



COUNTY OF HUMBOLDT

For the meeting of: June 5, 2018

Date: May 31, 2018
 To: Board of Supervisors
 From: Amy S. Nilsen, County Administrative Officer *[Signature]*
 Subject: Liability for California Wildfires

RECOMMENDATION(S):

That the Board of Supervisors support the California State Association of Counties (CSAC) and Rural County Representatives of California (RCRC) response to utility companies requesting legislative action to limit and/or comprehensively restrict negligent liability on the part of Investor Owned Utilities (IOUs) for 2017 California wildfires and future wildfires.

SOURCE OF FUNDING: N/A

DISCUSSION:

The 2017 fire season was among the worst in California history. Several municipalities have filed lawsuits against IOUs for their role in the cause of the wildfires. The IOUs recently submitted a letter to state legislative leaders requesting the state to:

1. Modernize vegetation and forest management practices for fire prevention and carbon sequestration.
2. Ensure utility and public infrastructure is designed, constructed and operated to maximize resiliency to extreme weather events and natural disasters.

Prepared by <u>Amy S. Nilsen</u>	Signature <i>[Signature]</i>
REVIEW: Auditor _____ County Counsel _____ Human Resources _____ Other _____	
TYPE OF ITEM: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Departmental <input type="checkbox"/> Public Hearing <input type="checkbox"/> Other _____	BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT Upon motion of Supervisor <u>Fennell</u> Seconded by Supervisor <u>Wilson</u> Ayes <u>Bass, Fennell, Sundberg, Bohn, Wilson</u> Nays _____ Abstain _____ Absent _____
PREVIOUS ACTION/REFERRAL: Board Order No. _____ Meeting of: _____	and carried by those members present, the Board hereby approves the recommended action contained in this Board report. Dated: <u>6/5/18</u> By: <i>[Signature]</i> Kathy Hayes, Clerk of the Board

3. Enhance the emergency response system, including consideration of mutual aid resources, telecommunications, 911 systems, and community needs, particularly in low-income and vulnerable rural and urban communities.
4. Examine the availability of insurance products in high wildfire areas in light of increased risks from climate change.
5. Update liability rules and regulations for utility services in light of changing climate and the increased severity and frequency of weather events.

While many of these requests are in line with your Board's recent addition of the climate change legislative platform, the fifth request, to alter negligent liability on the part of utility companies is of particular interest.

Staff recommends supporting the efforts of CSAC and RCRC to prevent changes to liability laws for IOUs.

FINANCIAL IMPACT:

There is no additional cost to supporting the efforts of CSAC and RCRC.

OTHER AGENCY INVOLVEMENT: N/A

ALTERNATIVES TO STAFF RECOMMENDATIONS: Board discretion

ATTACHMENTS:

1. California State Association of Counties letter regarding Liability for 2017 California Wildfire
2. Utility company letter



® April 30, 2018

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The Honorable Anthony Rendon, Assembly Speaker
California State Assembly
Sacramento, CA 95814

The Honorable Toni Atkins, Senate President Pro Tempore
California State Senate
Sacramento, CA 95814

RE: Liability for 2017 California Wildfires

Dear Assembly Speaker Rendon and Senate President Pro Tem Atkins:

The California State Association of Counties (CSAC) writes to express our opposition to any potential undue transfer of the liability that resulted from California's historic 2017 wildfire season. It has come to our attention that there is an advocacy effort underway to limit and/or comprehensively restrict negligent liability on the part of the Investor Owned Utilities (IOUs) as a result of the 2017 wildfires in Northern and Southern California. This effort comes even prior to the final report from the Department of Forestry and Fire Prevention that seeks to identify the source of the fires and any liability associated.

As you know, the 2017 fire season was among the worst in the history of California. On Oct. 8, 2017, a series of wildfires erupted in Northern California and engulfed 100 square miles. Encouraged by the same hot and windy conditions, other major wildfires soon broke out across the state, devastating more than 245,000 acres of land and destroying over 8,900 structures. Containment took nearly two weeks, and tragically 44 lives were lost. On Dec. 4, 2017, another series of wildfires erupted in Southern California, resulting in significant destruction in Ventura, Los Angeles, San Diego and Santa Barbara counties. These fires spread quickly due to strong winds and dry brush. The fires destroyed hundreds of homes and other structures, burned almost 300,000 acres, and caused widespread power outages that forced the closure of major highways and local roads. The affected communities—including 13 counties—have suffered many billions of dollars in uninsured losses.

Our concern is that there is an effort underway to preemptively, and potentially retroactively, deny the rights of those who sustained losses from the fires before a full assessment of cause and determination can be made. We understand that the safety division of the California Public Utilities Commission (CPUC) and the Department of Forestry and Fire Prevention (CAL Fire) are still in the process of reviewing whether a utility might have played a role in triggering the disaster. As this investigation will take some time to determine the full extent of cause and liability, we think it is dangerously premature to consider any legislative or budgetary proposal that would make changes to liability. Furthermore, if IOU actions ahead of the fires were reasonable and prudent, there should be no need for further action to reduce liability. However, let us be clear.

CSAC strongly opposes immunity, retroactive or otherwise, for IOUs regarding legal liability resulting from utility-caused fires.

Should you have any questions regarding our position, we welcome an open dialogue. Please feel free to contact my staff, Darby Kernan, CSAC Deputy Executive Director for Legislative Affairs, at 916-327-7500, ext. 509, or Cara Martinson, Senior Legislative Representative, at 916-327-7500, ext. 504.

Sincerely,

A handwritten signature in black ink, appearing to read 'GKnaus', written in a cursive style.

Graham Knaus
Executive Director

cc: Members of the California Assembly & Senate



May 29, 2017

The Honorable Edmund G. Brown Jr.
 Governor of California
 State Capitol, Suite 1173
 Sacramento, CA, 95814

The Honorable Toni Atkins
 Senate President Pro Tempore
 State Capitol, Room 205
 Sacramento, CA 95814

The Honorable Anthony Rendon
 Speaker of the Assembly
 State Capitol, Room 219
 Sacramento, CA 95814

The Honorable Patricia Bates
 Senate Republican Leader
 State Capitol, Room 305
 Sacramento, CA 95814

The Honorable Brian Dahle
 Assembly Republican Leader
 State Capitol, Room 3104
 Sacramento, CA 9481

RE: Climate Resilience and Healthy Utilities

Dear Governor Brown and Legislative Leaders,

The unprecedented scale of wildfires, like those that hit both Northern and Southern California last year, make it increasingly clear that California needs to take comprehensive steps to address the growing threat of wildfires. Eight of the 20 most destructive fires in California’s history have occurred since 2015, with five occurring in 2017 alone. As stated in the Governor’s ‘May Revise’ Summary, “between October and December, the combination of increased fire-prone vegetation from the winter storms and extreme winds triggered the most destructive wildfires in the state’s history” and “decades of fire suppression, coupled with drought and the effects of climate warming, have dramatically increased the size and intensity of wildfires.”

California’s electric utilities¹ support the call to action by Governor Brown and legislative leaders to address this “new normal”, and we are committed to being part of the broader solution to this statewide issue. California’s utilities are committed to mitigating fire risk and protecting the communities we serve. Safety is a core value for all of our organizations. The California Utilities specifically support the principles established by the Governor and legislative leaders as they seek to:

1. **Modernize vegetation and forest management practices for fire prevention and carbon sequestration.**
 The California Utilities know that trees, shrubs and other vegetation can cause safety hazards and power outages if they grow near or into power lines. We support more robust forest management practices across the state, and continue to perform active vegetation management measures, including trimming and removal of trees to reduce the risk of fire.

¹ Southern California Edison, San Diego Gas & Electric, Pacific Gas & Electric, California Municipal Utilities Association, Redding Electric Utility, Lassen Municipal Utility District, Trinity Public Utility District, Sacramento Municipal Utility District, Los Angeles Department of Water and Power, Glendale Water and Power, Northern California Power Authority, Truckee Donner Public Utility District, City of Shasta Lake Electric Utility, Banning Electric Utility, Burbank Water and Power, Modesto Irrigation District, Plumas-Sierra Rural Electric Cooperative, City of Palo Alto Utilities, Riverside Public Utilities, City of Pasadena, Southern California Public Power Authority, San Francisco Public Utilities Commission

2. ***Ensure utility and public infrastructure is designed, constructed and operated to maximize resiliency to extreme weather events and natural disasters.*** We support cost-effective measures that help utilities maintain their equipment in a manner that maximizes public safety and reliability during extreme weather.
3. ***Enhance the emergency response system, including consideration of mutual aid resources, telecommunications, 911 systems, and community needs, particularly in low-income and vulnerable rural and urban communities.*** The California Utilities have engaged in fruitful partnerships with state, county, and local firefighting and emergency response organizations, and we support their further funding. The abovementioned resources are critical to minimizing the damages caused by wildfire, especially in vulnerable communities.
4. ***Examine the availability of insurance products in high wildfire areas in light of increased risks from climate change.*** The California Utilities recognize the increasing insurance challenges faced by homeowners in high-wildfire areas. We applaud the Governor and legislative leadership for their focus on the availability of insurance products in light of increasing fire risk. Utilities are also having a difficult time finding cost-effective coverage and we support efforts to explore the increased availability of affordable insurance products for utilities – which will have direct benefits for our customers.
5. ***Update liability rules and regulations for utility services in light of changing climate and the increased severity and frequency of weather events.*** The California Utilities agree that liability rules need to be updated. California is an outlier in imposing no-fault strict liability on both investor-owned and publicly-owned utilities whereby a utility is liable for damages even if it adhered to all established safety and maintenance standards. The current system is unsustainable in the face of increasingly severe and frequent weather extremes. We support efforts to update the liability standard for all electric utilities subject to inverse condemnation to a standard that does not assign liability without fault. Updating the liability standard is essential to ensure that California’s utilities can continue to provide affordable and reliable service. In connection with these efforts, the current unsustainable cost recovery approach should also be updated to minimize impacts to our customers.

Utilities are also among the state’s largest employers providing significant economic investment in local communities. As environmental leaders have noted², we are also key enablers of the state’s clean energy future. For example, achieving the state’s greenhouse gas and clean energy goals depends on the utilities’ investments in the grid and increasing their use of renewable energy resources under existing state policy. The health of all California’s utilities is important to the state as a whole – and the application of liability without fault threatens the health of all utilities. These developments have real impacts on our customers.

We are committed to fighting climate change and reducing the risk of wildfires. The challenges before us cannot be solved by the California Utilities alone and requires a comprehensive set of solutions developed in partnership with the state and other key stakeholders. We look forward to working with the Legislature and the Governor’s Office to bring the principles you have crafted to life.

California needs immediate leadership that is supported by a broad coalition of stakeholders. Together we can deliver workable solutions that can save lives and protect our homes, our businesses, our environment, and our economy.

-- END --

² Leaders from NRDC, the Nature Conservancy, and Ceres.
See link: <https://www.nrdc.org/experts/ralph-cavanagh/avoiding-another-type-electricity-crisis>