years
with my daughter.

The State of California, though, owns a lot of public
land, as does the BLM. And they're going to have to start
shaking hands and working this out. In Carver's County --
and I go to quite a few of the supervisor meetings and I've
been listening to them trying to figure out how to work
things out. One of the greatest issues they are having is
BLM and they're not allowing for clearing. And finally,
our little county that ain't rich, we're one of the poorest
ones like Trinity. Folks don't have a lot of money up
there. We did get -- they got money from PG&E and I'm so
proud of them. They used that money to strengthen the fire
departments. And also they're going to use money to cut
down the dead trees along road, which needs to be done. But they're also like, hey, we don't care just let us go on the BLM property and we'll cut it. We'll pay for it. We'll do whatever it takes to make sure our people are safe. This is something that needs to be done. This is California's responsibility.

The other thing that is not being even mentioned and that is geo engineering. Geo engineering is dropping heavy metals on top of our trees, on top of our vegetation. And that would be eliminated and all sorts of other toxic metals that are drying the trees out and killing them. I sat on top at the airport, which has a 360-degree view of Calaveras County.

It's an amazing place and never too hardened long-term firefighters going, I have never seen a fire like this. We've never seen a fire -- so back to the time of Leonard Fire. It would take days upon days for it to get to where it got. They were able to control it, but these guys between all the dead trees -- and just think with aluminum and other metals being dropped on the vegetation, what do you expect? And this needs to become part of the public discourse. It is a fact. I mean, we've seen the lines in the sky. It's heavy metals and they're being dropped. And I would, in my ending here, suggest everybody go look at geo -- I'm sorry, geoengineeringwatch.org. There is so
many scientific papers in there that will backup exactly what I'm saying. That is not being addressed. And this is called prevention because ultimately that's what we want. I Thank you guys for all the work you're doing.

CHAIRMAN PETERMAN: Thank you, Miss McBride. And let me personally thank you for the written comments you've submitted. And just for your active engagement on these issues, your insight is appreciated.

Next, we'll hear from Patrick McCallum, followed by Randy Gimple, followed by Chelsea Haines if she's still here.

COMMISSIONER JONES: And if we could ask the speakers, I mean, if they're representing themselves, great. But if they're representing a broader group or entity, it'd be nice to know who that is too, they'd be helpful for us.

CHAIRMAN PETERMAN: Good comment, Commissioner Jones.

MR. MCCALLUM: Ms. Peterman and members of the commission. I'm Patrick McCallum. I'm representing a group called Up From the Ashes.

Up From the ashes is Frances (ph.) and twenty-nine thousand other victims, both businesses and families, that lost their homes to catastrophic wildfires, mostly caused by IOUs or expanded by IOUs.

Today, the real story should be about victims that have gone through and listened to Frances and other people
and about future victims. But frankly, Mr. Kahn, you know,
I have some personal reactions when I listen to how you
responded to this, but I'm not sure you completely
understand and heard what Frances is talking about. So let
me just step back a minute and talk as a victim on the
night of October 8 at 4 in the morning, just another night
going to bed, except it was our anniversary that night. My
wife and I woke up to smoke alarms. When we woke up, when
we looked out that bedroom door, half the house was on
fire. It was then basically run. I was in boxer shorts.
That's it. And my wedding ring when I ran out. My wife is
in a robe. We ran through fire. If we made any other
decision, we wouldn't have made it out of the house.

When we opened the door, it was a complete, apocalypse
everywhere. Red, bombs going off, homes exploding, trees
exploding. We had no choice but to take off. We ran for
about eight-tenths of a mile. We almost died five times in
those eight-tenths of a mile getting up to it. If not for
an off-duty fireman, I wouldn't be here today talking to
you. But I also wouldn't be here talking to you today if
PG&E, with three days of information, had decided to do the
mitigation, not spend the four billion dollars on bonuses
and just cut off power if they cut off the power and camp,
we would be here talking today.

So unfortunately, I've got to talk to you about
inverse. And we actually have a complete proposal, as we did before, 901 that talks about prudent manager standards, how to do it right. It talks about a going forward wildfire fund Mr. Wara has talked about. We actually specific numbers, how to do it, how to reimburse it, with accountability within it. You just listened to Mr. Campora, he is the world expert on how to create a safer PG&E. His recommendations were adopted -- his and Frank Peaches (ph.) recommendations are what Judge Alsup used. You should be listening to him for thirty minutes, how to mitigate? Because if you mitigate and you have safety, then you don't have twenty -- thirty billion-dollar fires. You don't have to talk about inverse and all the rest.

But let's just step back and talk about inverse. So the Constitution created the right for public entities to have eminent domain. And it said, but with eminent domain, if that equipment and doing the business, you create damage, you have to reimburse the economic loss. The courts have said that our IOUs are public utilities, so they for have a constitutional right to reimburse that economic loss inverse is how we do it. Every other state has a form of it because they have to meet that economic loss for loss even in Trinity. If you take away inverse get their equipment in doing -- the equipment had caused the damage and there's proof and causing the damage under
the Constitution they would have to pay some form of
eminent loss or under negligence.

So the Constitution is there to protect our rights and
victim's rights. Inverse is quick. It's the best for
victims does not harmed victims. It is now a system that's
been in place. The courts understand it. The utilities
understand it. Steve Campora and lawyers love it. If not
for Camp and the bankruptcy and all the rest, and it tubs
(ph.) and the North Bay fires were inverse tubs, it's not
an inverse case. You would probably be already in
agreement for victims right now. But what we have are
victims in northern California and some in January in
Southern California that will be running out of their ALE
benefits. Great, three years on ALE, going forward is a
great recommendation if that can get through the
legislature. But they are in a catastrophic position right
now. They are paying their mortgage on their prior house,
which is a piece of dirt. And in Napa and Sonoma County
are expensive and stuff like that. They have to continue
paying that mortgage. They probably may have settled with
their insurance company. Probably not. And they have to
pay this rent. There's probably twice as much as what
they've had to pay for. If inverse was in place and a
quick solution, those people in Napa and Sonoma County can
be reimbursed for Camp and for many people in Sonoma County
and Butte Count they are homeless. They are in trailers. They're shuttling their kids an hour to schools, they're moving out of county. They need a complete situation as well. And inverse is a way to do that. So it is constitutional. It's quick. It's efficient.

Now, this idea that Moody's says inverse needs to go away and if it goes away, all of a sudden the stock will go up. Well, if inverse was the problem, we all know that, whether you recommend it or not, the governor and legislature has said inverse is not part of the discussions now. So inverse is a distraction to get the rest of the package within it. But the PIMCO group, which is twelve large bond holding companies, have put forty-five billion dollars to take over PG&E.

Now, they're not doing that for the greater good of providing electricity to California or to try to get a settlement. They're doing that because they have made very smart people a profit made decision that's knowing that the inverse is in place. So I completely disagree on that. So we support in the commission a wildfire fund, a liquidity fund is one way to do it. We think a wildfire fund is the best way to do it. We have specific recommendations. We support prudent manager changes which go within that. We have very specific recommendations, fifty pages long on how to create a safer California. And we certainly are looking
at some of the recommendations, Commissioner Jones and others, and made around insurance. That's where our focus is going to be. And thank you for your time.

CHAIRMAN PETERMAN: Thank you.

MR. JOHNSON: Patrick?

MR. MCCALLUM. We can disagree about inverse, but just for the record, when you were in your pajamas on October 8th, two of my neighbors died in the fire; eleven of the nineteen homes on my block burned down. And when I finally got back to my house two weeks later, it had two inches of ashes in my backyard and the landscaping was burned on every side of my house. So I understand what it means to be a victim.

CHAIRMAN PETERMAN: Thank you.

Next, we'll hear from Randy Gimple, followed by Chelsea Haines, followed by Jack Hawks.

MR. GIMPLE: Good afternoon. I'd like to thank the Commission, first of all, for obviously so tirelessly tackling what I think is of the greatest economic, environmental, and political challenges we face in this great state where I was born and where I've been practicing law for some thirty years.

I need to spell my name. It's G-I-M-P-L-E -- apologies.

My affiliation here today is largely as a native-born
Californian and a taxpayer. I'm not being paid by any
clients to be here today, but I am a lawyer who represents
folks involved in wildfire and other catastrophic
litigation. I've been doing it my entire thirty years
since I was a young pup lawyer handling representing
fourteen hundred folks who were flooded out of their homes
in Yuba County.

And currently today I handle wildfire cases all over
the country. I'm special assistant attorney general for
the State of Washington. I also represent the State of
California in some inverse matters. I've lived and
breathed inverse condemnation, catastrophes, and wildfires
throughout my career. So I know a thing or two about what
I'm talking about. And I've seen the victims and I hear
them here today. Just because I'm off and on the defense
side doesn't mean I don't have a heart. I do. I've seen
them. I've experienced it through their eyes. I've seen
what they've been through. I've been involved -- I've
seen how these issues play out in court. I've tried
inverse condemnation cases.

CHAIRMAN PETERMAN: I don't want you to use your --

MR. GIMPLE: That's fair.

And the only point I'm trying to make is what I'm
about to talk about his stuff I do know. The insurance
industry -- we've talked a good bit about the insurance
industry from the first party standpoint here today, and I respect that about, you know, people getting insurance to cover their own homes and property. I believe we're at a crisis of coverage here on the liability side, folks. Insurance companies are refusing to write liability coverage in the State of California because of inverse condemnation.

They're leaving the State of California clients like -- an I do have clients who are contractors of electrical utilities. I don't represent the utilities. I represent their contractors. They can't get insurance. Many of these companies are in the business of making California safer by removing trees and keeping trees away from powerlines, helping reconstruct and repair powerlines. That type of thing. If they can't get insurance to get the contract, they can't do the work. If they can't do the work. It's not getting done. We're at a crisis in terms of not enough folks to trim trees around powerlines in this state. And I can tell you from having sat in rooms where these negotiations are happening, having trod the boards in courtrooms. The reason they're leaving is, in large part, because of inverse condemnation.

Now, I'm not saying we need to get rid of inverse condemnation altogether, nor am I saying we need to not allow it as a cause of action
against electrical utilities. But I agree with Commissioner Kahn and Commissioner Nava that there needs -- we need to get out of this strict liability, no fault regime. I don't -- I respectfully disagree a little bit on just saying, well, make it a negligence case. A negligence case is a different animal. I think there is a way to add a fault component to inverse condemnation. And it's one that California has started doing thirty years ago in the flood control context. I laid this out in a in some comments that I provided last night, but the bottom line -- essentially, what it is, is in the flood control context, the California Supreme Court recognized that we have a tug of war here. We've got folks who need flood control in order to live where they live. We have a common enemy of floods in the State of California, and historically we do. Yet if a project fails, it could cause devastating damage. We need to balance that. The way they balanced it is they said in the flood control context, an inverse condemnation case to prevail it must -- there must be a finding that the plan of the public improvement was unreasonable, not necessarily
just garden variety negligence somebody messed up
on a particular day.

CHAIRMAN PETERMAN: (Indiscernible).

MR. GIMPLE: And I will.

And I think that exact same thing could
be applied here and should be applied here to the
common enemy of fire, to the fact that we need
electricity in order for people to live and
prosper in the WUI and I've proposed four
different factors that could be used. I refer to
my -- to my comment that I had written up. And I
think that whole process can be applied here. I
think it could be done without changing the
Constitution. The inverse condemnation was
extended to IOUs without changing the
Constitution, a fault element was added without
changing the Constitution. I don't know why this
changed it so badly needed in California. Cannot
be done without changing the Constitution.

And with that, I thank you for your time
and for your service to the State. Thank you.

Commissioner Jones: Just a question. How do you
distinguish Bel Air from the Yuba County result where the
failure of a quote/unquote state levee resulted in the
inundation, a substantial portion of the county and I as a
legislator and Mr. Nava's well had to vote to appropriate three hundred million dollars to cover the property losses behind the levee. So I don't believe in that case. This Bel Air standard was applied?

MR. GIMPLE: Yes, it was.

COMMISSIONER JONES: It was.

MR. GIMPLE: It was applied.

COMMISSIONER JONES: So they say they found a violation of one of these four factors in that case, then?

MR. GIMPLE: They found a violation of the Locklin factors that applied to flood control. And it was in the matter of Paterno v. State of California.

COMMISSIONER JONES: Yeah, exactly.

MR. GIMPLE: Okay. They looked at the plan itself and found that it was an unreasonable plan eventually. And that's what caused the State to be held liable.

COMMISSIONER JONES: All right. So even in Paterno, then there was an application of this standard. It wasn't strict liability inverse condemnation.

MR. GIMPLE: Correct.

COMMISSIONER JONES: Okay. Thanks.

MR. GIMPLE: His paternal came after the Bel Air decision.

COMMISSIONER JONES: Thank you.

MR. GIMPLE: Thanks.
CHAIRMAN PETERMAN: Thank you.

And it sounds like I don't need to make this offer to my colleagues, but please do, if there are specific questions you have for any of our speakers, many of them experts in their own right, please continue to do as you are asking those questions. Okay. Yes. And so obviously I've not been keeping to the three minutes I thought it appropriate and to make sure we give some more leeway for those who are wildfire victims. I have been representing wildfire victims. But as we get into, may I say, the more professional class of actors here, I'll ask you to keep your comments up to three minutes. So next.

Chelsea Haines, followed by Jack Hawks, followed by Patrick Welch. Welcome.

MS. HAINES: Good afternoon, Commissioners. My name is Chelsea Haines. That's H-A-I-N-E-S.

I represent the Association of California Water Agencies, ACWA. On behalf of our 450 public water agency members, want to thank you for the opportunity today to provide public comment. Collectively, ACWA represents ninety percent of water supply deliveries throughout the state for domestic, agricultural, and industrial uses. And our members serve not only a public health and safety need, but many of our water agencies, too, have been victims of the wildfires in the State. So we thank you for the
enormous effort that you've undertaken over the past several months from the water agency perspective. We're looking at the significant costs and significant operational challenges associated with the state's effort to address this as large users of energy. We really appreciate your intent to reduce the burden on ratepayers. And we also support your recommendation to replace the current strict liability application of inverse condemnation for water agencies with a fault-based standard.

So we look forward to continuing to support your effort? The pathway that you've created and I think that this will have direct impacts on our ability to provide safe, affordable, and reliable water through the State of California.

CHAIRMAN PETERMAN: Thank you, Ms. Haines. Jack Hawks, followed by Patrick Welk (sic), followed by Justin Scarp (ph.).

MR. HAWKS: Thank you, Madam Chair. Jack Hawks, H-A-W-K-S. I'm the executive director of the California Water Association. The utilities that I represent are regulated by the California PUC and they are water utilities. We serve about six million Californians. I wanted to thank the Commission for the structure of the report. I think you got it right in tone, content, context, sequencing of
the findings and recommendations, the discussion, the moral hazard discussion.

And clearly from our perspective, we very much appreciate that you introduced and acknowledged the threats and risks to water utilities with respect to the inverse condemnation, strict liability issue. We support clearly the recommendations, especially in the liability section that Commissioner Kahn referenced earlier. There is a definite threat. We've already been down this path on the water side with respect to inverse condemnation claims and the water utility had no part in the cause of the fire or they're the starting of the fire. And yet there -- we have this issue. I appreciate Commissioner Kahn's remarks this morning and this reference in the report about no evidence came forward with respect to that, quote/unquote, satisfactory implementation of the inverse condemnation standard as it applies in California now. I think that was telling in the report. And again, with respect to the water utilities, this is our big issue here. And there's maybe fifty-six electric utilities in the state, but there are thirty-two hundred community water systems and so we hope when the report goes to the legislature that you all will not -- will request of the legislature, not just stop at a short term -- one of the short-term options like the liquidity fund, but to continue with the longer term more
difficult solutions as well, so thank you.

CHAIRMAN PETERMAN: Thank you. Mr. Welk (sic), then Mr. Scarb (ph.) and then Carolyn Choi.

MR. WELCH: Patrick Welch, W-E-L-C-H with the California Municipal Utilities Association. Really want to thank you for your public service on this Commission.

I really think you've demonstrated the type of analysis that needs to go in to this really complex topic. And I think we've done really a stellar job putting together your draft report. So we really just want to thank you for that and the conversation that you've had today. Comment on four issues. We agree with the recommendation on reforming strict liability. Appreciate the opportunity for one of our general managers to come and speak about his experience and his utility. A PUA (ph.) and its customers really is, as you heard, one wildfire away from severe consequences. And Recommendation one, in the wildfire liability worker report would go a long way in solving this. We are disappointed that the state's leadership has already signaled their reluctance to address this before the report has even been made final. But we appreciate the conversation today, and it seems like the commission is agreeing to keep that in the final version report. We appreciate that. We hope we can keep this conversation alive to keep the dialog going to talk about
this important issue.

Second, CMA recognizes the interest in exploring a new regulatory agency such as Electric, Utility, Wildfire Board and recommendation three in the Wildfire Liability workgroup report. We believe, as was discussed today, that it's important to look at that recommendation within the context of all of the Commission's recommendations, including reforming strict liability. We in some way -- we agree with Commissioner Jones about looking at variability or difference in approaches to wildfire that and when it comes to local control, there would actually be some benefits to that. And also a note for the record that there are numerous state standards that already exist, including two general orders that the PUC there is state public resources code provisions that apply in state responsibility areas when it comes to powerline clearances. And there are NERC requirements which are federal requirements for powerline clearances for transmission. So in our view, there already is a set -- there already is statewide and federal standards on that. So we understand the desire to do that. We believe that if there is going to be recommendations included in the final report that any vehicle, whether it's the Electric Utility Board or other, does not get in the way of if you use local authority to develop their own wildfire mitigation plan, set budgets in
a step -- appropriate procedures.

Thirdly, we agree with Chair Peterman, Commissioner Wara, that a wildfire fund report and that a wildfire victims fund is a daunting task. We agree that the fund is not a substitute for strict liability reform.

And fourth, and finally, we are encouraged by the recommendation on significant additional investments in wildfire prevention mitigation in the third part of the report. And we appreciate that recommendation.

And thank you for your time today.

CHAIRMAN PETERMAN: Thank you.

Justin Scarb, Carolyn Choi, then Michael Boccadoro.

MR. WIRAATMADJA: Afternoon, Madam Chair and members.

Vincent Wiraatmadja, Justin Scarp had to step out, so I'm just going to step in for him briefly. Spell your last name, please.


CHAIRMAN PETERMAN: I was, like, I thought it was longer than when you started it. Okay. Thank you.

Welcome

MR. WIRAATMADJA: Indeed.

So just wanted to step in and say that we strongly support and align ourselves with CWA comments. And thank you for --
CHAIRMAN PETERMAN: And you are from Cal Water?

MR. WIRAATMADJA: Cal Water, yep.

CHAIRMAN PETERMAN: Okay.

MR. WIRAATMADJA: And wanted to thank the Commission and staff for all their hard work on this.

CHAIRMAN PETERMAN: Thank you very much. Carolyn Choi from Southern California Edison. You're next.

MS. CHOI: Good afternoon, Commissioners. My name is Caroline Choi. I'm the senior vice president of corporate affairs for Southern California Edison. Thank you for the opportunity to speak today.

We echo the comments of others commending the work of the Commission and the OPR staff over the last several months in putting this report together. And we thank you for your service.

CHAIRMAN PETERMAN: The webcast has just broken. I'd like to give -- important that everyone's comments, make sure we have it live for everyone. So let's take a five-minute break and will you come back after that? Okay. I apologize for that. We'll get it up as soon as we can.

Thanks.

(Whereupon, a recess was held from 4:07 p.m. until 4:32 p.m.)

CHAIRMAN PETERMAN: Hello, everyone out there. Welcome back. We did pause our meeting during the interruption of
our webcast. And thank you for your patience. We are now 
back with our next public speaker Carolyn Choi from 
Southern Californian Edison. Welcome, Ms. Choi. 
You have up to three minutes.

MS. CHOI: Good afternoon, Commissioners. I'm Carolyn 
Choi, senior vice president of corporate affairs at 
Southern California Edison. Thank you for the opportunity 
to speak today. We echo the comments of others that 
commends the work of this commission and OPR staff and 
getting all this done in four months. And we thank you for 
your service.

As SE (ph.) outlined in our letter to the commission 
in response to the draft report, we hope that the sense of 
urgency to deal with catastrophic wildfires is reinforced 
by the legislature with a tiny passage of comprehensive 
wildfire legislation and policies that effectively address 
California's wildfire risks.

Failure to take action on meaningful wildfire 
legislation will further decrease. Investor confidence 
will pressure each utilities business operations and 
increase costs to customers as SCE continues to take 
operational steps to harden our infrastructure, improve our 
situational awareness, enhance our vegetation management, 
and communicate effectively with our customers in high fire 
risk areas. Making the correct policy choices is of
tantamount importance. We appreciate the commission noting
the challenges with the current liability framework, but we
understand that inverse condemnation reform may not be part
of the policy solutions this year.

Therefore, we must focus on critical policy areas that
can have a profound impact and can be addressed this year.
Let me focus on three policy areas that are consistent with
the commission's draft report. The first is the need for
objective standards that define utility prudence. SCE
appreciates the commission's recommendation to adopt the
Federal Energy Regulatory Commission standard consistent
with the standard applied by Berg (ph.). The utility
should have a presumption of prudence so that a single
mistake does not equal imprudence. It is not a perfection
standard. In making its prudence determination the CPUC or
other responsible agencies should consider all causes of a
wildfire ignition.

The second is on the catastrophic wildfire recovery
fund. We believe it should be sufficiently capitalized
with risk sharing among its participants to cover the costs
of catastrophic wildfire damages, regardless of whether the
inverse condemnation or strict liability standard is
reformed. We agree that a wildfire fund should seek to
have the lowest impact on customers as possible.

The third is establishment of wildfire state entity
that has authority to mitigate risk. Whether these functions reside in a new board or remain in the PUC, we believe it's critical that the standard setting and cost recovery decisions be made by one regulator or if made by this new board such decisions need to be binding on the CPUC. We believe that this entity can balance safety and cost. I know my time is limited today. But these policy areas are important as we move forward and build on the efforts of this Commission has outlined in the draft report. These policy areas strike at the heart of what is needed to strengthen the framework that investor-owned utilities need to protect our customers and to continue to allow us to partner with the state to deliver reliable, affordable, clean energy to our customers through a resilient electric system. We must now take the next steps to turn these ideas into tangible legislative proposals that will ensure we have policies in place to confront catastrophic wildfires in a way that is equitable and sustainable for all Californians. Thank you.

CHAIRMAN PETERMAN: Thank you.

Next, Michael Boccadoro.

COMMISSIONER JONES: Question for the witness.

CHAIRMAN PETERMAN: Yes, please.

COMMISSIONER JONES: So how big does the fund need to be?
MS. CHOI: I think the fund needs to be sized to what the projected risk is. As you saw from the comments that we had submitted, we did a risk scenario in which we predicted thirty percent of the costs -- thirty percent of future wildfires would be utility caused or electric caused. And in that situation, we had a fund that started with two billion dollars of initial capitalization. Seven hundred dollars annual premium investments. And that could withstand a fire, two scenarios that we stressed it, a twenty billion fire in the first year with a ten and a ten followed. So three years of cash under fire. We also stressed it with what was the most that it could handle and still be solvent. After ten years and with almost seven billion dollars a year. So over a ten-year period was standing almost seven billion dollars every year in fire damage. And that was a fund that was essentially a ten billion-dollar fund.

COMMISSIONER JONES: But that's utility only, right?

MS. CHOI: It is utility only.

COMMISSIONER JONES: Did you guys do any analysis of how big it needs to be to cover the other kinds of potential claimants that are being discussed, might avail themselves --

MS. CHOI: We have not done analysis around a full wildfire fund that would cover all fires regardless of the
cause. Our concern with that would be that as utilities
make these investments to harden our system and presumably
have fewer ignitions, that the costs associated with the
creation that fund would continue to rely on utility
customers to put into that larger fund. So we haven't done
the modeling on that, though, to be to be fair.

COMMISSIONER JONES: Okay. Thanks.

CHAIRMAN PETERMAN: Yes, I think Ms. Choi there's
another question from Commissioner Kahn.

COMMISSIONER KAHN: I don't really have a question.
I just want to acknowledge I understand your
community suffered a loss and we convey our condolences.

MS. CHOI: Thank you very much.

CHAIRMAN PETERMAN: Michael Boccadoro, followed by
Kyle Jones, followed by Stacey Heaton.

MR. BOCCADORO: Thank you.

CHAIRMAN PETERMAN: And please say who you are
representing. Thank you.

MR. BOCCADORO: Thank you, Michael Boccadoro,
B-O-C-C-A-D-O-R-O, representing the Agricultural Energy
Consumer's Association. Had the pleasure of advocating
both at the PUC and the legislature for over twenty-five
years on behalf of the AG community on energy related
issues. So let me start by thanking each of you for your
good work and in particular, your willingness to deal with
the obvious issue of inverse condemnation reform. We're not talking about getting rid of it. We're talking about making a minor adjustment to it that's long overdue and we couldn't agree more.

Without inverse, ratepayers will continue to be the insurers of last resort and we will simply continue to shift ratepayer dollars to utility shareholders and insurance company shareholders. And that has to stop.

Let me also thank Commissioner Peterman and Kahn for their enlightening comments at the assembly hearing earlier this week. Unfortunately, some legislators continue to believe that we can protect ratepayers, which is one of their mantras without touching inverse. And I think, as Commissioner Kahn pointed out on numerous occasions, those two may not likely be easily achieved together. We need to address the issue of Enver (ph.).

So it's really unfortunate when we hear the legislature's reluctance to do that. Don't give up. Continue advocating. It's going to have to happen. I think our biggest fear is that we're trying -- the legislature is trying to put a Band-Aid on a situation and piecemeal a solution that's going to fail. Those of us who are old enough to be around and I know, Commissioner Kahn, you were around during the energy crisis that didn't work; it failed. It cost the governor his job because they
didn't take early, bold action. The problem got worse. Situation got worse. And some legislators and others paid
the price for that. So hopefully we won't revisit that situation and we'll have some better bold actions. So
we're not giving up on the need to reform inverse, and neither should you. I've been highly critical of PG&E over
the past several months and rightfully so. Their shareholders must be held accountable. We appreciate your
acknowledgment of that. They've unfortunately become a culture of lethal incompetence in that utility that needs
to change. You know, I wasn't going to focus on Edison today, but I didn't hear Edison talk about how shareholders
they talk about protecting ratepayers. One of the best ways to protect ratepayers is to have shareholders step up
and contribute to a wildfire fund. I haven't heard that from Edison and it's very frustrating, so hopefully the utilities. I've also wanted to put a little focus today on the insurance companies. I thought Commissioner Peterman's comments and the committee were very telling the other day, and that is when they subrogate there and we heard it again today with Mr. Jones's comments when they subrogate their liability to the utilities, that money does not end up back in the hands of ratepayers or their insurance holders, that ends up in shareholder profit and that needs to stop.

And then finally, I want to also comment that it's
really important and I don't see a lot in the report about holding cities and counties accountable. They make the decisions, the planning decisions to site homes in harm's way, which leads to the obligation by the utilities to have to serve those customers so they have responsibility and culpability here as well. And they're not being held accountable. They need to be held much more accountable as we move forward. And so I recognize the amount of time, an observation when you see trial attorneys and insurance companies on the same side of an issue, they're generally on the wrong side of the issue. And that's why we need to reform inverse.

CHAIRMAN PETERMAN: Thank you, Mr. Boccadoro. Kyle Jones, Stacy Heaton and then Jeff Thorston -- Thorsby, excuse me.

MR. JONES: Good afternoon, Commissioners. Kyle Jones with Adams Broadwell Joseph & Cardozo. Our firm represents the state pipefitters and we're working with other groups, including the Build Strong Coalition. We're concerned about issues surrounding water contamination following wildfires. And you should have received a letter from one of our friends with Clean Water Action as well.

And we apologize for not commenting on this issue sooner. I'm a bit late to the game, but I wanted to be able to speak to you today. As you may have seen, it's
been widely reported that the Fountain Grove neighborhood in Santa Rosa in the Town of Paradise, are both facing benzene contamination following devastating wildfires. Obviously, the presence of cancer-causing chemicals in drinking water makes returning home after a disaster that much harder for wildfire victims. Paradise estimated that the replacement of its drinking water system will cost at least three hundred million dollars. Something else water utility ratepayers will have to face. Recent reporting on this issue highlights the need for it to be addressed. And we believe that the Commission should include a recommendation in its report to the legislature that standards be put in place to consider how best to help water utilities deal with these disasters and better prepare them going forward. Thank you.

CHAIRMAN PETERMAN: Thank you.

Stacy Heaton.

CHAIRMAN PETERMAN: And please note who you represent as well.

MS. HEATON: Stacy Heaton with the rural county representatives of California. H-E-A-T-O-N. We represent thirty-six rural counties statewide. And I'm also speaking on behalf of the California State Association of Counties today. Their representatives had to leave early. We in particular CSAC wanted to associate their comments with
mine on the subject of inverse. And I'm really going to speak briefly on that. And the fact that we submitted a comment letter in April, pretty extensive comment letter. It was about eight pages. You probably all have seen it. I hope at least we are not supportive of the idea of reforming inverse because we want the victims in our counties to be able to have that as an option of restitution for their losses and CSAC, in particular, that is their number one priority on this issue. So I wanted to go ahead and get that out of the way. A few other things I wanted to bring up; however, is we are very supportive of your report on insurance, homeowners insurance and wildfire insurance is one of the main things we hear about from our board members and their constituents. It is one of the growing problems in our counties and our counties are rural and a lot of those homeowners have been there for years on their properties.

And I wanted to thank Mr. Campora for his comments earlier, too, about those that don't have insurance and a lot of those that have lived in our homes for years. Their mortgages are paid off and that's why they don't have insurance, because a lot of the time, it's not affordable. Some of them are elderly and some of them are on fixed incomes and they don't have insurance because they can't afford it. We're seeing a lot of nonrenewals. We're
seeing a lot of cancelations and folks are afraid of
getting canceled and getting not renewed. And that's why
we need to address this issue. We realize it's complex.
So complex, in fact, that we're starting an ad hoc
committee of our board on the 19th to address some of these
issues. So we thank you for addressing that. We're very
happy with a lot of the recommendations that you've made in
your draft report. The second thing we'd like to address
is the land use issue. We have been working very hard with
Senator Hannah-Beth Jackson on SB 182 to try to address
some of the local government and land use issues with
development going forward. If you'd like to take a look at
that bill, I'd encourage you to. We'd helped to write that
bill. But one thing I will say is that local governments
have been getting a lot of heat as to where -- no pun --
intended, where we allow people to develop. But we're also
under a lot of pressure from the state on the need to
develop and to build homes and to provide housing.

And so on one hand, we're told you don't want us to
develop. On the other hand, we're told we have to develop
or we're going to withhold SB 1 funding or other things.
And that's not just in areas that aren't in the WUI.
That's including in the WUI. Right now, in fact, the Town
of Paradise has some very large RHNA allocation numbers
that they're still required to meet, even though the Town
of Paradise is almost not there anymore. And when we go to say the -- housing committees, the legislature, we're told that there's no room to move those housing requirements to other areas within a region. So we need to get that situation worked out and give local governments some sort of reconciliation there and stop giving us mixed messages because we do want to work those things out. We've been trying, but we're getting mixed messages throughout. The last thing I wanted to address is Recommendation 20 in the main report was the development fee for new construction in the WUI. It's unclear as to who would be paying that development fee. Is that the developers, is that the local government that allows the development, who's paying that fee if that's getting paid to the state? And that's really not clear in the report. So we'd like to see some clarification on that.

CHAIRMAN PETERMAN: Thank you.

MS. HEATON: Thank you.

CHAIRMAN PETERMAN: Commissioner Jones?

COMMISSIONER JONES: So if I may, I think the intent is that the applicant for development would pay the fee like any other development impact fee.

So with respect to the point that CSAC and the rural counties make about the RHNA numbers, in my experience in local government and as a public interest land use
attorney, regrettably, I never really saw any significant impact on actual development decisions by localities associated with RHNA numbers. So you I take the point about the mixed message, but the truth of the matter is localities across the state have ignored RHNA numbers for decades with some impunity, very little consequence.

But I do take your point about the need for some effort to make sure that we have consistency in the state's messaging about where development should occur. But in practice, I don't think the RHNA numbers have had really much effect 1 way or the other. And so but I do take your point about it is inconsistent on the one hand to say, hey, you need to develop and on the other hand say, hey, wait a minute, you're putting more people in harm's way. So I do take that point.

CHAIRMAN PETERMAN: Next Jeff Thorsby followed by Derek Dolfie and then Daniel Broad, welcome.

MR. THORSBY: Commission members. My name's Jeff Thorsby, spelled T-H-O-R-S-B-Y. I'm the senior administrative analyst for the Board of Supervisors for the county of Nevada. And first of all, I want to extend my gratitude and thanks to this commission for all your work, as well as the governor's direction to task. This is a high priority issue.

Nevada county is located in a very high elevated fire
area. It's actually seventy-six percent of all improved parcels in the Nevada County are located within the WUI.

So this is a top priority for the county. But I just want to provide a couple of comments on the report. Some of the recommendations. Number one, the county and the county staff particularly do have a strong concern over changes in inverse condemnation. How that may impact potentially the county residents as well as ultimately potential cost the county could bear over time. With that, I think as our Commissioner Nava mentioned when these recommendations go in to the legislature, they can definitely change and get modified. And so that's one thing that we'll be watching for.

Second, regarding the development fees -- in Nevada. County economic development is an important component for a county of our size. About a hundred thousand people and about, you know, somewhere around twenty percent of costs for development are already in fees. And so we are concerned that increasing fees specifically within the WUI, which is about seventy -- seventy-six percent of improved parcels currently would have an impact on economic development, which is concerning.

Additionally, in the report, I believe the recommendation recommends that that the allocated to the state -- to some type of state board or organization to
allocate those costs or allocate those fees for cost for wildfire. I might recommend that that also the local government and local fire entities also be included in that recommendation who are working on the ground.

Second -- or third, pardon me. I also really appreciate fire insurance is a huge issue. We're hearing from constituents on a daily basis about that. I think that the report and the recommendations were great. I would recommend to -- we recently submitted a letter to the insurance Commissioner recommending some of the same things that you've already identified. And really, you know, our call to action for the insurance Commissioner is also to include local agencies and county governments.

Part of the conversation and really also looking at risk modeling and ensuring that factors of mitigation, both not only at the individual level when the homeowner is doing what their vegetation management, but also at the neighborhood level, Firewise communities and then at the regional level looking at different firebreak projects, the Cal Fire, the county is working on. And then one last comment, too, was in Nevada County, a huge portion of Nevada county that's located in the WUI's is actually owned by federal land. So either BLM, or the U.S. Forest Service. And so we hear from constituents who say, I live next door to BLM land nothing is being done. What do I do
about it? So that's a major concern. And that maybe that
was some a little bit outside the scope of your recommended
your reports, but I just wanted to highlight that piece.
And again, I just wanted to thank you for all your work and
great job.

COMMISSIONER JONES: Just a quick question. I mean,
the reason why the recommendation is to have the
development fee go to the state is so that they can pay for
the state to do forest management of state forest lands and
other lands the state can reach to help reduce the likely
to fire in Nevada County and all the other rural counties.
But as to your desire to have local resources, the county
could impose an impact fee in addition to a state fee to
raise funds for more fire protection or more forest
mitigation, right? You have the ability to do that.

MR. THORSBY: Right now we're working on that. And so
we will contract out, so we've applied for a number of
grants. We have potentially, I believe about eight million
dollars of grants that we're looking for. We've tripled
our staff in our Office of Emergency Services. And then
we're working closely -- one of the other factors that's
maybe unique to Nevada County is we don't actually operate
a fire department. And so we have special districts who
are all struggling in terms of financially and, you know,
of course, the demands going up where resources may not be.
And so I think that was kind of the intent behind my comment.

COMMISSIONER JONES: Right. But I mean, you or they could impose a fee on new development also to fund these activities, as a matter of law?

MR. THORSBY: Yes, absolutely the Board could do that.

COMMISSIONER JONES: So the problem we're trying to address is the State doesn't currently have a funding source for a lot of these activities and we'd like to see a lot more activity in your county and in other rural counties by the state to mitigate this risk. So that's why we think the State ought impose a fee and then if the county wants to impose a fee to pay for additional activity, that they'd be great, too, but you have the latitude to do that. We're suggesting that the state really needs to have a funding source to do more of this work also. Thank you. Thanks.

CHAIRMAN PETERMAN: Thank you.

Derek Dolfie, then Daniel Bard.

MR. DOLFIE: Good afternoon, Chair and Commissioners. My name is Derek Dolfie, spell D-O-L-F-I-E. I'm here on behalf of the League of California Cities. First, I'd like to thank you all for your hard work. I know it was a Herculean task to do the amount of work that you did in such a short amount of time. We do appreciate that.
I do want to touch on a few points that some of our other local government associations have already touched on before. Specifically, on inverse condemnation, we disagree with the Commission's recommendation to change the inverse condemnation strict liability standard to a fault-based standard. We think this constitutionally derives strict liability standard is one that best incentivizes IOUs to take actions to reduce risks of IOUs caused wildfires.

Additionally, we think changing to a fault-based standard would complicate victims lawsuits and raise the risk that they would not be fully compensated for their damages. However, we do agree with the Commission that the status quo must change. As such, we do support the concept of a wildfire fund that would help bring stability to IOUs and would help wildfire victims become whole as quickly as possible. We stand ready to work with this Commission, the legislature, and the governor to continue to work on wildfire proposals that focus on safety, accountability, and certainty for California cities.

We do -- I will -- I notice that we don't have the time up there, so I'll be brief on those comments and just say we do note several other things in our letter that we submitted to the commission. And I want -- just really appreciate the time to speak before you today. And thank you again for all your hard work.
CHAIRMAN PETERMAN: Thank you. I can tell you're an honest fellow because you don't have to tell us about the time, so thank you very much.

MR. DOLFIE: I realize it's also getting to be the end of the day and it's the end of the weekend or week, so, you know, I'm trying not to stand between you and your weekend.

CHAIRMAN PETERMAN: Fair enough.

MR. DOLFIE: Thank you very much. Appreciate it.

CHAIRMAN PETERMAN: Thank you. Daniel Barad, followed by Kamalpreet Chohan, then Josefina Ramirez.


Thank you to the Commissioners for taking on the complex and critical issues associated with recent and future catastrophic wildfires.

The PG&E bankruptcy and the fires associated with it together reflect the most obvious demonstration of climate changes, economically, and socially disruptive impacts in California. As a result of climate change impacts, we are likely to see similar conundrums involving utility and community preparedness in California and elsewhere.

We are excited to see that the wildfire risk recommendations in the draft report focus on home hardening, defensible space, and smart planning in the
Wildland-Urban Interface. These are the most effective measures that the state can -- that the state can support to save property and human lives when the goal is risk reduction for humans and for communities. The State should be funding home hardening and defensible space before they fund large scale tree removal, far away from communities.

While the Sierra Club California has yet to take positions on the issue of liability standards and insurance, we support initiatives that will protect disadvantaged communities and uphold our clean energy goals. It is important that any policies resulting from your recommendations do not create an undue burden on low income and marginalized Californians.

We look forward to working with the legislature to solve these critical problems. Thank you.


We have come together to advocate in support of
legislation to help California better prevent, prepare for, and respond to the increased frequency and severity of the threats of wildfires. We want to thank you for all the work you have done to enforce this scope and the urgency of this issue. We hope to release -- we hope the release of the report jumpstarts much-needed policy debate and action in the legislator.

Our coalition will be reinforcing the urgency of these issues with the legislator and advocating for enhanced wildfire protection and accountability, clear rules for a portion cost when fires occur, increase investment in emergency response, and the establishment of Wildfire Recovery Fund to help victims recover when fires do occur.

There is no question that the legislator needs to take action this year on many of the recommendations in SB 901 Commission's report, including the need for clear, predictable rules to apportion costs when wildfires do occur and the establishment of a wildfire fund to help victims recover. Again, thank you for your work.

CHAIRMAN PETERMAN: Thank you.

Josefina Ramirez, followed by Alex Jackson, then Darby Kernan, and we have about three more people after that, so if anyone else would like to speak, please fill out a card in the back and bring it forward to our staff at the podiums.


MS. RAMIREZ NOTSINNEH: I like to put it phonetically so people don't butcher it.

CHAIRMAN PETERMAN: Oh, I wasn't sure -- I misunderstood what that was telling me. So welcome.

MS. RAMIREZ NOTSINNEH: I'm with children Now.

CHAIRMAN PETERMAN: Can you spell your last name?

MS. RAMIREZ NOTSINNEH: Yes. R-A-M-I-R-E-Z N-O-T-S-I-N-N-E-H. I'm with Children Now. We're a nonprofit that is focused on all kids issues, prenatal 26 (ph.). We advocate on behalf of education, health, and child welfare. Our comments are focused on the draft recommendations, not addressing the unique needs of vulnerable populations following a wildfire, in particular, foster youth who may not have family to turn to in moments of crisis or personal finances to rely on while waiting for aid. We hope that -- you know, we believe that the Commission is responsible for considering the needs of all community members impacted by wildfires, especially our most vulnerable ones.

And we urge you to address those needs in the final recommendations to be submitted to the governor and the
legislature and we thank you for your consideration.

CHAIRMAN PETERMAN: Thank you. And ma'am, if I recall you submitted a letter -- did you?

MS. RAMIREZ NOTSINNEH: Yes.

CHAIRMAN PETERMAN: Yes. Thank you very much. And regardless, that will be transmitted to the legislature, but I appreciate your request.

COMMISSIONER JONES: Madam Chair, if I may. I mean, I think that the issues that your organization has identified are very important. I think that they fall a little bit outside the scope of our work as it was defined by OPR. But I do think it needs to be addressed. And I think that, you know, the needs of foster children in these communities that are severely impacted by these events need to be addressed. But I think it's just a little bit outside of our remit.

MS. RAMIREZ NOTSINNEH: We are working on all angles to try to help this issue.

COMMISSIONER JONES: As well you should. Thank you for bringing it to our attention. Thanks.

CHAIRMAN PETERMAN: We'll bring it up to whoever calls us to speak to them as well. Thank you.

Mr. Jackson, welcome -- from NRDC.

MR. JACKSON: Thank you, Madam Chair.

Alex Jackson with the Natural Resources Defense
Council. And we are engaged on this issue, deeply concerned for a number of reasons.

One, of course, the immediate emissions impact of these fires. Two, the effect of these fires are having on the financial situation of our utilities, who have been vital partners in investing in clean energy, both renewables storage and increasingly now the electrification of buildings and transportation, which has not only an impact for the energy goals, but for affordability. The more we can electrify end uses, we can spread the same fixed costs over more sales and provide much needed cost relief. We are very concerned that the more that we attempt to pay for the impacts of these fires through our electric bills, those goals are in danger of going up in smoke. That is not to subordinate the interests of the victims or affordability, these are hard, tough challenges, but I think Commissioner Wara said it well, that we cannot lose sight, that the real solution here is to make the risk smaller. And we see the greatest risk here is ongoing climate change. We have to keep an eye on the strategies that will move us away from fossil fuels and emissions.

In that spirit, we are very supportive of the recommendations and findings in this report. The courage that it took and the conviction and the persuasiveness of which these findings and recommendations were made. I'm
not a spiritual man, but Commissioner Kahn, when you were speaking in your opening statement, I almost wanted to jump up and say "preach", because I do feel like we --

MALE SPEAKER: We all have that --

MR. JACKSON: This situation is a bad deal for ratepayers. It is a bad deal for victims if they are only turned into another class of unsecured creditors. It is a bad deal for Californians and it needs to change.

So in that in that spirit, I do want to push back gently to some of the conversation in the morning where it seemed like there was an effort to walk back the force of some of the recommendations in the report for fear that they were not fully thought through, too complex, and we're just going to tee things up for the legislature.

I would hope that this commission can strive to provide recommendations that are actionable. As you noted, Commissioner Nava, the blender across the street doesn't always produce coherence. And I think asking them to put together something that this commission has been unwilling to fully endorse risks. The outcome that we all agree is the one we cannot afford, which is not acting at all. I think there's always going to be the risk of unintended consequence or unforeseen consequence, but we can learn as we go. We need to send a strong signal that stability is in order and that it will come soon.
Two points, in light of the statement of leadership that suggests liability reform may not be on the near-term agenda I would maybe think this Commission could put forth a least/worst case option if that is the case, because we are desperately concerned that if the fund is going to be only capitalized by ratepayers. We've heard the legal political hurdles about surcharges on property, that will not have put us any better place, than we've been before and that is not sustainable. Thank you.

CHAIRMAN PETERMAN: Thank you. Did you have a comment?

(No audible response)

CHAIRMAN PETERMAN: Okay. We'll hear from Darcy (sic) Kernan, deputy executive officer, California State Association of Counties, followed by Mark Sektman.

Oh, did she have to leave?

MR. SEKTMAN: Yeah, Derby, got called into the governor's office. Oh, Okay.

CHAIRMAN PETERMAN: So then are you Mark?

MR. SEKTMAN: Mark Sektman. Last name is spelled S-E-K-T-M-A-N.

I feel like the last guy at the conference who stands between the group and the reception, so I'll try and be quick.

We've submitted detailed written comments and we want
to associate myself with the comments of the coalition on
the inverse question.

CHAIRMAN PETERMAN: And remind me your organization
again?

MR. SEKTMAN: With the American Property Casualty
Insurance Association.

CHAIRMAN PETERMAN: Okay.

MR. SEKTMAN: We also want to support the
recommendation of a rate-based system. We do appreciate
that. We sometimes argue about the factors that go in to
determining risk with the department, but that's fine. We
also want to appreciate Recommendation Number 1. And I
think Commissioner Jones spoke to that a little bit about
being cautious about what you do in terms of these reforms.

I've been involved since 2002 and wildfire reforms and
their mantra has always been, let's be careful what we do.
We want to provide appropriate protection for the survivors
of these wildfires, but we also want to make sure we don't
make it harder for them to get what insurance or that
people in their across the state to get insurance.

Affordability and availability is an issue. The
Senate Insurance Committee had a hearing on that. It's
important, especially with a risk-based system, that we
understand that just because somebody doesn't want to or
may not be able to pay the cost of insurance, that is
different than not being able to find insurance.

As the report notices, we do have an insurer of last resort the FAIR Plan. We have not noticed a large rate increase or -- there is a large increase, but was not noticed a lot more people in the FAIR Plan. One pact I want to point out, is that the FAIR Plan after four months twelve percent of the people roll out of the FAIR Plan, which means they're finding insurance in the mitigated market.

On the subjugation issue, which has been talked about a lot here. I think Commissioner Jones was a little soft. I do believe that the Department of Insurance looks very carefully at any subrogation recoveries that we do it because it reduces the losses and we work on trend lines, five- and seven-year trend lines.

And those subrogation proceeds go back and to offset those losses and our rates have to be based on those losses. So that does go back in the rate pain.

The other thing is when an insurer gets a subrogation settlement, the first thing they do is pay back all the deductibles to the effected homeowner's. Mitigation is a challenge. We're a national association. We spend a lot of time in Florida. Mitigation for hurricanes and earthquakes in California is much different. If you mitigate your house for a hurricane or an earthquake, and
your neighbor doesn't, it doesn't matter. But if you mitigate your house for a wildfire and your neighbors don't, your mitigation will not be as effective.

So it's important that we make sure that when we do mitigation. We talk not about only about single homes, but also about communities. There was talk about wildfire partners here, which is a great plan. I spent a lot of time working on that. One thing I do want to note in the recommendation Wildfire Partners, not all insurers are required to write in wildfire partners. It is a true partnership and only those insurers that participate are required to write. And with that, I'll leave the rest of my time.

COMMISSIONER JONES: Thank you, Mark. Thank you for those comments and thanks for the written comments. On the point about community mitigation, I think Mr. Wara and I were very careful to include that as a part of the standard we believe needs to be set, but there was some interesting data that came out of a study that McClatchy did looking at the survivability of homes that met the 2008 new building code upgrade.

And they found demonstrably that homes that met the 2008 code upgrade survive fires versus those that didn't. And that includes homes that were actually adjacent to homes that were pre-2008. So I take your point about the
need for community resiliency, and I take the point about how, you know, if you harden your home and your neighbor doesn't, that does have an impact, but there is also evidence that you hardening your home will, in fact, better protect your home, even if your neighbor doesn't, too. So I just think we need to keep that in mind and not let the perfect be the enemy of the good, but we did include in our recommendation that the community also ought to meet a standard as well.

MR. SEKTMAN: And the reason for that is you are correct, the new building codes, but very few homes have been built to those new building codes, particularly, in some of these areas where many of the homes are much older. And so we need to be careful that as a community and even Cal Fire, that tree mortality task force insurance subcommittee has a presentation on Cal Fire where they had defensible communities and sometimes they say sometimes it worked and sometimes it didn't, so it's something we need to continue.

COMMISSIONER JONES: Which is why in the risk mitigation portion of our recommendations, we also include a request that there be established a standard enforcement with regard to existing homes as well because I take that point.

CHAIRMAN PETERMAN: I recommend you let him have the
last word. Thank you.

Our last two speaker cards are from Seren Taylor, Personal Insurance Federation of California, and then Paul Mason, Pacific Forest Trust.

MR. TAYLOR: Thank you. You got my name right this time. The first time you missed it.

So good afternoon. Thank you. It's a long day. Seren Taylor for the apparently very popular Personal Insurance Federation of California here today.

First, I want to recognize all the hard work that you and the staff put into the report. You covered a lot of complex issues in a short timeframe. I know that was no easy feat. With the report -- with regard to report itself, be no surprise that we're going to strongly urge you to reject the conclusion that changes to strict liability standards are necessary or appropriate. We don't believe they are. Instead, we do agree that fair and clear standards for cost recovery, coupled with a wildfire fund, are the crucial elements that will provide the certainty needed to stabilize the financial markets for utilities and equitably apportion liability.

Now, I'd say don't be deceived into believing that a changed inverse condemnation will magically eliminate the cost impacts of utility caused wildfires. It will simply shift the burden from the responsible utility to the
victims. And getting out what Mark was saying, it's my understanding and I haven't been eight years insurance Commissioner. I'm fairly new to the trade, but it's my understanding that to the extent insurers seek reimbursement for damages, those recoveries reduce the losses used to calculate future homeowner policy rates. So it's not a windfall for insurers. It's a financial benefit to the policyholders whose homes may have been affected. And insurers have lost twenty-five billion dollars in the last two years. They are certainly not feeling that this is a windfall today.

With regard to the Homeowner Insurance and Mitigation Workgroup recommendations. I appreciate that you saw our letter. I'll simply say that we agree with some of the recommendations, some we believe merit further discussion and some we think may, in fact, be harmful to consumers. And we're glad that you have the opportunity to consider those recommendations before adopting a report, so thank you.

CHAIRMAN PETERMAN: Sir, please stay at the microphone.

COMMISSIONER KAHN: So I don't understand something. We have her widely that insurance who have subrogation claims have sold their insurance claims to hedge funds. You understand that?
MR. TAYLOR: I've heard that. I haven't heard if it's widely. I know that many banks were looking to sell them.

COMMISSIONER KAHN: So can you explain to me how a policyholder benefits when an insurance company sells their claims to a hedge fund? If they sell them bulk, are you telling me that somehow that benefits to an individual insurance -- a person who has insurance policy when they're one of many thousands of claims that have been sold to a hedge fund?

MR. TAYLOR: I don't know the extent to which that is occurring and I honestly --

COMMISSIONER KAHN: Let's just say it's widely enough extended so that we have heard from many hedge funds.

MR. TAYLOR: Yeah, well, I'll say this. I don't I don't know the mechanism by which the Department of Insurance, how they account for that. I'd say to the extent there is a recovery from the insurer that reduces the losses that then go into future rates, that benefits the policyholders. How they account for, you know, if you sell it at a discount to a hedge fund, who then gets the claim, how that gets accounted for in that process, you know, we'd have to bring in some subject matter experts who do really deal with that on a day to day basis. You know, I think that up until recently, we haven't had subrogation of this magnitude, you know.
COMMISSIONER KAHN: I understand that.

MR. TAYLOR: So this a bit of a new -- I think it's a bit of a new thing and how it's going to shake out at the Department of Insurance, we'll see. But I think the insurance Commissioners historically have looked at that and they just might see how the new insurance Commissioner, account for that.

COMMISSIONER KAHN: My point is that the insurance industry coming here, opposing an inverse reform, and somehow characterizing this as not a windfall to themselves, while at the same time they are achieving not only millions, if not hundreds of millions of dollars of revenue by selling the claims. And we have no idea what they're doing with the money. It seems to me odd for them to represent that it's benefiting policyholders. And it also ignoring reality. And you told us you don't understand it so that's fine.

MR. TAYLOR: I'm going to say I think that that gets taken care of in the regulatory process. I wouldn't say it's not that that it doesn't happen. It's going to happen through that process. It hasn't happened yet so.

COMMISSIONER KAHN: Well, what happened?

MR. TAYLOR: It's not going in insurance pockets. I mean, that's what you seem to be saying, that it's going in to insurance pockets. And I just don't believe that's the
COMMISSIONER KAHN: Excuse me. There is no question that the immediate transaction in which insurance companies sell their claims to a hedge fund, the money goes to the insurance company. It puts in its pocket. What it does with it later, we don't know, but we do know the sale is made and then the hedge funds are prosecuting the claim.

It's just -- all I'm suggesting is the picture painted for us is one that is ignored, that major transaction. If they were really prosecuting the interest, we've heard the following: We've heard, number one, that they compromised the claims. Well, if they thought the claims were so valuable and important to the individual policyholders, why aren't they prosecuting into their conclusion? We've heard they're compromising the claims.

And the second thing we're hearing is that if selling the claims to hedge funds cash immediately. All I'm suggesting, is that the picture being painted by the last couple of witnesses that somehow the insurance companies are using the subrogation claims to the benefit of policy owners is contrary to what seems to be the facts.

MR. TAYLOR: Well, respectfully, I would just say that I think you're speaking to anecdotes and information that we haven't been told, so I can't really respond to it.

CHAIRMAN PETERMAN: Well, thank you. And given your
organization's breath, I appreciate you continuing to look
at these matters.

And lastly, we'll hear from Paul Mason, Pacific Forest
Trust. Welcome.

MR. MASON: Good afternoon, Chairman Peterson -- Chair
Peterson (sic) and members of commission, thank you very
much for all the work you've done. I was watching the
hearing from home this morning and I was really impressed
with the quality of the conversation.

I do want to take a few observations, not about
insurance, fortunately, but I really did appreciate the
highlighting of the need to do more on mitigation and
prevention of fires. That's an area where I saw a lot of
opportunity. And I would note that beyond trying to reduce
ignitions and there's been a lot of focus on powerlines and
those sorts of corridors, and along roads and some of the
places where you see a lot of starts, it's really important
for us to continue to work across the broader landscape.

Because it's all well and good to try and prevent and
reduce the number of ignitions that we have at these
ignition starts, but there's still going to happen. And if
they move beyond that first hundred feet or so, beyond the
powerlines of the road and hit these really dense
vegetative conditions that are historically unnatural
because of past policy decisions of the State to allow
types of logging and other land use and then suppress fire
for the last eighty years, we have created a condition on
the landscape that has exacerbated the problem. It's not
just carbon dioxide in the atmosphere it's what we have
done to the vegetation on the landscape. And that's
something the State can continue to redress. And because
of a problem that we have really contributed to. So I want
to make three observations about that.

One, is that there is clearly an enormous need to
continue to work in that space and to do so in a more
coordinated way so that we're looking at whole watersheds.
And how do we get conditions back to the point where if a
fire happens there, it's not a catastrophe, it's part of a
natural process. And we'll have a variety of outcomes, but
there will be generally acceptable. So working in a more
coordinated and informed way there. To do that across the
tens of millions of acres that we're talking about, and I'm
thinking mostly in a forested context, even on Pacific
Forest Trust, we need to build a much more significant
workforce and really create momentum in the small business
community for doing these sorts of activities.

We don't have anywhere near the people or the
equipment or the infrastructure to really get to scale on
this like we need to right now. And we need to be doing
this, you know, so that we've made a real impact over the
next decade, not stretching it over the next fifty years. We need to get busy on this right away.

A big impediment to that -- you know, SB 901 was tremendously helpful in that it allocated, you know, a billion dollars over the next five years, a hundred sixty-five million dollars a year in grants for the next four more years, but that's still only four more years. If you're a small business trying to figure out whether you're going to invest in that quarter million dollar piece of equipment to get out there and be doing this work across the Feather River Watershed over the next ten, fifteen, twenty years, you need to have some confidence that there's going to continue to be an industry there -- the State's going to continue to be investing and supporting, you know, the various landowners who need to get this work done and the public needs to get this work done. The work will not pay for itself.

Most of what we want to do out there. You know, it's not like there's enough logs that and come off here that's going to pay the project off. There's going to be public investment to get the outcomes that we want. Knowing that there's some stability in the investments coming from the State will make all the difference in the world in terms of how effective that can be. Thank you.

CHAIRMAN PETERMAN: Thank you. Well, I think you've
highlighted, again, just some of the issues that are critical for what we've been talking about, but didn't rise to the surface. I think we made this comment earlier that there's lots of good ideas that have come forward particularly in the public comment that we may not be able to reflect in a report now, but we will -- I know lots people are watching this. And in our individual capacities, we'll continue to transmit these recommendations. But quite a nexus with what's happening with Workforce Investment Board and Small Business Association. And I appreciate your point about the longevity of the opportunity to start a new business. So thank you so much.

Is there anyone else who would like to make public comment?

Executive Officer Johnson, do want to make a -- so the public comment period is now closed. Mr. Johnson, can you make some comments about public comment in the testimony going forward?

MR. JOHNSON: Sure. First off, I want to thank everybody for their public comments, I'm sure the Commissioners will chime in on that towards the end of the meeting here. But I thank everybody for the meaningful testimony you've offered here.

I also want to say thank you to the folks who
submitted comment in advance of this meeting. As it says
on our agenda, we accepted those and put those on our
website and they will get transmitted along with the
report. All public comments along with those, will get
transmitted along with the report.

We also received via email some comments during the
meeting and as it says on the agenda we can't accept those
via webcast. However, I do want to make sure that they get
captured on the record. So public comments that are
received today through Wednesday, June -- I think it's June
12th, close of business at 5 p.m. will all be transmitted
along with the report to the legislature as an appendix.

So, you know, if there obviously the Commission will
take its vote at the end of this meeting, but if there is
additional comment that you guys want to be transmitted to
the legislature along with the report, I will offer that
and do so by -- as long as it's received by Wednesday close
of business, 5 p.m.

CHAIRMAN PETERMAN: Thank you very much. Again, I
think that the fact that we have this public process and
very easy to submit process to upload this information has
been really helpful.

So Commissioners, now is our time to go over specific
changes to the executive summary and recommendations.

Would you like a break before we begin that process?
Sounds like we're ready to roll. Let me walk you through how the next forty-five minutes will go. I'm going to start with the end at some point when we're comfortable with our proposed changes one of us will put a motion on the table to transmit the executive summary and recommendations. And once that motion is on the table, there'll be a final opportunity for every Commissioner to say any overarching points they'd like to make regarding anything related to the topics we've discussed. And so I do want you to know you'll have that time. In terms of the way to go about doing specific recommendations.

First of all, I would like one of the recommendations that we adopt to be to delegate to these active officer to make any nonsubstantive and typo corrections as appropriate in the executive summary. There are a couple places where, you know, for example, it mentions there's three parts to SB 901 and there's four parts, and so things that are clearly not controversial, making sure that he is able to make those changes.

Second, staff during this day has taken our executive summary and identified with comment bubbles. The areas of the report that we have so far identified would warrant change. My recommendation is if the direction here is clear enough that we don't have to do a direct line edit. As long as it captures what we're trying to do and staff
afterwards can work on this and check in if necessary with us. And if there is a specific line edit that someone feels a need to raise now, we can do that.

Second, after we go through those are ready, if there are other ones that Commissioners would like to recommend, please do and we will include those. It's important that any recommended changes you want to the executive summary get noted today. If there are any way substantive, even if small.

And then lastly, a few of us made specific recommendations, clarification to our workgroup subsections and staff noted those earlier, but we should quickly go over them again. I think that was primarily myself and Commissioner Jones, and we'll do that at the end if anything's outstanding.

So with that, I'm going to ask staff to start just walking us through the document and the comment bubbles you have and we'll see if they're consistent with our recollection or how would you like to proceed? What would be easiest for you?

MR. JOHNSON: You want me to -- you want to scroll through and I'll call out --

FEMALE SPEAKER: Can you see it on your screen.

COMMISSIONER JONES: I can't see it on my screen, but I can. It's all right. I can turn around.
CHAIRMAN PETERMAN: It's pretty small on ours, so we'll need you to read it to us.

Dave Jones, technical master.

MR. JOHNSON: I can't get it up on mine.

CHAIRMAN PETERMAN: I mean, I can share with Commissioner Kahn. It's probably more important for you to have it.

MR. JOHNSON: It's all right. I can look up here, so Item Number 1 was -- and tell me if I'm out of order here, Edith, but Item Number 1 was to add a finding on the impact of bankruptcy on victims. And that was discussed in the first or earlier set of comments when we went over the sections. The idea is to capture it, to try and capture a little bit more detail about how the victims were impacted by the bankruptcy process and how those claims are impacted. Is that agreed here?

CHAIRMAN PETERMAN: Yes. I recommended that based on Commissioner Kahn had said in his opening comments, and specifically it was about the -- how those victims that suffered both property and bodily damage ended up coming into the same unsecured claims pool as a part of the bankruptcy process. I just thought that was an important part to pull out.

COMMISSIONER JONES: May I? I think it's also when you're in bankruptcy --
CHAIRMAN PETERMAN: Commissioner, your microphone, please.

COMMISSIONER JONES: As soon as I figure out how to -- how do you do that, Pedro?

COMMISSIONER NAVA: Hit the Window and open up the --

COMMISSIONER JONES: Look at that. Thank you, thank you. I have missed you, by the way.

COMMISSIONER NAVA: I know. I know. That's why we did such great work.

COMMISSIONER JONES: So I think also, though, the point that Commissioner Kahn made was when your claim is thrown into bankruptcy, you might end up with zero. Right. And so, I mean, I take the point about the inequity between types of claims. But I think the bigger problem is if we're looking at a future in which all utilities are going be driven into bankruptcy related to catastrophic fires, they might have caused that revictimizes victims because their claims ends up in bankruptcy and they don't get anything potentially.

MR. JOHNSON: So it sounds like there are two pieces of that. One, is the inequity between the various kind of claims. And the second is that some claims could go to zero or are likely to go to zero in the bankruptcy process.

Does that capture that?

COMMISSIONER JONES: Substantially reduced.
MR. JOHNSON: Substantially reduced.

Do you have something to add on that? CHAIRMAN PETERMAN: No.

MR. JOHNSON: Okay, so we're not voting on each of these. I just want to get a sense of the commission? Does that seem like a fair assessment?

UNIDENTIFIED COMMISSIONER: It does to me.

MR. JOHNSON: Okay.

CHAIRMAN PETERMAN: I had one on Finding 5. I don't see a bubble there. So I just want to call that it out.

MR. JOHNSON: Yeah, go ahead.

CHAIRMAN PETERMAN: So that was the one where I noted that although I don't disagree with this statement, that I think it's a corollary statement that the current process for determining cost recovery. Also, I'm trying to think of the best way to phrase this, but it preserves electric customers -- the current process results in electric customers not automatically bearing the liability cost and which, as ratepayer advocates have shared with us, is a positive on their perspective.

And so I'm just wondering, how do we capture that finding? Is it a separate finding or is it something or is it a finding in the funding section that I didn't want that point to be made. Because I think this point makes that the current process increases cost to ratepayers. I would
argue the current process also allows for ratepayers to pay lower costs, so I'm just trying to think about where to make that comment. Or potentially, as you just highlighted, it could be shortened to the current process for determining cost recovery contributes to the uncertainty that utilities and electric customers face and something like that. I don't know if anyone has a suggestion there. I don't want to deface it too much, but

MR. JOHNSON: Customers.

These are the real trials of editing in front of an audience. I'm sorry, Edith.

CHAIRMAN PETERMAN: It may be worth making two separate points out of it, Commissioner Kahn thinks, and I was taking a look at it.

MALE SPEAKER: Does that make sense, as an edit?

CHAIRMAN PETERMAN: No, it's not the end to the edit. I can if we want -- I can think about this a little bit more if you want to --

COMMISSIONER KAHN: I have a suggestion.

CHAIRMAN PETERMAN: Yeah.

COMMISSIONER KAHN: What you could do is you could say "and in many instances".

CHAIRMAN PETERMAN: Ultimately increases cost.

COMMISSION KAHN: So you take out the word "ultimately" and you put and in many instances increases
the cost et cetera.

CHAIRMAN PETERMAN: I'd be comfortable with that.

COMMISSIONER KAHN: So that provides the opportunity for the concept that it doesn't always which is your point.

CHAIRMAN PETERMAN: Yeah.

COMMISSIONER KAHN: So I'm uncomfortable with that.

CHAIRMAN PETERMAN: I don't need a separate one given that -- okay -- thank you Commissioner Kahn.

MR. JOHNSON: The next item I think, Edith that we had a finding -- not a finding, but a footnote to add on the challenges associated with -- the legal challenges associated with implementing changes to inverse condemnation, but also in that same footnote, a potential pathway forward. As Commissioner Kahn has recommended and I think Commissioner Wara you had suggested some place to elucidate this novel legal concept that that Commissioner Kahn has put forward, so maybe a brief paragraph that recognizes challenges and says one way forward could be this way forward, that Commissioner Kahn has put forward.

COMMISSIONER WARA: I'm comfortable with that. I mean, I think the main thing I was hoping to see was just an acknowledgment of the discussion that's in the record of the different views about the legality, constitutionality of a change in IC. And then and this may -- you know, how we articulate the theory that I think is there, which is to
really change the facts in a dramatic way. Declare an
emergency, create this new institution that's managing the
issue, a whole set of things. That's a little bit
different than simply arguing, you know, passing a law that
relies on the Locklin factors. And I think it's important
to distinguish, right?. And say that what we're not saying
is pass a law that just relies on the Locklin factors,
we're saying something different, but also to acknowledge
the dispute that exists about the legality of that move,
that simpler move if that's something you're comfortable
with.

COMMISSIONER KAHN: I am. So I think that first we
should say that there is a debate over --

MR. JOHNSON: Is your microphone on?

CHAIRMAN PETERMAN: Just talk a little louder.

COMMISSIONER KAHN: There's a debate over the efficacy
of any nonconstitutional amendment activity. And then I
think we should say; however, positions have been advocated
which have a path forward. And I can tell you where that's
found. Because that was in my original draft. I actually
had written it out exactly.

MR. JOHNSON: Sorry about that.

COMMISSIONER KAHN: Excuse me?

MR. JOHNSON: Sorry about that.

COMMISSIONER KAHN: It was okay. That didn't find its
way to the executive summary. But there is actually
language written that suggests the declaration of an
emergency and this setting and that plus we have had the
benefit of some legal help from -- OPR has some legal help.

And so I would be comfortable with -- if you trust
OPR, and I would, to take the emergency language that I
drafted and then cleave on to that the legal work that OPR
has available to it to provide a paragraph that does what
you say and which incorporates your very smart observation
about the legislature having the opportunity to comment on
the -- to fill the void of the actual constitutionality.
So and I'm happy to help if you want me to or not, but I
think Evan has the resources to do that.

CHAIRMAN PETERMAN: I would suggest in that footnote
that talks about there's dispute about the legal pathway.
It can say cite to the alleged counsel memo, because that's
what several of the written pieces of testimony cited to,
just as if people are looking to find that argument
somewhere.

COMMISSIONER KAHN: Sure terrific.

MR. JOHNSON: Sorry, just to clarify, Carla. That's
on the on the challenge is to make the new change correct?

CHAIRMAN PETERMAN: Right.

MR. JOHNSON: The legal counsel memo that was passed
that was requested by the legislature last year, right?
CHAIRMAN PETERMAN: Just to confirm their recommendation is for the executive officer to add a footnote around the knowledge and the legal challenge, as well as a paragraph specifically around the legal theory.

MR. JOHNSON: Sure.

CHAIRMAN PETERMAN: And he can work with Mr. Kahn on that.

MR. JOHNSON: What's next?

MS. HANNIGAN: Adding language about the transfer of risk to --

MR. JOHNSON: Correct. I think we heard a few times about this and in different ways about the reality of the transfer of risk in changing inverse and in a proposal to change inverse to a fault-based standard, the transfer of risk elsewhere to two property owners for insurance. And I think there are different opinions on exactly to the degree to which that is the case; however, I think some statement here that acknowledges that there is an inherent transfer of risk when, you know, in changing inverse and without going into detail there, is it appropriate in that section.

CHAIRMAN PETERMAN: I think that was Commissioner Wara's recommendation, so maybe he can be more specific about what he'd like to see.

COMMISSIONER WARA: Yeah, I mean, I think, just something that acknowledges that the risk is being
reallocated, not eliminated, right? That the liability will fall in that instead of falling on investored utilities, it will fall on insurance companies and that we should take care to monitor any potential impacts. I'm not saying that there will be. I just say I think we don't have evidence to say that there will or will not be, but I think that we should acknowledge that a change in the liability regime does not eliminate the risk it transfers it.

COMMISSIONER KAHN: I think that in that context, the word "risk" should be substituted for the word "cost".

COMMISSIONER JONES: I agree.

COMMISSIONER KAHN: It's not. It's cost. And in that regard, I agree with you that what we're doing is we're allocating cost. And I think that's right. But it's not risk.

CHAIRMAN PETERMAN: Good point; good observation.

COMMISSIONER JONES: I just I guess what I'm trying to think through is, is that true in every case or even in the majority cases? I mean, insurers are already taking risk and picking up the cost, eliminating inverse eliminates their ability to claw back that which they've already paid, but they're already assuming that risk and that cost when they sell the insurance, so it's not like it's being shifted to them. They are assuming it at the front end.
COMMISSIONER KAHN: That's why I think the word "cost" is right.

CHAIRMAN PETERMAN: Right. Because at the end, though, if they are they're going to recover

COMMISSIONER KAHN: You are a hundred percent right. They already assume the risk. They take the risk and they pay for something to cover the risk in buying insurance or not or they self-insure, but we have a cost that is being shifted in -- theoretically, inverse takes the cost away from moral hazard people and innocent victims and moves it somewhere else. Anyway, that was Michael's point.

COMMISSIONER JONES: I can accept that change. It's just there's a nuance there which we need to remind ourselves, which is that they sell the insurance and they really don't build into the sale of the insurance an expectation that they're going to get subrogation.

And so they're already assuming the risk and the cost. So to suggest that by eliminating inverse, we're now saddling them with a burden that they didn't already assume is what I find problematic about even the change in the language. So I just think there's going to be some real parsing of language because this is such a controversial issue. And I don't want to leave the misimpression that by eliminating strict liability in inverse, we're now shifting
to the insurers a burden that they didn't already assume by virtue of selling insurance in the first instance. I don't know how you draft around that, but that's the concern.

CHAIRMAN PETERMAN: What do we have? What's the language now?

MS. HANNIGAN: (indiscernible)

COMMISSIONER JONES: Look I mean, I'm fine with Michael's formulation, maybe staff can spend a little bit more time with it based on what I've just said, but I just I just don't want to leave a misimpression that this is not already a risk and cost that they have assumed --

COMMISSIONER KAHN: So we can solve the problem this way. Add language saying the transfer of cost that there may be a transfer of cost and the costs may be allocated, period. When we take out the word "risk" and we don't have to worry about the word "eliminated" because we're now talking about cost, that that's it's a fixed cost one way or the other. I think it captures the point.

COMMISSIONER JONES: I can live with that. It may not -- absolute.

CHAIRMAN PETERMAN: Also, I think the "may" is appropriate, because even if you get rid of the strict liability inverse condemnation, there may be some settlement still in court that result in those costs still being borne by utilities. So it may or may not transfer
COMMISSIONER WARA: Yeah. I mean, I think that the point is there is at least going to be for no fault fires or underinsured and uninsured victims, there is definitely a change here, right? You go from a situation where they're covered by the utility to one in which they are uncovered. That is a change, right? Uninsured victims include local government infrastructure.

CHAIRMAN PETERMAN: That's a good point.

COMMISSIONER WARA: So I think we need to acknowledge that. That's all I'm saying.

COMMISSIONER KAHN: So I would say as lawyers talk that assumes a fact not in evidence, which is that the utility can respond because if the utility doesn't have the ability to pay will not change -- the City has the cost. In inverse the City has a right to recover from the utility. That's your point.

But if the utility is bankrupt and cannot respond, they have that -- then we're not shifting the cost. There is no ability to recover. So I think even in the simple -- even in the counties and the cities situation, it's not clear that they're ever going to get any money from the utility in the PG&E bankruptcy. No one knows whether anybody's any money. So I agree.

COMMISSIONER WARA: I think that's also using a piece
of, you know, something not in evidence. I mean, I'm sorry -- like the idea that the utility, the claims, the unsecured creditors, in the PG&E bankruptcy would get nothing is really an extreme outlier case. That's extremely unlikely.

COMMISSIONER KAHN: I agree.

COMMISSIONER WARA: They are definitely going to recover less than a hundred cents on the dollar, but they were going recover less than a hundred cents on the dollar from a settlement in litigation anyway.

So I think we need to be clear that there is a change, right? And the costs that would have been paid by the utility will no longer be paid by the utility. And that means that people that are uninsured or underinsured will get zero in recover. Go ahead, David.

COMMISSIONER KAHN: I think it's not right because again, when utility is thrown into bankruptcy, they have no guarantee they're going to get anything either.

COMMISSIONER WARA: No guarantee is different from a guarantee of nothing.

COMMISSIONER KAHN: So just the I think the way, at least, I would look at it is. We have to parse the past and the future. If by some miracle, in my view, we passed inverse change tomorrow for future fires, one would suggest that where there is no inverse opportunity to recover but
also no cost, that the cities and counties might be incentivized to buy insurance where they haven't or -- and so, you know, right now you have a situation where the cities and counties are coming to us and saying, well, we didn't have enough insurance because we didn't buy it, because we figured if there's something catastrophic, we can go to the utilities. So I think you're right about PG&E, but nothing we do is going to change that. That's in the past. And one thing we haven't taken into account is how we're going to affect the behavior of the people who have come to us and said bail us out. And I think that one would predict that reasonable counties and cities would react to a change in inverse by buying insurance. So they wouldn't have -- they wouldn't be a shift a cost. Maybe they have additional insurance costs. So I think we're in the realm of a little speculativeness. And I'm willing to --

COMMISSIONER WARA: Let me just say I'm comfortable with the language. I think we can just move on. We have a difference of opinion, but it's not material and I think we should focus on getting to a good outcome.

COMMISSIONER NAVA: I think -- yeah if you take a look at what we have -- what staff has written here, you can't use that. I mean, we don't really know what's going to be left. If we were to say a change in the liability regime
transfers risk, not eliminates it. I'm just going back to the earlier sentence, a change in the liability regime that says transfers risk, but if you say transfers cost not eliminates it. And may result in changes -- you see where I'm going with this --

CHAIRMAN PETERMAN: Uh-huh.

COMMISSIONER NAVA: -- may result in stakeholders engaging in actions -- or just trying to think -- what you're talking about is respond accordingly -- respond accordingly.

COMMISSIONER KAHN: Right. We just put to respond accordingly, so we take out the risk we put in we put in the concept of cross and then we put in the concept that people are may respond.

COMMISSIONER NAVA: Just think maybe, right?

CHAIRMAN PETERMAN: Yeah. So that's good. Thank you, Pedro.

COMMISSIONER NAVA: Sure.

CHAIRMAN PETERMAN: Moving on to the next change. Edith, before you keep scrolling too far. Go ahead. You need -- you finish what you -- I guess we should look -- let's look at this and make sure we're really clear.

COMMISSIONER KAHN: It's may transfer cost not eliminate it and may result stakeholders responding accordingly.
1 CHAIRMAN PETERMAN: Yes.

2 COMMISSIONER KAHN: Yes. And then I think Michael's point is captured, our worry about it captured. This is the way God built a camel, you know.

3 CHAIRMAN PETERMAN: But we only have fifteen minutes to build ours. As we move -- I know the next recommendation section is the Utility Wildfire Board. But before you move to that, if you just move Recommendation 3 for a second. I just had a very quick change on -- wait, sorry go up one more to before the cost recovery. We are still in this section. Oh, recommendation to -- the first line of recommendation to is just not accurate and I don't think it's needed. It says that the prudent manager standard is a part of inverse condemnation rules, so I think that was just -- so let's just delete that. If folks are comfortable, it doesn't change the paragraph.

4 MS. HANNIGAN: I have track changes on.

5 CHAIRMAN PETERMAN: Oh, thank you so much. Okay. So I think then the next recommendation. Okay.

6 CHAIRMAN PETERMAN: Can you zoom in on the change?

7 MR. JOHNSON: I think --

8 CHAIRMAN PETERMAN: You have suggested language?

9 MR. JOHNSON: So we don't have -- I don't have exact language, but thought here is to focus this recommendation around the challenge at hand are the desired outcome, which
is to consolidate and fortify the State's efforts regarding utility wildfires and mitigation -- prevention and mitigation of utility wildfires. And one option could be this wildfire board and sort of put that focus of this recommendation on the end goal, which everyone seemed to agree was, this consolidation and fortification or additional resources towards wildfire prevention mitigation. But then to provide this second part as one option for doing so. But I want to put that up for both Commissioners Nava and Kahn who drafted this.

COMMISSIONER NAVA: What you're saying, it seems to me that what you're saying is, we want State of California to make sure that they engage in wildfire prevention and mitigation, and one way to do it is to establish an electric utility wildfire board. That's kind of what you're saying, that the establish the electric utility wildfire board is one possible way to do it, right?

CHAIRMAN PETERMAN: Correct. And I think --

COMMISSIONER NAVA: Whereas we're saying this is the way to do it.

CHAIRMAN PETERMAN: Right.

COMMISSIONER NAVA: So I don't know what everybody else feels like. It's the will of the commission.

MR. JOHNSON: Are You okay with this?

COMMISSIONER NAVA: I'm sorry.
MR. JOHNSON: Are you Okay with that?

COMMISSIONER NAVA: Well, yeah. If it's in real little type.

CHAIRMAN PETERMAN: It seems like you still have the additional COMMISSIONER KAHN: See what I had to deal with for six years.

MR. JOHNSON: I'm going to try and be timekeeper here. Commissioner Nava, I think that point is well taken. And what I would say is that the fortifying the language, I think that means we have to be careful about what we're trying to accomplish with this. And can you be clear, what would you say are the key elements of what we want to accomplish with this recommendation.

COMMISSIONER NAVA: Well, okay. So if you say establishing an electrical utility wildfire board which consolidates governance of blah, blah, blah, blah, blah, may be one way to reach the State's objectives.

CHAIRMAN PETERMAN: Let me ask you, what are those objections?

COMMISSIONER NAVA: Right. And then add the language of the objectives. But I don't -- I really don't -- I'd like for the sentence to be the first part of the sentence to be the part that people read and then they don't read all the rest of it. You follow me?

CHAIRMAN PETERMAN: I think to your point earlier
about the sausage being made. I do think it's important to have that -- the objectives embodied in that recommendation, just in case if they don't go with the exact one, they know what they're aiming towards. So I'm comfortable with how you propose it to keep the first line as is.

MR. JOHNSON: But I just do want -- and I appreciate that -- I do want to be clear, what are the elements of those objectives so that we can, you know, so that if the legislatures are reading this and they say, well, we're not going to do that, but we want to make sure we're getting at the heart of this, what is the heart of it? Is it you know, in the way I proposed it was consolidation and fortification. There's just to sort of fairly loose --

COMMISSIONER NAVA: The language doesn't bother me.

MR. JOHNSON: Okay.

COMMISSIONER NAVA: It's just really about the order that you want to put it in. I would put that at the tail end of the recommendation. You follow me?

MR. JOHNSON: Yeah, I do. But I think we should reach out to the rest of the commission for consideration on that, because I know that this there was some disagreement on this element, so.

COMMISSIONER KAHN: Okay. Pedro's Okay.

CHAIRMAN PETERMAN: I think the additional point that
I was making and Commissioner Jones, which I would still like to see added at the end of that paragraph is --

COMMISSIONER KAHN: (Indiscernible) second sentence.

CHAIRMAN PETERMAN: Right. Acknowledging the challenge, so that was the one I'm fine with that inclusive of that. Are you good with that, Dave?

COMMISSIONER JONES: Yeah, I'm not tracking what the language actually says now.

MR. JOHNSON: It says we want to do a board, but one way to do it --

CHAIRMAN PETERMAN: Can you move the screen over

COMMISSIONER JONES: Where's the change that we're talking about.

COMMISSIONER NAVA: What I'm suggesting is that we say establishing an electric utility wildfire board, which consolidates governance of all utility catastrophic wildfire prevention and mitigation in a single entity separate from the California Public Utilities Commission is one way to -- and then finish the sentence.

COMMISSIONER KAHN: All right. I'm fine with that.

And I take it that, I mean -- four sentences into the text here is your content or five sentences.

Setting and enforcing safety standards and implementing, administering, adjudicating fault-based standards and robust data. I mean that's the content that
you're trying to accomplish to this entity, right?

COMMISSIONER NAVA: Sounds like it. All right. Well I'll leave it to staff to fill in the dot, dot, dot.

MR. JOHNSON: I was out of the room for part of this.

CHAIRMAN PETERMAN: Yes, I believe, yes, the challenges have been noted and will be integrated.

MR. JOHNSON: Capture those challenges that --

CHAIRMAN PETERMAN: Yeah, it's in the -- it's in the comment.

MR. JOHNSON: Okay, great.

CHAIRMAN PETERMAN: We can look at the final, but I think --

MR. JOHNSON: There it is great. Perfect.

Those are the high level.

MS. HANNIGAN: (indiscernible)

MR. JOHNSON: On number 4, correct?

MS. HANNIGAN: Yeah.

MR. JOHNSON: Yeah. No. Yeah. Those are the high level on the -- yeah -- on the inverse and the cost recovery, I believe. Yes.

MR. JOHNSON: I think Recommendation 4 is where we had a proposed next exchange, which was this -- Carla, to your point earlier, that absent changes to the strict liability application of inverse condemnation, should be struck from this recommendation. Meaning that the contingency upon
that the change in inverse should be removed.

Additionally, and I'm just keep moving unless there's significant concern there.

Additionally added into this recommendation is a footnote on Item Number 1. Right now it says Recommendation 4 and there are six items under there. Item Number 1 of those six items says pool risks broadly and source beyond electric ratepayers. They think that the idea here would be to add a footnote that says the appropriate or --

CHAIRMAN PETERMAN: I would say something like broadest socialization would be to socialize across tax payers. And then absent that there are other proposals or socialization included in the workgroup recommendation -- workgroup subchapter or something to that effect.

MR. JOHNSON: Yeah.

CHAIRMAN PETERMAN: I have no disagreement with that position.

COMMISSIONER KAHN: Sounds fine with me.

MR. JOHNSON: Do we have another on the fund section as we're going through? I think we did.

MS. HANNIGAN: (Indiscernible)

MR. JOHNSON: There were certainly some minor changes that --

CHAIRMAN PETERMAN: Maybe it's a good time to raise
it. I had a broad comment about cost recovery in terms of being a specific as possible, and that particularly comes up in the -- what was previously page 6. There's a discussion, there's the high-level discussion about what changes we're making and there's a section that begins, "This is not an easy task where the commission landed after hours of testimony and expert consultation." I'm not sure where that is.

MR. JOHNSON: The very top of page 6, if that is helpful. Directly at the top.

COMMISSIONER NAVA: Yeah, that's the top of 6.

CHAIRMAN PETERMAN: So you have a sentence that the prudent manager standard must be modified to bring clarity to the cost recovery process. I just think we should replace to bring clarity to be very specific about what the recommendation is, which is I think to provide more specificity to the extent possible regarding what constitutes prudent behavior in the context of fire, ensuring cost recovery reflects the host of factors that contribute to wildfire damage and preserving the authority of the PUC to the extent possible to determine what is just and reasonable. Just something that really echoes what is actually in the recommendations so that's -- I can be more specific in language, but I'm not recommending a new recommendation here, just spelling out what we have
identified as clarity.

MR. JOHNSON: Any concerns with that.

COMMISSIONER KAHN: I'm okay with that. I'm also okay with the Chair smoothing it.

CHAIRMAN PETERMAN: I will smooth that and not introduce any secret language. Thank you for that.

Do we have other major -- I have some more direct language.

MR. JOHNSON: We have one additional -- that wasn't major, but just that I had highlighted the sunset clause. Your concern about the language of the sunset clause and I think we're just going to remove that language sunset clause on the top of page 11 unless there was something else about that but --

CHAIRMAN PETERMAN: No. And just to make sure that you caught at a high level the other recommendations that our group would like changed related to the fund. They were -- well to our subchapter in particular, being clear when we're talking about negligence versus prudent -- imprudent behavior.

We have a couple examples of that. We'd like fixed in the executive summary and in the underlying chapter we thought that was important correct in the other underlying as well. Inclusion of the recommendation to increase PUC fine authority, putting that in the actual list of
MR. JOHNSON: There were -- there was one paragraph that was in your workgroup report --

CHAIRMAN PETERMAN: Yes.

MR. JOHNSON: -- that talked about specifics about increasing and changing the fine authority associated the PUC. And you want that moved up into the recommendations proper.

CHAIRMAN PETERMAN: Yes.

MR. JOHNSON: And the executive summary. Sorry.

Okay. Great.

CHAIRMAN PETERMAN: Or we said at least look at that fine authority. The other you'll see it. I also mentioned that we would like stricken from the executive summary the words that have been used to modify the size of the fund to be modest or large. We don't think that -- that's too subjective, and that's not how we were thinking about it or talking about it. And those were -- well, those were the points of clarity that we were seeking.

And I have a couple more suggestions if we are at that point.

MR. JOHNSON: More.

CHAIRMAN PETERMAN: No, they are good.

MR. JOHNSON: No, absolutely. But I also -- yes. Is that indicating the others were not?
CHAIRMAN PETERMAN: I'll have to qualify my own comment. I didn't say they were necessary.

COMMISSIONER JONES: They are just good.

MR. JOHNSON: You can tell it's the end of the day.

Yes, absolutely. And I also want to pass some time to Commissioner Jones, who I know has some minor edits.

COMMISSIONER JONES: No, I can wait for the Chair. Let's -- mine are minor and nonsubstantive by and large.

CHAIRMAN PETERMAN: Just two more. I appreciated a comment received in some of the comments about acknowledging the value of the folks in the WUI that you know not to -- I do read our intro to our recommendations and it's a little it kind of just talks about, you know, the risk of people living in the WUI, et cetera, so if it pleases the body, I would be comfortable in the first paragraph after the recommendation section starts.

COMMISSIONER KAHN: What page you on?

CHAIRMAN PETERMAN: It's page 5 in the copy I have. This paragraph. I'd like us introduced a line or 2 after the second sentence that just says, we recognize that Californians in the WUI contribute to the vitality, economy and culture of our state and deserve protection and support something along those lines just acknowledging Californian's, right? And that it is our collective solution to work on. We can mess with the language, but if
folks are amenable to that, it sounds like there's support.

UNIDENTIFIED COMMISSIONER: I'm not going against that.

CHAIRMAN PETERMAN: I told you it was a good suggestion.

The last one I have is that in the conclusion at different points in the day, we've acknowledged that there were challenges and unknowns with every recommendation. So just a general statement in the concluding paragraph that says something along the lines of the commission recognizes that there are challenges and unknowns and potential impacts of all recommendations and to therefore encourage the legislature to vigilantly monitor the impacts of any changes to law and continue to consult with the consulting agencies on these matters through implementation. I just wanted to catch all phrase along those lines.

And that was it on my end.

COMMISSIONER JONES: We have the insurance thing. We're going to get to the crisis stuff?

MR. JOHNSON: Thank you. Yeah. Thank you, Commissioner Peterman and -- Chair Peterman.

So we'll move to Commissioner Jones, I believe. And he's brought handouts. And we are -- I now get to say that we have a few extra minutes. We're not going to get kicked out immediately at 5:00. But it's important that we wrap
this up fairly soon. But this is a critical part of this process. I appreciate everybody's indulgence in this.

Thank you.

COMMISSIONER JONES: So these are four largely nonsubstantive changes that are designed to pull into the executive summary language, which was in the underlying report that didn't get into the executive summary and to separate back out recommendations that ended up getting combined in the executive summary. So the strikeouts are strikeouts. The bold is the additional language. The first one is a change to Recommendation Number 7 and just pulls into that recommendation, the explicit recommendation that the coverage limit be raised to three million dollars, which is what the Department of Insurance had recommended, that there be an inflator. The one substantive change in this paragraph is --

MS. HANNIGAN: Commissioner (indiscernible).

COMMISSIONER JONES: Do you even have this?

MR. JOHNSON: I'm going to forward it to her right now and she'll pull it up.

COMMISSIONER JONES: I can hand it to you, too, if you like.

CHAIRMAN PETERMAN: I was just thinking about. Well, there's two things. Her having it and also -- yeah. If you hand her a copy, that's good. And then if you can
explicitly read what you're adding because we don't have it on webcast.

COMMISSIONER JONES: How many do you have left at that end of the table? Oh, okay. I'll give you this.

COMMISSIONER WARA: I have one already.

MR. JOHNSON: I have a digital copy. We're going to get this up on the webcast.

COMMISSIONER JONES: I found another clean one if you need it.

CHAIRMAN PETERMAN: Bear with us one second folks.

COMMISSIONER WARA: Here, I've got one.

COMMISSIONER JONES: So, again, the first of these four pertains to Recommendation Number 7, it pulls into the executive summary recommendation, the language from the underlying workgroup recommendation. To wit, explicitly including the recommendation that the coverage limit for the FAIR Plan be raised to three million dollars and have an automatic annual inflator.

The one substantive change in this language is striking very from low income for the FAIR Plan premium subsidy and having low income be the income eligibility criteria. The reason for that is frankly, there are no very low-income people that can afford to own a house in California. Those that at eighty percent of income or below eighty percent of median income or below are what is
defined as low income and that's within the reach of homeowner-ship. And that would capture seniors and others on fixed incomes from whom we heard testimony throughout our hearings who are facing acute challenges with affordability of insurance.

And so that's the purpose of that. See if there are any questions about that one? Okay.

Second is just to pull up from the underlying working group report, the explicit recommendation that the California Guaranty Insurance Association, I dropped an "I" have the claims cap raise to one million dollars and then have an inflation factor. So that was in the underlying report. It got left out of the executive summary recommendation. So that's a nonsubstantive change. Any questions about that one?

MR. JOHNSON: I just want to interject for process. For the folks on the webcast these changes are being made real time on the screen. So you should be able to see what he's discussing -- what Commissioner Jones is discussing. We'll post -- and we will also post these.

COMMISSIONER JONES: And then the third is to separate back the 2 recommendations that got combined in Recommendation 9 and the executive summary. And that is there was a separate recommendation of the working group report on requiring fire risk underwriting models to be
filed with the Department. And there was a separate recommendation that the insurer's replacement cost estimated models and tools be filed annually for review with the Department. So those got combined with the executive summary and I think there are separate things about separate things and they ought to be separate recommendations. So that's what that's designed to do. And it's nonsubstantive in terms of the language.

The fourth, again, is to is to separate two recommendations that got combined in the executive summary under Recommendation 10. The first portion of that recommendation deals with the recommendation that we set. Home risk reduction and community risk reduction standards with input from the insurers and require insurance to be written where homeowners committees meet those standards. There was a separate recommendation that got shoved into that one in the executive summary and that deals with the tiered mitigation credit that we made clear in the working report was a far less effective and far less desirable alternative.

And I think by shoving it together in the executive summary, it kind of raises its stature to -- an equivalent stature when it was not our intent to do that. So what I'm suggesting is that they be separated out as they were in the working group report and that we add a parenthetical
that underscores that the tiered mitigation credit is actually an alternative and far less effective than the prior recommendation. So that's what that language does. That's it.

CHAIRMAN PETERMAN: Commissioner Wara, do you have any comments? Any comments about these recommendations?

COMMISSIONER WARA: I'm comfortable with this.

CHAIRMAN PETERMAN: Thank you, Commissioner Jones.

COMMISSIONER KAHN: I'd like to debate them for four or five hours.

CHAIRMAN PETERMAN: You have two minutes.

COMMISSIONER JONES: Didn't you tell us your wife was here.

CHAIRMAN PETERMAN: All right. Gentlemen, we're moving on track here.

MR. JOHNSON: So Commissioner Kahn, you had something you indicated that was missing?

COMMISSIONER KAHN: The word crisis was in a finding. There is not a crisis yet. And I wanted to take that out.

CHAIRMAN PETERMAN: I thought saying something like the insurance market is still available and things like that.

COMMISSIONER JONES: I just want to take out the concept, so that we don't get derailed by that.

MR. JOHNSON: That's in Finding 13. The homeowners
insurance market in California is not in crisis yet, although we are marching --

COMMISSIONER JONES: That may be one place, but I think what Michael was referring to is if you look on page 12, the executive summary under the heading insurance and the narrative text that lays out the findings, we say, and while we are not yet in a crisis, is that --

CHAIRMAN PETERMAN: There is both places.

COMMISSIONER JONES: Okay. All right.

Say that it's in flux or some language that doesn't use the word "crisis".

MR. JOHNSON: So the intent is to capture -- there is --

COMMISSIONER JONES: It's in flux; it's changing; it's unstable, whatever.

CHAIRMAN PETERMAN: the motivating concern was that it is a crisis for some who are in that situation and wanting to be sensitive to that, I believe.

COMMISSIONER JONES: And also I don't want somebody to read it and say it's not in crisis, let's move on to something else that is in crisis.

I only had a note from a recommendation that someone had put forward before, which was and wow in the insurance market is still currently unavailable, it will be increasingly unavailable (indiscernible).
UNIDENTIFIED COMMISSIONER: Yeah, that's what the Chair proposed. And I loved that language earlier.

CHAIRMAN PETERMAN: I think the sentence actually gets to that, but it just -- it has that clause which taken alone it would be problematic.

MR. JOHNSON: We'll want to change that there and in Finding 13. Thank you, Edith.

That's fine. We are going to have minutes of this meeting reflecting all the comments and the things we talked about because I think it was very substantive and could be very used to --

CHAIRMAN PETERMAN: I think that's a great point, I was just raised about whether they'll be minutes from this meeting and they will also be the recording. And I think our deliberation is as important as what we transmit because as we started off talking about, there are legitimate challenges and difference of view and nuance to all of these recommendations. And I think that's been a collective challenge about how do we represent them? And so we really do refer to the legislature, not just our written report, but the transcripts of our meeting on the dialog. And I know at various points in time, we'll all be called to speak about these issues more and I appreciate having the opportunity to explore that nuance with you today. Mr. WARA?
COMMISSIONER WARA: I'm really sorry to bring this up.

CHAIRMAN PETERMAN: This is the time, sir.

COMMISSIONER WARA: I am struggling with something and I want to just raise it. So, Carla, I'm sorry, Commissioner Peterman, I heard you say to strike large and small from the funding mechanism chapter?

CHAIRMAN PETERMAN: Large and modest from consecutive summary.

COMMISSIONER WARA: From the executive summary. I'm sorry. Yes. So I think we need something by large.

CHAIRMAN PETERMAN: Okay.

COMMISSIONER WARA: That is more specific. It is substantive. And I would feel more comfortable if we said adequately sized.

CHAIRMAN PETERMAN: I will be fine with significantly adequately sized, but our reference point, as you know, was size with the risk.

COMMISSIONER WARA: Right.

CHAIRMAN PETERMAN: So I don't want to assume that's a large fund. If that's not what the risk appropriate --

COMMISSIONER WARA: Yes.

CHAIRMAN PETERMAN: So that was my concern.

COMMISSIONER WARA: Something that reflects that I think I am comfortable with. And I agree with you large, small that's subjective. In the eye of the beholder, I
would just like to have some tie to that idea. Adequately sized to risk.

   COMMISSIONER WARA: To risk, yeah.

   CHAIRMAN PETERMAN: That's right. And we can make sure that that makes sense in the read of each.

   MR. JOHNSON: Just to clarify as an example and recommendation for the -- since we're striking absent changes to strict liability. Recommendation 4 will read something along the lines of, the legislature should consider establishing an appropriately -- and adequately sized and broadly sourced wildfire victims fund or some -- or perhaps each consider establishing a broadly sourced wildfire victims fund that is adequately sized to the risk.

   CHAIRMAN PETERMAN: That's fine.

   MR. JOHNSON: Right. Yes. Thank you. That's Okay with everyone else.

   IN UNISON: Yes.

   CHAIRMAN PETERMAN: When we do the review after all the changes, and I'll be cognizant of that point, Mr. Wara. Yes.

   MR. JOHNSON: And the Chair and I will work on these together. To be clear so that we're -- we're sure that we capture everything that's discussed here.

   CHAIRMAN PETERMAN: Commissioners, any other proposed changes at this point?
MR. JOHNSON: Now is definitely the time. My point is, don't be shy.

CHAIRMAN PETERMAN: I think we've done a good job by trying to augment and clarify while transmitting the broadest possible set of recommendations to the legislature.

So I thank you for your cooperation and support there. So I think the next -- what we're going to do next is we'll put a motion on the table to transmit the executive summary and recommendations with the changes proposed to the legislature and governor. Would someone like to put that motion on the table? And then at which point we can all make any final comments we'd like to make about the topic before we take the vote, or if you do want to propose the format of the motion?

MR. JOHNSON: I just want to clarify. I want to be clear on what is transmitted to the legislature. And this is a question for the Commission that the executive summary is transferred to the legislature. And the question is, how do we treat the appendices? Are they transmitted as well? Are they referenced? I just want to be clear on how we handle those

COMMISSIONER KAHN: I think they should be transmitted. There's is a huge amount of substantive work in each of them. And I think they should be transmitted.
We have enough caveats.

CHAIRMAN PETERMAN: That's good. I think the concern when we first started was having to vote to endorse every single thing in the subchapters, but agreeing -- given that our vote is about transmission, I think that makes sense as much as possible.

COMMISSIONER NAVA: Yeah, you want to make sure that the staff has something to read over there in the white building because we know who's going to read the executive summary.

CHAIRMAN PETERMAN: Right. So is that -- can someone put the motion on the table, will you do that --

UNIDENTIFIED COMMISSIONER: I'll make a motion.

UNIDENTIFIED COMMISSIONER: So moved.

UNIDENTIFIED COMMISSIONER: Second.

CHAIRMAN PETERMAN: Comments Commissioners, please.

COMMISSIONER KAHN: My only comment is I'm going to miss you guys.

CHAIRMAN PETERMAN: I will say I was going to make s comment so I'll just make. I'll make it briefly. But this is our last opportunity and before other legislative testimony.

So first of all, it's my pleasure to serve as your Chair. Thank you for that opportunity. And for the hard
work you've done. And I just want from my perspective to say why I think these recommendations that we're voting out are good for Californians, including wildfire victims, residents in the WUI, and electric ratepayers. We've talked time and time again about the best solution is no fires. And having no fires of part of that is significant amounts of mitigation. And if we want utilities to be doing the mitigation and to reduce fires, they have to be able to make investments. And those investments need to be financed even if over time our ratepayers pay for those investments.

And what we have seen is that there are challenges for all utilities, not just PG&E, all the other utilities of the State. Increasing challenges with accessing finance and accessing it at an affordable rate. The challenge around financing stems from investor concerns around risk, and they find increasingly that California utilities are riskier to invest in because of the interpretation of inverse condemnation, because of the -- guarantee around pass through and recovery of cost, as well as lack of evidence that the wildfire mitigation we started to undertake is going to work.

And we know from our own personal lives as we get credit cards, et cetera, that risks are evaluated every day. And if we're viewed as riskier, it's more expensive
for us to borrow money. I mean, that's just experience
that we're in right now with our utilities. And so we have
recommendations that are focused on how do you de-risk the
wildfire situation. And those are our recommendations
around changes to inverse, recommendations to revise the
cost recovery standard, and recommendations to further
invest in mitigation. And we're also calling for
improvements in the insurance markets and insurance. And
by broadly, you know. One, recommendation is to have a
fund that is meant to provide support where we're not
seeing utility insurance manifest or that market hardening
and then changes to the residential insurance market to
make sure that insurance remains affordable and available.

And we're also focused on how do we address bad
behavior. And that includes repayment to funds or any
financing mechanisms for bad behavior and fines for
utilities. And so I wanted to just highlight kind of how
this all comes together in my mind, because first and
foremost, as Commissioner Kahn started his (indiscernible)
with, we are thinking about the victims. And we are
thinking about Californians. And a part of that is making
sure we have a way to pay for all the wildfire mitigation
investments we need and everything else the State wants to
do for clean energy and elsewhere. So that's why I'll be
supporting this at our recommendations and appreciate
everyone's thoughtfulness.

So with that, let's call the roll.

Commissioner Nava.

COMMISSIONER NAVA: Aye.

CHAIRMAN PETERMAN: Commissioner Wara.

COMMISSIONER WARA: Aye.

CHAIRMAN PETERMAN: Commissioner Kahn.

COMMISSIONER KAHN: Aye.

CHAIRMAN PETERMAN: Commissioner Jones.

COMMISSIONER JONES: Aye.

CHAIRMAN PETERMAN: Commissioner Peterman.

Aye.

It's unanimous we vote to transmit these

recommendations.

Thank you, everyone, for your hard work. We are

adjourned. We're not adjourned.

MR. JOHNSON: On the agenda we did have a final public

comment period as Item Number 8 and I want to honor that.

We obviously had extensive public comment earlier. But I

think it's important to honor what's on the agenda. So if

anybody has any final comments, please feel free to come up

to the podium right now.

I want to make one final closing comment, if that's

Okay. On the future of the Commission that this is the

last scheduled meeting of this Commission, we will send out
an announcement on the, sort of, intended future of this Commission by the end of next week. We anticipate or by the time the document is transmitted to the legislature to bring clarity to the process for the Commissioners and the public as well.

CHAIRMAN PETERMAN: And just on the transmittal. Just to be clear, by the end of next week, we'll do the formal transmittal and we'll make that available on the website.

COMMISSIONER NAVA: I have a question for Madam Chair and staff. Are we doing a press release along with the transmittal?

CHAIRMAN PETERMAN: I anticipate that we will.

COMMISSIONER NAVA: Because I think what -- and I ask that because we saw some of the stories that were written when the draft went out where two thirds of the report were ignored. And only what some people saw as the most sensational aspects of it became the headlines. And I do think that one of the ways that we can help ensure that there is a more responsible assessment of this report is by a press release that emphasizes some of the things that we discussed here today.

CHAIRMAN PETERMAN: Thank you. That's a great suggestion, and I'll ask the executive officer to connect with the Commissioners offline if they have any quotes they'd like to provide for that press release.
Are adjourned?

We are adjourned. Have a good weekend, everyone.

Thanks again for your engagement.

(Whereupon, the meeting was adjourned at 6:18 p.m.)

(End of Recording)