



**CALIFORNIA CATASTROPHE  
RESPONSE COUNCIL MEETING  
THURSDAY, JANUARY 16, 2020  
9:00 A.M.**

**California Department of Food and Agriculture  
1220 N Street  
Auditorium, Room 131  
Sacramento, California 95814**



**Date of Notice: Friday, January 3, 2020**

## **PUBLIC NOTICE**

### **A PUBLIC MEETING OF THE CALIFORNIA CATASTROPHE RESPONSE COUNCIL**

**NOTICE IS HEREBY GIVEN** that the California Catastrophe Response Council (Council) will meet in Sacramento, California. Pursuant to California Government Code §11120 *et seq.*, the Bagley-Keene Open Meeting Act applies generally to meetings of the Council, and the meeting is open to the public – public participation, comments, and questions will be welcome for each agenda item. All items are appropriate for action if the Council wishes to take action. Agenda items may be taken out of order.

**LOCATION:** California Department of Food and Agriculture \*  
Auditorium, Room 131  
1220 N Street  
Sacramento, California

**DATE:** Thursday, January 16, 2020

**TIME:** 9:00 a.m.

**\* Because of facility limitations at this location, this Council meeting will not be available as streaming video on the Internet, but can be listened to remotely as noted above. Please note that Public Participation will be available only at the meeting location.**

**This meeting of the Council will be available for audio streaming. Please wait until the official start time of the meeting before clicking the icon:**



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**If you are unable to hear the meeting, please call CEA directly at (916) 661-5001 for assistance.**

## **AGENDA:**

### **Preliminary Items**

1. Call to order and member roll call:

Governor  
Treasurer  
Insurance Commissioner  
Secretary for Natural Resources  
Appointee of the Speaker of the Assembly  
Appointee of the Senate Rules Committee  
Public Member Paul Rosenstiel  
Public Member Rhoda Rossman  
Public Member Catherine Bando

*Establishment of a quorum*

2. Minutes: Review/approve minutes of the August 7, 2019 meeting of the CEA Governing Board exercising the powers of the California Catastrophe Response Council, and overseeing the activities of CEA acting as Interim Administrator of the Wildfire Fund.
3. Executive Report: Report by CEA Executive Staff regarding CEA's responsibilities and actions as Interim Administrator of the California Wildfire Fund.
4. Council Meetings: Discussions of
  - a. Leadership of Council
  - b. Meeting schedule
  - c. Bagley-Keene Act compliance
5. Conflict-of-Interest Code: Authorize CEA to manage the Conflict of Interest Code adoption process pursuant to Cal. Gov. Code § 87300.
6. Statement of Incompatible Activities: Adopt the Statement of Incompatible Activities pursuant Cal. Gov. Code § 19990.

### **Discussion Items**

7. Administrator: Discussion of the appointment of the Administrator of the Wildfire Fund.
8. Plan of Operations: Discussion of the development of a Plan of Operations for the Wildfire Fund pursuant to Public Utilities Code § 3282.
9. Claims Administration: Discussion of the Administrator's procurement of consulting and claims administration services for post-event functions.

10. Public comment on matters that do not appear on this agenda and requests by the public that those matters be placed on a future agenda.
11. Adjournment.

For further information about this notice or its contents:

**Agenda Information:**

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General Counsel and Acting Chief Operations Officer  
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**To view this notice on the California Wildfire Fund website, please visit**  
[www.cawildfirefund.com](http://www.cawildfirefund.com)

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**NOTE: If in the future you do not wish to receive public notices pertaining to the Council, please send your request by email to [smceuen@calwildfire.com](mailto:smceuen@calwildfire.com)**



## California Catastrophe Response Council Memorandum

January 16, 2020

Agenda Item 2: Meeting Minutes

Recommended Action: Approve minutes

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Review/approve minutes of the August 7, 2019 meeting of the CEA Governing Board exercising the powers of the California Catastrophe Response Council, and overseeing the activities of CEA acting as Interim Administrator of the Wildfire Fund.

**DRAFT**

**MEETING OF THE CALIFORNIA EARTHQUAKE AUTHORITY  
GOVERNING BOARD, EXERCISING THE POWERS OF THE CALIFORNIA  
CATASTROPHE RESPONSE COUNCIL  
MINUTES**

**Wednesday, August 7, 2019  
1:00 p.m.**

Location: California Department of Food and Agriculture  
Auditorium, Room 131  
1220 N Street  
Sacramento, California

Members of the Governing Board in attendance:

Mark Ghilarducci, designee of Governor Gavin Newsom, Board Chair  
Kasey O'Connor, designee of State Treasurer Fiona Ma  
Michael Martinez, designee of Insurance Commissioner Ricardo Lara

Members of the CEA Staff in attendance:

Glenn Pomeroy, Chief Executive Officer  
Tom Hanzel, Chief Financial Officer  
Shannon McEuen, Governing Board Liaison  
Tracy Palombo, Reinsurance and Risk Transfer Director  
Tom Welsh, General Counsel

Public comment:

Michael Aguirre, Aguirre & Severson LLP  
Maria Severson, Aguirre & Severson LLP  
Steven Greenhut, R Street Institute

**1. Call to order and member roll call**

Chair Mark Ghilarducci called the meeting to order at 1:04 p.m. A quorum was achieved.

**2. Executive Report**

Glenn Pomeroy, CEA Chief Executive Officer, welcomed everyone and stated the non-voting members expressed their regret that they were unable to be in attendance.

Mr. Pomeroy provided a high-level introduction of Assembly Bill (AB) 1054, and the creation of the California Wildfire Fund (CWF). He provided an overview, with a slide presentation, of the CWF governance structure, interim governance structure, makeup, and initial administrative steps to be taken in today's meeting. He stated the California Catastrophe Response Council (CCRC) will soon be established and will be made up of nine voting members including the Governor, Insurance Commissioner, Treasurer and secretary for Natural Resources. The other five members have yet to be appointed. Once the CCRC is established, one of its duties will be to appoint a California Wildfire Fund Administrator.

Mr. Pomeroy stated, in the interim, the CEA Governing Board has been mandated by statute to assume the authorities and duties of the future CCRC, to exercise oversight of the CWF Administrator and the steps being taken to set up the CWF.

### **3. California Wildfire Fund Setup and Capitalization**

Tom Welsh, CEA General Counsel, stated this meeting will follow prudent procedures to ensure that the statutory deadlines set out by the Legislature will be met. The infrastructure for the CWF addressed in this agenda item must be put into place within a short period of time in order to receive the initial capitalization of the CWF, which has two components – a short-term loan from the Surplus Money Investment Fund (SMIF) and capital contributions from the utilities, which are due to be received approximately September 10th.

Tom Hanzel, CEA Chief Financial Officer, reviewed the background, findings, and recommendations for the following resolutions to establish the administrative infrastructure for the CWF, which were included in the meeting packet:

#### **a. Custodial Banking and Demand Deposit Accounts**

Mr. Hanzel described the need for the establishment of a custodial trust account at a national bank to hold all assets in the CWF.

#### Public Comment

Michael Aguirre, Aguirre & Severson LLP, stated he is an attorney representing utility customers in a federal court lawsuit challenging the

legality of AB 1054 and the CWF. He stated this meeting has no force and effect because the notice did not stipulate the use of designees. He stated, if the designees have been told how to vote prior to the meeting, that is in violation of the open meeting law, but, even if they were not told how to vote prior to the meeting, designees have no legal authority to exercise discretionary decision-making power.

Mr. Aguirre stated utility customer funds and the money in the SMIF account are public funds. The Board has no legal authority to allocate or transfer public funds. He asked that the meeting be terminated.

Maria Severson, Aguirre & Severson LLP, stated this meeting should not go forward because it is proceeding in violation of the Bagley-Keene Act. She stated she sent a formal objection to Mr. Welsh and expect it to be printed as part of these proceedings. She agreed with Mr. Aguirre that the notice failed to state that the Board would not be attending in their original capacities. She stated her concern about the \$2 billion transfer from the SMIF, which are public funds that suddenly will be called non-public funds; yet ratepayers, utility customers, and taxpayers will be forced to fund and pay back that \$2 billion.

**MOTION:** Ms. O'Connor moved to approve, adopt, and ratify agreement between CEA, as Interim Administrator of an on behalf of the California Wildfire Fund, and U.S. Bank, National Association (USB) for Custodial Banking and Demand Deposit Accounts. Mr. Martinez seconded. Motion carried unanimously.

#### **b. Asset-Management Services**

Mr. Hanzel described the need to engage asset managers to invest funds in the CWF.

#### Public Comment

Mr. Aguirre questioned the transfer of funds in the SMIF account that belong to taxpayers to private individuals so that they can manage the money and then turn it over to the utilities. He asked how that is possible.

Mr. Aguirre stated the Governor has done away with General Order 95, which sets out the basic safety rules promulgated by the California Public Utilities Commission (CPUC) and adopted the Federal Energy Regulatory Commission (FERC) standard. The Board is asking utility customers to automatically pay before the CPUC has determined if it will transfer funds. He asked the Board to pause to request a written legal opinion with legal

authorities from Mr. Welsh if what the Board is being asked to do is proper under the law and under the state constitution.

**MOTION:** Mr. Martinez moved to approve agreements by CEA, as Interim Administrator of an on behalf of the California Wildfire Fund, for Asset Management Services from:

- Eaton Vance Management
- PFM Asset Management
- RBC Global Asset Management
- Smith Graham & Co.

Ms. O'Connor seconded. Motion carried unanimously.

### **c. Investment Consulting**

Mr. Hanzel described the need to engage an investment advisor to assist the Administrator of the CWF in investing assets of the CWF.

#### Public Comment

Mr. Aguirre stated the members of the Board are using their designees so they can deny they participated in this meeting. He stated Governor Newsom took \$208,000 from PG&E, a convicted felon that borrowed \$5 billion and then went into bankruptcy. He stated the Governor and the legislators, who PG&E paid off, are basically giving PG&E the keys to the state treasury.

Ms. Severson stated the meeting notice indicates that the CEA Governing Board will sit in its capacity to exercise the powers of the CCRC. Three designees are present but the CCRC is a nine-member council that is not permitted to be active until a quorum is established. There should at least be a full representative board before any action is taken. No action should be taken today. She suggested slowing the process down, allowing the Governor to appoint the nine council members, and then establish a quorum in a formal meeting.

#### Questions and Discussion

Ms. O'Connor asked General Counsel to respond to stakeholder comments regarding why the Board is able to vote today.

Mr. Welsh stated AB 1054 creates the CCRC but states the CCRC cannot operate until a majority of the nine members are appointed. He stated AB 1054 deals with the interim period of time by saying that, until the CCRC

can act, all powers vested in the CCRC under the legislation are given to the CEA Governing Board.

Mr. Welsh stated the CEA statute, 10089.7(a), clearly specifies that this Board, made up of the Governor, the Treasurer, and the Insurance Commissioner, has the authority expressly in statute to appoint designees to act as the members. It is in that capacity that the Board is meeting today.

**MOTION:** Ms. O'Connor moved to approve, adopt, and ratify agreement by CEA, as Interim Administrator of an on behalf of the California Wildfire Fund, for Investment Consulting services to be performed by Raymond James & Associates. Mr. Martinez seconded. Motion carried unanimously.

#### **d. Additional Asset Managers**

Mr. Hanzel explained the need to procure additional asset managers to invest future funds deposited into the CWF.

##### Public Comment

Mr. Aguirre stated the Governor told the public that each side was going to put in half of the \$21 billion fund and no one was going to make any money off of it. He stated page 3 of 9 of the Staff Report, which was included in the meeting packet, now states the public will put in \$10.5 billion while the utilities will put in \$2.68 billion.

Mr. Aguirre stated the bill sets aside \$5 billion for infrastructure improvement, but \$21 billion is planned to be set aside for wildfire claims that have not been filed for wildfires that have not occurred.

Mr. Aguirre referred to page 4 of the Staff Report where it states that \$4.82 billion will come from PG&E after it confirms a plan of reorganization. He asked when that will occur, what it means, and what the authority is. He stated a conspiracy to violate the law is a felony and what the Board is doing is a fraud.

##### Questions and Discussion

Mr. Martinez asked to table this agenda item, engage in a Request for Proposals (RFP) process to increase the pool of asset managers, and to inform the Board of specific asset managers identified at a later date, consistent with the oversight role of the Board and the CCRC.

Ms. O'Connor agreed. She stated her appreciation that there is one minority-owned asset management firm but asked staff to ensure a diverse pool of other minority-owned or women-owned asset management firms.

Mr. Welsh stated that has historically been part of CEA practices with respect to the Earthquake Authority so that will continue on behalf of the Wildfire Fund.

#### **e. Investment Policies**

Mr. Hanzel discussed the need to adopt written Investment Policies for the CWF to guide and control CWF investments.

#### Public Comment

Mr. Aguirre stated the investment banker Bank of America Merrill Lynch wrote to the Governor's key person on AB 1054 and said the way this is structured makes for an attractive investment structure. He stated utilities can use their insurance to pay for wildfire claims. They do not even have to show that they were not negligent. They are not responsible, then, for paying. He asked where the claim is, who will claim this money, and what the purpose of doing this is.

Mr. Aguirre stated what will happen is utility customers will be taxed, a fund created, and that fund will be completely disconnected from the issue, which is how to prevent wildfires in the future. He asked the Board not to approve this. Investment advisors and managers are not needed to put it in treasuries, a risk-free rate of return; the state treasurer can do that. Risk-free rate of return takes no active management and does not require hiring individuals who will make money for doing no real value-added work.

**MOTION:** Ms. O'Connor moved to approve and adopt proposed California Wildfire Fund Investment Policies. Mr. Martinez seconded. Motion carried unanimously.

#### **f. Cost Allocation Methodology**

Mr. Hanzel explained the need to develop a cost allocation methodology to ensure that the costs of administering the CWF are paid by the CWF, not by the California Earthquake Authority.

#### Public Comment

No public comment.

**MOTION:** Mr. Martinez moved to authorize CEA staff to develop, document, and implement a cost allocation methodology to allocate all administration expenses arising from or related to the California Wildfire Fund for payment by the California Wildfire Fund. Ms. O'Connor seconded. Motion carried unanimously.

#### **4. California Wildfire Fund Risk Transfer**

Tracy Palombo, CEA Reinsurance and Risk Transfer Director, stated the CWF is "on risk" for the current wildfire season. She reviewed the background, findings, and recommendations for the following resolutions, which were included in the meeting packet:

##### **a. Risk Transfer Intermediary**

Ms. Palombo explained the need for the Administrator to engage the services of a reinsurance intermediary to advise on potential risk transfer options to de-risk the CWF.

##### Public Comment

Mr. Aguirre encouraged the Board to consider the big picture and what they are being asked to do. This fund will only cover wildfires that occur after July 12, 2019. No covered wildfires have been identified to date. The CWF will not act as an insurance fund. There is no claim procedure. The funds will be spread to investment advisors and managers and fees will be charged to dwindle down the fund. It has little to do with wildfires and much to do with opportunistic investment bankers seizing upon the situation, misleading the Governor, and exploiting this problem. He suggested asking a reinsurance person to present how their services are worth the money.

Steven Greenhut, R Street Institute, asked if the reinsurance advisor and intermediary have been identified.

Mr. Welsh stated three internationally recognized reinsurance intermediary firms have been identified and invited into the procurement process – Guy Carpenter, AON, and Willis.

**MOTION:** Ms. O'Connor moved to authorize CEA, as Interim Administrator of the California Wildfire Fund, to contract for reinsurance intermediary and advisory services. Mr. Martinez seconded. Motion carried unanimously.

## **b. Risk Transfer Guidelines**

Ms. Palombo explained the need to adopt Risk Transfer Guidelines to guide the consideration and procurement of risk transfer agreements.

### Public Comment

Mr. Aguirre provided a brief history of General Order 95. He stated the risk of wildfire costs has been transferred to the state of California and utility customers. The Board is being asked to manage a risk that PG&E and PUC could not and insurance companies do not want. He asked the Board to step back and think more deeply about risk.

**MOTION:** Mr. Martinez moved to approve and adopt Risk Transfer Guidelines for the California Wildfire Fund. Ms. O'Connor seconded. Motion carried unanimously.

## **c. Risk Transfer Contracts**

Ms. Palombo explained the need for authorizing to procure risk transfer to protect the CWF during the ongoing 2019 wildfire season.

### Public Comment

Mr. Aguirre read excerpts from a brief from the Governor's Office, Department of Finance, Treasurer, and CPUC to his complaint in federal court asking for an extension of time to allow defendants time to research and address the issues in the complaint. He asked, if they require more time to respond, why they are forcing the Board to rush forward. He stated his concern that what motivates this effort is not wildfires but campaign money because this effort helps to keep the utilities healthy financially and utility companies are some of the biggest campaign contributors.

**MOTION:** Mr. Martinez moved to authorize CEA, as Interim Administrator of the California Wildfire Fund, to purchase insurance, reinsurance, and other forms of risk transfer to protect the California Wildfire Fund and increase the durability and claim-paying capacity of the California Wildfire Fund. Ms. O'Connor seconded. Motion carried unanimously.

## **5. Plan of Operations.**

Mr. Pomeroy stated the statute directs that the CCRC shall direct the Administrator to prepare and present for approval a plan of operation related to the operations, management, and administration of the CWF on

an annual basis. The statute also directs that this plan be delivered to the appropriate policy committees.

Mr. Pomeroy stated he put this item on the agenda to let both the interim board and the legislative committees know that that responsibility is noted and staff will begin working on it.

**6. Public comment on items that do not appear on this agenda and public requests that those matters be placed on a future agenda.**

Mr. Aguirre thanked the Board for allowing him to make his case.

Ms. Severson stated the best way to reduce risk is to make the utilities shore up their systems and put their money into infrastructure. She encouraged the Board not to take the ratepayers' and taxpayers' money and put it in to paying claims but to put money toward ensuring that utilities operate safely by cleaning up vegetation and removing dangers.

**7. Adjournment.**

There being no further business, the meeting was adjourned at 2:14 p.m.



## California Catastrophe Response Council Memorandum

January 16, 2020

Agenda Item 3: Report by CEA Executive Staff

Recommended Action: No action required—information only

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CEA Executive Staff will report on CEA’s responsibilities and actions as Interim Administrator of the California Wildfire Fund.



## California Catastrophe Response Council Memorandum

January 16, 2020

Agenda Item 4: Council Discussions

Recommended Action: No action required—information only

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Discussions of leadership of Council, meeting schedule and Bagley-Keene Act compliance.

For reference purposes, copies of the relevant sections of the Government Code, Insurance Code and Public Utilities Code are attached.

**Government Code § 8899.70.**

(a) There is hereby created in state government the California Catastrophe Response Council to oversee the California Earthquake Authority to the extent provided in Section 10089.6 of the Insurance Code and the Wildfire Fund Administrator.

(b) The council shall be composed of the following nine members.

(1) The Governor or the Governor's designee.

(2) The Treasurer or the Treasurer's designee.

(3) The Insurance Commissioner or the Insurance Commissioner's designee.

(4) The Secretary of the Natural Resources Agency or the secretary's designee.

(5) Three members of the public appointed by the Governor.

(6) A member appointed by the Senate Committee on Rules.

(7) A member appointed by the Speaker of the Assembly.

(c) The members appointed by the Senate Committee on Rules, the Speaker of the Assembly, and the three members appointed by the Governor shall have four-year staggered terms. The Governor's initial appointees shall serve two-year terms.

(d) Until a majority of the council is appointed, the governing board of the California Earthquake Authority shall assume the authorities and duties of the council.

**Government Code § 8899.71.**

For purposes of conducting the business of the council, a quorum shall be five members.

**Government Code § 8899.72.**

The council shall appoint the Wildfire Fund Administrator and oversee the administrator's operation, management, and administration of the Wildfire Fund established pursuant to Section 3284 of the Public Utilities Code. The administrator shall have relevant experience in claims administration, the management of claims trusts, or other relevant experience. Until the administrator is appointed, the California Earthquake Authority shall exercise the powers of the administrator.

## **Insurance Code § 10089.6**

(a) (1) There is hereby created the California Earthquake Authority, which shall be administered and governed by the governing board described in Section 10089.7 under the authority of the commissioner and overseen by the California Catastrophe Response Council solely with regard to any administrative or support services the authority may provide to, or for the benefit of, the Wildfire Fund created pursuant to Section 3284 of the Public Utilities Code or the Wildfire Fund Administrator created pursuant to Section 8899.72 of the Government Code. All other businesses or activities of the authority unrelated to the Wildfire Fund shall be governed solely by the board. The authority shall have the powers conferred by this chapter. The authority shall be authorized to transact insurance in this state as necessary to sell policies of basic residential earthquake insurance in the manner set forth in Sections 10089.26, 10089.27, and 10089.28. The authority shall have no authority to transact any other type of insurance business.

(2) The authority shall be authorized to exercise the powers of the Wildfire Fund Administrator as provided in Section 3281 of the Public Utilities Code until the appointment of the administrator by the council.

(b) (1) The investments of the authority shall be limited to those securities eligible under Section 16430 of the Government Code.

(2) The rights, obligations, and duties owed by the authority to its insureds, beneficiaries of insureds, and applicants for insurance shall be the same as the rights, obligations, and duties owed by insurers to its insureds, beneficiaries of insureds, and applicants for insurance under common law, regulations, and statutes. The authority shall be liable to its insureds, beneficiaries of insureds, and applicants for insurance as an insurer is liable to its insureds, beneficiaries of insureds, and applicants for insurance under common law, regulations, and statutes.

(c) The operating expenses of the authority shall be capped at not more than 6 percent of the premium income received by the authority. The funds shall be available to pay any advocacy fees awarded in a proceeding under subdivision (c) of Section 10089.11.

(d) For purposes of this section, the term “operating expenses of the authority” excludes solely the following:

(1) The costs of and transaction expenses associated with risk-transfer purchases, including the purchase of reinsurance and with capital-market contracts.

(2) The expense of securing and repaying bonds.

(3) The cost of repayment of bonds guaranteed, insured, or otherwise backed by any department or agency of the United States or of this state, or by any private entity.

(4) Payments to third parties for all of the following services provided to the authority:

(A) Investment.

(B) Loss-modeling.

(C) Legal services.

(5) Costs associated with the authority's efforts to acquaint the public with and market authority products, promote earthquake preparedness, and earthquake-loss mitigation under the authority's duly adopted strategic plan.

(6) Producer compensation.

(7) Participating insurer fees and reimbursement amounts arising under written contracts.

(8) Amounts paid by the authority to support research in seismic science and seismic engineering.

(9) Loans, grants, and expenses to support and maintain the authority's earthquake loss-mitigation goals and programs, whether conducted by the authority alone or in collaboration with or by other persons.

(10) The costs of and loss-adjustment expenses associated with adjusting and paying policyholder claims for earthquake losses that are incurred by the authority under its earthquake insurance policies, including all costs and expenses associated with claim-related litigation, provided that all of those costs and expenses shall be reported to the Legislature in the manner required by subdivision (e) of Section 10089.13.

(11) Any cost incurred to provide administrative services and other support to or for the benefit of the Wildfire Fund created pursuant to Section 3284 of the Public Utilities Code, which cost shall be borne by the Wildfire Fund.

(e) The board may authorize the authority to contract with the Wildfire Fund created under Section 3284 of the Public Utilities Code to provide services and other support as the Wildfire Fund may require.

**Public Utilities Code § 3281.**

The administrator shall carry out the duties of this part and may do all of the following, subject to the oversight of the council:

- (a) Retain, employ, or contract with officers, experts, employees, accountants, actuaries, financial professionals, and other executives, advisers, consultants, attorneys, and professionals as may be necessary in the administrator’s judgment for the efficient operation and administration of the fund.
- (b) Enter into contracts and other obligations relating to the operation, management, and administration of the fund.
- (c) Invest the moneys in the fund in those securities eligible under Section 16430 of the Government Code.
- (d) Review and approve claims and settlements, and provide funds to the participating electrical corporations for the purposes of paying eligible claims.
- (e) Buy insurance or take other actions to maximize the claims paying resources of the fund.
- (f) Pay costs, expenses, and other obligations of the fund from Wildfire Fund assets.
- (g) Take any actions necessary to collect any amounts owing to the fund from participating electrical corporations.
- (h) Undertake such other activities as are related to the operation, management, and administration of the fund, as approved by the council.

**Public Utilities Code § 3282.**

There shall be a limited civil immunity and no criminal liability in a private capacity, on account of any act performed or omitted or obligation entered into in an official capacity, when done or omitted in good faith and without intent to defraud, on the part of the counsel, the administrator, or on the part of any officer, employee, or agent of the Wildfire Fund. The State of California shall have no liability for payment of claims in excess of funds available pursuant to this part. The State of California, and any of the funds of the State of California, shall have no obligations whatsoever for payment of claims or costs arising from this part, except as specifically provided in this part.

**Public Utilities Code § 3283.**

The council shall direct the administrator to prepare and present for approval a plan of operations related to the operations, management, and administration of the fund on an annual basis. At least annually, the council shall direct the administrator to present the plan of operations to the appropriate policy committees of the Legislature. The plan shall include, but not be limited to, reporting on the Wildfire Fund assets, projections for the durability of the Wildfire Fund, the success of the Wildfire Fund, whether or not the Wildfire Fund is serving its purpose, and a plan for winding up the Wildfire Fund if projections demonstrate that the Wildfire Fund will be exhausted within the next three years.

**Public Utilities Code § 3284.**

(a) There is hereby created the Wildfire Fund, which is not a fund in the State Treasury.

(b) Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated without regard to fiscal years for the purposes of this part.

(c) (1) The fund shall be administered by the administrator, subject to the direction of the council, in accordance with Chapter 3 (commencing with Section 3291) to provide funds to participating electrical corporations to satisfy eligible claims arising from a covered wildfire in accordance with this part.

(2) At the discretion of the administrator, segregated, dedicated accounts within the fund may be established.

(d) The fund shall be continued in existence unless the administrator winds down the fund in accordance with Section 3291 or 3292, as applicable.

(e) Uninvested moneys in the fund may be deposited from time to time in financial institutions authorized by law to receive deposits of public moneys or, with the approval of the Treasurer, the Surplus Money Investment Fund as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(f) A national bank shall be custodian of all securities belonging to the fund, except as otherwise provided in the constituent instruments that define the rights of the holders of the bonds as set forth in Division 28 (commencing with Section 80500) of the Water Code.

(g) With the approval of the council, the administrator shall establish and approve procedures for the review, approval, and timely funding of eligible claims. The procedures may be revised from time to time by the administrator with the approval of the council. The procedures may include processes to facilitate and expedite the review and approval of settled eligible claims, including guidelines for, or preapproval of, settlement levels. The procedures shall provide for the reimbursement of eligible claims within 45 days of the date the administrator approves the settlement amount for any eligible claim unless that timing is not practicable.

**Public Utilities Code § 3286.**

The Director of Finance may, at any time, examine the books and records of the council and the administrator relating to the operation, management, and administration of the fund.

**Public Utilities Code § 3287.**

(a) On January 1, 2021, and annually thereafter, the council, with the assistance of the administrator, shall prepare and file with the Legislature and the Department of Finance periodic reports regarding the formation, administration, and disposition of the fund, as the council deems appropriate.

(b) A report submitted to the Legislature pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.



## California Catastrophe Response Council Memorandum

January 16, 2020

Agenda Item 5: Conflict-of-Interest Code

Recommended Action: Authorize CEA to manage the Conflict-of-Interest Code Adoption Process

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CEA Executive Staff will request approval to manage the Conflict-of-Interest Code adoption process pursuant to Cal. Gov. Code § 87300 *et seq.* and associated regulations. A draft of a Conflict-of-Interest Code is included in Attachment I.

For reference purposes for the Council, applicable Government Code sections are as follows:

Cal. Gov. Code § 87300:

Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter.

Cal. Gov. Code § 87301:

It is the policy of this act that Conflict of Interest Codes shall be formulated at the most decentralized level possible, but without precluding intra-departmental review. Any question of the level of a department which should be deemed an "agency" for purposes of Section 87300 shall be resolved by the code reviewing body.

Cal. Gov. Code § 87302:

Each Conflict of Interest Code shall contain the following provisions:

(a) Specific enumeration of the positions within the agency, other than those specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable. An investment, business position, interest in real property, or source of income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment or business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position.

(b) Requirements that each designated employee, other than those specified in Section 87200, file statements at times and under circumstances described in this section, disclosing reportable investments, business positions, interests in real property and income. The information disclosed with respect to reportable investments, interests in real property, and income shall be the same as the information required by Sections 87206 and 87207. The first statement filed under a Conflict of Interest Code by a designated employee shall disclose any reportable investments, business positions, interests in real property, and income. An initial statement shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code, disclosing investments, business positions, and interests in real property held on the effective date of the Conflict of Interest Code and income received during the 12 months before the effective date of the Conflict of Interest Code. Thereafter, each new designated employee shall file a statement within 30 days after assuming office, or if subject to State Senate confirmation, 30 days after being appointed or nominated, disclosing investments, business positions, and interests in real property held on, and income received during the 12 months before, the date of assuming office or the date of being appointed or nominated, respectively. Each designated employee shall file an annual statement, at the time specified in the Conflict of Interest Code, disclosing reportable investments, business positions, interest in real property and income held or received at any time during the previous calendar year or since the date the designated employee took office if during the calendar year. Every designated employee who leaves office shall file, within 30 days of leaving office, a statement disclosing reportable investments, business positions, interests in real property, and income held or received at any time



during the period between the closing date of the last statement required to be filed and the date of leaving office.

(c) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making, participating in the making, or using their official position to influence the making of any decision. Disqualification shall be required by the Conflict of Interest Code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision. No designated employee shall be required to disqualify himself or herself with respect to any matter which could not legally be acted upon or decided without his or her participation.

(d) For any position enumerated pursuant to subdivision (a), an individual who resigns the position within 12 months following initial appointment or within 30 days of the date of a notice mailed by the filing officer of the individual's filing obligation, whichever is earlier, is not deemed to assume or leave office, provided that during the period between appointment and resignation, the individual does not make, participate in making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position. Within 30 days of the date of a notice mailed by the filing officer, the individual shall do both of the following:

(1) File a written resignation with the appointing power.

(2) File a written statement with the filing officer on a form prescribed by the commission and signed under the penalty of perjury stating that the individual, during the period between appointment and resignation, did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

Cal. Gov. Code § 87302.3:

(a) Every candidate for an elective office that is designated in a conflict of interest code shall file a statement disclosing his or her investments, business positions, interests in real property, and income received during the immediately preceding



12 months, as enumerated in the disclosure requirements for that position. The statement shall be filed with the election official with whom the candidate's declaration of candidacy or other nomination documents to appear on the ballot are required to be filed and shall be filed no later than the final filing date for the declaration or nomination documents.

(b) This section does not apply to either of the following:

(1) A candidate for an elective office designated in a conflict of interest code who has filed an initial, assuming office, or annual statement pursuant to that conflict of interest code within 60 days before the deadline specified in subdivision (a).

(2) A candidate for an elective office who has filed a statement for the office pursuant to Section 87302.6 within 60 days before the deadline specified in subdivision (a).

Cal. Gov. Code § 87302.6:

Notwithstanding Section 87302, a member of a board or commission of a newly created agency shall file a statement at the same time and in the same manner as those individuals required to file pursuant to Section 87200. A member shall file his or her statement pursuant to Section 87302 once the agency adopts an approved conflict-of-interest code.

Cal. Gov. Code § 87303:

No conflict of interest code shall be effective until it has been approved by the code reviewing body. Each agency shall submit a proposed conflict of interest code to the code reviewing body by the deadline established for the agency by the code reviewing body. The deadline for a new agency shall be not later than six months after it comes into existence. Within 90 days after receiving the proposed code or receiving any proposed amendments or revisions, the code reviewing body shall do one of the following:

(a) Approve the proposed code as submitted.

(b) Revise the proposed code and approve it as revised.



(c) Return the proposed code to the agency for revision and resubmission within 60 days. The code reviewing body shall either approve the revised code or revise it and approve it. When a proposed conflict of interest code or amendment is approved by the code reviewing body, it shall be deemed adopted and shall be promulgated by the agency.

Cal. Gov. Code § 87304:

If any agency fails to submit a proposed conflict of interest code or amendments, or if any state agency fails to report amendments pursuant to subdivision (b) of Section 87306 within the time limits prescribed pursuant to Section 87303 or 87306, the code reviewing body may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for the agency. If the code reviewing body does not issue an appropriate order or take other action within 90 days of the deadline imposed on the agency as prescribed in Section 87303 or 87306, the commission may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for the agency. The commission shall consult with the agency before ordering the adoption of a conflict of interest code for the agency.

Cal. Gov. Code § 87305:

If after six months following the deadline for submission of the proposed Conflict of Interest Code to the code reviewing body no Conflict of Interest Code has been adopted and promulgated, the superior court may, in an action filed by the commission, the agency, the code reviewing body, any officer, employee, member or consultant of the agency, or any resident of the jurisdiction, prepare a Conflict of Interest Code and order its adoption by the agency or grant any other appropriate relief. The agency and the code reviewing body shall be parties to any action filed pursuant to this section.

Cal. Gov. Code § 87306:

(a) Every agency shall amend its Conflict of Interest Code, subject to the provisions of Section 87303, when change is necessitated by changed

circumstances, including the creation of new positions which must be designated pursuant to subdivision (a) of Section 87302 and relevant changes in the duties assigned to existing positions. Amendments or revisions shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. If after nine months following the occurrence of those changes the Conflict of Interest Code has not been amended or revised, the superior court may issue any appropriate order in an action brought under the procedures set forth in Section 87305.

(b) Notwithstanding subdivision (a), every state agency shall submit to the code reviewing body a biennial report identifying changes in its code, including, but not limited to, all new positions designated pursuant to subdivision (a) of Section 87302, changes in the list of reportable sources of income, and relevant changes in the duties assigned to existing positions. These reports shall be submitted no later than March 1 of each odd-numbered year.

Cal. Gov. Code § 87306.5:

(a) No later than July 1 of each even-numbered year, the code reviewing body shall direct every local agency which has adopted a Conflict of Interest Code in accordance with this title to review its Conflict of Interest Code and, if a change in its code is necessitated by changed circumstances, submit an amended Conflict of Interest Code in accordance with subdivision (a) of Section 87302 and Section 87303 to the code reviewing body.

(b) Upon review of its code, if no change in the code is required, the local agency head shall submit a written statement to that effect to the code reviewing body no later than October 1 of the same year.

Cal. Gov. Code § 87307:

An agency may at any time amend its Conflict of Interest Code, subject to the provisions of Section 87303, either upon its own initiative or in response to a petition submitted by an officer, employee, member or consultant of the agency, or a resident of the jurisdiction. If the agency fails to act upon such a petition within ninety days, the petition shall be deemed denied. Within thirty days after the denial of a petition, the petitioner may appeal to the code reviewing body.



The code reviewing body shall either dismiss the appeal or issue an appropriate order to the agency within ninety days.

Cal. Gov. Code § 87308:

Judicial review of any action of a code reviewing body under this chapter may be sought by the commission, by the agency, by an officer, employee, member or consultant of the agency, or by a resident of the jurisdiction.

Cal. Gov. Code § 87309:

No Conflict of Interest Code or amendment shall be approved by the code reviewing body or upheld by a court if it:

(a) Fails to provide reasonable assurance that all foreseeable potential conflict of interest situations will be disclosed or prevented;

(b) Fails to provide to each affected person a clear and specific statement of his duties under the Code; or

(c) Fails to adequately differentiate between designated employees with different powers and responsibilities.

Cal. Gov. Code § 87310:

If the duties of a designated employee are so broad or indefinable that the requirements of Section 87309 cannot be complied with, the Conflict of Interest Code shall require the designated employee to comply with the requirements of Article 2 of this chapter.

Cal. Gov. Code § 87311:

The review of proposed Conflict of Interest Codes by the Commission and by the Attorney General and the preparation of proposed Conflict of Interest Codes by state agencies shall be subject to the Administrative Procedure Act. The review and preparation of Conflict of Interest Codes by local government agencies shall be carried out under procedures which guarantee to officers, employees,



members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.

Cal. Gov. Code § 87311.5:

(a) Notwithstanding the provisions of Section 87311, the review of the Conflict of Interest Code of an agency in the judicial branch of government shall not be subject to the provisions of the Administrative Procedure Act. The review and preparation of Conflict of Interest Codes by these agencies shall be carried out under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.

(b) Conflict of Interest Codes of the Judicial Council, the Commission on Judicial Performance, and the Board of Governors and designated employees of the State Bar of California shall not be subject to the provisions of subdivision (c) of Section 87302.

Cal. Gov. Code § 87312:

The Commission shall, upon request, provide technical assistance to agencies in the preparation of Conflict of Interest Codes. Such assistance may include the preparation of model provisions for various types of agencies. Nothing in this section shall relieve each agency of the responsibility for adopting a Conflict of Interest Code appropriate to its individual circumstances.

Cal. Gov. Code § 87313:

No person shall make a gift of fifty dollars (\$50) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another to a person whom he knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.



Cal. Gov. Code § 87314:

(a) A board, commission, or agency of a public pension or retirement system shall attach to its Conflict of Interest Code an appendix entitled "Agency Positions that Manage Public Investments for Purposes of Section 87200 of the Government Code." The appendix shall list each position with the board, commission, or agency for which an individual occupying the position is required to file a Statement of Economic Interests as a public official who manages public investments within the meaning of Section 87200. The board, commission, or agency shall post the appendix on its Internet Web site in a manner that makes it easily identifiable and accessible by persons who view that Web site.

(b) (1) For purposes of this section, "public official who manages public investments" includes a salaried or unsalaried member of a committee, board, commission, or other entity that exists as, or within, a governmental agency and that possesses decision making authority.

(2) A committee, board, commission, or other entity possesses decision making authority for purposes of this section if any of the following apply:

(A) The entity may make a final governmental decision.

(B) The entity may compel a governmental decision or prevent a governmental decision, either by virtue of possessing exclusive power to initiate the decision or by having veto authority that may not be overridden.

(C) The entity makes substantive recommendations that are, and over an extended period of time have been, regularly approved, without significant amendment or modification, by another public official or governmental agency.

(3) A committee, board, commission, or other entity does not possess decision making authority for purposes of this section if it is formed for the sole purpose of researching a subject and preparing a report or recommendation for submission to another governmental entity that has final decision making authority.

**CALIFORNIA CATASTROPHE RESPONSE COUNCIL**  
**CONFLICT-OF-INTEREST CODE**

The Political Reform Act (Gov. Code Sec. 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Sec. 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the California Catastrophe Response Council (Council).

Members and designees of the Council and the Chief Executive Officer file electronically with the Fair Political Practices Commission. All other individuals holding designated positions must file their statements with the California Wildfire Fund Administrator. All statements must be made available for public inspection and reproduction under Government Code Section 81008.

**APPENDIX A  
DESIGNATED POSITIONS**

| <b>List of Designated Positions</b>                          | <b>Assigned Disclosure Category</b> |
|--|-------------------------------------|
| <b><i>CALIFORNIA WILDFIRE FUND ADMINISTRATOR STAFF**</i></b> |                                     |
| Chief Executive Officer                                      | 1, 2                                |
| Chief Communications Officer                                 | 1, 2                                |
| Career Executive Assignment (All Levels)                     | 1, 2                                |
| Chief Information Security Officer                           | 1, 2                                |
| Legislative Director/Manager                                 | 2                                   |
| General Counsel  | 1, 2                                |
| Attorney (All Levels)  | 1, 2                                |
| Compliance Officer/Manager                                   | 1, 2                                |
| Chief Financial Officer                                      | 1, 2                                |
| Controller   | 1, 2                                |
| Chief Operations Officer                                     | 1, 2                                |
| Chief Risk and Actuarial Officer                             | 1, 2                                |
| Staff Services Managers (All Levels)                         | 2                                   |
| Reinsurance and Risk Transfer Director                       | 1, 2                                |
| Accounting Administrator (All Levels)                        | 2                                   |
| Financial Accountant (All Levels)                            | 2                                   |
| Facilities Coordinator                                       | 2                                   |
| Enterprise Project Management Office Manager                 | 1, 2                                |
| CONSULTANTS/NEW POSITIONS                                    | *                                   |

\*Consultants/New Positions shall be included in the list of designated positions and must disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The Chief Executive Officer may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements in this section. The written determination must include a description of the consultant’s or new position’s duties and, based on that description, a specific statement of the extent of disclosure required. The Chief Executive Officer’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Sec. 81008.)

**OFFICIALS WHO OVERSEE PUBLIC INVESTMENTS**

The following positions are not covered by the code because the positions manage public investments. Individuals holding such positions must file under Government Code Section 87200 and are listed for informational purposes only. Section 87200 requires disclosure of all investments and business positions in business entities, all income, including gifts, loans and travel payments, and real property.

*CALIFORNIA CATASTROPHE RESPONSE COUNCIL MEMBERS*

\*\* The California Catastrophe Response Council is responsible for designating the California Wildfire Fund Administrator. Positions designated in this Code are positions of the entity designated as the California Wildfire Fund Administrator.

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**APPENDIX B**  
**DISCLOSURE CATEGORIES**

**CATEGORY 1:** All interests in real property.

**CATEGORY 2:** All investments, business positions in business entities, and income, including receipt of gifts, loans, and travel payments, from entities that supply materials, supplies, books, machinery, equipment, or services of the type used by the California Catastrophe Response Council or the California Wildfire Fund Administrator.

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**CALIFORNIA CATASTROPHE RESPONSE COUNCIL**  
**CONFLICT-OF-INTEREST CODE**

The Political Reform Act (Gov. Code Sec. 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Sec. 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the California Catastrophe Response Council (Council).

Members and designees of the Council and the Chief Executive Officer file electronically with the Fair Political Practices Commission. All other individuals holding designated positions must file their statements with the California Wildfire Fund Administrator. All statements must be made available for public inspection and reproduction under Government Code Section 81008.

**APPENDIX A  
DESIGNATED POSITIONS**

| <b>List of Designated Positions</b>                          | <b>Assigned Disclosure Category</b> |
|--|-------------------------------------|
| <b><i>CALIFORNIA WILDFIRE FUND ADMINISTRATOR STAFF**</i></b> |                                     |
| Chief Executive Officer                                      | 1, 2                                |
| Chief Communications Officer                                 | 1, 2                                |
| Career Executive Assignment (All Levels)                     | 1, 2                                |
| Chief Information Security Officer                           | 1, 2                                |
| Legislative Director/Manager                                 | 2                                   |
| General Counsel  | 1, 2                                |
| Attorney (All Levels)  | 1, 2                                |
| Compliance Officer/Manager                                   | 1, 2                                |
| Chief Financial Officer                                      | 1, 2                                |
| Controller   | 1, 2                                |
| Chief Operations Officer                                     | 1, 2                                |
| Chief Risk and Actuarial Officer                             | 1, 2                                |
| Staff Services Managers (All Levels)                         | 2                                   |
| Reinsurance and Risk Transfer Director                       | 1, 2                                |
| Accounting Administrator (All Levels)                        | 2                                   |
| Financial Accountant (All Levels)                            | 2                                   |
| Facilities Coordinator                                       | 2                                   |
| Enterprise Project Management Office Manager                 | 1, 2                                |
| CONSULTANTS/NEW POSITIONS                                    | *                                   |

\*Consultants/New Positions shall be included in the list of designated positions and must disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The Chief Executive Officer may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements in this section. The written determination must include a description of the consultant’s or new position’s duties and, based on that description, a specific statement of the extent of disclosure required. The Chief Executive Officer’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Sec. 81008.)

**OFFICIALS WHO OVERSEE PUBLIC INVESTMENTS**

The following positions are not covered by this conflict of interest code approved by the Council~~the code~~ because the positions manage public investments. Individuals holding such positions ~~are subject to a separate filing requirement~~~~must file under~~ Government Code Section 87200 and are listed in this conflict of interest code for informational purposes only. Section 87200 requires disclosure of all investments and business positions in business entities, all income, including gifts, loans and travel payments, and real property.

*CALIFORNIA CATASTROPHE RESPONSE COUNCIL MEMBERS*

\*\* The California Catastrophe Response Council is responsible for designating the California Wildfire Fund Administrator. Positions designated in this conflict of interest ~~C~~code are positions within~~of~~ the entity designated as the California Wildfire Fund Administrator.

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**APPENDIX B**  
**DISCLOSURE CATEGORIES**

**CATEGORY 1:** All interests in real property.

**CATEGORY 2:** All investments, business positions in business entities, and income, including receipt of gifts, loans, and travel payments, from entities that supply materials, supplies, books, machinery, equipment, or services of the type used by the California Catastrophe Response Council or the California Wildfire Fund Administrator.

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## California Catastrophe Response Council Memorandum

January 16, 2020

Agenda Item 6: Statement of Incompatible Activities

Recommended Action: Adopt the Statement of Incompatible Activities

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CEA Executive Staff will request approval and adoption of the Statement of Incompatible Activities is required under Cal. Gov. Code § 19990. A copy of a draft Statement of Incompatible Activities is included as Attachment I.

For reference purposes, California Government Code section 19990 provides as follows:

A state officer or employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee.

Each appointing power shall determine, subject to approval of the department, those activities which, for employees under its jurisdiction, are inconsistent, incompatible or in conflict with their duties as state officers or employees. Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all of the following:

- (a) Using the prestige or influence of the state or the appointing authority for the officer's or employee's private gain or advantage or the private gain of another.
- (b) Using state time, facilities, equipment, or supplies for private gain or advantage.
- (c) Using, or having access to, confidential information available by virtue of state employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized.



(d) Receiving or accepting money or any other consideration from anyone other than the state for the performance of his or her duties as a state officer or employee.

(e) Performance of an act in other than his or her capacity as a state officer or employee knowing that the act may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the officer or employee.

(f) Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the officer's or employee's appointing authority or whose activities are regulated or controlled by the appointing authority under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official actions performed by the officer or employee.

(g) Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her hours of duty as a state officer or employee.

The department shall adopt rules governing the application of this section. The rules shall include provision for notice to employees prior to the determination of proscribed activities and for appeal by employees from such a determination and from its application to an employee. Until the department adopts rules governing the application of this section, as amended in the 1985–86 Regular Session of the Legislature, existing procedures shall remain in full force and effect.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

**STATEMENT OF ACTIVITIES THAT ARE  
INCONSISTENT, INCOMPATIBLE, OR IN CONFLICT  
WITH THE DUTIES OF AN EMPLOYEE OF THE  
WILDFIRE FUND ADMINISTRATOR**

The California Catastrophe Response Council (Council) adopts the following Statement of Incompatible Activities to be the official policy and minimum standard of conduct for each Employee of the Wildfire Fund Administrator (Administrator).

An Administrator Employee must not engage in any employment, activity, or enterprise which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as an Administrator Employee. Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all of the following:

**I. General Standards of Conduct**

1. Using the prestige or influence of the state, the Council, or the Administrator, for private gain or advantage, or the private gain or advantage of another.
2. Using state time, facilities, equipment (including but not limited to photocopiers, telephones, vehicles, postage meters, data processing or word processing equipment, or personal computers) or supplies for private gain or advantage, or for the private gain or advantage of another.
3. Using confidential information available by virtue of employment by the Administrator (including, but not limited to, confidential data filed by an electrical corporation with the Council or Administrator, and confidential contract, financial, investment or legal information) for private gain or advantage, or for the private gain or advantage of another.
4. Providing confidential information (including, but not limited to, confidential data filed by an electrical corporation with the Council or Administrator, and confidential contract, financial, investment or legal information) to persons to whom issuance of this information has not been authorized.
5. Receiving or accepting money or any other consideration (including, but not limited to, entertainment, lodging, travel expenses, services or other items) from anyone other than the state for the performance of his or her duties as an Administrator Employee.
6. Performance of an act in other than his or her capacity as an Administrator Employee knowing that the act may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the Council or Administrator.
7. Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the Council or the Administrator or whose activities are regulated or controlled by the Council or the Administrator under circumstances from which it reasonably could be substantiated that the gift was intended to influence the Administrator

## Attachment I

Employee in his or her duties or was intended as a reward for any actions performed by the Administrator Employee.

### **II. Gifts**

1. All gifts, gratuities and other consideration which may not be accepted, pursuant to the provisions of this Statement, are to be returned to the sender whenever possible.

### **Scope of Rules**

Nothing in this Statement shall exempt any Administrator Employee from applicable provisions of any other laws of this state. The standards of conduct set forth in this Statement are in addition to those prescribed in the Council's Conflict-of-Interest Code.

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**STATEMENT OF ACTIVITIES THAT ARE  
INCONSISTENT, INCOMPATIBLE, OR IN CONFLICT  
WITH THE DUTIES OF A CALIFORNIA CATASTROPHE  
RESPONSE COUNCIL MEMBER OR DESIGNEE AND AN  
EMPLOYEE OF THE WILDFIRE FUND  
ADMINISTRATOR**

The California Catastrophe Response Council (Council) adopts the following Statement of Incompatible Activities to be the official policy and minimum standard of conduct for each Council Member and Designee (Member) and Employee of the Wildfire Fund Administrator (Administrator).

~~A~~A Member or an Administrator Employee must not engage in any employment, activity, or enterprise which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a Member or an Administrator Employee. Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all of the following:

**I. General Standards of Conduct**

1. Using the prestige or influence of the state, the Council, or the Administrator, for private gain or advantage, or the private gain or advantage of another.
2. Using state time, facilities, equipment (including but not limited to photocopiers, telephones, vehicles, postage meters, data processing or word processing equipment, or personal computers) or supplies for private gain or advantage, or for the private gain or advantage of another.
3. Using confidential information available by virtue of appoint or designation to the Council or employment by the Administrator (including, but not limited to, confidential data filed by an electrical corporation with the Council or Administrator, and confidential contract, financial, investment or legal information) for private gain or advantage, or for the private gain or advantage of another.
4. Providing confidential information (including, but not limited to, confidential data filed by an electrical corporation with the Council or Administrator, and confidential contract, financial, investment or legal information) to persons to whom issuance of this information has not been authorized.
5. Receiving or accepting money or any other consideration (including, but not limited to, entertainment, lodging, travel expenses, services or other items) from anyone other than the state for the performance of his or her duties as a Member or an Administrator Employee.
6. Performance of an act in other than his or her capacity as a Member or an Administrator Employee knowing that the act may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the Council or Administrator.
7. Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of

value from anyone who is doing or is seeking to do business of any kind with the Council or the Administrator or whose activities are regulated or controlled by the Council or the Administrator under circumstances from which it reasonably could be substantiated that the gift was intended to influence the Member or Administrator Employee in his or her duties or was intended as a reward for any actions performed by the Member or Administrator Employee.

## II. Gifts

1. All gifts, gratuities and other consideration which may not be accepted, pursuant to the provisions of this Statement, are to be returned to the sender whenever possible.

### Scope of Rules

Nothing in this Statement shall exempt any Member or Administrator Employee from applicable provisions of any other laws of this state. The standards of conduct set forth in this Statement are in addition to those prescribed in the Council's Conflict-of-Interest Code.



## California Catastrophe Response Council Memorandum

January 16, 2020

Agenda Item 7: Administrator

Recommended Action: No action required—information only

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Discuss the appointment of the Administrator of the Wildfire Fund pursuant to Cal. Gov. Code § 8899.72.

Cal. Gov. Code § 8899.72 provides as follows:

The council shall appoint the Wildfire Fund Administrator and oversee the administrator's operation, management, and administration of the Wildfire Fund established pursuant to Section 3284 of the Public Utilities Code. The administrator shall have relevant experience in claims administration, the management of claims trusts, or other relevant experience. Until the administrator is appointed, the California Earthquake Authority shall exercise the powers of the administrator.



## California Catastrophe Response Council Memorandum

January 16, 2020

Agenda Item 8: Plan of Operations

Recommended Action: No action required—information only

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Discuss the development of a Plan of Operations for the Wildfire Fund pursuant to Cal. Pub. Utilities Code § 3283.

Cal. Pub. Utilities Code § 3283 provides as follows:

The council shall direct the administrator to prepare and present for approval a plan of operations related to the operations, management, and administration of the fund on an annual basis. At least annually, the council shall direct the administrator to present the plan of operations to the appropriate policy committees of the Legislature. The plan shall include, but not be limited to, reporting on the Wildfire Fund assets, projections for the durability of the fund, the success of the fund, whether or not the fund is serving its purpose, and a plan for winding up the fund if projections demonstrate that the fund will be exhausted within the next three years.



## California Catastrophe Response Council Memorandum

January 16, 2020

Agenda Item 9: Claims Administration

Recommended Action: No action required—information only

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Pursuant to Cal. Pub. Utilities Code § 3281 and § 3284, discuss the Administrator's procurement of consulting and claims administration services for post-event functions.

Cal. Pub. Utilities Code § 3281 provides as follows:

The administrator shall carry out the duties of this part and may do all of the following, subject to the oversight of the council:

- (a) Retain, employ, or contract with officers, experts, employees, accountants, actuaries, financial professionals, and other executives, advisers, consultants, attorneys, and professionals as may be necessary in the administrator's judgment for the efficient operation and administration of the fund.
- (b) Enter into contracts and other obligations relating to the operation, management, and administration of the fund.
- (c) Invest the moneys in the fund in those securities eligible under Section 16430 of the Government Code.
- (d) Review and approve claims and settlements, and provide funds to the participating electrical corporations for the purposes of paying eligible claims.
- (e) Buy insurance or take other actions to maximize the claims-paying resources of the fund.
- (f) Pay costs, expenses, and other obligations of the fund from Wildfire Fund assets.



(g) Take any actions necessary to collect any amounts owing to the fund from participating electrical corporations.

(h) Undertake such other activities as are related to the operation, management, and administration of the fund, as approved by the council.

Cal. Pub. Utilities Code § 3284:

(a) There is hereby created the Wildfire Fund, which is not a fund in the State Treasury.

(b) Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated without regard to fiscal years for the purposes of this part.

(c) (1) The fund shall be administered by the administrator, subject to the direction of the council, in accordance with Chapter 3 (commencing with Section 3291) to provide funds to participating electrical corporations to satisfy eligible claims arising from a covered wildfire in accordance with this part.

(2) At the discretion of the administrator, segregated, dedicated accounts within the fund may be established.

(d) The fund shall be continued in existence unless the administrator winds down the fund in accordance with Section 3291 or 3292, as applicable.

(e) Uninvested moneys in the fund may be deposited from time to time in financial institutions authorized by law to receive deposits of public moneys or, with the approval of the Treasurer, the Surplus Money Investment Fund as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(f) A national bank shall be custodian of all securities belonging to the fund, except as otherwise provided in the constituent instruments that define the rights of the holders of the bonds as set forth in Division 28 (commencing with Section 80500) of the Water Code.



(g) With the approval of the council, the administrator shall establish and approve procedures for the review, approval, and timely funding of eligible claims. The procedures may be revised from time to time by the administrator with the approval of the council. The procedures may include processes to facilitate and expedite the review and approval of settled eligible claims, including guidelines for, or preapproval of, settlement levels. The procedures shall provide for the reimbursement of eligible claims within 45 days of the date the administrator approves the settlement amount for any eligible claim unless that timing is not practicable.