

### **Written Testimony of Frank Frievalt**

Subcommittee on the Administrative State, Regulatory Reform, and Antitrust of the Committee on the Judiciary respectfully requests your testimony at a hearing titled, “California Fires and the Consequences of Overregulation” on Thursday, February 6, 2025, at 10:00 am in room 2141 of the Rayburn House Office Building.

Honorable Members of the Subcommittee:

My written testimony is founded upon the following:

- 18-months as the Director of the Wildland-Urban Interface (WUI) FIRE Institute: Letters of Reference for the position were provided from :
  - Stanford Doerr School of Sustainability, and Woods Institute for the Environment – Michael Wara, JD, PhD, Policy Director and Senior Research Scholar and Director, respectively
  - Gordon and Betty Moore Foundation – Genny Biggs, Program Director, Special Projects
  - Insurance Institute for Business and Home Safety – Roy Wright, Chief Executive Officer
  - National Institute of Standards and Technology; Engineering Laboratory, Fire Research Division – Alex Maranghides, Senior Wildland-Urban Interface Researcher
  - American Property Casualty Insurance Association – Mark Sektnan, Vice President, State Government Relations
  - Fire Service – a joint letter from the presidents of the:
    - Fire District Association of California – Jim Comisky
    - California State Fire Chiefs Association – Chris Tubbs
    - Western Fire Chiefs Association – Mark Niemeyer
- 43-years of fire experience in WUI settings, 24-years of that in Nevada
- Western Fire Chiefs Association Executive Board (AK, AZ, CA, HI, ID, MT, NV, OR, UT, WA, Western Pacific Islands)
- B.S. Fire Administration, M.S. Fire and Emergency Management Administration, Ph.D. (A.B.D.) Political Science, Major in Public Administration, Minor in Public Policy
- Multi-State Mitigation Alignment Project (CA, OR, WA, NV, CO, ID, AZ)
- Subject Matter Expert to the Wildfire Resilience Initiative (Gordon & Betty Moore Foundation)
- Subject Matter Expert to the California Department of Insurance, Public Wildfire Modeling Strategy Group

In my opinion, the unprecedented levels of life and property loss in California WUI communities, from the 1930 Malibu Fire, to the 1991 Oakland Hills Fire, the Camp Fire in 2017, and many during and after, including especially the recent Palisades and Eaton Fires were not wildfires, they were urban conflagrations initiated by wildfires.

The current mobilization of local/state/federal government bodies, public policy debate, and financial resources is primarily in response to unacceptable levels of life and property loss in WUI communities, not vegetation lost in wildfires. The focus of this hearing on overregulation in property insurance and community recovery reinforces that. For this reason, we must not approach the WUI conundrum as primarily a wildfire problem; confusing one for the other creates compounding errors in our thinking and public policy. Nor should we approach it as primarily an urban problem. Communities experience non-wildfire initiated structure fires frequently in high wind and dry conditions without generating urban conflagrations. The reason is the ember-initiation of many structure fire simultaneously, overwhelming the initial response, and then transitioning into an urban conflagration.

Three incremental changes have combined to exacerbate structure loss in the WUI: 1) An accumulation of fuels since 1910 through 100% suppression policies. For many reasons this policy was beneficial at the time, yet it altered the natural occurrence of more frequent but less intense fires, 2) Increasing development of communities into fire *dependent* landscapes and, 3) An increase in vapor pressure deficit (VPD) due to warming air masses at scale. This basically allows the atmosphere to hold more water in suspension as a gas before it condenses and rains/snows. The result is larger swings between too wet/too dry, too hot/too cold; these extremes support more frequent natural catastrophes. Modeling the past relationship between VPD and acres burned into the future projects a five-decade period where the average acres burned will be roughly 250-300% of our peak lived experience<sup>1</sup>.

**We cannot suppress, price, or regulate our way out of the WUI conundrum. These strategies will continue to be necessary, but insufficient - here is why:**

First and foremost, please invest 26 minutes to watch "Design for Disaster" about the 1961 BelAir and Brentwood Fires. With a singular exception (the nearly complete eradication of wood shingle roofs) every contributing factor to that conflagration existed in the Eaton and Palisades fires. That was 64 years ago. The 1970 Laguna Fire burned for 13 days, resulted in 16 deaths, destroyed 700+ structures, more than 500,000 acres burned, and over \$234 million in damage. We have invested enormous amounts of resources to grow our firefighting capability, and in most cases, we are effective (98 percent of wildfires are suppressed before they grow larger than 100 acres)<sup>2</sup>. But the growing trend is for a higher density of structures burned in smaller footprints<sup>3</sup>. Indeed, 89% of structure loss to wildfires from 2001-2019 occurred in just 2.7% of the fires<sup>4</sup>. In roughly the same duration as the Laguna Fire, the Palisades and Eaton Fires, just 7.5% the size of the Laguna Fire, killed almost twice as many people, destroyed 22 times more structures, and caused 171 times more direct financial loss<sup>5</sup>. We may be "winning" on wildfires, but we are definitely "losing" on WUI conflagrations.

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<sup>1</sup> chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.caryinstitute.org/sites/default/files/public/downloads/ev\_hansen\_green\_slides\_vf.pdf; Slide #8

<sup>2</sup> <https://www.fs.usda.gov/detailfull/r5/home/?cid=FSEPRD1064021>

<sup>3</sup> <https://phys.org/news/2023-02-western-wildfires-destroyed-homes-decade.html>

<sup>4</sup> <https://www.science.org/doi/10.1126/science.adk5737>

<sup>5</sup> Assumes \$40,000,000,000 as the direct loss; only estimates are available at this time

**Key takeaway 1 - we cannot suppress our way out of the WUI conundrum.**

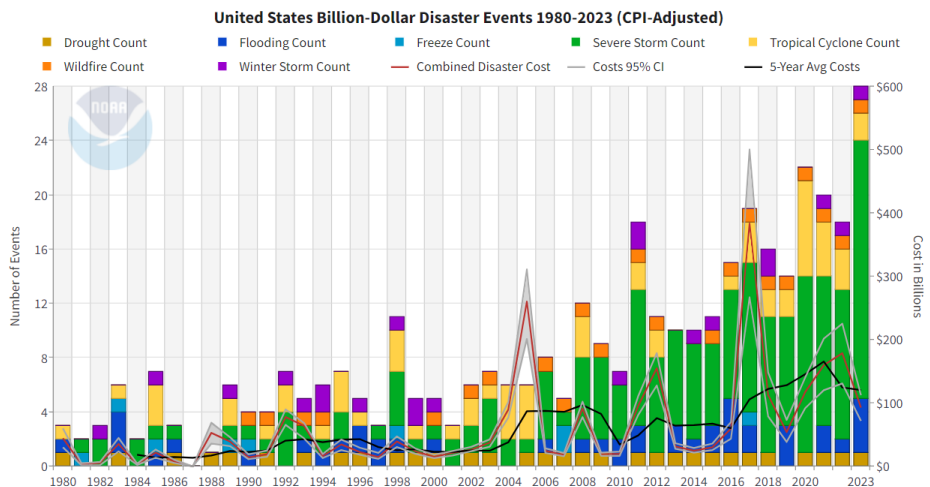
One of the unintended consequences of Proposition 103, over time, has been the incremental suppression of risk-signaling through risk pricing. The recent changes included in the Sustainable Insurance Strategy include provisions to allow increased premium to correct price suppression. However, increasing “rate” in the absence of changing “conditions on the ground”<sup>6</sup>, given the three incremental changes addressed earlier, and the projections for acres burned, will not do anything to reduce insured losses. If the only strategy is to increase rate to cover losses, the trend will continue until the price is unaffordable (e.g., when insurance costs start to approach a second mortgage). Unless we start pay cash for homes, lending would contract in the absence of surety.

**Key takeaway 2 - we cannot price our way out of the WUI conundrum.**

This excerpt from the recent IBHS Report "The Return of Conflagration to Our Built Environment" says it best, "The roots of the problem we face today can be traced back nearly a century to policy decisions, land-use strategies, construction practices, and the belief that conflagration in the built environment had been solved. Although the urban fire problem was mitigated through building codes, improved fire service response capabilities and more fire-resistant materials, another was growing where suburbs meet the wildlands. Many of the same elements that led to the urban conflagrations of the 18th, 19th, and early 20th centuries are now present within suburbs bordering wildlands. These elements are: Dense construction, Lack of ignition-resistant construction materials, Dense fuels between structures. As the impacts of climate change increase, this sets the stage for the built environment conflagrations we have seen over the past decade."

**Key takeaway 3 - we have not yet demonstrated the willingness (in the WUI setting) to regulate our way out of the WUI conundrum in the way we did to end urban conflagrations.**

Only retroactive mitigation at scale of existing WUI communities, and application of better policies for density, fire-resistant construction materials/methods, and reductions of natural and man-made connective fuels in new WUI communities will change the unsustainable loss trajectory we are on (Refer to image on billion dollar catastrophe trends). There



<sup>6</sup> Retroactively hardening structures (IBHS Wildfire Prepared Home), removing combustible materials from the first 5-feet around the house.

must be clear alignment between public policy and market pricing signals about the mitigation requirements in WUI communities.

This is the first time in my career I have seen capitalists and environmentalists on the same side of the table (although they don't always realize it) because now, the environment is the economy. Global diversification of risk and investment portfolios for sustainable returns and market stability are a hallmark of the global reinsurance market (e.g., Lloyds of London – since 1688). With no attribution to cause, the trajectory of these financial losses is not sustainable for the public or private sectors.

Can we find fault and inadequacy in California regulatory policy, certainly. But if that's where it ends, it serves no purpose to the public safety and financial stability of our citizens. If this is really about finding, and correcting, the contributing factors to the recent LA fires, then we must be thorough.

To suppression, regulation, and pricing strategies we must add, and make preeminent, retroactive parcel mitigations at sufficient community density to disrupt conflagration. There must be alignment around those evidence-based mitigations between the State Fire Marshal, the Insurance State Commissioner, the state insurance trades, and the local government fire services.

Looking only for fault misses the positive changes in policy already made. The California Wildfire and Forest Resilience Task Force has been evolving its investments because they realize just counting acres treated isn't enough to get the outcomes we need. CalFire discussed recently in the media where and exactly how extreme events are outpacing its current model capabilities, they know they have to evolve. The California Fire Chiefs Association recently held a Fire Insurance Symposium and will likely dedicate a new section to specifically address alignment issues so that insurers and the fire service are aligned in the guidance we are giving property owners. The California Department of Insurance and IBHS have very similar mitigation requirements now at the parcel level (Safer From Wildfire and Wildfire Prepared Home); are they identical, no, but we could not have even made a distinction until recently. Cal Poly San Luis Obispo has created a first of its kind WUI institute to specifically focus on just the WUI issue by connecting all the necessary but fragmented policies, technologies, social science, mitigations, architecture, fire protection engineering, urban planning, and construction methods to the last mile of application. And lastly, while my national and international colleagues enjoy mocking "my" California, which we earn at times, they also seek me out when no one is watching, and ask, tell me again about what you are doing?

The WUI conundrum needs no more decimal points added to definitions of the problem, no more selective blame, no more wasted effort with scarce resources, masquerading level of effort for level of efficacy. Unless we are self-appointed, others have placed us here to serve them well; starting with me, I'm at your service.

Thank you for your time today.

Respectfully submitted,

*Frank Frievatt*

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