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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 WARA
MICHAEL KAHN
DAVID JONES



1 P R O C E E D I N G S

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

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

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

11 COMMISSIONER NAVA: Here.

12 CHAIRMAN PETERMAN: Commissioner Michael Wara.

13 COMMISSIONER WARA: Here.

14 CHAIRMAN PETERMAN: Commissioner Michael Kahn.

15 COMMISSIONER KAHN: Here.

16 CHAIRMAN PETERMAN: Commissioner Dave Jones.

17 COMMISSIONER JONES: Here.

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

21 MR. JOHNSON: Thank you. I just want to mention a
22 couple of minor agenda changes. One is that we will not be
23 voting on the minutes today. They will be provided within
24 the next week, and they will be approved by the Commission
25 following this -- actually I don't think they'll be through



1 that process, but they'll be posted following this next
2 week. And I also wanted to add that executive director of
3 OPR, Kate Gordon, is going to join us for a few opening
4 comments here at the beginning. And I think we should
5 probably do that now. So if I can welcome up Kate Gordon,
6 the executive director of the Office Planning Research, as
7 well as the senior advisor on climate to the governor.

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

19 And this process has been the one process of all of
20 those going forward that has been truly public, open to the
21 public, deliberative, expert based and really just
22 thoughtful. And I want to just thank you all for all of
23 the time you've taken out of your lives to spend thinking
24 about this problem, to listen to public input, to listen to
25 experts, to bring your own expertise and thought and



1 deliberation to these questions and to come up with, you
2 know, your best set of recommendations on what to do with
3 all of that information coming at you. I know that this
4 has been challenging and time-consuming and just really,
5 really wanted to thank you and say that I don't think
6 anybody is expecting a perfect answer. But what we're all
7 expecting and I think you have given us is your best
8 thoughts and recommendations on this huge, huge issue
9 that's facing the state.

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

18 And finally, you know, just on the recommendation
19 themselves, I'm really looking forward today to hearing
20 kind of -- because of the process we're all subject to,
21 this is the first time you'll be able to talk to each other
22 about some of those recommendations. I'm really looking
23 forward to that conversation. And I will say, just in my
24 role as the head OPR and part of the staff of the
25 Commission, we end up, you know, being on the receiving end



1 of a lot of people talking to us as well about the draft
2 recommendations. And one thing I wanted to point to that I
3 think has gotten less attention maybe in the media, but
4 it's really important -- and this goes to Commissioner
5 Jones, the insurance recommendations are something probably
6 the single largest set of things that I've had questions
7 about from the public and from legislators. And I think
8 it's just incredibly important that we went into that set
9 of recommendations in so much detail that that is --
10 insurance is where this is hitting people every day right
11 now. And it's top of mind for many people.

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

19 MR. JOHNSON: Thank you very much. As I mentioned,
20 the next item on the agenda is, is the consent calendar,
21 and the only item we had on that was the meeting minutes.
22 As I said, they'll be posted next week. They're not
23 available yet today. Now, I think we move on to the
24 executive officer report, which is where I get to blather
25 on about our process. And I would appreciate everybody's



1 indulgence for a minute on that, because this is at least
2 our first -- at the moment, our last scheduled meeting of
3 the Commission. So I want to take a minute to thank
4 everybody who has been part of this process. In
5 particular, I want to thank Edith Hannigan who is over here
6 to my right and who has been just an incredible support to
7 this process, an integral part of the team. So thank you
8 very much. Karen Akiyama, Beth Hotchkiss, Jeannie Lee, New
9 Antakya (ph.), both of whom are sitting in the front row
10 here. A host of other people at OPR who have all been at
11 the Office of Planning and Research, who have been very
12 supportive, as well as Director Kate Gordon, who's been
13 very supportive through this process. Thank you to that
14 excellent team.

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

23 I also want to thank all of the hosts that we had. We
24 traveled the state. We went to Redding, Ventura, Santa
25 Rosa, Sacramento here twice now. And we've had gracious



1 hosts throughout being hosted at the city or county
2 chambers every time. And everybody's been willing to put
3 up with our hassles of posting agendas and, you know,
4 running over time.

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

16 And those comments are reflected in the drafts that
17 were put together by the Commissioners in the workgroups as
18 well as by the staff. That input was incredibly valuable,
19 the testimony we got from the public. And, you know, I
20 know that the Commissioners are reflected on this in the
21 past, but at times very heart wrenching stories of
22 devastation and loss of life. And just the impacts to
23 people and their homes and their livelihoods and their
24 communities of these wildfires. That was very impactful
25 and influential in our process. And I really appreciate



1 it's not easy to dredge up those thoughts and feelings.
2 And I really appreciate everybody being willing to take the
3 time and the emotion to do that and everybody else who's
4 sat there and taken in those stories and taken them to
5 heart. We have also, as I said, we've had five -- we were
6 required to have four public meetings. And proud to say we
7 had five very extensive public meetings. We've also, as I
8 said, had a rolling public comment period and gotten
9 extensive written comments and really appreciate that,
10 especially when we put out requests for comments.

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

24 I think, Carly, you're going to go through the rest of
25 the process for the day. Is that right? Unless there's



1 anything else you want me to cover?

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

4 MR. JOHNSON: Sure. So we are going to move on to
5 agenda item, I believe 7 right after this. Is that
6 correct? Or Chair support next. Carla will give you an
7 overview here and then we'll move on to the discussion Item
8 7, which is the discussion of the work of the workgroups
9 and the executive summary. That's before the discussion
10 draft that's before the commission today. As you all know,
11 the work -- at our last meeting, we split the Commissioners
12 up into what we are affectionately calling Bagley-Keene
13 pairs to work in workgroups on specific issues.

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

23 And I want to be clear that executive summary and the
24 full set of recommendations that were in the appendices
25 were not seen by the commission, the full commission before



1 they went out publicly. So you all saw them at the same
2 time they saw them. And you know, I'm hopeful that we were
3 able to catch most of what the intent was in those sections
4 within the executive summary. But I think I'll find out
5 today whether we did a good job. So that process led us to
6 this executive summary.

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

20 And following that public comment, we'll bring it back
21 to the commission to have further discussion and look at
22 line edits or discuss line edits that need to be made
23 within the executive summary to get to a point at the
24 end -- get to the appropriate point at the end of this
25 meeting. So the intent there is to make sure that the



1 Commissioners are hearing all the public feedback before
2 having that final discussion. And then once that
3 discussion item's over, we will have a final opportunity
4 for public comment at the end of the day on issues not
5 directly related to these recommendations, but I would
6 anticipate that most of it will be covered in advance in
7 discussion Item 7. So that hopefully walks through the
8 day, probably in more detail than you needed. Thank you.

9 CHAIRMAN PETERMAN: Thank you. And I also want to
10 sincerely thank you, Evan, for your leadership and work as
11 executive officer. You just described what your role is
12 and you described it kindly, but having to coordinate all
13 of us without our input at times is not an easy task. So
14 thank you to you and the OPR staff for your work. Thanks
15 to everyone who has participated in our meetings, the
16 expert testimony has been valuable and we appreciate you
17 taking your time. Each meeting after meeting to come
18 before us as well as to work together, I've seen a real
19 evolution even from when we first had our first meeting in
20 February in terms of where individual positions were. Not
21 so much that people's positions have changed, but I think
22 there has been more openness to the fact of a need to find
23 some common ground to move a solution forward. And one
24 thing that I think is notable across all the subsections
25 and recommendations is that we all acknowledge that in



1 various ways we are in crisis now and it is the time to act
2 and that the status quo is the least favorable
3 recommendation that we would bring forward today. So I
4 look forward to our discussion. Commissioners also wanted
5 to first and foremost thing each and each and every one of
6 you for the amount of effort and work that you put in to
7 the workgroups and the subchapters. That was really
8 evident from the products that came before us. And I want
9 to go over briefly how I see today's meeting proceeding in
10 terms of our discussion.

11 At the end of the meeting after the time for
12 discussion and public comment we will take a vote to
13 transmit the executive summary and all the recommendations
14 within to the legislature and the governor. Our respective
15 workgroups have spent significant time analyzing these
16 issues, and so I do think it's helpful if necessary, for
17 each workgroup to acknowledge and address, if they think
18 the executive summary could better reflect the work and
19 intention of their workgroup. And then also,
20 Commissioners, to the extent that you see significant gaps
21 in the recommendations or product of some of the other
22 workgroups, I ask that you consider additional language
23 that might be helpful to further clarify those
24 recommendations. I want to acknowledge and recognize that
25 there is a lot of detail in each recommendation and each



1 workgroup. And so I don't think it's our task today to
2 individually endorse every word and every idea at the end
3 of the day. I think our task is to evaluate which set of
4 recommendations we think are worth transmitting to the
5 legislature for their further consideration and review.

6 We know that there are challenges and unknowns
7 associated with every recommendation, and I expect and
8 anticipate that stakeholders will make us aware and make
9 the legislature aware of which challenges they think are
10 insurmountable and what are ways to work through some of
11 these challenges to make all these recommendations
12 actionable. So we look forward to that comment. And
13 again, this process and consideration doesn't end here.
14 We're transmitting this to the legislature and I know they
15 look forward to your input as well, and we'll make sure
16 that they have available to them our full record, including
17 your testimony today. So with that, we'll begin now with
18 the summary presentations from our workgroups. And we'll
19 begin with the workgroup that was led by Commissioner Kahn
20 and Commissioner Nava on strict liability and a legal
21 framework. Welcome.

22 COMMISSIONER KAHN: Thank you very much. Or I begin
23 I'd like to observe that what Carlos said is right. We're
24 in a crisis and we are not going to resolve anything. We
25 are transmitting information to the legislature and the



1 governor and our conduit for doing that has been OPR and
2 the work of Evan and the people who work with him. And had
3 that work not been excellent and evidence-based. What we
4 pass on to legislature and the governor would not be of
5 much -- would be of not much value. And so I think the
6 first thing we should acknowledge is what a terrific job.
7 Kate, your group and OPR did and what a fantastic job Evan
8 did, because the most important thing about our commission
9 is that we are completely independent people who gathered
10 independent information and evidence and we're presenting
11 it to the legislature, the governor and without the great
12 work of OPR and the really superb activity of Evan, we
13 wouldn't be able to do that.

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

23 CHAIRMAN PETERMAN: Thank you.

24 COMMISSIONER KAHN: Our workgroup made an effort to
25 look at the evidence that was presented to us and capture



1 that evidence in findings and recommendations. We
2 recognize that there is a lot of political views and a lot
3 of stakeholders who will or will not make money. And we
4 don't want to wade into any of that. What we wanted to do
5 was gather the evidence, evaluate it and transmit it to the
6 legislature and the governor so that they would have the
7 facts so they could make their decisions based on facts and
8 evidence. And we couldn't have done that without the input
9 of the public and the stakeholders and the experts that
10 were before us. And so Commissioner Nava and I want to
11 thank the public and the stakeholders and the experts for
12 doing just a terrific job, responding in virtually no time
13 flat, giving us sufficient information to present an
14 evidence-based set of facts and an evidence-based set of
15 recommendations. Before I review briefly the findings and
16 recommendations, I want to make three observations about
17 our recommendations because I think there may be
18 misconceptions about them.

19 First, we are not in any way, shape or form letting
20 the utilities off the hook for doing anything wrong. It is
21 our workgroup's view that the utilities, when they are
22 negligent or when they are imprudent or when they do not
23 protect the interests of the citizens, should be held fully
24 in account. Part of our view of that is reflected in our
25 liability finding, and part of that is reflected in our



1 recommendation that maybe we should have another
2 organization that looks after safety, as it were, a new
3 sheriff. But I don't think that anybody reviewing our
4 recommendations should be misled into the notion that
5 somehow we are letting the utilities off the hook. The
6 only instance we think the utility should not pay is where
7 they did absolutely nothing wrong. And all they were doing
8 is following the orders of the PUC or their other superiors
9 where they did nothing wrong, we think that having the cost
10 of the effect of the activity borne by the utilities and
11 ratepayers is dysfunctional, as I'll talk about.

12 But point number 1 to make clear is we want to hold
13 the utilities accountable. The second thing that I think
14 is important and embedded in what we said was that we put
15 the victims first. There is some notion that the victims
16 were not taken into account. And I'd want the record to be
17 absolutely clear. We heard from the victims. The victims
18 touched our hearts. We understand, I think, again, I will
19 echo what Ms. Gordon said about the insurance part. I
20 think the insurance part is a special reflection of the
21 frustrations of the victims. And what we learned in our
22 hearing was the victims are victims of inverse
23 condemnation. They are harmed perhaps more than anybody
24 else. I'll give you some examples so you understand our
25 thinking. In a situation in which a utility did something



1 wrong and you are a victim of that and a situation in which
2 utility did nothing wrong at all. If you are a victim and
3 both of those situations, you're treated the same. You
4 have no superior rights because of the fact that the
5 utility did something wrong to hurt you. And moreover,
6 when you are a victim of a very bad situation like the PG&E
7 bankruptcy has shown, the utility goes into bankruptcy and
8 then victims, that we are not even supposed to be talking
9 about, the victims -- the death victims, the victims of
10 personal injury, they are thrown in a process in which all
11 of their rights are stripped and they're treated just as if
12 it was a strict liability situation. And their claims are
13 rendered almost worthless by the bankruptcies. So we not
14 only didn't fail to consider victims, one of the
15 ramifications of inverse that we were trying to fix is the
16 horrible way victims are being treated in this situation.
17 And we fear for the future of victims who are thrown into
18 situations where utilities are bankrupt and all the victims
19 are treated in a way that's unfair.

20 The third thing that I want to point out before we
21 talk about these specific findings is the notion that
22 somehow in any way, shape, or form, we are advocating a
23 bailout of the utilities. We are not advocating a bailout
24 of utilities at all. Our position is very simple. Inverse
25 condemnation results in a tremendous amount of increased



1 cost, increased cost, billions of dollars of new cost.
2 That cost has to be borne by somebody. The utilities can
3 only pay so much. After the utilities can pay no more,
4 like PG&E, and I think we're going to hear from others,
5 then who should pay. Almost every single suggestion points
6 to the ratepayers paying more money. If the ratepayers in
7 this state pay more money, they will be forced to pay more
8 money on top of the money that they already have to pay to
9 harden the system and to make the utilities get the system
10 safer and the capital costs and all of the costs of our
11 ambitious climate goals and on energy needs. And so we are
12 not bailing out the utilities.

13 What we are doing in suggesting a form of inverse is
14 we are bailing out the ratepayers. What are we bailing
15 them out from? Lest there be no mistake. The effective
16 inverse condemnation is ratepayers write their checks to
17 insurance companies. That's the effect. And what we are
18 saying is that where the utility is not at fault for
19 causing the fire, not at fault at all, it makes no sense
20 for the ratepayers to pay insurance companies. It's as
21 simple as that. The other workgroups address the issue and
22 I'll say it this way, we address the cause of the problem.
23 The cause of the problem is this enormous cost. The cause
24 of the problem is inverse causing the cost. Michael and
25 Carla addressed the question of the effect and what they



1 could do about the effect if we don't do deal with the
2 cause. But regardless, the lesson which we convey here is
3 having inverse in a no-fault situation results in billions
4 of dollars of cost and that is stressing the system in a
5 way that we find inequitable and problematic. Now going to
6 our specific findings, the findings follow pretty clearly.
7 We found that there is a big crisis, as Carla indicated.
8 That's our first finding.

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

18 Second observation we make in our findings is that
19 there are a lot of different people attacking this problem
20 in utilities, that it's a decentralized system. We were
21 worried about duplication and we're worried about the
22 scarcity. Everybody told us all of the evidence was we
23 need more resources. And so it occurred to us that if we
24 need more resources, why are we having fifty-six different
25 people think about this. Why aren't we centralizing.



1 The third finding pertains to inverse. The important
2 pinning about inverse is what we say: the impact. The
3 impact of inverse is it is hurting not only the victims, it
4 is hurting our energy goals; it is hurting our clean water
5 goals; it is hurting our climate goals; and it is not
6 fairly allocating the costs of wildfires. Interestingly,
7 we received tremendous amount of input from stakeholders
8 and from experts.

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

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

20 The fifth finding is that the process of determining
21 cost recovery is a real problem, and we're going to hear
22 more about this in the fund section so I won't be labor it,
23 but everybody told us it's not working now. The status quo
24 of how we're even implementing inverse is not working. I
25 want to make one other observation from the morning papers

1 about the application of inverse. The way inverse -- we
2 heard this morning that Cal Fire is determined -- the
3 Mendocino fire was caused by an individual person who took
4 a hammer and was fixing something on his farm and took the
5 hammer and he slammed the hammer onto the -- to a piece of
6 metal. And the metal caused a spark and the spark lit some
7 straw on his property and he couldn't control it. As a
8 result, four hundred and ten thousand acres burned and Cal
9 Fire said appropriately, it's an accident. That happens
10 and they're not going to sue the farmer for billions and
11 billions of dollars of damage.

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

23 And so our three recommendations and I'll finish
24 quickly -- our three recommendations follow from our
25 findings that the current application of strict liability



1 for inverse condemnation for the electric and water
2 utilities should be changed. I'll make one observation --
3 Carla was right; we learned a lot in this process.

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

19 The second recommendation also follows. And that is
20 we have to fix the prudent manager standard. The prudent
21 manager standard is not working. It is not supplying the
22 basis for capital being invested and no one is satisfied
23 with it. In that regard, I'd like to comment on the
24 chairman's observation about our work. As to some things,
25 at least our workgroup, and I would hope the commission



1 thinks that the conclusions are incontrovertible. It is
2 incontrovertible, the prudent manager standard is not
3 working. As to whether the three options we've laid out
4 are the only options or the best options, we don't lay
5 claim to knowing the answer. And because of the process,
6 we've not had an opportunity to discuss it among ourselves.
7 So I think the chairman's great wisdom in the notion of
8 transmitting these recommendations on the recommendation is
9 you have to fix it. The ideas we've embedded are ideas for
10 you to consider. And that is the third recommendation.
11 It's the spirit in which we ask you to receive the third
12 recommendation.

13 It was our view in listening to the testimony that the
14 current method of governance is not working. The strike
15 force recommended that the PUC change its processes and
16 procedures, and that may be a solution, but we were not
17 convinced. Our workgroup thought that a bolder and a more
18 robust solution would include a new entity that would
19 govern safety but lest anybody is confused, we are not
20 wedded to the specifics of our recommendation. We
21 understand that we haven't had a chance to discuss it. We
22 realize that there may be problems with the jurisdiction of
23 the PUC. We recognize that there may be difficulties in
24 applying this. The important part of our recommendation is
25 that governance must be fixed to make the citizens safer.



1 And we offer an idea because it seems logical to us and we
2 transmit it to the legislature and the governor in a spirit
3 that we believe we must address the governance issues. And
4 this is one proposal for handling it. So I'll close with
5 the following.

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

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

16 Thank you.

17 COMMISSIONER NAVA: Thank you, Madam Chair.

18 When I was an elected official, I would sometimes
19 attend events and I'd receive an introduction by whoever
20 was hosting the event. And many times I thought the
21 introduction was so good that I couldn't do anything except
22 ruin it by speaking. And I'm feeling the same way now. I
23 think what Commissioner Kahn has done has summarized the
24 work that we did as part of our workgroup, I agree with
25 what Commissioner Kahn has said and how he has presented



1 it. I think it might have been the very first meeting
2 where we were asked to make a brief statement about our
3 participation and I recall -- But I said what it was going
4 to be very important for us in our work to ensure that we
5 relied on science and data.

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

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

23 CHAIRMAN PETERMAN: Commissioners, now is an
24 opportunity to make comments or ask questions about what
25 you heard. I'm happy to start off with a couple. And



1 first of all, thank you, Commissioner Kahn, first off for
2 going first. And particularly for laying out how the
3 recommendations as a package are intended and how we've
4 thought about as principle, holding utilities accountable,
5 putting victims first, and not advocating for a bailout. I
6 think those are both all statements you and I have heard
7 recently in legislative discussions that we want to be
8 clear about what our intent is.

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

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



1 those -- how this relates to some of those other claims in
2 bankruptcy court.

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

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

19 And so I think there could be a maybe another line and
20 I can recommend an edit to that finding five that
21 highlights that other aspect as well and the importance of
22 maintaining the benefits for the ratepayers as well as for
23 the investors. And then my last observation is I
24 appreciate the recommendations around a new wildfire board
25 and particularly you highlighting that there are different



1 rules across these fifty-six utilities. And having had a
2 role where I had some oversight responsibility for POU's use
3 and another with IOUs. I can tell -- I can say that having
4 some conformity of standardization across all those
5 entities can be really challenging. And there are laws
6 that work to streamline the rules and regulations, but
7 they're not perfect. And I think what you've highlighted
8 is in this particular situation, the crisis is so big that
9 we might need to go an extra step to make sure that we're
10 having harmonization across POU's and IOUs.

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

21 And then the second that the PUC -- there are these
22 broader safety initiatives happening, looking at how did
23 utilities categorize all of their risk. And so we want to
24 make sure that by pulling out the wildfire safety risk,
25 that we're still thinking about those in the context of the



1 broader risk. And so, again, I think those are all things
2 that are workable. But I just wanted to highlight those.

3 And I think there's one or two lines to that finding
4 that might support that.

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

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

15 Commissioner Wara, would you like to go next?

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

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

1 chapter that I hope would strengthen the argument made
2 therein.

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

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

24 And I'd love some finding -- or finding and perhaps a
25 recommendation that acknowledges that reality. If that's



1 possible, if you can see to doing that.

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

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

23 COMMISSIONER KAHN: Not to make a commercial against
24 Bagley-Keene, but this points out the deficiencies in
25 Bagley-Keene quite well. As to your first point, I again,



1 think that it's a good suggestion and I think we should do
2 it. I do think just to staff that it is very important
3 that we be evidence-based to the extent we had evidence.
4 So on the -- as to insurance, I during the testimony pushed
5 very hard for evidence that if we changed inverse, the
6 insurance companies would behave differently. And the
7 evidence was that at least as presented to us, when we
8 should check the record, that there is no evidence that in
9 making the rates the insurance carriers are taking into
10 account their ability to collect the money so that this in
11 effect will be a windfall that may not be right or may be
12 right.

13 I think your point is really well taken. And that
14 goes to the second thing we learned and I agree completely.
15 If not in crisis, the insurance market is really fragile.
16 And I know the people at OPR and are very sensitive to this
17 about what the effect of what we do is. But I just think
18 that what we have to do is separate bombast from reality.
19 Everybody's going to say, well, this bad thing will happen
20 or that bad thing will happen and we can say it has been
21 suggested, but we need to be evidence-based.

22 I believe that the way the current situation is, the
23 insurance industry is not factoring in their ability to
24 recover the inverse money. And what they're doing is it
25 just going to their bottom line, but I could be wrong. But



1 your point is well taken and I think we should include it.

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

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

21 I thought that was something I didn't have an
22 understanding of. So I'm more than happy to do this in the
23 level of detail that -- everybody thinks is appropriate and
24 OPR thinks is appropriate. Thank you for those
25 suggestions.



1 CHAIRMAN PETERMAN: I'll just note I will encourage
2 you, as you think about that, to think about not
3 necessarily about the whole argument, but acknowledging the
4 highlight so that at the end we know what we're voting for,
5 but that not all the changes have to happen on the dais
6 today.

7 Commissioner Jones?

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

22 I did say very early on in our proceedings that I
23 think the existing system of inverse commendation
24 associated with utility caused wildfires necessarily has
25 and will lead to utility bankruptcies and utility



1 bankruptcies will revictimize people that have already
2 suffered enormous loss, whether it's loss of life, injury,
3 or loss of property as a result of these wildfires. And
4 the reason for that is that the bankruptcy court treats the
5 claims of the wildfire survivors, or those who were injured
6 or lost their lives, those that are making claims for them,
7 as an unsecured claim. And the bankruptcy court has the
8 ability to write that down to zero. That doesn't serve the
9 interests of wildfire victims. But that is the future that
10 we're looking at given the existing state of affairs. So I
11 agree that it's important that we use a touchstone for
12 these recommendations the way in which wildfire victims
13 will be treated under the existing system and that we look
14 for opportunities to try to improve that.

15 And I think grounding this set of recommendations in
16 that I support the chair's suggestion that we do exactly
17 that with regard to the last colloquy about the impact on
18 the insurance market of eliminating inverse condemnation, I
19 concur with Commissioner Kahn. I don't believe the
20 evidence before this commission supports that eliminating
21 inverse condemnation as a consequence potentially reducing
22 the amount of proceeds flowing to insurance companies
23 through subrogation. And let me make a note here,
24 potentially reducing, because again, what's proposed is not
25 no liability.



1 What's proposed is a negligence standard, which given
2 everything we know about PG&E, in all likelihood, they
3 would have been found negligent and as a consequence have
4 to pay damages. And as a consequence, there would be a
5 right of subrogation by the insurers, but in those cases
6 where the utility is not found at fault under a standard
7 other than inverse commutation, strict liability, there's
8 no evidence before us to indicate that that would result in
9 a serious adverse consequence for insurers.

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

20 In addition, as a part of the rate development,
21 they're entitled to have what's called a catastrophic
22 factor, catastrophic load that reflects the fact that this
23 was a catastrophic event and may indicate that these sorts
24 of events are going to become more regular. And so that
25 becomes a part of the rate, too. But nowhere in that rate



1 development is there a factor for subrogation. In other
2 words, the rate is built with the expectation that premium
3 is going to be collected to give insurers sufficient
4 reserves to pay future claims. It is not built based on
5 some future ability of the insurer to claw that back
6 through subrogation against insurers, who themselves, have
7 successful claims against the utility or any other party.
8 So eliminating inverse commutation which could result in
9 some utility caused fires where the utility was not found
10 negligent could result in an insurers payout not being
11 clawed back is not going to result in an adverse impact
12 because it's not built into the rate in the first instance.

13 Now, in the event that the insurance company is able,
14 through subrogation, to claw back its losses by requiring
15 those that have suffered directly and who've gotten a
16 payout from the insurance company and prevailed in their
17 lawsuit against the utility in the event the insurance
18 companies able to claw back those losses, then what happens
19 is the Department of Insurance would take that into
20 consideration because they've built the rate now going
21 forward based on the prior losses. If the losses are
22 clawed back by the insurance company, then possibly the
23 Department of Insurance would consider modifying the rate
24 to reflect the fact that, in fact, those losses were
25 recovered by being clawed back by virtue of their



1 subrogation against the insurers who themselves prevailed
2 in a lawsuit against the utility. So let me put this in a
3 temporal way. Year zero, the fire occurs. Year zero plus
4 six months, the rate filing is made. The insurance company
5 is given a rate increase because under California law,
6 rates have to be adequate and have to reflect their loss
7 experience.

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

17 And then the insurance company turns to them and says,
18 hey, pay us back for what we paid you because you just got
19 paid by the utility. So now the insurance company actually
20 has a bunch of money coming in that hadn't been expected
21 before, isn't built into the rate. And at that point, the
22 Department of Insurance can say, you know, you ought to
23 refile with us because we want to take into account the
24 fact that you clawed this money back. And in fact, all of
25 these rate increases we've given you earlier that reflect



1 the fact that you had these losses, well, maybe we should
2 modify them a little bit or at least consider that, because
3 now you've gotten a bunch of money back. So that's how it
4 works.

5 So I mean, I appreciate that, you know, the notion
6 that reflecting that in some way, shape, or form in this
7 section would be useful. But I don't think we have
8 evidence that inverse is going to imperil the market. And
9 I apologize for the length of the explanation, but I think
10 it warrants some detail. I do have a significant
11 disagreement with the recommendation to establish an
12 entirely new entity whose mission it would be to work on
13 safety. And I share, I think, some of the same concerns
14 the Chair articulated about the relationship of that entity
15 with the existing Public Utility Commission and the
16 potential for conflict where one entity is charged with a
17 safety mission and setting safety standards that the
18 utilities have to adhere to, but doesn't have
19 responsibility for doing any kind of cost benefit analysis
20 with regard to those safety standards. And then another
21 entity, the CPUC, is the rate setting entity, which either
22 has to take as a given what's been mandated by the safety
23 entity or maybe is given the authority to say no, in which
24 case the utility is stuck in the middle, because they have
25 to comply with all of the requirements of the safety



1 entity, but they're not given rate in order to accomplish
2 that. Now you can have a law that mandates an immediate
3 pass through. But that concerns me because you have one
4 entity whose mission is one hundred percent safety and
5 isn't thinking about cost benefit. And then you have
6 another entity which is trying to do the job of balancing
7 these sorts of things, and I just think that there's an
8 inherent tension there. So I just want to note that for
9 the record, I understand that, you know, we're transmitting
10 these recommendations and that what underlay this
11 recommendation is a concern about the need to have greater
12 CPUC or greater attention somewhere in the system to
13 safety. I personally am more supportive of the
14 recommendations coming out of the Strikeforce report, which
15 talked about reforming the CPUC in significant ways, both
16 in terms of the efficiency of its decision making as well
17 as raising and elevating safety as a criteria. I'm also,
18 I'll just say, a little less convinced about the need for
19 uniformity and I understand that as an important value.
20 But I'm not sure we have evidence that suggests that the
21 lack of uniformity with regard to the publicly owned
22 utilities has resulted in some higher level of risk. So I
23 just note that I mean, I think there's value in uniformity
24 and value in setting a standard and value and consistency.
25 And I guess, notwithstanding my concern about that lack of



1 evidence, I certainly support the suggestion there should
2 be uniformity. But I think I think there hasn't yet been
3 evidence that the lack of uniformity has caused a problem.
4 And if that's the justification for the safety entity, I'm
5 just not, I'm just not there. So those are some of my
6 comments. But I think overall, I really appreciate the
7 tremendous work. Commissioner Kahn and Commissioner Nava
8 put into this section.

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

12 COMMISSIONER KAHN: So working backwards, I think that
13 the -- again, I reflect on my comments to Commissioner
14 Wara, I think that these matters need to be discussed and
15 the way we're handling it needs to be discussed on
16 uniformity. There are real implications for different ways
17 of handling. We have gotten evidence that some people
18 think we should underground all the utility lines. We've
19 gotten evidence that some people think we should turn off
20 the electricity when there's a fire coming. We have
21 evidence that some people think we should have certain kind
22 of clearing of the utility lines. And the uniformity
23 notion comes from the idea that having different
24 conclusions on the same subject is confusing to the public
25 and maybe also confusing to the determination of whether



1 people are behaving properly and the whole negligent
2 standard. So if, for example, some utilities decide that
3 they're not going to turn off the electricity or they're
4 not going to underground, but other utilities decide
5 they're going to is the one that doesn't do it negligent.
6 So I think your issues about what should be uniform, what
7 shouldn't are compelling, but we are -- we need in the
8 state to figure out what behaviors we are going to
9 encourage utilities to engage in. And we can't whipsaw
10 them by having different standards in different places so
11 that they become liable for not following standards of
12 other places. So I think the whole issue should be
13 discussed. Maybe the solution to the problem of having a
14 new board or a new activity is to give it some more
15 thoughtful study. And I certainly think Commissioner
16 Peterman and you have raised good points, but there is
17 another thing going on in our suggestion, and that has to
18 do with the wisdom of the Little Hoover Commission
19 suggesting that we are not applying adequate resources in a
20 number of areas. We are not collecting data in an
21 efficient fashion across our system. We are not applying
22 artificial intelligence or other technologies efficiently.
23 The testimony in Florida is that they have set up statewide
24 agencies to deal with these kind of problems and they
25 address in a collective -- you've seen -- a collective way



1 of these difficult challenges. So the question is, where
2 is that happening in California for wildfire protection in
3 utilities? And the thought we had was if we created a
4 wildfire board that had a functionality that did -- that
5 collected all of the resources of the state that interacted
6 with OES, that interacted with Cal Fire, that advanced us
7 in data advanced us in technology, advanced us in
8 artificial intelligence, that we be advanced. And so the
9 notion of the wildfire board is not just in governance, but
10 it's also in unifying all these interests. And to the
11 extent there is duplication in these things in the state in
12 a scarce resource environment, that's something that we
13 thought was not a good idea. So those are issues that we
14 think the state must take up. The state must realize it
15 has scarce resources to apply to a crisis and must figure
16 out how it can organize itself in a more efficient way.
17 And that was the part of the thinking behind a wildfire
18 board. Additionally, part of the thinking of the wildfire
19 board was how the applications of a prudence standard would
20 be done. It is clear how an application of a prudence
21 standard is done in the PUC, but who is going to apply a
22 prudence standard to the public utilities if the public
23 utilities are going to be off the hook if they behave
24 prudently. Are they to make the judgments for their own
25 self. How is this going to be done. The notion of having



1 a wildfire board deciding prudency issues that are uniform
2 across all utilities at least was one suggestion, one
3 thought we had In the absence of a unified board that
4 deals with prudency issues for the public utilities and the
5 IOUs. The question is, who's going to do the prudently for
6 the public utilities if we are going to try to relieve them
7 of the obligation of this inverse? Commissioner Nava and I
8 don't have all the answers; we don't have a lot of the
9 answers, but we tee up the suggestion of having some kind
10 of wildfire board. For that thought, maybe not a great
11 idea, but we have to solve for the problems that I've just
12 identified.

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

23 I don't think that the idea of having two entities
24 deal with overlapping jurisdiction is necessarily fatal.
25 It definitely needs to deal with the issues you're talking



1 about. But the notion -- the cost aspect of it also can be
2 dealt with. So we don't have all the answers, but we do
3 believe it's not working now. We do believe it's a big
4 problem.

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

18 And I will point a precedent out. When we had the
19 energy crisis in 2001, the legislature held a special
20 session. And there were lots of agencies in charge of
21 developing agency. But the governor and the legislature in
22 2001 created the California Green Team. And the California
23 Green Team had jurisdiction over all of the problem of
24 getting enough energy in California. And it obviously
25 conflicted with the PUC and the Energy Commission and



1 everybody else. But the legislature and the governor
2 decided that this was such a high priority that we couldn't
3 afford blackouts, that we created the Green Team and it
4 worked. We bottled enough energy. We never had any
5 blackouts.

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

20 CHAIRMAN PETERMAN: Thank you both for those comments.
21 And let me make an observation. It seems that, first of
22 all, the recommendation related to a board has multiple
23 objectives and components. And there seems to be support
24 in agreement for the objectives, but a question about
25 whether there might be another or multiple vehicles



1 appropriate for achieving those objectives. And so I think
2 when we turn to specific edits, we might introduce a word
3 or something like a board or another appropriate vehicle or
4 something to give a space for that consideration. And then
5 the last observation I'll make, and then turn again to the
6 subgroup committee member, Commissioner Nava, is that, I do
7 appreciate the idea of highlighting and elevating the work
8 on the data and looking for where we can have conformity on
9 standards. But I don't want to leave anyone with a false
10 hope that there is an objective preferred best approach for
11 wildfire mitigation. I mean, the reason that we are seeing
12 de-energization plans plus system hardening et cetera is
13 because everyone's still trying to figure out what the best
14 approach is. And so we don't want to get so much in
15 conformity that we leave other things off the table. But I
16 do think having a more focused effort can get us there
17 sooner. But there's no secret bullet out there that we
18 haven't brought into the administrative process yet.
19 Commissioner Nava.

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

24 And you know I love sausage --

25 COMMISSIONER JONES: I might have described it a



1 little differently, but yeah, I take your point.

2 COMMISSIONER NAVA: I mean, I love sausage, but I
3 don't want to see it made. And in all likelihood,
4 they're -- because we've been there. There will be a
5 certain amount of cherry picking of these things. Oh, I
6 like that one. Oh, my God, I don't like that one. So we
7 have to keep that in mind as this goes across the street.
8 And the other point I think about the electric utility, the
9 wildfire board that the Chair touched upon is it causes a
10 focus. It will cause policymakers to go, okay, there's a
11 place where these issues will be centralized and we have to
12 pay attention to it. As I've been on a Little Hoover since
13 2013, the Chair since 2014 and over and over and over
14 again, we find when we're looking at government operations
15 that they are fractured and they're stovepipes. And you
16 have the right hand often doesn't really understand what
17 the left hand is doing.

18 So many of our recommendations will be to compile,
19 right -- or put together those elements that we think make
20 the most sense to have a central focus so if you want your
21 question answered, you know who to go ask. And that's one
22 of the benefits of looking at electric utility wildfire
23 board. There will be plenty of members across the street
24 who will have the ability to sort of pull this thing apart.
25 And there will be plenty of advocates for different



1 positions that will show up at the hearings. And you'll
2 get your three minutes to talk about why what's on the
3 table doesn't make sense. But this gets it on the table.

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

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

15 COMMISSIONER WARA: Thank you, Chair Peterman. So
16 Chair Peterman and I worked together as a team on the
17 section regarding suggestions for a wildfire fund. And I'm
18 going to try to summarize our findings and recommendations
19 and then reflect in my own capacity on some challenges. At
20 the outset, though, I think we both and I imagine many of
21 the other Commissioners we've already heard this around on
22 the dais today, we both begin this work recognizing that
23 the state has much more to do on mitigation. And I want to
24 say that first and foremost, the real solution to this
25 problem is to make the risk smaller.



1 It is not to socialize the costs as they exist today.
2 And the state needs to be investing much more money in that
3 direction. I'm heartened by the actions the legislature
4 took last session and the actions they are taking and the
5 governor is taking in the May revised budget this session.
6 We need to do more than that and moreover, we need to be
7 doing it at multiple levels of governance, both in the
8 private and the public sector. And that was really
9 apparent from our testimony. It was also apparent from the
10 places that we heard that testimony.

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

25 And, you know, the only solutions that are really



1 going to work in the long run are investment in the state
2 on the part of local governments, on the part of
3 homeowners, on the part of investor-owned utilities and on
4 the part of the state government in increasing safety. I
5 just want to say that at the outset, I think it's just
6 totally critical.

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

25 It was clear to us that the timeliness of cost



1 recovery process is a problem in the state of California.
2 The fact that it took seven years to -- or I'm sorry, ten
3 years to get to the final decision on cost recovery in the
4 2007 fires case. The perspective that these multi-billion-
5 dollar liabilities might be kind of hanging over utilities
6 and ratepayers for many years and causing uncertainty is a
7 problem.

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

14 Finally, it became clear to us through written and
15 verbal testimony that future liabilities are fundamentally
16 uncertain. We don't know what the future is going to be
17 like. It may be worse than the present, right? It's very
18 hard to know the effects of climate change and incremental
19 additions of housing. It's very hard to know whether IOU
20 wildfire mitigation plans will, in fact, be effective in
21 reducing risk. And it's very hard to know what other
22 actions at this point the state or other entities might
23 take to reduce risk. The future liabilities are unclear.
24 And so we need to build in whatever system we create to
25 manage these liabilities. We need to build in flexibility



1 that takes account of that uncertainty. Given those
2 findings, we made a number of recommendations that I'm
3 going to divide into two parts.

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

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

19 So based on that, we outlined three options, and I
20 would second the statement that was made earlier that these
21 are options. They are not the exclusive set, but we made
22 three -- put forward three recommended options and we
23 recommended against a fourth option. One option is burden
24 shift in cost recovery. Currently, utilities have the
25 burden of proving that their costs are reasonable. That's



1 actually different than the approach taken by the Federal
2 Energy Regulatory Commission, which presumes that utility
3 expenses are reasonable but allows challenge by any party
4 objecting to those proposed expenses. That's one idea.

5 This would, we felt, increase the level of certainty
6 that utilities have and utility investors have in the
7 financial viability of the utilities, which would provide
8 benefits to rate ratepayers in the form of lower capital
9 costs. Another idea was to refine the list of factors that
10 were articulated by the legislature in SB 901. In
11 particular, to allow for explicit consideration of the
12 contribution of other risk contributors to the liabilities
13 that utilities are responsible for. The goal of this
14 approach would be to ensure that utilities are held
15 accountable for their actions, but to allow for other
16 factors that contribute to the magnitude and catastrophic
17 nature of wildfires to also be taken into account in the
18 cost recovery process. Lastly, we said we recommended to
19 the legislature consider potential limits on shareholder
20 liability if and only if utilities made a substantial
21 contribution -- utility shareholders made a substantial
22 contribution to a wildfire fund, and we outlined two
23 options. One, a familiar option presently known as the
24 stress test, which is something that the PUC is currently
25 working on with respect to 2017 wildfires was created by SB



1 901 and another option that would provide a sort of more
2 clear and certain cap on utility liabilities that would
3 still be substantial and would create substantial
4 incentives for utilities to engage in risk mitigation, but
5 would provide some certainty to investors that would lower
6 costs for ratepayers in the long run because capital costs
7 for utilities would be more reasonable.

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

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

1 that's really the core of the chapter.

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

5 The basic idea of the fund is that -- the motivation
6 for the fund is that the risks the utilities face in
7 California are simply too large for them to manage
8 effectively (indiscernible) and efficiently. A key
9 objective of a fund is to pool risk. To create greater
10 cost efficiencies, greater ability to manage the level of
11 catastrophic risk that we are confronting in this state.
12 At the same time, contributions to a fund from utilities
13 need to reflect the risks that the utilities create. One
14 thing we learned in the commission hearings is that not all
15 utilities are the same when it comes to their mitigation
16 approaches and when it comes to the risks inherent in their
17 system. Given the age and nature of the system, given
18 prior investments that have been made. Utilities need to
19 be differentiated in an actuarial sense based upon the
20 risks. We felt strongly that there need to be limits to
21 risk pooling in the presence of negligence when utilities
22 don't do or fail to do what they should have done. There
23 should be limits to access to a fund, especially a fund
24 that gets substantial contributions from ratepayer dollars
25 or from insurance premiums. A fund needs to focus on and



1 could enable fair treatment for victims and fairness both
2 in terms of timeliness of payment, especially for
3 underinsured victims who face enormous challenges in the
4 current catastrophes, but also for others.

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

13 We felt that a fund should also aim to both improve
14 the liquidity of utilities. The ability of utilities to
15 borrow money and get cash in the current situation so that
16 they can invest in safety and in our clean energy goals and
17 improve their long-term solvency, that both liquidity and
18 solvency were critical issues, that a fund should ideally,
19 if possible, address. Given all these objectives, we --
20 and the potential magnitude of the dollar amounts involved,
21 we were also concerned to ensure that a fund maintained
22 incentives to lower risk, that utilities not relax in the
23 presence of a state authored solution to the liability
24 crisis facing the state. So given that we recommended that
25 the state create a claims paying wildfire victims fund that



1 would essentially be authorized to pay third party claims
2 of utilities associated with catastrophic wildfires. We
3 recommended that the fund be authorized to pay insured,
4 underinsured and uninsured claims, but only at values
5 approximating the settlement values that would occur in the
6 absence of the fund.

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

16 We recommended an approach taken by many states that
17 have catastrophic wind funds, creation of a tower of
18 insurance with lower tiers of the tower pre-funded by
19 contributions from a variety of stakeholders. I'll get to
20 that in a second. With the liability regime authorized to
21 purchase risk transfer, reinsurance or other risk transfer
22 products. In addition, we recommended that the kind of
23 highest levels of potential liability be post-event funded,
24 right? So that there be an ability to pay upfront for the
25 risks that we think are likely to occur. But to have a



1 mechanism built in so that if worst case scenarios occur,
2 there's a clear mechanism post-event to bond and pay
3 claims. But that doesn't involve pre-payment for
4 liabilities that may not occur.

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

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



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

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

24 We strongly believe that all options need to be on the
25 table and that contribution, substantial contribution,



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

13 We recognized the additional challenge in the current
14 context we find ourselves of the PG&E bankruptcy. Even if
15 PG&E were interested in contributing to such a wildfire
16 fund and seeing it created, it may be difficult to get
17 ratepayer. I'm sorry, shareholder contributions from a
18 bankrupt entity in a timely manner. Our suggestion that
19 insurance rate payers share a piece of the burden is also
20 potentially complex and raises its own unique and complex
21 legal questions. Finally, the determination of what
22 exactly the settlement value of wildfire victims claims
23 should be is not simple. And we recognize that that's a
24 challenge that would have to be confronted in legislation
25 authorizing the creation of such a fund.



1 It is our understanding that a number of parties are
2 working on solutions to that problem and we are hopeful
3 that solutions might emerge in the legislative
4 conversation. However, we recognize that all of these
5 challenges mean that a fund of the scale that we suggest
6 may simply not be possible, particularly by the deadline
7 set by the governor mid-July. And therefore we acknowledge
8 in our chapter that a smaller, more limited approach might
9 also provide some benefits. In particular, a fund that
10 provided liquidity to utilities during a crisis might show
11 benefits for ratepayers. A liquidity fund is essentially
12 the -- it would essentially provide cash to pay claims and
13 to provide financial stability to utility balance sheets in
14 between the time or during the time after a fire occurs and
15 before cost recovery decisions are made.

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

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

25 CHAIRMAN PETERMAN: Thank you, Commissioner Wara. I



1 will say the thing about having to work on the fund
2 section, there's a lot of details and people keep asking us
3 to put more details. So we put as much detail as we could
4 understanding that even with those details that it gives
5 you more -- one more to argue about. I just want to make a
6 couple comments in particular about at a high-level what
7 general changes we'd like to see to the executive summary
8 to be more aligned with the presentation that Mr. Wara made
9 and what we think is in our chapter. But I do want to
10 reinforce your first point around the importance of
11 mitigation and investment. And I also want to highlight
12 to -- we need to be mindful of a tradeoff between investing
13 in wildfire mitigation and overall greenhouse gas reduction
14 and mitigation. When we spend money to reduce wildfires,
15 there is a greenhouse gas benefit because ultimately you're
16 not having trees burn and emit carbon into the air. But we
17 do know that the nature of greenhouse gases is that
18 wherever we admit them or don't admit them, it contributes
19 to overall climate change. And so when we talk about
20 investing more in wildfire mitigation, it's not at the
21 expense of all the other important investments we're doing
22 in clean energy and reducing carbon. It's really about
23 growing the pot overall. So a couple of points about the
24 executive summary. We appreciate that and the attention to
25 best connect the recommendations across the subcategories.



1 Some steps are taken about the relationship between these
2 different proposals, and we do not think that the fund is a
3 direct substitute for inverse condemnation reform. As Mr.
4 Kahn noted, and therefore we would recommend, there are
5 several places where the fund is introduced as an either,
6 if inverse reform happens, then you do this type of fund.
7 If it doesn't do this type of fund, we don't see them as
8 directly related.

9 And so we would kind of strike those qualifying
10 clauses throughout the executive summary and have the
11 recommendation be on its own right for its merits and
12 challenges. Relatedly, there are qualifiers around the
13 recommendation of a fund that it be modest or large,
14 depending on what happens with inverse condemnation reform.
15 And again, as Commissioner Wara described, we talk about a
16 fund should be sized as big as necessary to deal with the
17 risk. Whether that is modest or large is really in the eye
18 of the beholder. And I'd rather not have those qualifiers.
19 I think there's a few places throughout the document where
20 there are qualifiers on things that are so subjective and
21 hard to interpret that we might as well just kind of
22 eliminate some of those adjectives and let them speak for
23 themselves. Also, the executive chapter describes a sunset
24 clause. That's not the term that we would use or what we
25 are envisioning. Again, we think that the fund should last



1 as long as necessary, but should not automatically sunset.
2 Over time you'd expect that a fund would decline in size
3 and need, but instead we specifically recommend an
4 evaluation at a certain point, and we like the language to
5 reflect that. We think that it's important, if there is a
6 fund for it to pay before prudence determination, albeit
7 after determination that utility caused a fire. So in that
8 regard, it would pay out.

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

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

25 And lastly, we made additional specific recommendation



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

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

19 There was a couple places in the executive summary
20 where it says cost recovery should be made clearer or
21 modified. I think we can be more specific in terms of what
22 the specific recommendation is and which is to have the
23 cost recovery prudence standard be as specified as
24 possible. You know, acknowledging the importance of the
25 CPUC, maintaining discretion to ensure that rates are just



1 and reasonable so we can go back -- the executive summary
2 can go back to more of maybe the clunky language in the
3 chapters, but I think that would be helpful, so the
4 legislature knows as much as possible what we mean. And
5 with that, that's the end of kind of my additional comments
6 there. And open up the microphone to take questions.

7 Commissioner Kahn. Oh, I'm sorry --

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

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

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

14 First of all, Commissioner Wara, I agree with all your
15 findings. I think that they were well taken and well
16 spoken. If anything, more well-spoken even than it was
17 written. In that regard, I also have a deep respect for
18 the amount of work the two of you did. It's interesting,
19 you said something that I put in my notes and that is we
20 received a lot of suggestions about funds and I wrote,
21 you're the first people that spoke about him honestly.
22 Everybody has come to us with funds with secret agendas
23 about how they were going to game the system. And the two
24 of you dug deep into it to try to honestly figure it out.
25 And I commend the legislature that if they're going to



1 consider a fund, they ought to use your report as a
2 guidepost for keeping it honest, because either there's
3 enormous mischief that can be created in this process in
4 which people can game it and to their advantage with great
5 resources applied and overwhelm the decision makers.

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

23 Second, I am very worried about a fund that results in
24 rewarding bad behavior. I personally am of the view that
25 the risk of wildfires in the first instance should be borne



1 by people buying insurance. That's what all of us do. And
2 I understand and I again commend you, Commissioner Wara and
3 Commissioner Jones for addressing the issues of insurance.
4 We need to work on insurance and we need to provide the
5 ability to buy insurance. But the idea that somebody, for
6 whatever reason, decides not to buy insurance and then
7 turns around and because the hammer didn't hit the nail, it
8 hit the utility line. They get to recover when they
9 intentionally didn't buy insurance, strikes me as grossly
10 unfair.

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

22 And so I'm against a fund that has the opportunity for
23 people who I believe are not worthy of getting -- being
24 treated as victims because their victimization is their own
25 self-inflicted wound by not purchasing the insurance that



1 was available to them. And this creates a big problem.
2 Now, you two have identified a further risk that if we
3 announce an availability of a fund, people will start
4 deciding to not buy insurance in order to be available.
5 And that's a big problem. And so the second reason I'm
6 skeptical and worried about a fund is that problem of
7 people who didn't buy insurance on purpose, not because
8 they couldn't afford it, but because they just decided not
9 to (indiscernible).

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

21 So with those three caveats of skepticism, I'll turn
22 to the next problem I have. On this, I think that this is
23 my fourth point -- I think that the report considers issues
24 that are above my ability to comprehend. I just can't
25 figure out whether tax free or not tax free is right. I



1 can't figure out where voluntary or not voluntary is right.
2 I have no idea whether it should be four years, ten years
3 or twenty years. I just don't know any of the answers.
4 And so I think that the lack of our ability to fully talk
5 these things through and to evaluate them. Handicaps the
6 strength of what we're passing on, and I think we should
7 make clear that just like the wildfire board, these are
8 ideas. And again, I defer to the wisdom of Commissioner
9 Nava. He's right. Teeing this up for them to think about
10 is a good idea. But I think we need to do it with a
11 healthy notion that we're worried about these three things
12 the ratepayers, the people who don't deserve to be paid and
13 the insurance companies.

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

19 My fifth observation is that merely because we can't
20 figure out all the problems in the big fund and we can't --
21 and especially I think your observation about PG&E
22 bankruptcy funding is a big problem. I think that the
23 utilities contributions to funds is a big negotiation that
24 needs to happen. And so I think there are real obstacles
25 to certainly do it in the next thirty-four days.



1 Therefore, I do not think that the perfect should be the
2 enemy, the good. I do think the notions of some kind of
3 liquidity fund that is smaller and is maybe funded by
4 ratepayer DWR charges that has the ability, maybe a
5 reimbursement and coming back. That is good thinking. And
6 I think that when the legislature and the governor tries to
7 figure out this, obviously my best hope would be that they
8 would take the biggest idea and deal with it. But I can
9 read the press releases like anybody else can.

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

19 COMMISSIONER NAVA: Just let me. Moral hazard. I
20 still remember my service as a chair of the Banking
21 Committee, and when we were trying to craft relief for
22 homeowners who had taken out loans. Some people call them
23 liar loans. They were non-documented required loans where
24 you could just give them an estimate of how much money you
25 going to make and representative of the banking industry



1 were fierce in pointing out the issue of the moral hazard
2 about those folks that made two thousand dollars a month
3 and bought an eight hundred thousand dollar home. So I
4 think the -- and I think you're right that it's a very
5 delicate and nuanced conversation about issues such as
6 underinsured, because what we heard and this was some of
7 the evidence that we received was that under insurance can
8 occur in instances where the cost of rebuilding per square
9 foot has become high based on a lack of labor. And so that
10 when a person purchased insurance and they figured it was a
11 hundred and twenty-five dollars or two hundred dollars a
12 square foot to rebuild when the contractor shows up and
13 they have to bring in people from other places and there's
14 a labor shortage and crafts people, it's no longer two
15 hundred dollars a square foot.

16 It's 300 or it's 350. And so there will have to be
17 conversations about there's different kinds of under
18 insurance. There's the deliberate under insurance. And
19 then there is -- and we heard anecdotes about individuals
20 who were -- had the ability to pay cash for their home and
21 weren't required by a lender because there wasn't one to
22 buy insurance. And then we want to make sure that they
23 don't have the same access to this fund as others do. And
24 so I think there's going to be benefit that comes from the
25 legislative process, where there will be advocates for



1 homeowners who are under insured and there will be
2 representatives from the insurance industry that will go,
3 wait a minute, okay, you have to have some sort of
4 understanding about why they're under insured. Now,
5 remember Commissioner Jones talking about and the insurance
6 representatives talking about how is it and how should a
7 homeowner how often should a homeowner be contacted to be
8 advised that they need to review their coverage and the
9 balance between overselling or educating that particular
10 homeowner as to what it is they should purchase? So I do
11 think that the legislative process will afford the
12 opportunity. It's important for us to point it out. I
13 think it's a good thing for us to do. But I do think the
14 committee hearings and the legislative process will further
15 flesh out the details about how you create a structure so
16 that you're not rewarding bad behavior.

17 COMMISSIONER JONES: Thank you, and I want to thank
18 Commissioner Wara and Mr. (sic) Peterman, for the
19 thoroughness and depth of analysis and the transparency
20 with regard to the myriad of complications and challenges
21 associated with creating a large wildfire victims fund. I
22 share the same skepticism as some of my colleagues about
23 this. But our charge was to lay on the table as many
24 possible recommendations, the legislature. I think this
25 does that very ably. I think it is important to note that



1 the sizes of fund or the necessity for a larger fund is
2 driven in no small part by the question of what the
3 underlying liability regime is. In some respects, all of
4 this effort to figure out some way to create a workable and
5 fundable fund.

6 (Whereupon, a recess was held)

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

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

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

17 Thank you. Oh, yes, please.

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



1 the process and timing of things. Thank you.

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

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

13 To put that in some context, however, I think it's
14 important to remind ourselves that the evidence is that
15 there are about 3.5 to four million depending on whose
16 figures you use homes in the Wildland-Urban Interface is
17 about one million of those homes that have been rated high
18 or very high risk of suffering from wildfire and that
19 although increasingly homeowners are facing challenges with
20 increased pricing and increased availability, there are
21 only about 34,000 policies that have been sold by the FAIR
22 Plan, which is the fire insurer of last resort that was
23 established by the legislature some seventy or eighty years
24 ago to write fire insurance anywhere in the state
25 regardless of risk.



1 So 3.6 to four million homes overall in -- about a
2 million at very high risk and only 34,000 policyholders
3 have been forced to the FAIR Plan. Now, those 34,000
4 policyholders are not happy about being on the FAIR Plan.
5 They would prefer to have a traditional standard
6 homeowner's policy written by admitted carrier. And
7 there's also some number of policyholders that have ended
8 up in the surplus lines market as well. We don't have hard
9 data on that. But maybe it's approximately the same number
10 as the FAIR Plan.

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

25 So our finding was that there's a problem. We're not



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

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

19 Moreover, artificially, arbitrarily restraining prices
20 can also result in a shift of costs in an unfair way to
21 others who are not facing the same risks. So our second
22 recommendations that we should preserve our current risk-
23 based approach to pricing, home insurance and proposition
24 103, which is our rate regulatory regime for home
25 insurance, allows exactly that. Insurers are entitled to



1 get rate increases based on their exposure and their
2 losses.

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

11 We recommend, however, that the FAIR Plan price itself
12 ought to continue to be a risk based, just as with our
13 prior recommendation. However, we do note that the FAIR
14 Plan pricing, because it is a risk base, can be
15 unaffordable for lower income homeowners. And so a part of
16 our recommendation for improving the FAIR Plan is to have a
17 targeted premium subsidy for those purchasing the FAIR Plan
18 who are lower income to be an income eligibility subsidy,
19 and we suggest that as a solution to the affordability
20 problem for those that are forced on to the FAIR Plan. We
21 also suggest that that should be available only to those
22 homeowners who live in the WUI as of a date certain so that
23 by creating this premium subsidy mechanism for lower income
24 FAIR Plan members, we're not encouraging more folks to move
25 into the WUI who can't afford the FAIR Plan policy.



1 Our fourth recommendation is to improve the California
2 Insurance Guaranty Association. This is a consortium of
3 the home insurers who are writing insurance in California
4 that serves as a backstop in the event that one of their
5 number becomes insolvent and incapable of paying claims.
6 Then the California Insurance Guaranty Association picks up
7 those claims. Currently, though, the cap on claims is five
8 hundred thousand dollars and we know that their homes being
9 destroyed that are considerably higher in value than that.

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

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

23 We believe it's very important that the modeling
24 reflect the underlying risk and to the extent that these
25 sorts of home defense ability measures do reduce risk. And



1 these are some of the very same things that are coming out
2 of the insurance industry's institute, IBHS, on ways to
3 improve home defensibility that they ought to be a part of
4 the models. And to ensure that that happens, we're
5 recommending that the models be filed and approved by the
6 Department

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

17 And if homeowners met that standard and it was
18 verified by a third party, then a number of insurers agreed
19 to write insurance if that standard was being met. So what
20 that did was it aligned risk reduction measures on the part
21 of homeowners and communities with the availability of
22 insurance. So we recommend that we do the same thing in
23 California, that with input from the insurers, a standard
24 be established for fire risk reduction for homeowners and
25 for communities and homes in communities that meet that



1 standard would then be able to get insurance because
2 insurers would be required to write that insurance
3 accordingly. So we think that that's a way to better align
4 insurance availability with risk reduction and encourage
5 more homeowner and community risk reduction efforts.

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

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

22 All right. The recommendation goes to the issue of
23 underinsurance, which we heard a lot about from wildfire
24 victims, from their counsel, from the Department of
25 Insurance, from the insurers. And one of the things that



1 the Department of Insurance impressed upon us is that
2 currently there is no obligation on the insurers to
3 calculate and provide to a homeowner annually a replacement
4 cost estimate for their home. There was some legislation
5 passed last year that requires every two years that a
6 homeowner be told that they have a right to get that
7 calculation. But there is currently no requirement that
8 that calculation actually be given affirmatively to the
9 homeowner without their asking. Many homeowners don't ask
10 for it.

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

21 Our ninth recommendation is that the insurers would
22 have to file annually with the Department of Insurance for
23 review and approval, their insurer's replacement cost
24 estimating models and tools based on a regulation I issued
25 when I was Commissioner. There is a comprehensive



1 methodology that the insurers have to use to calculate
2 replacement cost with this recommendation would do -- would
3 be require that they file that as well as their tools and
4 inputs and also make comparison of the outputs that are
5 coming out with regard to replacement cost and what their
6 loss experience is historically with regard to homes of the
7 same type. So that better determinations can be made as to
8 whether the replacement cost estimates and methodologies
9 and tools are actually accurately predicting what the
10 replacement costs will be based on the actual loss
11 experience.

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

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

24 Our eleventh recommendation is similarly a data call
25 insurers reinsurance costs and availability. We had a lot



1 of wildly disparate testimony on what insurers are paying
2 for reinsurance. We thought it would be very useful for
3 the Department to collect information, be required to
4 collect information on that so that that would be public
5 available to make sure policyholders have the best
6 information and policymakers have the best information
7 about what reinsurance is costing.

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

21 Our thirteenth recommendation goes to the fact the
22 FAIR Plan only covers fire liability or fire damages. The
23 thirteenth recommendation is mandating that all homeowners
24 insurers offer what's called the differences and conditions
25 policy, which is basically a policy that would sit on top



1 of the FAIR plan policy to cover all the other liabilities
2 you would normally have covered in your home insurance
3 policy. And the reason we think those ought to be required
4 to be provided is so that as we see more people pushed into
5 the FAIR Plan, they will have more options available to
6 them to buy coverage on top of the FAIR Plan. Let's say
7 you have the FAIR Plan to cover all the other liabilities
8 that they might be facing. Only a few insurers are
9 currently doing that.

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

16 Recommendation 14 goes to the question again of people
17 understanding what they're about to get into when they buy
18 a home in the WUI and what their insurance costs might be.
19 This simply requires that there be a valid quote for
20 insurance coverage before real estate offer is accepted.
21 It does not require that the insurance be bound, does not
22 require that you actually have the insurance. It just says
23 you, you've got to get a quote before you accept an offer
24 so you know what your insurance costs are going to be, so
25 you know what you're about to get into before you buy that



1 home.

2 Then the second portion of the working group's effort
3 dealt with the issue of reduction of wildfire risk in
4 California. And each of the working groups has
5 importantly touched on that in their respective ways. Both
6 the Commissioner Wara and I believe, as do the other
7 Commissioners, that's critically important that we focus a
8 lot more on the underlying risk and risk prevention. And
9 that means better collection of data, better modeling, and
10 more expenditure of funds to better manage our forests to
11 try to reduce that risk. Our recommendations in that
12 regard are several. And I want to give credit to
13 Commissioner Wara for Recommendation 15, which is
14 establishing a wildfire vulnerability, risk, and reduction
15 coordinator within the governor's Office of Planning
16 Research.

17 As we looked across the government, as was pointed to
18 by Commissioner Wara earlier, I'm sorry, by Commissioner
19 Kahn earlier, there really isn't one place within
20 government that's been charged with trying to assess and
21 pull together all the information with regard to wildfire
22 vulnerability risk. And we thought OPR was a good place to
23 house that, since it's within the ambit of the governor and
24 the governor oversees all the agencies. And so hence that
25 recommendation.



1 Recommendation 16 goes to additional investments in
2 prevention and mitigation efforts, as I alluded to a moment
3 ago, the need to spend more money in that area. And that
4 also includes following what the California Earthquake
5 Authority did with regard to earthquake mitigation and
6 offering seismic retrofit mitigation grants, some sort of
7 program similarly, that would help homeowners address the
8 costs of hardening their homes and reducing the risk there
9 too.

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

22 And finally, Recommendation 18 again goes to some of
23 the questions that we've been wrestling with, which is
24 we've got to spend a lot more money in the area of fire
25 risk reduction, and that includes more expenditures and



1 better forest management and other things. You know,
2 that's going to cost and how do we best allocate that cost?
3 And so Recommendation 18 is a development fee for new
4 construction in the WUI that would be collected and used to
5 help pay for investments in a fire risk reduction. Let me
6 underscore that that fee, our recommendations, that fee not
7 be imposed on people who have lost their homes or
8 businesses as a result of a fire, but rather on new new
9 construction that's coming into the area. And we think
10 that there's a strong nexus associated with that, given
11 that that new development is going to be at risk of a major
12 wildfire, given that it's in the WUI and we know the risk
13 is growing and alarmingly so. And so it ought to be
14 required to contribute towards a state fund that would go
15 towards helping to make investments and reducing that risk.

16 So I appreciated Kate Gordon's sharing with us that
17 there was a lot of interest in the legislature or elsewhere
18 with regard to the insurance recommendations. I want to
19 thank Commissioner Ricardo Lara for directing the
20 Department of Insurance to make themselves available to us
21 completely and fully. We're most appreciative of the
22 Commissioner's direction in that regard. And we want to
23 thank the Department of Insurance for all of its efforts in
24 responding to our questions and providing testimony and
25 appearing before us. And I want to thank the rest of the



1 public also whose testimony and written comments we took
2 into consideration when we prepared these recommendations.

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

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

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

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

24 We heard lots of discussion at the commission from
25 various parties that advocated one mitigation measure or



1 another, whether it was more prescribed burns or defensible
2 space around homes or home hardening or covered conductor
3 or de-energization, right? That all of these things could
4 be effective. All of them cost money. And I think it's
5 important as a state, as we face lots of resource
6 challenges, that we focus on a balanced portfolio of
7 investments to reduce wildfire risk and a cost-effective
8 portfolio.

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

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

24 CHAIRMAN PETERMAN: Commissioner Kahn, would you like
25 to speak next?



1 COMMISSIONER KAHN: Yes. I have a couple of comments.
2 The first observation I'll make is that four of us got to
3 do one and you got to do two, Commissioner Wara. I think
4 we should rename you Short Straw Wara.

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

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

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

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

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

24 And I would just make the point and I would like us to
25 make the point that the victimization is most evident in



1 the insurance area, that the people we heard in -- we went
2 around the state, the legislature told us to go around the
3 state, we heard from people who suffered. And it was
4 astonishing that in their uniformity of how they felt
5 victimized by their insurance companies, they were not
6 getting any satisfaction. They were held in limbo. It was
7 so difficult for them to live with this. And the proposals
8 that Commissioner Wara and Commissioner Jones have
9 suggested here are addressed to the specific problem of
10 dealing with current victims and future victims.

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

19 We need to address the concerns of the victims. Well,
20 we heard from the victims and they are unsatisfied with the
21 way insurance works. And they have gotten up and told us
22 that the next fire there's they're vulnerable. So I could
23 not commend the work of Commissioner Jones and Commissioner
24 Wara more, but I'm just going to be very candid, I am
25 fearful that it's going to be treated as a tag and not

1 integrated into the primary responsibility we had here,
2 where in fact, what the two of you have done is moved the
3 state in the direction of really addressing the specific
4 problems of victims. I think the fundamental just like you
5 folks believe and I agree that mitigation is critical. The
6 fundamental protection for the citizens of California from
7 fires is insurance and it's not working. And if we can fix
8 that, we will at least have done -- moved substantially in
9 the direction of easing the suffering of our citizens. So
10 I just think that our report should try to add a little bit
11 of color and a little bit of emphasis to this point. And I
12 think we should hit directly on the point of this. Our
13 insurance section is a victim's relief section.

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

23 Commissioner Jones, I thought you had a response.
24 I'll wait to offer my comments until you offer your
25 response.

1 COMMISSIONER JONES: I'm happy to accept both
2 amendments that Commissioner Kahn has offered is from the
3 amendments. I do think, though, that the reason we chose
4 the language we chose is because there is a risk of
5 overreaction, and it's important to contextualize and I
6 think Commissioner Kahn hit it on the head. You know, for
7 the people that are forced to the FAIR Plan, it is a
8 crisis. I mean, they didn't want to be on the FAIR Plan.
9 They're not happy to be on the FAIR Plan. They didn't, you
10 know, they didn't get renewed. They couldn't get insurance
11 from their standard carrier. Well that is a crisis for
12 them, there are still close to a million folks that so far
13 are getting some form of private insurance.

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

20 MS. HANNIGAN: (Indiscernible).

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

23 CHAIRMAN PETERMAN: Thank you for your
24 recommendations. One in particular, I was pleased to see
25 right from the beginning was the recommendation about



1 preserving the risk-based pricing. Some of the testimony
2 we heard very early on and then has been reiterated in
3 comments is that the cost of California insurance premiums
4 is relatively low relative to other states in the country,
5 forty-third, I think at this point, once income adjusted
6 and there's nothing fundamentally wrong with having lower
7 rates. But I think it is problematic if those lower rates
8 really don't reflect the risk and therefore not sending
9 that signal about where individuals are to live. And if
10 some people have an affordability problem right now with
11 insurance and we do move to be more aggressive in terms of
12 risk-based pricing, I do worry about that shock in that
13 transition.

14 It's something we've had to think about on the
15 electric side, for example, as we move to time of use rates
16 about even if from a policy perspective, it's the right
17 call. How do you prepare people for this new normal and
18 pricing? So with that comment, I wanted to get your
19 feedback. Commissioner Jones, Commissioner Wara, on an
20 overarching comment I took away from PIFCs comments that
21 were filed this week where they -- this is a Personal
22 Insurance Federation of California, where they note support
23 for that recommendation, preserve risk-based pricing, and
24 they recommend even going further to say further adopt or
25 improve versus preserve.



1 And they raise the general point that -- or the belief
2 that several the other recommendations are in conflict with
3 that one. I'll tell you, that's not my impression. My
4 impression is if we want to -- if rates may go up, you
5 know, how do we make sure we have accountability going
6 forward? How do you make sure that people are getting
7 credit for doing things to harden their homes, et cetera.
8 And so I see them as a nice complement. But given that
9 general comment made, I'd love to hear your response.

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

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

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



1 we need to have it. And I think we do have it.

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

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

21 MR. JOHNSON: One point of process for the
22 Commissioners and for the public all the comments that we
23 received prior to close -- well, end of the day yesterday
24 are in your folders here for reference and in the binders
25 in the back.



1 COMMISSIONER WARA: I just had one additional point to
2 what Commissioner Jones just said, which is that --

3 CHAIRMAN PETERMAN: Please speak more into the
4 microphone.

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

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



1 they are, in fact, over the long run.

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

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

19 Now, conversely what it does not allow is you can't
20 take the twelve billion dollars of losses in year zero and
21 cram them all into year one because then in the WUI you
22 wouldn't have a fifty percent on average increase, you'd
23 have a thousand percent on average increase. So and again,
24 you're talking about the collection of premium over a
25 period of time, too, so that really isn't necessary. So,



1 you know, I think that's the way in which climate change
2 and climate risk is brought in it's based on experience and
3 empirically so I don't believe we're at a place yet where
4 it would make sense to take forward projections of climate
5 risk related losses and essentially try to prophesies about
6 what those are going to be going forward and then build
7 into rates. I just think there's too much uncertainty
8 about that.

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

20 I think if, in fact, things are as acute as they say
21 they are and they look to be pretty acute, then they're
22 going to be filing for rate increases higher than that
23 threshold. And there's going to be a public hearing, an
24 opportunity for the public to be heard. But that's also an
25 important part of our current rate regulatory structure,



1 where the public gets to actually have some meaningful
2 input for rate increases above seven percent. So there's
3 no arbitrary artificial constraint. They could come in
4 tomorrow with a twenty-five percent increase, thirty
5 percent increase. And if they justify it, they'll get
6 exactly that.

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

19 CHAIRMAN PETERMAN: Thank you. Are there other
20 comments or suggestions for the sub group? Well, I
21 appreciate you taking the time to explain a bit more how
22 some of that process happens, that CDI. It's not something
23 that I think most Californians have intimate experience
24 with. And so that's very helpful to put some context into
25 some of the input we're getting from stakeholders.



1 All right, so I heard one minor suggestion there,
2 executive officer. So that is the end of our initial
3 discussion of the Subchapters and proposed recommendations,
4 as I said, after public comment. We'll have a more
5 detailed discussion about what recommendations to include
6 in the executive summary. So at this time I've got a stack
7 of cards for public speakers. Not that many, Mr. Toney,
8 don't get worried. We won't be here for dinner, hopefully
9 together. If anyone would like to speak. The cards are
10 available in the back of the room, and you're welcome to
11 bring them up to Edith on the podium. So I'm going to call
12 three names at a time. Just so you know, you're coming.
13 I'm an ask you to aim to keep your comments under three
14 minutes.

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

21 MR. TONEY: Mark Toney, executive director of Turn the
22 Utility Reform Network. I'm very impressed by the work of
23 this commission. I want to start off by mentioning things
24 that I really like. I really like the commitment to hold
25 the utilities accountable. I really like hearing that this



1 is not meant to be a bailout of utilities. The
2 acknowledgement that ratepayers are already paying how
3 important it is to reduce the risk of wildfires. We've got
4 to stop these wildfires from starting in the first place
5 and that we have to look at the cost benefit analysis of
6 the measures. All very important. Three quick issues that
7 I would ask the Commissioner to consider revising that I
8 believe undermined some of these principles. One, do not
9 weaken the prudent manager standard. That standard is
10 there for a reason and it places the burden on the utility
11 company to operate in a prudent manner. They need that.

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

22 The third thing is it's important, as Commissioner
23 Jones said to make sure that we don't separate safety from
24 rate making, they go together. Three recommendations that
25 we would like to see. One is to make sure that we continue



1 to focus on mitigation, reducing the risk of wildfire
2 ignition in the first place, and hold the utilities
3 accountable for following the regulations on doing so,
4 raising the expectations of utilities rather than lowering
5 the standards. And three to create a wildfire fund that
6 does protect ratepayers.

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

12 CHAIRMAN PETERMAN: Thank you, Mr. Toney.

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

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

18 MR. HAUSER: Okay. And I pronounce it Houser. It
19 looks like Hauser, H-A-U-S-E-R. And I like the previous
20 speaker's comments. I have some optimism at the level of
21 understanding and the work that's gone into this. But I
22 wanted to share a publicly-owned utility perspective and I
23 know publicly-owned utilities have been mentioned here a
24 lot. But it was evident from the previous comments that
25 and maybe rightly so, that there's a real focus on



1 investor-owned utilities. But I want to share the
2 experience of Trinity Public Utility District. I'm the
3 general manager. Probably most of you have not heard of
4 us. We serve eighty-five percent of Trinity County. Our
5 service territory is 2,200 square miles. So, you know, it
6 is a comparison that's larger than the state of Delaware.
7 But yet there are about 7,300 meters within that 2,200
8 square miles. Virtually all of the service territory is
9 Tier 2. In August of 2017, we had a fire that you may not
10 be familiar with. It's called the Helena Fire. We have so
11 many in the county, even we can't keep track of all of
12 them.

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

23 We as a utility, we currently face roughly a hundred
24 and thirty-nine million in claims against the utilities.
25 And again, you know, with the big numbers, you hear that



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

22 I actually use a hypothetical drunk driver that hits
23 one of our poles, knocks it on the ground and we get a
24 hundred-million-dollar bill for the for the fire. I have a
25 very good set of attorneys that unfortunately are having to



1 represent us through this. And I asked him point blank if
2 we were in another state with the exact same circumstances,
3 would we be facing one hundred thirty-nine million claims?
4 And the simple answer is no, we wouldn't be facing any.
5 It's just because we're in California, and we have this
6 strict liability inverse condemnation interpretation that
7 makes these suits profitable for others to pursue.

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

16 And while my utility just intuitively, obviously the
17 devil's in the details, it would be an early or one most
18 attracted to a risk pool or a wildfire fund or whatever
19 label you put on it. If that comes with CPUC oversight.
20 It might be -- it might be problematic for us and just
21 recognize that from a publicly- owned utility perspective,
22 you know, there's pros and cons with whatever approach you
23 take. But from POU perspective, having it outside the PUC
24 is certainly beneficial. And the last thing I want to
25 mention, I know there was some talk about underground and



1 covered conductors. Those might be expensive but feasible
2 solutions for other utilities given our service territory.
3 You know, conservatively, the cost of under underground in
4 our facilities, given a broad, dispersed, rugged,
5 mountainous terrain territory. You know, it's probably
6 four hundred million dollars. Is more unreasonable,
7 actually, than paying one hundred thirty-nine million in
8 claims so while that may be some solution in some areas, it
9 just doesn't work economically for us. So I appreciate the
10 opportunity to provide comments and thank you.

11 Thank you, Mr. Hauser.

12 Mr. Johnson, I think that the testimony of Mr. Hauser
13 should be included in our section of the report. Mr. Nava
14 said early on in our deliberations that all our citizens
15 are should be treated fairly and we make a fuss about not
16 leaving any of the citizens behind. The citizens of
17 Trinity ought to be treated with equal dignity of everyone
18 else. And this is as clear an example as you can get of
19 the inequitable distribution of the socialization of the
20 costs of inverse condemnation. The way inverse
21 condemnation is socialized here is to destroy this county's
22 ability to have a utility. So I think that we should cite
23 this an example and it a little bit of a challenge to the
24 legislature and the governor if they come to a solution in
25 July, that leaves the citizens of Trinity behind. The



1 question is, what's the answer to them? And I don't
2 hear -- you know, I don't hear an answer to them, but maybe
3 we can craft one, but I don't believe that we should leave
4 them behind. I thank you for coming. And I would like to
5 amend our section of the report to cite this testimony as
6 an example of a problem that needs to be addressed. Thank
7 you.

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

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

24 So, again, thank you, sir, for your time. Welcome,
25 Steve. My apologies. I'm not even going to try your last



1 name again, but welcome. He'll be followed by Terry
2 McBride. And then Patrick McCallum.

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

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

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

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

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

21 Also, I heard some comments today about fines and
22 fining the utilities and how that would work. I think we
23 should all look back to 2015. President Picker put out a
24 statement, talked about how much PG&E had been fined over
25 the years and the effect of those fines and the effect of



1 those fines was essentially nothing. And what he suggested
2 is that we should do something along the lines of Sarbanes-
3 Oxley to allow for some personal responsibility.

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

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

25 PG&E is not in bankruptcy because of inverse



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

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

22 The other issue that I'll just talk about briefly --
23 two, actually. There was some conversation today about
24 people being uninsured and how that happens. And there was
25 a comment made about somebody would pay cash for housing



1 and not buy insurance, that's not my experience. People
2 who can pay cash for a house are buying insurance. The
3 people who don't have insurance are the people lived in
4 their homes for thirty or thirty-five or forty years who
5 have now have their mortgage paid and who didn't anticipate
6 the increase in the cost of insurance or who had their
7 policy canceled and didn't get a new -- could not or did
8 not get a new policy.

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

19 And lastly, I know there's been a lot of talk about
20 the bond market and why we have to have inverse because it
21 changes the bond ratings for the IOUs. And I would suggest
22 to you that something affects PG&E's bond rating a lot more
23 than inverse condemnation. And what it is, is they are a
24 six-time felon. They violate their probation. They're
25 under criminal investigation for the fires they've caused.



1 I submit to you that's what affects their bond rating.
2 That's what affects their ability to get insurance. A
3 repeat drunk driver can't get insurance. PG&E is at least
4 a repeat drunk driver. So if you take away inverse
5 condemnation or inverse condemnation has changed. And by
6 the way, the public utility was just here, right? The
7 California Constitution would apply inverse condemnation.
8 So if you're going to change it, it has to be a
9 constitutional change. It can't be --it's not tort law.
10 It's constitutional law. And it's been applied to the IOUs
11 because they have the right to eminent domain and they
12 essentially a public entity. But Trinity is a public
13 entity inverse condemnation applies unless there's a change
14 to our Constitution.

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



1 CHAIRMAN PETERMAN: Thank you, sir. Next, Terry
2 McBride.

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

6 CHAIRMAN PETERMAN: He's talking to us.

7 MR. CAMPORA: Oh, okay.

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

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

19 CHAIRMAN PETERMAN: I appreciate the sentiment. I
20 want to be conscious about being that specific without
21 further thinking through it. Sarbanes-Oxley has its unique
22 applications and then also these folks are subject to
23 criminal liability. So one potential reason I'm responding
24 is because one potential immediate opportunity I see to
25 include a reference to something like that is we have a

1 recommendation on increasing the fine authority for
2 utilities. We can make as a part or next to that
3 recommendation, one, to further consider mechanisms to hold
4 utility management criminally, financially accountable or
5 something like that. I'd be comfortable going that far,
6 but maybe not being as explicit.

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

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

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

23 CHAIRMAN PETERMAN: Well we did talk about adding some
24 language to, I think, the conclusion about utility
25 accountability. Maybe there's an opportunity for



1 additional word there about further exploring these
2 mechanisms. But let's think on that. The whole point,
3 this is a good ideas and really fine finalize are changes
4 in the next session.

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

7 Terry, welcome.

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

12 Regarding the underinsured, I totally understand what
13 you saying. But as Mr. Campora, who's from our county,
14 we've got folks up there just don't have the money. You
15 know, some of them inherited the properties from their
16 parents or some, he was saying, intergenerational, and they
17 just don't have it for the underinsured. And so that's
18 going to be a tough one on figuring out that fund. And I'm
19 wondering if you couldn't do like a percentage and also
20 based on a person's income. But if you have full -- best
21 full insurance that you could, then you're covered for the
22 extra because they sure as hey didn't pay for me try and
23 get rid of my dead trees, right? They don't cover that,
24 but neither has PG&E, so we're good because we're almost
25 four years living in a camping trailer and I haven't seen a



1 dime.

2 Anyway, plus, here's some other issues some things you
3 folks haven't thought of because you're not living in it.
4 And I have the highest regard for you. I have listened --
5 I saw you in Santa Rosa and you've been just put in your
6 heart into this. And it's very obvious, some one that lost
7 everything. And I lost three rentals. I had five
8 properties affected. The amount they offered me was
9 pathetic. And then they didn't give it to me. So, you
10 know, the cost to rebuild in California is onerous. The
11 regulations have been forced down our throats. I'd like to
12 see a house with an indoor sprinkler system stop a
13 wildfire. How is that going to happen? That's twenty- to
14 twenty-five thousand dollars, so the cost to rebuild isn't
15 just a lack of building crew, because after the Butte fire
16 we had that there weren't -- there just weren't enough
17 contractors or all their equipment burned up, right,
18 because we lost quite a few. But the California has some
19 responsibility here and that is the cost to rebuild has
20 really escalated to the point of insane. When I hear and
21 please don't take this as an insult, Wildlife-Urban (sic)
22 Interface, I hear country.

23 Well, we're trying to get people out of the country.
24 That's what I hear. I don't like it. You want safety.
25 You think about Oakland. Those roof fires went from one



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

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

22 State of Oregon, ninety pages, maybe ten per page.

23 Because they're like us, they're -- you know, I was
24 trying to think of states that are like California, not one
25 that I saw listed the local utility or any utility was



1 responsible. That tells you about the prevention issue.

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

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

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



1 when it's ten degrees hotter I'm going to be weed eating.

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

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

14 The State of California, though, owns a lot of public
15 land, as does the BLM. And they're going to have to start
16 shaking hands and working this out. In Carver's County --
17 and I go to quite a few of the supervisor meetings and I've
18 been listening to them trying to figure out how to work
19 things out. One of the greatest issues they are having is
20 BLM and they're not allowing for clearing. And finally,
21 our little county that ain't rich, we're one of the poorest
22 ones like Trinity. Folks don't have a lot of money up
23 there. We did get -- they got money from PG&E and I'm so
24 proud of them. They used that money to strengthen the fire
25 departments. And also they're going to use money to cut



1 down the dead trees along road, which needs to be done.
2 But they're also like, hey, we don't care just let us go on
3 the BLM property and we'll cut it. We'll pay for it.
4 We'll do whatever it takes to make sure our people are
5 safe. This is something that needs to be done. This is
6 California's responsibility.

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

14 It's an amazing place and never too hardened long-term
15 firefighters going, I have never seen a fire like this.
16 We've never seen a fire -- so back to the time of Leonard
17 Fire. It would take days upon days for it to get to where
18 it got. They were able to control it, but these guys
19 between all the dead trees -- and just think with aluminum
20 and other metals being dropped on the vegetation, what do
21 you expect? And this needs to become part of the public
22 discourse. It is a fact. I mean, we've seen the lines in
23 the sky. It's heavy metals and they're being dropped. And
24 I would, in my ending here, suggest everybody go look at
25 geo -- I'm sorry, geoengineeringwatch.org. There is so



1 many scientific papers in there that will backup exactly
2 what I'm saying. That is not being addressed. And this is
3 called prevention because ultimately that's what we want.
4 I Thank you guys for all the work you're doing.

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

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

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

16 CHAIRMAN PETERMAN: Good comment, Commissioner Jones.

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

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

24 Today, the real story should be about victims that
25 have gone through and listened to Frances and other people



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

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

25 So unfortunately, I've got to talk to you about



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

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



1 the Constitution they would have to pay some form of
2 eminent loss or under negligence.

3 So the Constitution is there to protect our rights and
4 victim's rights. Inverse is quick. It's the best for
5 victims does not harmed victims. It is now a system that's
6 been in place. The courts understand it. The utilities
7 understand it. Steve Campora and lawyers love it. If not
8 for Camp and the bankruptcy and all the rest, and it tubs
9 (ph.) and the North Bay fires were inverse tubs, it's not
10 an inverse case. You would probably be already in
11 agreement for victims right now. But what we have are
12 victims in northern California and some in January in
13 Southern California that will be running out of their ALE
14 benefits. Great, three years on ALE, going forward is a
15 great recommendation if that can get through the
16 legislature. But they are in a catastrophic position right
17 now. They are paying their mortgage on their prior house,
18 which is a piece of dirt. And in Napa and Sonoma County
19 are expensive and stuff like that. They have to continue
20 paying that mortgage. They probably may have settled with
21 their insurance company. Probably not. And they have to
22 pay this rent. There's probably twice as much as what
23 they've had to pay for. If inverse was in place and a
24 quick solution, those people in Napa and Sonoma County can
25 be reimbursed for Camp and for many people in Sonoma County



1 and Butte Count they are homeless. They are in trailers.
2 They're shuttling their kids an hour to schools, they're
3 moving out of county. They need a complete situation as
4 well. And inverse is a way to do that. So it is
5 constitutional. It's quick. It's efficient.

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

15 Now, they're not doing that for the greater good of
16 providing electricity to California or to try to get a
17 settlement. They're doing that because they have made very
18 smart people a profit made decision that's knowing that the
19 inverse is in place. So I completely disagree on that. So
20 we support in the commission a wildfire fund, a liquidity
21 fund is one way to do it. We think a wildfire fund is the
22 best way to do it. We have specific recommendations. We
23 support prudent manager changes which go within that. We
24 have very specific recommendations, fifty pages long on how
25 to create a safer California. And we certainly are looking



1 at some of the recommendations, Commissioner Jones and
2 others, and made around insurance. That's where our focus
3 is going to be. And thank you for your time.

4 CHAIRMAN PETERMAN: Thank you.

5 MR. JOHNSON: Patrick?

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

14 CHAIRMAN PETERMAN: Thank you.

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

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

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

25 My affiliation here today is largely as a native-born



1 Californian and a taxpayer. I'm not being paid by any
2 clients to be here today, but I am a lawyer who represents
3 folks involved in wildfire and other catastrophic
4 litigation. I've been doing it my entire thirty years
5 since I was a young pup lawyer handling representing
6 fourteen hundred folks who were flooded out of their homes
7 in Yuba County.

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

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

22 MR. GIMPLE: That's fair.

23 And the only point I'm trying to make is what I'm
24 about to talk about his stuff I do know. The insurance
25 industry -- we've talked a good bit about the insurance



1 industry from the first party standpoint here today, and I
2 respect that about, you know, people getting insurance to
3 cover their own homes and property. I believe we're at a
4 crisis of coverage here on the liability side, folks.
5 Insurance companies are refusing to write liability
6 coverage in the State of California because of inverse
7 condemnation.

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

23 Now, I'm not saying we need to get rid of
24 inverse condemnation altogether, nor am I saying
25 we need to not allow it as a cause of action



1 against electrical utilities. But I agree with
2 Commissioner Kahn and Commissioner Nava that
3 there needs -- we need to get out of this strict
4 liability, no fault regime. I don't -- I
5 respectfully disagree a little bit on just
6 saying, well, make it a negligence case. A
7 negligence case is a different animal. I think
8 there is a way to add a fault component to
9 inverse condemnation. And it's one that
10 California has started doing thirty years ago in
11 the flood control context. I laid this out in a
12 in some comments that I provided last night, but
13 the bottom line -- essentially, what it is, is in
14 the flood control context, the California Supreme
15 Court recognized that we have a tug of war here.
16 We've got folks who need flood control in order
17 to live where they live. We have a common enemy
18 of floods in the State of California, and
19 historically we do. Yet if a project fails, it
20 could cause devastating damage. We need to
21 balance that. The way they balanced it is they
22 said in the flood control context, an inverse
23 condemnation case to prevail it must -- there
24 must be a finding that the plan of the public
25 improvement was unreasonable, not necessarily



1 just garden variety negligence somebody messed up
2 on a particular day.

3 CHAIRMAN PETERMAN: (Indiscernible).

4 MR. GIMPLE: And I will.

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

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

22 Commissioner Jones: Just a question. How do you
23 distinguish Bel Air from the Yuba County result where the
24 failure of a quote/unquote state levee resulted in the
25 inundation, a substantial portion of the county and I as a



1 legislator and Mr. Nava's well had to vote to appropriate
2 three hundred million dollars to cover the property losses
3 behind the levee. So I don't believe in that case. This
4 Bel Air standard was applied?

5 MR. GIMPLE: Yes, it was.

6 COMMISSIONER JONES: It was.

7 MR. GIMPLE: It was applied.

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

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

13 COMMISSIONER JONES: Yeah, exactly.

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

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

20 MR. GIMPLE: Correct.

21 COMMISSIONER JONES: Okay. Thanks.

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

24 COMMISSIONER JONES: Thank you.

25 MR. GIMPLE: Thanks.



1 CHAIRMAN PETERMAN: Thank you.

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

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

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

17 I represent the Association of California Water
18 Agencies, ACWA. On behalf of our 450 public water agency
19 members, want to thank you for the opportunity today to
20 provide public comment. Collectively, ACWA represents
21 ninety percent of water supply deliveries throughout the
22 state for domestic, agricultural, and industrial uses. And
23 our members serve not only a public health and safety need,
24 but many of our water agencies, too, have been victims of
25 the wildfires in the State. So we thank you for the



1 enormous effort that you've undertaken over the past
2 several months from the water agency perspective. We're
3 looking at the significant costs and significant
4 operational challenges associated with the state's effort
5 to address this as large users of energy. We really
6 appreciate your intent to reduce the burden on ratepayers.
7 And we also support your recommendation to replace the
8 current strict liability application of inverse
9 condemnation for water agencies with a fault-based
10 standard.

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

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

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

1 the findings and recommendations, the discussion, the moral
2 hazard discussion.

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



1 difficult solutions as well, so thank you.

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

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

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

1 this important issue.

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



1 a step -- appropriate procedures.

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

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

10 And thank you for your time today.

11 CHAIRMAN PETERMAN: Thank you.

12 Justin Scarb, Carolyn Choi, then Michael Boccadoro.

13 MR. WIRAATMADJA: Afternoon, Madam Chair and members.
14 Vincent Wiraatmadja, Justin Scarp had to step out, so I'm
15 just going to step in for him briefly. Spell your last
16 name, please.

17 MR. WIRAATMADJA: Yep W-I-R-A-A-T-M-A-D-J-A. 11
18 letters in case you were curious.

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

21 Welcome

22 MR. WIRAATMADJA: Indeed.

23 So just wanted to step in and say that we strongly
24 support and align ourselves with CWA comments. And thank
25 you for --



1 CHAIRMAN PETERMAN: And you are from Cal Water?

2 MR. WIRAATMADJA: Cal Water, yep.

3 CHAIRMAN PETERMAN: Okay.

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

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

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

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

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

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

24 CHAIRMAN PETERMAN: Hello, everyone out there. Welcome
25 back. We did pause our meeting during the interruption of



1 our webcast. And thank you for your patience. We are now
2 back with our next public speaker Carolyn Choi from
3 Southern Californian Edison. Welcome, Ms. Choi.

4 You have up to three minutes.

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

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

18 Failure to take action on meaningful wildfire
19 legislation will further decrease. Investor confidence
20 will pressure each utilities business operations and
21 increase costs to customers as SCE continues to take
22 operational steps to harden our infrastructure, improve our
23 situational awareness, enhance our vegetation management,
24 and communicate effectively with our customers in high fire
25 risk areas. Making the correct policy choices is of



1 tantamount importance. We appreciate the commission noting
2 the challenges with the current liability framework, but we
3 understand that inverse condemnation reform may not be part
4 of the policy solutions this year.

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

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

25 The third is establishment of wildfire state entity



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

20 CHAIRMAN PETERMAN: Thank you.

21 Next, Michael Boccadoro.

22 COMMISSIONER JONES: Question for the witness.

23 CHAIRMAN PETERMAN: Yes, please.

24 COMMISSIONER JONES: So how big does the fund need to
25 be?



1 MS. CHOI: I think the fund needs to be sized to what
2 the projected risk is. As you saw from the comments that
3 we had submitted, we did a risk scenario in which we
4 predicted thirty percent of the costs -- thirty percent of
5 future wildfires would be utility caused or electric
6 caused. And in that situation, we had a fund that started
7 with two billion dollars of initial capitalization. Seven
8 hundred dollars annual premium investments. And that could
9 withstand a fire, two scenarios that we stressed it, a
10 twenty billion fire in the first year with a ten and a ten
11 followed. So three years of cash under fire. We also
12 stressed it with what was the most that it could handle and
13 still be solvent. After ten years and with almost seven
14 billion dollars a year. So over a ten-year period was
15 standing almost seven billion dollars every year in fire
16 damage. And that was a fund that was essentially a ten
17 billion-dollar fund.

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

19 MS. CHOI: It is utility only.

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

24 MS. CHOI: We have not done analysis around a full
25 wildfire fund that would cover all fires regardless of the



1 cause. Our concern with that would be that as utilities
2 make these investments to harden our system and presumably
3 have fewer ignitions, that the costs associated with the
4 creation that fund would continue to rely on utility
5 customers to put into that larger fund. So we haven't done
6 the modeling on that, though, to be to be fair.

7 COMMISSIONER JONES: Okay. Thanks.

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

10 COMMISSIONER KAHN: I don't really have a question.

11 I just want to acknowledge I understand your
12 community suffered a loss and we convey our condolences.

13 MS. CHOI: Thank you very much.

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

16 MR. BOCCADORO: Thank you.

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

19 MR. BOCCADORO: Thank you, Michael Boccadoro,
20 B-O-C-C-A-D-O-R-O, representing the Agricultural Energy
21 Consumer's Association. Had the pleasure of advocating
22 both at the PUC and the legislature for over twenty-five
23 years on behalf of the AG community on energy related
24 issues. So let me start by thanking each of you for your
25 good work and in particular, your willingness to deal with



1 the obvious issue of inverse condemnation reform. We're
2 not talking about getting rid of it. We're talking about
3 making a minor adjustment to it that's long overdue and we
4 couldn't agree more.

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

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

17 So it's really unfortunate when we hear the
18 legislature's reluctance to do that. Don't give up.
19 Continue advocating. It's going to have to happen. I
20 think our biggest fear is that we're trying -- the
21 legislature is trying to put a Band-Aid on a situation and
22 piecemeal a solution that's going to fail. Those of us who
23 are old enough to be around and I know, Commissioner Kahn,
24 you were around during the energy crisis that didn't work;
25 it failed. It cost the governor his job because they



1 didn't take early, bold action. The problem got worse.
2 Situation got worse. And some legislators and others paid
3 the price for that. So hopefully we won't revisit that
4 situation and we'll have some better bold actions. So
5 we're not giving up on the need to reform inverse, and
6 neither should you. I've been highly critical of PG&E over
7 the past several months and rightfully so. Their
8 shareholders must be held accountable. We appreciate your
9 acknowledgment of that. They've unfortunately become a
10 culture of lethal incompetence in that utility that needs
11 to change. You know, I wasn't going to focus on Edison
12 today, but I didn't hear Edison talk about how shareholders
13 they talk about protecting ratepayers. One of the best
14 ways to protect ratepayers is to have shareholders step up
15 and contribute to a wildfire fund. I haven't heard that
16 from Edison and it's very frustrating, so hopefully the
17 utilities. I've also wanted to put a little focus today on
18 the insurance companies. I thought Commissioner Peterman's
19 comments and the committee were very telling the other day,
20 and that is when they subrogate there and we heard it again
21 today with Mr. Jones's comments when they subrogate their
22 liability to the utilities, that money does not end up back
23 in the hands of ratepayers or their insurance holders, that
24 ends up in shareholder profit and that needs to stop.

25 And then finally, I want to also comment that it's



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

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

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

23 And we apologize for not commenting on this issue
24 sooner. I'm a bit late to the game, but I wanted to be
25 able to speak to you today. As you may have seen, it's



1 been widely reported that the Fountain Grove neighborhood
2 in Santa Rosa in the Town of Paradise, are both facing
3 benzene contamination following devastating wildfires.
4 Obviously, the presence of cancer-causing chemicals in
5 drinking water makes returning home after a disaster that
6 much harder for wildfire victims. Paradise estimated that
7 the replacement of its drinking water system will cost at
8 least three hundred million dollars. Something else water
9 utility ratepayers will have to face. Recent reporting on
10 this issue highlights the need for it to be addressed. And
11 we believe that the Commission should include a
12 recommendation in its report to the legislature that
13 standards be put in place to consider how best to help
14 water utilities deal with these disasters and better
15 prepare them going forward. Thank you.

16 CHAIRMAN PETERMAN: Thank you.

17 Stacy Heaton.

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

20 MS. HEATON: Stacy Heaton with the rural county
21 representatives of California. H-E-A-T-O-N. We represent
22 thirty-six rural counties statewide. And I'm also speaking
23 on behalf of the California State Association of Counties
24 today. Their representatives had to leave early. We in
25 particular CSAC wanted to associate their comments with



1 mine on the subject of inverse. And I'm really going to
2 speak briefly on that. And the fact that we submitted a
3 comment letter in April, pretty extensive comment letter.
4 It was about eight pages. You probably all have seen it.
5 I hope at least we are not supportive of the idea of
6 reforming inverse because we want the victims in our
7 counties to be able to have that as an option of
8 restitution for their losses and CSAC, in particular, that
9 is their number one priority on this issue. So I wanted to
10 go ahead and get that out of the way. A few other things I
11 wanted to bring up; however, is we are very supportive of
12 your report on insurance, homeowners insurance and wildfire
13 insurance is one of the main things we hear about from our
14 board members and their constituents. It is one of the
15 growing problems in our counties and our counties are rural
16 and a lot of those homeowners have been there for years on
17 their properties.

18 And I wanted to thank Mr. Campora for his comments
19 earlier, too, about those that don't have insurance and a
20 lot of those that have lived in our homes for years. Their
21 mortgages are paid off and that's why they don't have
22 insurance, because a lot of the time, it's not affordable.
23 Some of them are elderly and some of them are on fixed
24 incomes and they don't have insurance because they can't
25 afford it. We're seeing a lot of nonrenewals. We're



1 seeing a lot of cancelations and folks are afraid of
2 getting canceled and getting not renewed. And that's why
3 we need to address this issue. We realize it's complex.
4 So complex, in fact, that we're starting an ad hoc
5 committee of our board on the 19th to address some of these
6 issues. So we thank you for addressing that. We're very
7 happy with a lot of the recommendations that you've made in
8 your draft report. The second thing we'd like to address
9 is the land use issue. We have been working very hard with
10 Senator Hannah-Beth Jackson on SB 182 to try to address
11 some of the local government and land use issues with
12 development going forward. If you'd like to take a look at
13 that bill, I'd encourage you to. We'd helped to write that
14 bill. But one thing I will say is that local governments
15 have been getting a lot of heat as to where -- no pun --
16 intended, where we allow people to develop. But we're also
17 under a lot of pressure from the state on the need to
18 develop and to build homes and to provide housing.

19 And so on one hand, we're told you don't want us to
20 develop. On the other hand, we're told we have to develop
21 or we're going to withhold SB 1 funding or other things.
22 And that's not just in areas that aren't in the WUI.
23 That's including in the WUI. Right now, in fact, the Town
24 of Paradise has some very large RHNA allocation numbers
25 that they're still required to meet, even though the Town



1 of Paradise is almost not there anymore. And when we go to
2 say the -- housing committees, the legislature, we're told
3 that there's no room to move those housing requirements to
4 other areas within a region. So we need to get that
5 situation worked out and give local governments some sort
6 of reconciliation there and stop giving us mixed messages
7 because we do want to work those things out. We've been
8 trying, but we're getting mixed messages throughout. The
9 last thing I wanted to address is Recommendation 20 in the
10 main report was the development fee for new construction in
11 the WUI. It's unclear as to who would be paying that
12 development fee. Is that the developers, is that the local
13 government that allows the development, who's paying that
14 fee if that's getting paid to the state? And that's really
15 not clear in the report. So we'd like to see some
16 clarification on that.

17 CHAIRMAN PETERMAN: Thank you.

18 MS. HEATON: Thank you.

19 CHAIRMAN PETERMAN: Commissioner Jones?

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

23 So with respect to the point that CSAC and the rural
24 counties make about the RHNA numbers, in my experience in
25 local government and as a public interest land use



1 attorney, regrettably, I never really saw any significant
2 impact on actual development decisions by localities
3 associated with RHNA numbers. So you I take the point
4 about the mixed message, but the truth of the matter is
5 localities across the state have ignored RHNA numbers for
6 decades with some impunity, very little consequence.

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

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

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

25 Nevada county is located in a very high elevated fire



1 area. It's actually seventy-six percent of all improved
2 parcels in the Nevada County are located within the WUI.
3 So this is a top priority for the county. But I just want
4 to provide a couple of comments on the report. Some of the
5 recommendations. Number one, the county and the county
6 staff particularly do have a strong concern over changes in
7 inverse condemnation. How that may impact potentially the
8 county residents as well as ultimately potential cost the
9 county could bear over time. With that, I think as our
10 Commissioner Nava mentioned when these recommendations go
11 in to the legislature, they can definitely change and get
12 modified. And so that's one thing that we'll be watching
13 for.

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

23 Additionally, in the report, I believe the
24 recommendation recommends that that the allocated to the
25 state -- to some type of state board or organization to



1 allocate those costs or allocate those fees for cost for
2 wildfire. I might recommend that that also the local
3 government and local fire entities also be included in that
4 recommendation who are working on the ground.

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

14 Part of the conversation and really also looking at
15 risk modeling and ensuring that factors of mitigation, both
16 not only at the individual level when the homeowner is
17 doing what their vegetation management, but also at the
18 neighborhood level, Firewise communities and then at the
19 regional level looking at different firebreak projects, the
20 Cal Fire, the county is working on. And then one last
21 comment, too, was in Nevada County, a huge portion of
22 Nevada county that's located in the WUI's is actually owned
23 by federal land. So either BLM, or the U.S. Forest
24 Service. And so we hear from constituents who say, I live
25 next door to BLM land nothing is being done. What do I do



1 about it? So that's a major concern. And that maybe that
2 was some a little bit outside the scope of your recommended
3 your reports, but I just wanted to highlight that piece.
4 And again, I just wanted to thank you for all your work and
5 great job.

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

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



1 And so I think that was kind of the intent behind my
2 comment.

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

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

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

18 CHAIRMAN PETERMAN: Thank you.

19 Derek Dolfie, then Daniel Bard.

20 MR. DOLFIE: Good afternoon, Chair and Commissioners.
21 My name is Derek Dolfie, spell D-O-L-F-I-E. I'm here on
22 behalf of the League of California Cities. First, I'd like
23 to thank you all for your hard work. I know it was a
24 Herculean task to do the amount of work that you did in
25 such a short amount of time. We do appreciate that.



1 I do want to touch on a few points that some of our
2 other local government associations have already touched on
3 before. Specifically, on inverse condemnation, we disagree
4 with the Commission's recommendation to change the inverse
5 condemnation strict liability standard to a fault-based
6 standard. We think this constitutionally derives strict
7 liability standard is one that best incentivizes IOUs to
8 take actions to reduce risks of IOUs caused wildfires.

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

20 We do -- I will -- I notice that we don't have the
21 time up there, so I'll be brief on those comments and just
22 say we do note several other things in our letter that we
23 submitted to the commission. And I want -- just really
24 appreciate the time to speak before you today. And thank
25 you again for all your hard work.



1 CHAIRMAN PETERMAN: Thank you. I can tell you're an
2 honest fellow because you don't have to tell us about the
3 time, so thank you very much.

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

8 CHAIRMAN PETERMAN: Fair enough.

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

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

12 MR. BARAD: Daniel Barad. That's B-A-R-A-D here on
13 behalf of Sierra Club, California.

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

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

23 We are excited to see that the wildfire risk
24 recommendations in the draft report focus on home
25 hardening, defensible space, and smart planning in the



1 Wildland-Urban Interface. These are the most effective
2 measures that the state can -- that the state can support
3 to save property and human lives when the goal is risk
4 reduction for humans and for communities. The State should
5 be funding home hardening and defensible space before they
6 fund large scale tree removal, far away from communities.

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

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

16 CHAIRMAN PETERMAN: Thank you.

17 Kamalpreet Chohan with the California Asian Chamber of
18 Commerce.

19 MS. CHOCHAN: Hello members of the Commission. I'm
20 Kamalpreet Chohan. That's C-H-O-H-A-N of the Cal Asian
21 Chamber of Commerce. I'm here today on behalf of the
22 Action for Wildfires Resiliency. A coalition of more than
23 150 organizations representing business, labor, public
24 safety, environment, seniors, and community groups.

25 We have come together to advocate in support of



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

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

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

20 CHAIRMAN PETERMAN: Thank you.

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



1 MS. RAMIREZ NOTSINNEH: Hi. Good afternoon. Josefina
2 Ramirez Notsinneh.

3 CHAIRMAN PETERMAN: Oh, okay. I wasn't sure. Okay.
4 Notsinneh, apologies.

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

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

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

10 CHAIRMAN PETERMAN: Can you spell your last name?

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

24 And we urge you to address those needs in the final
25 recommendations to be submitted to the governor and the



1 legislature and we thank you for your consideration.

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

4 MS. RAMIREZ NOTSINNEH: Yes.

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

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

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

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

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

23 Mr. Jackson, welcome -- from NRDC.

24 MR. JACKSON: Thank you, Madam Chair.

25 Alex Jackson with the Natural Resources Defense



1 Council. And we are engaged on this issue, deeply
2 concerned for a number of reasons.

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

22 In that spirit, we are very supportive of the
23 recommendations and findings in this report. The courage
24 that it took and the conviction and the persuasiveness of
25 which these findings and recommendations were made. I'm



1 not a spiritual man, but Commissioner Kahn, when you were
2 speaking in your opening statement, I almost wanted to jump
3 up and say "preach", because I do feel like we --

4 MALE SPEAKER: We all have that --

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

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

15 I would hope that this commission can strive to
16 provide recommendations that are actionable. As you noted,
17 Commissioner Nava, the blender across the street doesn't
18 always produce coherence. And I think asking them to put
19 together something that this commission has been unwilling
20 to fully endorse risks. The outcome that we all agree is
21 the one we cannot afford, which is not acting at all. I
22 think there's always going to be the risk of unintended
23 consequence or unforeseen consequence, but we can learn as
24 we go. We need to send a strong signal that stability is
25 in order and that it will come soon.



1 Two points, in light of the statement of leadership
2 that suggests liability reform may not be on the near-term
3 agenda I would maybe think this Commission could put forth
4 a least/worst case option if that is the case, because we
5 are desperately concerned that if the fund is going to be
6 only capitalized by ratepayers. We've heard the legal
7 political hurdles about surcharges on property, that will
8 not have put us any better place, than we've been before
9 and that is not sustainable. Thank you.

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

12 (No audible response)

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

16 Oh, did she have to leave?

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

19 CHAIRMAN PETERMAN: So then are you Mark?

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

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

25 We've submitted detailed written comments and we want



1 to associate myself with the comments of the coalition on
2 the inverse question.

3 CHAIRMAN PETERMAN: And remind me your organization
4 again?

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

7 CHAIRMAN PETERMAN: Okay.

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

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

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

1 different than not being able to find insurance.

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

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

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

19 The other thing is when an insurer gets a subrogation
20 settlement, the first thing they do is pay back all the
21 deductibles to the effected homeowner's. Mitigation is a
22 challenge. We're a national association. We spend a lot
23 of time in Florida. Mitigation for hurricanes and
24 earthquakes in California is much different. If you
25 mitigate your house for a hurricane or an earthquake, and



1 your neighbor doesn't, it doesn't matter. But if you
2 mitigate your house for a wildfire and your neighbors
3 don't, your mitigation will not be as effective.

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

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

22 And they found demonstrably that homes that met the
23 2008 code upgrade survive fires versus those that didn't.
24 And that includes homes that were actually adjacent to
25 homes that were pre-2008. So I take your point about the



1 need for community resiliency, and I take the point about
2 how, you know, if you harden your home and your neighbor
3 doesn't, that does have an impact, but there is also
4 evidence that you hardening your home will, in fact, better
5 protect your home, even if your neighbor doesn't, too. So
6 I just think we need to keep that in mind and not let the
7 perfect be the enemy of the good, but we did include in our
8 recommendation that the community also ought to meet a
9 standard as well.

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

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

25 CHAIRMAN PETERMAN: I recommend you let him have the



1 last word. Thank you.

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

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

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

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

22 Now, I'd say don't be deceived into believing that a
23 changed inverse condemnation will magically eliminate the
24 cost impacts of utility caused wildfires. It will simply
25 shift the burden from the responsible utility to the



1 victims. And getting out what Mark was saying, it's my
2 understanding and I haven't been eight years insurance
3 Commissioner. I'm fairly new to the trade, but it's my
4 understanding that to the extent insurers seek
5 reimbursement for damages, those recoveries reduce the
6 losses used to calculate future homeowner policy rates. So
7 it's not a windfall for insurers. It's a financial benefit
8 to the policyholders whose homes may have been affected.
9 And insurers have lost twenty-five billion dollars in the
10 last two years. They are certainly not feeling that this
11 is a windfall today.

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

20 CHAIRMAN PETERMAN: Sir, please stay at the
21 microphone.

22 COMMISSIONER KAHN: So I don't understand something.

23 We have her widely that insurance who have subrogation
24 claims have sold their insurance claims to hedge funds.
25 You understand that?



1 MR. TAYLOR: I've heard that. I haven't heard if it's
2 widely. I know that many banks were looking to sell them.

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

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

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

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



1 COMMISSIONER KAHN: I understand that.

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

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

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

22 COMMISSIONER KAHN: Well, what happened?

23 MR. TAYLOR: It's not going in insurance pockets. I
24 mean, that's what you seem to be saying, that it's going in
25 to insurance pockets. And I just don't believe that's the



1 case.

2 COMMISSIONER KAHN: Excuse me. There is no question
3 that the immediate transaction in which insurance companies
4 sells their claims to a hedge fund, the money goes to the
5 insurance company. It puts in its pocket. What it does
6 with it later, we don't know, but we do know the sale is
7 made and then the hedge funds are prosecuting the claim.

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

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

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

25 CHAIRMAN PETERMAN: Well, thank you. And given your



1 organization's breath, I appreciate you continuing to look
2 at these matters.

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

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

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

19 Because it's all well and good to try and prevent and
20 reduce the number of ignitions that we have at these
21 ignition starts, but there's still going to happen. And if
22 they move beyond that first hundred feet or so, beyond the
23 powerlines of the road and hit these really dense
24 vegetative conditions that are historically unnatural
25 because of past policy decisions of the State to allow



1 types of logging and other land use and then suppress fire
2 for the last eighty years, we have created a condition on
3 the landscape that has exacerbated the problem. It's not
4 just carbon dioxide in the atmosphere it's what we have
5 done to the vegetation on the landscape. And that's
6 something the State can continue to redress. And because
7 of a problem that we have really contributed to. So I want
8 to make three observations about that.

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

22 We don't have anywhere near the people or the
23 equipment or the infrastructure to really get to scale on
24 this like we need to right now. And we need to be doing
25 this, you know, so that we've made a real impact over the



1 next decade, not stretching it over the next fifty years.

2 We need to get busy on this right away.

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

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

25 CHAIRMAN PETERMAN: Thank you. Well, I think you've



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

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

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

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

25 I also want to say thank you to the folks who



1 submitted comment in advance of this meeting. As it says
2 on our agenda, we accepted those and put those on our
3 website and they will get transmitted along with the
4 report. All public comments along with those, will get
5 transmitted along with the report.

6 We also received via email some comments during the
7 meeting and as it says on the agenda we can't accept those
8 via webcast. However, I do want to make sure that they get
9 captured on the record. So public comments that are
10 received today through Wednesday, June -- I think it's June
11 12th, close of business at 5 p.m. will all be transmitted
12 along with the report to the legislature as an appendix.

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

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

23 So Commissioners, now is our time to go over specific
24 changes to the executive summary and recommendations.
25 Would you like a break before we begin that process?



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

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

20 Second, staff during this day has taken our executive
21 summary and identified with comment bubbles. The areas of
22 the report that we have so far identified would warrant
23 change. My recommendation is if the direction here is
24 clear enough that we don't have to do a direct line edit.
25 As long as it captures what we're trying to do and staff



1 afterwards can work on this and check in if necessary with
2 us. And if there is a specific line edit that someone
3 feels a need to raise now, we can do that.

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

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

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

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

23 FEMALE SPEAKER: Can you see it on your screen.

24 COMMISSIONER JONES: I can't see it on my screen, but
25 I can. It's all right. I can turn around.



1 CHAIRMAN PETERMAN: It's pretty small on ours, so
2 we'll need you to read it to us.

3 Dave Jones, technical master.

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

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

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

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

24 COMMISSIONER JONES: May I? I think it's also when
25 you're in bankruptcy --



1 CHAIRMAN PETERMAN: Commissioner, your microphone,
2 please.

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

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

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

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

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

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

24 Does that capture that?

25 COMMISSIONER JONES: Substantially reduced.



1 MR. JOHNSON: Substantially reduced.

2 Do you have something to on add on that? CHAIRMAN

3 PETERMAN: No.

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

7 UNIDENTIFIED COMMISSIONER: It does to me.

8 MR. JOHNSON: Okay.

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

11 MR. JOHNSON: Yeah, go ahead.

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

21 And so I'm just wondering, how do we capture that
22 finding? Is it a separate finding or is it something or is
23 it a finding in the funding section that I didn't want that
24 point to be made. Because I think this point makes that
25 the current process increases cost to ratepayers. I would



1 argue the current process also allows for ratepayers to pay
2 lower costs, so I'm just trying to think about where to
3 make that comment. Or potentially, as you just
4 highlighted, it could be shortened to the current process
5 for determining cost recovery contributes to the
6 uncertainty that utilities and electric customers face and
7 something like that. I don't know if anyone has a
8 suggestion there. I don't want to deface it too much, but

9 MR. JOHNSON: Customers.

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

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

15 MALE SPEAKER: Does that makes sense, as an edit?

16 CHAIRMAN PETERMAN: No, it's not the end to the edit.

17 I can if we want -- I can think about this a little
18 bit more if you want to --

19 COMMISSIONER KAHN: I have a suggestion.

20 CHAIRMAN PETERMAN: Yeah.

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

23 CHAIRMAN PETERMAN: Ultimately increases cost.

24 COMMISSIONER KAHN: So you take out the word
25 "ultimately" and you put and in many instances increases



1 the cost et cetera.

2 CHAIRMAN PETERMAN: I'd be comfortable with that.

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

5 CHAIRMAN PETERMAN: Yeah.

6 COMMISSIONER KAHN: So I'm uncomfortable with that.

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

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

20 COMMISSIONER WARA: I'm comfortable with that. I
21 mean, I think the main thing I was hoping to see was just
22 an acknowledgment of the discussion that's in the record of
23 the different views about the legality, constitutionality
24 of a change in IC. And then and this may -- you know, how
25 we articulate the theory that I think is there, which is to

1 really change the facts in a dramatic way. Declare an
2 emergency, create this new institution that's managing the
3 issue, a whole set of things. That's a little bit
4 different than simply arguing, you know, passing a law that
5 relies on the Locklin factors. And I think it's important
6 to distinguish, right?. And say that what we're not saying
7 is pass a law that just relies on the Locklin factors,
8 we're saying something different, but also to acknowledge
9 the dispute that exists about the legality of that move,
10 that simpler move if that's something you're comfortable
11 with.

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

14 MR. JOHNSON: Is your microphone on?

15 CHAIRMAN PETERMAN: Just talk a little louder.

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

22 MR. JOHNSON: Sorry about that.

23 COMMISSIONER KAHN: Excuse me?

24 MR. JOHNSON: Sorry about that.

25 COMMISSIONER KAHN: It was okay. That didn't find its



1 way to the executive summary. But there is actually
2 language written that suggests the declaration of an
3 emergency and this setting and that plus we have had the
4 benefit of some legal help from -- OPR has some legal help.

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

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

20 COMMISSIONER KAHN: Sure terrific.

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

23 CHAIRMAN PETERMAN: Right.

24 MR. JOHNSON: The legal counsel memo that was passed
25 that was requested by the legislature last year, right?



1 CHAIRMAN PETERMAN: Just to confirm their
2 recommendation is for the executive officer to add a
3 footnote around the knowledge and the legal challenge, as
4 well as a paragraph specifically around the legal theory.

5 MR. JOHNSON: Sure.

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

8 MR. JOHNSON: What's next?

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

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

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

24 COMMISSIONER WARAS: Yeah, I mean, I think, just
25 something that acknowledges that the risk is being



1 reallocated, not eliminated, right? That the liability
2 will fall in that instead of falling on investored
3 utilities, it will fall on insurance companies and that we
4 should take care to monitor any potential impacts. I'm not
5 saying that there will be. I just say I think we don't
6 have evidence to say that there will or will not be, but I
7 think that we should acknowledge that a change in the
8 liability regime does not eliminate the risk it transfers
9 it.

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

12 COMMISSIONER JONES: I agree.

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

17 CHAIRMAN PETERMAN: Good point; good observation.

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



1 COMMISSIONER KAHN: That's why I think the word "cost"
2 is right.

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

5 COMMISSIONER KAHN: You are a hundred percent right.

6 They already assume the risk. They take the risk and
7 they pay for something to cover the risk in buying
8 insurance or not or they self-insure, but we have a cost
9 that is being shifted in -- theoretically, inverse takes
10 the cost away from moral hazard people and innocent victims
11 and moves it somewhere else. Anyway, that was Michael's
12 point.

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

18 And so they're already assuming the risk and the cost.
19 So to suggest that by eliminating inverse, we're now
20 saddling them with a burden that they didn't already assume
21 is what I find problematic about even the change in the
22 language. So I just think there's going to be some real
23 parsing of language because this is such a controversial
24 issue. And I don't want to leave the misimpression that by
25 eliminating strict liability in inverse, we're now shifting

1 to the insurers a burden that they didn't already assume by
2 virtue of selling insurance in the first instance. I don't
3 know how you draft around that, but that's the concern.

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

6 MS. HANNIGAN: (indiscernible)

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

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

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

21 CHAIRMAN PETERMAN: Also, I think the "may" is
22 appropriate, because even if you get rid of the strict
23 liability inverse condemnation, there may be some
24 settlement still in court that result in those costs still
25 being borne by utilities. So it may or may not transfer

1 that.

2 COMMISSIONER WARA: Yeah. I mean, I think that the
3 point is there is at least going to be for no fault fires
4 or underinsured and uninsured victims, there is definitely
5 a change here, right? You go from a situation where
6 they're covered by the utility to one in which they are
7 uncovered. That is a change, right? Uninsured victims
8 include local government infrastructure.

9 CHAIRMAN PETERMAN: That's a good point.

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

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

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

25 COMMISSIONER WARA: I think that's also using a piece



1 of, you know, something not in evidence. I mean, I'm
2 sorry -- like the idea that the utility, the claims, the
3 unsecured creditors, in the PG&E bankruptcy would get
4 nothing is really an extreme outlier case. That's
5 extremely unlikely.

6 COMMISSIONER KAHN: I agree.

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

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

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

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

21 COMMISSIONER KAHN: So just the I think the way, at
22 least, I would look at it is. We have to parse the past
23 and the future. If by some miracle, in my view, we passed
24 inverse change tomorrow for future fires, one would suggest
25 that where there is no inverse opportunity to recover but

1 also no cost, that the cities and counties might be
2 incentivized to buy insurance where they haven't or -- and
3 so, you know, right now you have a situation where the
4 cities and counties are coming to us and saying, well, we
5 didn't have enough insurance because we didn't buy it,
6 because we figured if there's something catastrophic, we
7 can go to the utilities. So I think you're right about
8 PG&E, but nothing we do is going to change that. That's in
9 the past. And one thing we haven't taken into account is
10 how we're going to affect the behavior of the people who
11 have come to us and said bail us out. And I think that one
12 would predict that reasonable counties and cities would
13 react to a change in inverse by buying insurance. So they
14 wouldn't have -- they wouldn't be a shift a cost. Maybe
15 they have additional insurance costs. So I think we're in
16 the realm of a little speculativeness. And I'm willing
17 to --

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

22 COMMISSIONER NAVA: I think -- yeah if you take a look
23 at what we have -- what staff has written here, you can't
24 use that. I mean, we don't really know what's going to be
25 left. If we were to say a change in the liability regime



1 transfers risk, not eliminates it. I'm just going back to
2 the earlier sentence, a change in the liability regime that
3 says transfers risk, but if you say transfers cost not
4 eliminates it. And may result in changes -- you see where
5 I'm going with this --

6 CHAIRMAN PETERMAN: Uh-huh.

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

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

15 COMMISSIONER NAVA: Just think maybe, right?

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

18 COMMISSIONER NAVA: Sure.

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

23 COMMISSIONER KAHN: It's may transfer cost not
24 eliminate it and may result stakeholders responding
25 accordingly.



1 CHAIRMAN PETERMAN: Yes.

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

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

17 MS. HANNIGAN: I have track changes on.

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

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

21 MR. JOHNSON: I think --

22 CHAIRMAN PETERMAN: You have suggested language?

23 MR. JOHNSON: So we don't have -- I don't have exact
24 language, but thought here is to focus this recommendation
25 around the challenge at hand are the desired outcome, which

1 is to consolidate and fortify the State's efforts regarding
2 utility wildfires and mitigation -- prevention and
3 mitigation of utility wildfires. And one option could be
4 this wildfire board and sort of put that focus of this
5 recommendation on the end goal, which everyone seemed to
6 agree was, this consolidation and fortification or
7 additional resources towards wildfire prevention
8 mitigation. But then to provide this second part as one
9 option for doing so. But I want to put that up for both
10 Commissioners Nava and Kahn who drafted this.

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

18 CHAIRMAN PETERMAN: Correct. And I think --

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

21 CHAIRMAN PETERMAN: Right.

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

24 MR. JOHNSON: Are You okay with this?

25 COMMISSIONER NAVA: I'm sorry.



1 MR. JOHNSON: Are you Okay with that?

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

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

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

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

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

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

25 CHAIRMAN PETERMAN: I think to your point earlier



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

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

15 COMMISSIONER NAVA: The language doesn't bother me.

16 MR. JOHNSON: Okay.

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

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

24 COMMISSIONER KAHN: Okay. Pedro's Okay.

25 CHAIRMAN PETERMAN: I think the additional point that



1 I was making and Commissioner Jones, which I would still
2 like to see added at the end of that paragraph is --

3 COMMISSIONER KAHN: (Indiscernible) second sentence.

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

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

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

11 CHAIRMAN PETERMAN: Can you move the screen over

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

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

20 COMMISSIONER KAHN: All right. I'm fine with that.
21 And I take it that, I mean -- four sentences into the text
22 here is your content or five sentences.

23 Setting and enforcing safety standards and
24 implementing, administering, adjudicating fault-based
25 standards and robust data. I mean that's the content that



1 you're trying to accomplish to this entity, right?

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

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

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

7 MR. JOHNSON: Capture those challenges that --

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

10 MR. JOHNSON: Okay, great.

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

13 MR. JOHNSON: There it is great. Perfect.

14 Those are the high level.

15 MS. HANNIGAN: (indiscernible)

16 MR. JOHNSON: On number 4, correct?

17 MS. HANNIGAN: Yeah.

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

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



1 that the change in inverse should be removed.

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

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

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

16 MR. JOHNSON: Yeah.

17 CHAIRMAN PETERMAN: I have no disagreement with that
18 position.

19 COMMISSIONER KAHN: Sounds fine with me.

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

22 MS. HANNIGAN: (Indiscernible)

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

25 CHAIRMAN PETERMAN: Maybe it's a good time to raise



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

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

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

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

1 identified as clarity.

2 MR. JOHNSON: Any concerns with that.

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

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

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

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

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

21 We have a couple examples of that. We'd like fixed in
22 the executive summary and in the underlying chapter we
23 thought that was important correct in the other underling
24 as well. Inclusion of the recommendation to increase PUC
25 fine authority, putting that in the actual list of



1 recommendations.

2 MR. JOHNSON: There were -- there was one paragraph
3 that was in your workgroup report --

4 CHAIRMAN PETERMAN: Yes.

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

9 CHAIRMAN PETERMAN: Yes.

10 MR. JOHNSON: And the executive summary. Sorry.

11 Okay. Great.

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

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

22 MR. JOHNSON: More.

23 CHAIRMAN PETERMAN: No, they are good.

24 MR. JOHNSON: No, absolutely. But I also -- yes. Is
25 that indicating the others were not?



1 CHAIRMAN PETERMAN: I'll have to qualify my own
2 comment. I didn't say they were necessary.

3 COMMISSIONER JONES: They are just good.

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

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

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

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

17 COMMISSIONER KAHN: What page you on?

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

1 folks are amenable to that, it sounds like there's support.

2 UNIDENTIFIED COMMISSIONER: I'm not going against
3 that.

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

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

17 And that was it on my end.

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

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

22 So we'll move to Commissioner Jones, I believe. And
23 he's brought handouts. And we are -- I now get to say that
24 we have a few extra minutes. We're not going to get kicked
25 out immediately at 5:00. But it's important that we wrap



1 this up fairly soon. But this is a critical part of this
2 process. I appreciate everybody's indulgence in this.
3 Thank you.

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

17 MS. HANNIGAN: Commissioner (indiscernible).

18 COMMISSIONER JONES: Do you even have this?

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

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

23 CHAIRMAN PETERMAN: I was just thinking about. Well,
24 there's two things. Her having it and also -- yeah. If
25 you hand her a copy, that's good. And then if you can

1 explicitly read what you're adding because we don't have it
2 on webcast.

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

5 COMMISSIONER WARA: I have one already.

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

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

10 CHAIRMAN PETERMAN: Bear with us one second folks.

11 COMMISSIONER WARA: Here, I've got one.

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

19 The one substantive change in this language is
20 striking very from low income for the FAIR Plan premium
21 subsidy and having low income be the income eligibility
22 criteria. The reason for that is frankly, there are no
23 very low-income people that can afford to own a house in
24 California. Those that at eighty percent of income or
25 below eighty percent of median income or below are what is



1 defined as low income and that's within the reach of
2 homeownership. And that would capture seniors and others
3 on fixed incomes from whom we heard testimony throughout
4 our hearings who are facing acute challenges with
5 affordability of insurance.

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

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

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

21 COMMISSIONER JONES: And then the third is to separate
22 back the 2 recommendations that got combined in
23 Recommendation 9 and the executive summary. And that is
24 there was a separate recommendation of the working group
25 report on requiring fire risk underwriting models to be

1 filed with the Department. And there was a separate
2 recommendation that the insurer's replacement cost
3 estimated models and tools be filed annually for review
4 with the Department. So those got combined with the
5 executive summary and I think there are separate things
6 about separate things and they ought to be separate
7 recommendations. So that's what that's designed to do.
8 And it's nonsubstantive in terms of the language.

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

21 And I think by shoving it together in the executive
22 summary, it kind of raises its stature to -- an equivalent
23 stature when it was not our intent to do that. So what I'm
24 suggesting is that they be separated out as they were in
25 the working group report and that we add a parenthetical

1 that underscores that the tiered mitigation credit is
2 actually an alternative and far less effective than the
3 prior recommendation. So that's what that language does.
4 That's it.

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

7 COMMISSIONER WARA: I'm comfortable with this.

8 CHAIRMAN PETERMAN: Thank you, Commissioner Jones.

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

11 CHAIRMAN PETERMAN: You have two minutes.

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

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

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

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

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

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

25 MR. JOHNSON: That's in Finding 13. The homeowners



1 insurance market in California is not in crisis yet,
2 although we are marching --

3 COMMISSIONER JONES: That may be one place, but I
4 think what Michael was referring to is if you look on page
5 12, the executive summary under the heading insurance and
6 the narrative text that lays out the findings, we say, and
7 while we are not yet in a crisis, is that --

8 CHAIRMAN PETERMAN: There is both places.

9 COMMISSIONER JONES: Okay. All right.

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

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

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

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

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

22 I only had a note from a recommendation that someone
23 had put forward before, which was and wow in the insurance
24 market is still currently unavailable, it will be
25 increasingly unavailable (indiscernible).



1 UNIDENTIFIED COMMISSIONER: Yeah, that's what the
2 Chair proposed. And I loved that language earlier.

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

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

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

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



1 COMMISSIONER WARAS: I'm really sorry to bring this up.

2 CHAIRMAN PETERMAN: This is the time, sir.

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

7 CHAIRMAN PETERMAN: Large and modest from consecutive
8 summary.

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

11 CHAIRMAN PETERMAN: Okay.

12 COMMISSIONER WARAS: That is more specific. It is
13 substantive. And I would feel more comfortable if we said
14 adequately sized.

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

18 COMMISSIONER WARAS: Right.

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

21 COMMISSIONER WARAS: Yes.

22 CHAIRMAN PETERMAN: So that was my concern.

23 COMMISSIONER WARAS: Something that reflects that I
24 think I am comfortable with. And I agree with you large,
25 small that's subjective. In the eye of the beholder, I



1 would just like to have some tie to that idea. Adequately
2 sized to risk.

3 COMMISSIONER WARAS: To risk, yeah.

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

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

14 CHAIRMAN PETERMAN: That's fine.

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

17 IN UNISON: Yes.

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

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

24 CHAIRMAN PETERMAN: Commissioners, any other proposed
25 changes at this point?



1 MR. JOHNSON: Now is definitely the time. My point
2 is, don't be shy.

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

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

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

23 COMMISSIONER KAHN: I think they should be
24 transmitted. There's is a huge amount of substantive work
25 in each of them. And I think they should be transmitted.



1 We have enough caveats.

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

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

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

13 UNIDENTIFIED COMMISSIONER: I'll make a motion.

14 UNIDENTIFIED COMMISSIONER: So moved.

15 UNIDENTIFIED COMMISSIONER: Second.

16 CHAIRMAN PETERMAN: Comments Commissioners, please.

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

19 CHAIRMAN PETERMAN: I will say I was going to make s
20 comment

21 so I'll just make. I'll make it briefly. But this is
22 our last opportunity and before other legislative
23 testimony.

24 So first of all, it's my pleasure to serve as your
25 Chair. Thank you for that opportunity. And for the hard



1 work you've done. And I just want from my perspective to
2 say why I think these recommendations that we're voting out
3 are good for Californians, including wildfire victims,
4 residents in the WUI, and electric ratepayers. We've
5 talked time and time again about the best solution is no
6 fires. And having no fires of part of that is significant
7 amounts of mitigation. And if we want utilities to be
8 doing the mitigation and to reduce fires, they have to be
9 able to make investments. And those investments need to be
10 financed even if over time our ratepayers pay for those
11 investments.

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

23 And we know from our own personal lives as we get
24 credit cards, et cetera, that risks are evaluated every
25 day. And if we're viewed as riskier, it's more expensive



1 for us to borrow money. I mean, that's just experience
2 that we're in right now with our utilities. And so we have
3 recommendations that are focused on how do you de-risk the
4 wildfire situation. And those are our recommendations
5 around changes to inverse, recommendations to revise the
6 cost recovery standard, and recommendations to further
7 invest in mitigation. And we're also calling for
8 improvements in the insurance markets and insurance. And
9 by broadly, you know. One, recommendation is to have a
10 fund that is meant to provide support where we're not
11 seeing utility insurance manifest or that market hardening
12 and then changes to the residential insurance market to
13 make sure that insurance remains affordable and available.

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



1 everyone's thoughtfulness.

2 So with that, let's call the roll.

3 Commissioner Nava.

4 COMMISSIONER NAVA: Aye.

5 CHAIRMAN PETERMAN: Commissioner Wara.

6 COMMISSIONER WARA: Aye.

7 CHAIRMAN PETERMAN: Commissioner Kahn.

8 COMMISSIONER KAHN: Aye.

9 CHAIRMAN PETERMAN: Commissioner Jones.

10 COMMISSIONER JONES: Aye.

11 CHAIRMAN PETERMAN: Commissioner Peterman.

12 Aye.

13 It's unanimous we vote to transmit these
14 recommendations.

15 Thank you, everyone, for your hard work. We are
16 adjourned. We're not adjourned.

17 MR. JOHNSON: On the agenda we did have a final public
18 comment period as Item Number 8 and I want to honor that.
19 We obviously had extensive public comment earlier. But I
20 think it's important to honor what's on the agenda. So if
21 anybody has any final comments, please feel free to come up
22 to the podium right now.

23 I want to make one final closing comment, if that's
24 Okay. On the future of the Commission that this is the
25 last scheduled meeting of this Commission, we will send out



1 an announcement on the, sort of, intended future of this
2 Commission by the end of next week. We anticipate or by
3 the time the document is transmitted to the legislature to
4 bring clarity to the process for the Commissioners and the
5 public as well.

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

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

12 CHAIRMAN PETERMAN: I anticipate that we will.

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

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



1 Are adjourned?

2 We are adjourned. Have a good weekend, everyone.

3 Thanks again for your engagement.

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

5 (End of Recording)

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