



**CALIFORNIA CATASTROPHE  
RESPONSE COUNCIL MEETING**  
THURSDAY, APRIL 23, 2020  
2:00 P.M.

Teleconference Meeting



**Date of Notice: Monday, April 13, 2020**

## **PUBLIC NOTICE**

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

**NOTICE IS HEREBY GIVEN** that the California Catastrophe Response Council (Council) will conduct a **teleconference meeting**. 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.

Pursuant to Governor Newsom’s Executive Order N-29-20, issued March 17, 2020, certain provisions of the Bagley-Keene Open Meeting Act are suspended or waived during the declared State of Emergency in response to the COVID-19 pandemic. Consistent with the Executive Order, in order to promote and maximize social distancing and public health and safety, this meeting will be conducted by teleconference only. None of the locations from which the Council members will participate will be open to the public. All members of the public shall have the right to observe the meeting and offer comment at this public meeting as described in this Notice.

**DATE: Thursday, April 23, 2020**

**TIME: 2:00 p.m.**

**TELECONFERENCE ACCESS: \***

**Dial-in Number: +1 (669) 900-6833**

**Enter Access code: 867 405 553#**

**Public Participation:** The telephone lines of members of the public who dial into the meeting to observe and comment will initially be muted to prevent background noise from inadvertently disrupting the meeting. Phone lines will be unmuted during all portions of the meeting that are appropriate for public comment to allow members of the public to comment. Please see additional instructions below regarding Public Participation Procedures.

**\* CEA is not responsible for unforeseen technical difficulties that may occur in the audio feed.**

**PUBLIC PARTICIPATION PROCEDURES:** All members of the public shall have the right to observe the meeting and offer comment at this public meeting. The member of the Council acting as Chair of the meeting will indicate when a portion of the meeting is to be open for public comment. **At that point, any member of the public wishing to comment must press \*9 on their phone.** Pressing \*9 will notify the call moderator that you wish to comment, and you will be placed in line to comment in the order in which requests are received by the moderator. When it is your turn to comment, the moderator will unmute your line and announce your opportunity to comment. The Chair of the meeting reserves the right to limit the time for comment. Members of the public should be prepared to complete their comments within approximately 3 minutes, but more or less time may be allotted by the Chair.

In addition, members of the public may submit comments in writing by emailing comments to [PublicComment@calwildfire.com](mailto:PublicComment@calwildfire.com).

**ACCESSIBILITY FOR DISABLED PERSONS:** Persons who, due to a disability, need assistance in order to participate in this meeting should, prior to the meeting, contact CEA's ADA Coordinator either by phone by dialing (916) 661-5400, or by e-mail addressed to [EEO@calquake.com](mailto:EEO@calquake.com) and [smceuen@calwildfire.com](mailto:smceuen@calwildfire.com). TTY/TDD and Speech to-Speech users may dial 7-1-1 for the California Relay Service to submit comments on an agenda item or to request special accommodations for persons with disabilities. Persons with disabilities may request special accommodations at this or any future Council meeting or may request the accommodation necessary to receive agendas or materials prepared for Council meetings. Please contact Shannon McEuen by telephone, toll free, at **(877) 797-4300** or by email at [smceuen@calwildfire.com](mailto:smceuen@calwildfire.com). We would appreciate hearing from you at least five days before the meeting date to best allow us to meet your needs.

**MEETING MATERIALS:** A copy of this Notice and Agenda has been posted on the website of the California Wildfire Fund (Wildfire Fund), at the following link:

<https://www.cawildfirefund.com/california-catastrophe-response-cou>

Prior to the meeting, the written materials that will be provided to members of the Council will also be posted on the Fund's website. Finally, on the day of the meeting, a copy of any presentation deck that the Council or the Administrator will use in the conduct of the meeting will also be posted to this site.

## AGENDA

1. Quorum: Call to order and member roll call:

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

*Establishment of a quorum*

2. Minutes: Review and approve minutes of the January 16, 2020 meeting of the Council.
3. Statement of Incompatible Activities. Adopt the revised Statement of Incompatible Activities, and authorize CEA to manage the adoption process, including any necessary future revisions requested by CalHR pursuant to Cal. Gov. Code Section 19990.
4. Executive Report: Report by CEA Executive Staff regarding current financial status and CEA's recent activities as Interim Administrator of the California Wildfire Fund.
5. Wildfire Fund Durability Analysis and Management: Discussion of the Administrator's analysis and management of the durability of the Wildfire Fund through, among other things, modeling and risk transfer/reinsurance.
6. Investment Policies: Discussion and consideration of potential revisions to the Investment Policy for the Wildfire Fund to provide flexibility to expand duration limits and credit diversification.
7. Claims Administration: Discussion of the Administrator's procurement of consulting and claims administration services for post-event functions.
8. Administrator: Discussion of selecting an Administrator of the Wildfire Fund.
9. Public comment: Public Comment opportunity on matters that do not appear on this agenda and requests by the public that matters be placed on a future agenda.
10. Adjournment.

For further information about this notice or its contents:

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**To view this notice on the California Wildfire Fund website and to access meeting materials, please visit**

**<https://www.cawildfirefund.com/california-catastrophe-response-cou>**



## California Catastrophe Response Council Memorandum

April 23, 2020

Agenda Item 2: Meeting Minutes

Recommended Action: Approve Minutes

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Review/approve minutes of the January 16, 2020 meeting of the California Catastrophe Response Council.



**DRAFT**

**CALIFORNIA CATASTROPHE RESPONSE COUNCIL  
(WILDFIRE FUND)**

**MEETING MINUTES**

**Thursday, January 16, 2020  
9:00 a.m.**

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

Members of the Council in Attendance:

Mark Ghilarducci, designee of Governor Gavin Newsom  
Fiona Ma, State Treasurer (accompanied by Treasurer's designee Kasey O'Connor)  
Michael Martinez, designee of Insurance Commissioner Ricardo Lara  
Bryan Cash, designee of Secretary of Natural Resources Wade Crowfoot  
Rich Gordon, designee of the Speaker of the Assembly  
Paul Rosenstiel, Public Member  
Rhoda Rossman, Public Member  
Catherine Bando, Public Member

Members of the CEA Staff in Attendance:

Glenn Pomeroy, Chief Executive Officer  
Tom Hanzel, Chief Financial Officer  
Tom Welsh, General Counsel & Acting Chief Operations Officer  
Suman Tatapudy, Senior Counsel  
Shannon McEuen, Governance Liaison

## Preliminary Items

### 1. Call to Order and Member Roll Call

Chair Mark Ghilarducci called the meeting to order at 9:06 a.m. He welcomed everyone to the first meeting of the California Catastrophe Response Council (CCRC). Ms. McEuen called the roll and established that a quorum was present.

The members introduced themselves and spoke about their backgrounds.

- Mark Ghilarducci, designee of the Governor, is the Director of the Governor's Office of Emergency Services. In that capacity, he oversees public safety, emergency services, and homeland security for the State of California.
- Fiona Ma is the State Treasurer. Previously, Treasurer Ma was a member of the San Francisco Board of Supervisors, and she noted that her district – the Sunset District – was particularly vulnerable to earthquake damage. She sat on the CEA's Advisory Council for about four years, as well as then-Mayor Gavin Newsom's Earthquake Disaster Council.
- Kasey O'Connor (a duly appointed designee of Treasurer Ma who will serve on behalf of the Treasurer when the Treasurer is unable to attend Council meetings) is the Treasurer's Legislative Director. Ms. O'Connor also serves as the Treasurer's designee on the Governing Board of the CEA, a separate statutory body from the Council. Ms. O'Connor grew up in Northridge, where her family's first home was destroyed in the 1994 Northridge earthquake.
- Public Member Paul Rosenstiel is a Special Advisor to Governor Newsom in the Department of Finance. Mr. Rosenstiel was actively involved in Governor Newsom's 2019 efforts to address the wildfire and utility safety issues, including the work that led to the enactment of AB 1054. Previously he worked in municipal finance. He also served as a Deputy State Treasurer to Bill Lockyer, and at that time served as Treasurer Lockyer's designee to the CEA Governing Board.
- Public Member Catherine Bando is the Executive Director of the California Statewide Communities Development Authority, and is

also a retired investment banker. She has been an underwriter of municipal bonds; her expertise is in statewide finance pooling.

- Public Member Rhoda Rossman serves on the Board of Directors for Matthews Asia Funds. Her background is in investment management for insurance companies.
- Bryan Cash is the designee of the Secretary of Natural Resources, Wade Crowfoot, who is a statutorily designated member of the Council. Mr. Cash is in Administration & Finance at the Natural Resources Agency, where he has served for 15 years. He notes that in that capacity, he has seen many cycles of wildfires and assisted the State in addressing those and other natural disasters.
- Rich Gordon is the appointee of the Speaker of the Assembly. Mr. Gordon is President & CEO of the California Forestry Association, which represents timber companies in California. Prior to this he has been an elected official since 1992, first on the San Mateo County Board of Education, then as a member of the San Mateo County Board of Supervisors, followed by six years as a member of the California State Assembly.
- Michael Martinez is the designee of California Insurance Commissioner Ricardo Lara. Mr. Martinez is the Senior Deputy Commissioner & Legislative Director of the California Department of Insurance. He notes that the affordability and availability of insurance in the wildland-urban interface areas of the State continues to be a top priority for Commissioner Lara, which should inform the work of this Council.

## 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.**

Three of the current Council members in attendance at this meeting were serving on the CEA Governing Board and were present at the August 7, 2019 meeting: Ms. O'Connor, Mr. Martinez, and Mr. Ghilarducci.

Accordingly, these members reviewed and verified the accuracy of the draft Minutes of the August 7, 2019 meeting.



**MOTION:** Ms. O'Connor motioned to approve and adopt the minutes of the August 7, 2019 meeting as written. Mr. Martinez seconded. Motion carried unanimously.

### 3. Executive Report

#### **Report by CEA Executive Staff regarding CEA's responsibilities and actions as Interim Administrator of the California Wildfire Fund.**

Glenn Pomeroy, California Earthquake Authority (CEA) Chief Executive Officer, thanked everyone for attending. This is an important endeavor; the Council and the CEA, as Interim Administrator of the Wildfire Fund, are beginning at the ground floor today.

By way of introduction to the new members of the Council who are not also members of the CEA Governing Board, Mr. Pomeroy described his background as a prosecuting attorney, state legislator, and elected State Insurance Commissioner in North Dakota. He then worked in the reinsurance industry for a time. He has led the CEA for the past 12 years. CEA is a not-for-profit residential, publicly managed but privately funded insurance company formed in the wake of the 1994 Northridge earthquake. CEA has 1.1 million policyholders, and over \$18 billion in claim-paying capacity. It also has a proactive mitigation program to strengthen older homes to protect them from damage from earthquakes.

Mr. Pomeroy supplied some background on the wildfire crisis that continues to grip the state: the increased risk of catastrophic utility-related wildfires. This crisis has been tragically played out over the past several years with great harm to people and property, resulting in increased cost for utility ratepayers. Investor-owned utility companies are experiencing unprecedented instability and are at risk of not being able to provide residents and businesses with safe and reliable service, as well as not being able to reduce their own wildfire risk posed by their equipment.

Last July the Legislature passed AB 1054, creating the ~~California~~-Wildfire Fund (€WF), establishing the California Catastrophe Response Council. AB 1054 required CEA to undertake immediately the responsibility to act as Interim Administrator of the €WF to stand-up and operationalize the fund. Because the members of this Council had not yet been appointed, CEA's work was overseen by the CEA Governing Board, which was authorized in AB 1054 to exercise the oversight duties of the Council until the Council had established a quorum.

Mr. Pomeroy reviewed the recent wildfire statistics of the last three years. He showed the numbers for acres burned, incidents of fire breakout, confirmed loss of life, and structures damaged or destroyed during the 2017 and 2018 wildfire seasons.

In an update on the 2019 wildfire season, Mr. Pomeroy pointed out that since July 12, 2019, there have been nine wildfires that may have been caused by investor-owned utilities (IOUs), but no claims have yet been submitted to the €WF.

Many factors have resulted in 2019 being a better wildfire year than previous years. Among them are the proactive, aggressive steps the state of California has taken to get on top of this risk.

In terms of the claim-paying capacity of the €WF, if all the pieces align, the €WF will ultimately have approximately \$21 billion in claim-paying capacity. The fund was established to reimburse IOUs for settled or finally adjudicated claims submitted by wildfire survivors of future wildfires caused by IOU equipment.

Tom Hanzel, CEA Chief Financial Officer, explained the capitalization of the fund. As of December 31, 2019, the €WF had approximately \$4.8 billion of assets under management, which were deposited to the €WF through two different tranches:

First, in August 2019, the €WF received a \$2 billion loan through the Treasurer and Controller's Offices from the State's Surplus Money Investment Fund (SMIF Loan); CEA, together with the Department of Water Resources (DWR) and other agencies, have kicked-off a process to issue bonds secured by IOU ratepayer surcharges that will commence later in 2020, and will generate a 15-year revenue stream of approximately \$900 million per year. The plan is that by the end of the calendar year 2020 the DWR bonds will be issued and the proceeds will be used to repay the SMIF loan.

Second, the IOUs have commenced their capitalization obligations under AB 1054. To participate in the €WF, the IOUs first had to have their safety plans approved by the CPUC. All three IOUs – SDG&E, SoCal Edison, and PG&E – were able to accomplish that. Their portion of the €WF capitalization then had to be funded. SoCal Edison and SDG&E provided their initial contributions on September 9. PG&E's initial contribution ~~most~~must await the

outcome of its bankruptcy reorganization process. In addition, the IOUs must pay an annual payment of \$300 million, divided amongst the three IOUs. Once again, SoCal Edison and SDG&E each paid their share of the \$300 million annual contribution prior to the end of 2019. In total, SoCal Edison and SDG&E have funded approximately \$2.8 billion to ~~the~~ CWF. Those funds are now in the custody of CEA, as Interim Administrator of ~~the~~ CWF.

Mr. Pomeroy noted that the CWF Administrator eventually appointed by the Council, if it is an entity other than CEA, will likely look to CEA for substantive expertise in ~~the~~ fund management and administration, and CEA is prepared to continue to provide those services.

Council member Rosenstiel asked if there was any sense that the fires of 2019 were large enough that they will trigger a claim on the CWF. Mr. Pomeroy answered that they do not expect to receive claims as a result of those fires, but it is still too early to tell because the cause of each of the 2019 fires has not yet been determined.

#### **4. Council Meetings**

##### **a. Leadership of the Council**

The Council discussed its expectation and desire that the Governor's designee, Mr. Ghilarducci, should Chair the Council.

**MOTION:** Treasurer Ma nominated Mark Ghilarducci to act as Chair of this Council. Ms. Bando seconded. Motion carried unanimously.

Chair Ghilarducci suggested election of a Vice-Chair as well, and the Council discussed the appointment of a Vice Chair to conduct meetings in the absence of the Chair.

**MOTION:** Treasurer Ma nominated Council member Rich Gordon as Vice-Chair. Chair Ghilarducci seconded. Motion carried unanimously.

##### **b. Meeting Schedule**

Mr. Pomeroy asked the members how often they would like to meet.

Chair Ghilarducci suggested meeting quarterly for at least the first year.

Ms. Bando agreed with the idea of quarterly meetings. She suggested having a set date such as the first or third Thursday of the month in which the quarterly meetings are set.

Mr. Martinez agreed with a quarterly schedule. He noted that for some Council members, they must work with the legislative calendar and the budget. He requested having potential dates to choose from.

Mr. Pomeroy noted that Ms. McEuen is the CEA staff member who acts as Council Governance Liaison, and she will assist with the arrangements for all Council meetings. The Council further discussed scheduling. Chair Ghilarducci summarized that the Board will hold quarterly meetings generally on Thursdays in April, July, October and December.

### **c. Bagley-Keene Act Compliance**

Tom Welsh, CEA General Counsel, reminded the group that as a state body, they are governed by the Bagley-Keene Act. All members have been sent a copy of the Act and the Attorney General's Guide to Bagley-Keene Act compliance.

Mr. Welsh noted that the key issue is that when a quorum of the Council is assembled to talk about the business of the Council or CWF, that gathering must be held pursuant to a properly noticed meeting and an agenda that lays out the topics for discussion. Mr. Welsh's cautionary admonition was to exercise care when they find themselves together in numbers that could constitute a quorum; at such times they must refrain from talking about the business of the CCRC.

## **5. Conflict-of-Interest Code**

### **Authorize CEA to manage the Conflict-of-Interest Code adoption process pursuant to Cal. Gov. Code § 87300 et seq.**

Mr. Welsh addressed an administrative responsibility of the Council to adopt a Conflict of Interest Code or Regulation to govern the Council and the Administrator of the Wildfire Fund. Principally this relates to establishing reporting responsibilities under the Political Reform Act of 1974 and working with the FPPC to ensuring that CEA and the Council members meet all reporting requirements.

He indicated the draft Conflict-of-Interest Code prepared by staff which had been distributed to the members. Staff was asking for a directive from the Council to authorize them to work with the FPPC to go through the administrative rulemaking process and finalize that Conflict of Interest Code.

**MOTION:** Council member Rossman made the motion to approve and adopt the draft Conflict of Interest Code and to authorize CEA staff to work with the FPPC to complete the process of finalizing the Code. Treasurer Ma seconded. Motion carried unanimously.

## 6. Statement of Incompatible Activities

### **Adopt the Statement of Incompatible Activities pursuant to Cal. Gov. Code § 19990.**

Mr. Welsh stated that a related administrative responsibility is to establish, pursuant to law, a Statement of Incompatible Activities for members of the Council and for employees of the Administrator of the Wildfire Fund. The Statement provides that individuals must refrain from engaging in activities that are incompatible and inconsistent with their role on the Council or the Administrator. It is a standard statement required for every state body.

Staff had prepared a draft Statement of Incompatible Activities, distributed to the Council.

**MOTION:** Council member Bando made the motion to adopt the Statement of Incompatible Activities. Treasurer Ma seconded.

In discussing the motion, Council member Rosenstiel commented that there are other statutory limitations on what the Council Members may do. He asked whether this Statement for the Council is in addition to similar Statements of Incompatible Activities to which Council members may be subject in their other work roles, and whether there is any distinction or difference between these Statements and other statutory limitations? Mr. Welsh explained that in terms of hierarchy, there are statutory provisions, such as the Conflict-of-Interest Code (Gov't Code Section 1090) that requires public officials to avoid conflicts of interest in the conduct of business on behalf of the state or a state body. Those are going to apply irrespective of the administrative documents the Council adopts and that apply to staff. This is not to the exclusion of compliance with any statutory obligations that everyone has as public members. This Statement is mainly directed at individuals working for the Council ~~on~~ ~~WF~~ activities.

Mr. Martinez asked if there is ample staff to ensure that individuals subject to the Statement have all materials and paperwork required to maintain full compliance with the Statement. Mr. Welsh answered that

CEA has a compliance unit – staff and lawyers who specialize in regulatory compliance – that will assist the Council in maintaining compliance.

**VOTE:** Motion carried unanimously.

## Discussion Items

### 7. Administrator

#### **Discuss the appointment of the Administrator of the Wildfire Fund.**

Mr. Pomeroy noted that when Governor Newsom signed AB 1054 into law, CEA was immediately assigned the role of standing up the Wildfire Fund as Interim Administrator. All of CEA's work may be transferred to a different entity ~~designed~~ designated by the Council to serve as Administrator, if the Council selects ~~and~~ an entity other than CEA. Mr. Pomeroy turned the discussion over to the Council.

Council member Rosenstiel commented that he felt the CEA is ideally suited to being designated as the Administrator. CEA's team has the skill set and experience that is ideal for understanding an insurance entity, risk mitigation, and management of the assets to maximize the claims-paying capacity of the €WF.

Council member Gordon stated that the CEA staff has been outstanding in terms of onboarding. He requested information about what additional staffing and resources CEA might require if the Council were to remove the word "interim" and designate CEA as Administrator, as well as information on the financial structure and costs of using CEA in that capacity.

Council members Martinez and Bando agreed that additional information would be necessary for the Council to make a determination on the selection of an Administrator.

Mr. Pomeroy stated that the CEA would be happy to supply numbers at the next meeting regarding staffing and estimated costs for CEA's service as Administrator. He noted that currently CEA has been able to fold the work related to the €WF into existing operations with the acquisition of some temporary help, but not without some strain. If CEA were to become permanent €WF Administrator, CEA may need to augment existing staff.

Council member Martinez asked CEA to assess its ability to handle both an earthquake and a wildfire event should they happen at the same time.

Mr. Pomeroy agreed to include information on that scenario in the presentation.

Mr. Pomeroy also reiterated that all costs associated with administering the CWF are paid from CWF assets, not from CEA fund assets that came from earthquake policyholders. There is a strict segregation between the Earthquake Authority Fund and the Wildfire Fund. Further discussion among Council members ensued.

Chair Ghilarducci felt that with these discussion items, the Council did not need to make immediate decisions. CEA should continue as Interim Administrator, and after briefings and discussion at the next Council meeting, the Council will be able to make a fully informed decision.

## **8. Plan of Operations**

### **Discuss the development of a Plan of Operations for the Wildfire Fund pursuant to Public Utilities Code § 3282.**

Suman Tatapudy, CEA Senior Counsel, stated that ~~the~~ California Public Utilities Code Section 3283 provides that the Council "shall direct the Administrator to prepare and present for approval a Plan of Operations" on an annual basis." The Plan must cover the operations, management, and administration of the Wildfire Fund.

She stated that the purpose of the agenda item was simply to ask the Council to give CEA that directive to begin preparing a Plan of Operations for submittal to the Council for review and approval later in 2020.

Starting this year in January 2021, the Plan of Operations will be presented annually to the Senate Committee on Energy, Utilities and Communications and the Assembly Committee on Utilities and Energy.

The Plan of Operations will include:

- A report 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
- A plan for winding up the Wildfire Fund if projections show that the Fund will be exhausted within the next three years

**MOTION:** Vice Chair Gordon moved to direct the Interim Administrator to begin work on the development of the Plan of Operations for this year. Council member Rosenstiel seconded. Motion carried unanimously.

## 9. Claims Administration

### **Discuss the Administrator's procurement of consulting and claims administration services for post-event functions.**

Mr. Welsh stated that, as with the previous agenda item, this item looks at the administrative responsibilities for creating a pathway to operate the Wildfire Fund in a way that was contemplated by the Legislature. This agenda item was intended to prompt discussion about the second phase of running an insurance fund – post event claims administration.

There is a distinction between how we handle claims after an earthquake, and the staffing and resources we will need for interfacing with the utilities after a very damaging wildfire ignited by utility infrastructure that is potentially going to provide reimbursement from the €WF. Mr. Welsh sought discussion about a process for doing that.

He pointed out that the creation of the Wildfire Fund did not and does not absolve the IOUs of their liability under our Constitution to pay damages after causing a wildfire. What the €WF does is facilitate the rapid payment to survivors of a utility-caused wildfire.

The Administrator of the €WF will require a strong claim oversight infrastructure to interface with and oversee the claims administration process by the IOUs, to make sure that survivors are being paid promptly, fairly, and appropriately.

Council member Martinez asked about the role of the Administrator in adjudication of claims following a utility-caused wildfire. Mr. Welsh noted that the liability and claim administration obligations remain with the IOUs, and the Wildfire Fund is a reimbursement mechanism to speed recovery to survivors. The Administrator's function will be to liaise closely with the IOUs after an event to make sure that monies drawn out of the fund are appropriate.

Mr. Welsh explained that AB 1054 contemplates a more rigorous claim review process with respect to insurance industry subrogation claims. The bill established a target subrogation recovery of 40% by insurance



companies after they pay their first-party insurance obligations to policyholders. If a utility decides in negotiations with a particular insurance company to settle a subrogation claim for more than 40%, AB 1054 contemplates that the Wildfire Fund Administrator will closely monitor, oversee and effectively play a deeper adjudicatory role on such claims.

Outside of that, the legislation does not cast the Administrator as the final judge and jury with respect to every claim that is made against an IOU after a covered wildfire. In a broad sense it is an oversight role to ensure that the Council Members know that the fund is responding. Mr. Welsh noted that AB 1054 does not strip claimants of their ability to resort to court proceedings to get resolution of a wildfire claim against an IOU.

Chair Ghilarducci stated that getting funds through the process in the most streamlined, non-bureaucratic way is always his intent and the desire of the Governor. It is important to ensure that whatever claim process is established for the CWF is implemented efficiently and effectively so that wildfire survivors are paid rapidly and do not spend years getting through the claim process.

The Council engaged in extensive additional discussion regarding the Administrator's claim review and payment process.

Mr. Hanzel then gave a brief overview of the investments of CWF assets, and discussed how that may be implicated by the timing of claim payments from the CWF. At the initial CEA Governing Board meeting in August 2019, during which they acted for the Council, an investment policy for the CWF was approved. The investment policy limits investments to US Treasuries and does not have a material yield at this point. With asset-liability matching, assessing the timing of when claim reimbursements to IOUs will be made will potentially allow for expansion of the investment policy to generate more income earnings. Mr. Hanzel provided the following summary of current CWF investments:

- Currently we have six different asset managers. CEA has a strict governance team overseeing the asset managers to ensure they understand and are complying with the investment policy.
- CEA has a third-party investment advisor who assists CEA's staff. CEA's oversight includes meeting monthly with the investment

managers, obtaining regular reports, and supplementing with CEA's own analysis.

- CEA also utilizes software tools, including BondEdge™ as well as other tools available through S&P's technology portfolio, to which CEA subscribes.
- The CWF's Investment Policy only allows for investments in the most conservative investments authorized under Government Code section 16430, so looks forward to discussing with the Council the expansion of the Policy to generate more income for the CWF.

Following these discussions, Mr. Pomeroy stated that the issues of consulting on claims administration and investment policies would be placed on the agenda for the next Council meeting.

## **10. Public Comment**

**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.**

There was no public comment.

## **11. Adjournment**

There being no further business, Chair Ghilarducci adjourned the meeting at 10:37 a.m.



## California Catastrophe Response Council Memorandum

April 23, 2020

Agenda Item 3: Statement of Incompatible Activities

Recommended Action: Adopt the *revised* Statement of Incompatible Activities, and authorize CEA to manage the adoption process, including any necessary future revisions requested by CalHR pursuant to Cal. Gov. Code Section 19990.

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During the January 16, 2020 Meeting, the Council approved and adopted a Statement of Incompatible Activities (“Statement”). In recommending approval of the Statement, CEA staff inadvertently did not seek or obtain from the Council the authority to implement any reasonable edits or revisions requested by Department of Human Resources (“CalHR”), the agency that reviews and approves these Statements for agencies and other state bodies, like the Council. Subsequent to the Council’s approval of the Statement, CEA submitted the Statement to CalHR, and CalHR requested several revisions, summarized as follows:

- Clarifying that the Statement applies to the Council Members and Designees, as well as to CEA employees
- Adding a “Appeal” process, pursuant to which an individual may seek review of the application of the Statement to them and their activities.

Pursuant to that process, CEA staff incorporated CalHR’s suggested revisions to the Statement. A copy of the revised Statement, marked to show the recommended revisions to the version the Council previously approved, is included as Attachment I.

In addition to soliciting feedback from CalHR, CEA staff has also published the draft *revised* Statement for public comment. CEA staff received no comments on the draft *revised* Statement during the comment period. Should the Council adopt and approve the *revised* Statement, CEA staff will submit the final Statement to CalHR Labor Relations Division, which will review the adoption process to verify CEA staff’s process followed the relevant regulation, 2 CCR §599.870.



## ATTACHMENT I

### 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.

### Appeals

A Council member or an Administrator employee may appeal the application of the Incompatible Activities Statement to them. An appeal must be made in writing to the Administrator's chief executive officer within 30 days of appointment to the Council or Administrator. The appeal must include the reasons why the Incompatible Activities Statement is not applicable to that individual. The decision to grant or deny the appeal is made at the sole discretion of the chief executive officer or his or her designee and will be communicated in writing within 30 days of receipt of the written appeal.



## California Catastrophe Response Council Memorandum

April 23, 2020

Agenda Item 4: Executive Report – CEA Operations; Update on CWF Financial Status

Recommended Action: No action required—information only

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The Executive Report will cover two topics: (1) the CEO’s report on the uninterrupted continuation of all of CEA’s business operations during the COVID-19 crisis, including all administrative functions required for the safe and efficient administration of the California Wildfire Fund (CWF); and (2) the CFO’s financial report and update on CWF Accounting and Finance matters.

### **CEA’s Operations During COVID-19 Crisis**

Immediately after Governor Newsom’s February 27, 2020 press conference announcing his extensive efforts to manage the State through the unfolding Coronavirus pandemic, CEA activated its Business Continuity Plan, and began taking steps to ensure the safety of CEA’s workforce, while maintaining uninterrupted business operations. CEA implemented new workplace safety policies, and began preparations for the potential requirement for CEA staff to work remotely.

By March 17, 2020, two days prior to the Governor’s state-wide stay-at-home order, 100% of CEA’s staff had commenced remote teleworking. CEA remains fully operational, and has continued to fully execute all of its responsibilities as Interim Administrator of the CWF.

### **Financial Report Overview**

Following the enactment of AB 1054 and AB 111, which appointed CEA as Interim Administrator of the CWF, the first order of business for CEA was to establish an administrative infrastructure to receive and prudently invest the initial approximately \$4.6 billion in capital contributed into the CWF. Since July 2019, the accounting and finance staff members of the CEA have completed the following:



- Augmented CEA accounting staff with two additional employees – one general accountant and one investment technician.
- Safeguarded and monitored investment of all CWF Assets.
- Developed investment policies to document the investment plan and provide guidance for consistent, informed decision-making.
- Established custody accounts with US Bank for each of the investment managers along with a DDA account for the operating expenses of the CWF.
- Ensured the adequacy of Financial Controls.
- Purchased and implemented Information Technology Systems specifically for CWF:
  - Set up a new instance (software license) of Great Plains™, the accounting and general ledger system used by CEA. This will ensure the segregation of accounting data between CEA’s earthquake fund, and the wildfire fund.
  - Set-up the CWF on BondEdge™ (investment compliance and monitoring system) and iWorks™ (investment accounting system).
- Integrated Financial and Management Accounting for CWF into CEA’s Finance Department.
- Developed accounting policies, procedures, and forecasting systems to ensure consistency with all CWF policies.
- Closed CWF financials on a monthly basis since August 2019.
- Engaged with CEA’s financial auditor (Plante Moran) to determine the fund type for the CWF and the reporting requirements for CWF.
- Developed and implemented an expense allocation methodology and system to accomplish a fair and fully auditable allocation of expenses between the CEA and CWF.

### **Repayment of SMIF loan and planning for issuance of DWR debt**

CEA has been working with the Department of Water Resources (DWR), State Treasurer’s Office, Department of Finance, California Public Utilities Commission, Montague DeRose (Municipal Advisor to DWR), underwriters and law firms (Bond Counsel and Disclosure Counsel) to prepare for the issuance of DWR bonds, backed by the CPUC-approved ratepayer surcharges. The proceeds of the issuance of DWR bonds will first be used to



repay the SMIF loan, with any residual proceeds being deposited into the CWF to provide claim-paying liquidity. The bonds will be secured by a pledge of the ratepayer surcharges to be collected from ratepayers of the participating investor owned utility companies. Once the DWR bonds are repaid, the surcharge funds will flow directly into the CWF.

The bond working group continues to analyze financing options and the necessary tasks needed to be completed in order to issue the DWR Bonds repay the SMIF loan at the earliest possible time. Although the financial markets are currently in a dislocated state, there is confidence that the structure and sources of repayment for this debt will result in the successful issuance of this debt at favorable terms during the 3<sup>rd</sup> or early in the 4<sup>th</sup> quarter of 2020.





# **FINANCIAL REPORT**

**February 29, 2020**

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# **Financial Statements**

**California Wildfire Fund  
Balance Sheets**

	<b>February 29, 2020</b>	<b>December 31, 2019</b>
<b>Assets</b>		
Cash and investments:		
Cash and cash equivalents	\$ 243,704,141	\$ 170,912,277
Investments	4,578,604,968	4,599,954,544
Total cash and investments	4,822,309,109	4,770,866,821
Interest receivable	16,811,481	17,942,466
Securities receivable	8,153,144	-
Prepaid reinsurance premium	4,430,737	162,000
Total assets	\$ 4,851,704,471	\$ 4,788,971,287
<b>Liabilities and Net Position</b>		
Accounts payable and accrued expenses	\$ 691,968	\$ 667,651
Related party payable - CEA	160,877	736,882
Securities payable	-	447,511
SMIF loan interest payable	7,576,501	11,814,207
Total liabilities	8,429,346	13,666,251
Net position:		
Unrestricted	4,843,275,125	4,775,305,036
Total net position	4,843,275,125	4,775,305,036
Total liabilities and net position	\$ 4,851,704,471	\$ 4,788,971,287

**California Wildfire Fund**  
**Statements of Revenues, Expenses and Changes in Net Position**

	<b>Two Months Ended February 29, 2020</b>	<b>Six Months Ended December 31, 2019</b>
<b>Additions:</b>		
Utility contributions	\$	\$ 2,792,400,000
SMIF loan proceeds		2,000,000,000
	<hr/>	<hr/>
Total contributions	-	4,792,400,000
Investment income & expenses	12,252,114	25,173,641
Unrealized gain/(loss)	72,403,347	(9,809,764)
	<hr/>	<hr/>
Net investment income	84,655,461	15,363,877
Other income	-	8,330
Additions to Fund Assets	<hr/>	<hr/>
	84,655,461	4,807,772,207
<b>Operating expenses</b>		
Reinsurance expenses	8,727,264	13,104,000
Reinsurance broker commissions	107,999	412,000
SMIF loan interest expense	7,576,502	17,849,726
Personnel expenses	160,821	582,177
General and administrative expenses	112,786	519,268
	<hr/>	<hr/>
Total operating expenses	16,685,372	32,467,171
Increase in net position	67,970,089	4,775,305,036
Net position, beginning of year	<hr/>	<hr/>
	4,775,305,036	-
Net position, end of year to date	<hr/> <hr/>	<hr/> <hr/>
	\$ 4,843,275,125	\$ 4,775,305,036

# **Contributions Received**

**California Wildfire Fund  
Contributions Received  
As of February 29, 2020**

<b>Description</b>	<b>Date Received</b>	<b>Amount</b>
1. SMIF Loan Proceeds	8/15/2019	2,000,000,000
2. SDG&E initial capital contribution	9/9/2019	322,500,000
3. SoCal Edison initial capital contribution	9/9/2019	2,362,500,000
4. SDG&E 2019 annual contribution	12/19/2019	12,900,000
5. SoCal Edison 2019 annual contribution	12/27/2019	<u>94,500,000</u>
	<b>Total</b>	4,792,400,000

# **Personnel and G&A Expenses**



**California Wildfire Fund  
Operating Expenses**

**Personnel expenses**

Description	Two Months Ended February 29, 2020	Six Months Ended December 31, 2019	Total
1. Amounts allocated from CEA employee time	120,707	438,067	558,774
2. Direct expenses from CWF temps	40,114	144,110	184,224
<b>Total Personnel expenses</b>	<b>160,821</b>	<b>582,177</b>	<b>742,998</b>

**General and administrative expenses**

1. Travel	6,407	3,934	10,341
2. Office Rent, Parking, and Maint	6,820	22,032	28,852
3. Equipment, Hardware, and Software expense	23,849	66,329	90,178
4. Office Supplies	434	959	1,393
5. Telecom expense	879	4,679	5,558
6. Consulting - Financial Services	51,157	170,242	221,399
7. Outside Legal expense	1,402	170,780	172,182
8. IT Services	0	28,818	28,818
9. Bank Fees	21,366	45,079	66,445
10. RFQ expense	0	5,500	5,500
11. Misc expense	472	916	1,388
<b>Total G&amp;A expenses</b>	<b>112,786</b>	<b>519,268</b>	<b>632,054</b>
<b>Total Operating Expenses</b>	<b>273,607</b>	<b>1,101,445</b>	<b>1,375,052</b>

# **Investment Analysis**

**California Wildfire Fund  
Investment Analysis  
2/29/2020**

<b>California Wildfire Fund Investment Analysis</b>												
Amount (as of February 28, 2020)			Yields		Total Return (Gross of Fees)			Income Return (Net of Fees)			Effective Duration (Years)	Actual Mark-to-Market (\$000's)**
	Par Value (\$000's)*	Market Value (\$000's)	Yield At Acquisition	Yield To Maturity	1-Month (February)	1-Month Prior (January)	3-Month	1-Month (February)	1-Month Prior (January)	3-Month	February 2020	Feb. 2020
<b>Primary Fund Managers</b>	\$1,954,537	\$2,024,668	1.527%	0.826%	1.176%	0.909%	2.221%	0.159%	0.168%	0.491%	2.56	36,229
<b>Claims-Paying Fund</b>	\$2,751,453	\$2,812,273	1.616%	0.878%	0.893%	0.649%	1.688%	0.119%	0.124%	0.371%	1.89	39,618
<b>All Funds Total</b>	<b>\$4,705,990</b>	<b>\$4,836,941</b>	<b>1.58%</b>	<b>0.86%</b>	<b>1.011%</b>	<b>0.130%</b>	<b>1.911%</b>	<b>0.136%</b>	<b>0.139%</b>	<b>0.421%</b>	<b>2.17</b>	<b>75,847</b>

**California Wildfire Fund  
Investment Analysis  
12/31/2019**

<b>California Wildfire Fund Investment Analysis</b>												
Amount (as of December 31, 2019)			Yields		Total Return (Gross of Fees)			Income Return (Net of Fees)			Effective Duration (Years)	Actual Mark-to-Market (\$000's)**
	Par Value (\$000's)*	Market Value (\$000's)	Yield At Acquisition	Yield To Maturity	1-Month (December)	1-Month Prior (November)	3-Month	1-Month (December)	1-Month Prior (November)	3-Month	December 2019	Dec. 2019
<b>Primary Fund Managers</b>	\$1,960,019	\$1,988,420	1.544%	1.607%	0.122%	-0.080%	0.344%	0.162%	0.152%	0.466%	2.54	(6,909)
<b>Claims-Paying Fund</b>	\$2,739,949	\$2,755,682	1.641%	1.598%	0.137%	-0.024%	0.374%	0.123%	0.111%	0.343%	1.77	(2,903)
<b>All Funds Total</b>	<b>\$4,699,968</b>	<b>\$4,744,102</b>	<b>1.60%</b>	<b>1.60%</b>	<b>0.130%</b>	<b>-0.048%</b>	<b>0.361%</b>	<b>0.139%</b>	<b>0.128%</b>	<b>0.395%</b>	<b>2.09</b>	<b>(9,811)</b>

**Notes:**

\* Par value does not include amortization of premiums or accretion of discounts.

\*\* Mark-to-market values are per BondEdge and may differ from mark-to-market values as shown in financials due to the timing differences of security valuations.

# **Cost Allocation**

**California Wildfire Fund**  
**Cost Allocation Methodology and Calculation for the Two Months Ended February 29, 2020**  
**02/29/2020**

**Note 1: Cost Allocation Approach**

CEA's Cost Allocation Plan is based on the Direct Allocation Method. The Direct Allocation Method treats all costs as direct costs except general administration and general expenses.

Direct costs are those that can be identified specifically with a particular final cost objective. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective.

The general approach of the CEA in allocating costs to the CWF is as follows:

- A. All direct costs that are incurred directly by the CWF.
- B. All other general and administrative costs (costs that benefit both Funds and cannot be identified to a specific Fund) are allocated to each Fund using a base that results in an equitable distribution. Costs that benefit more than one Fund will be allocated to each Fund based on the ratio of each Fund's salaries/benefits to the total of such salaries/benefits

Essentially, CWF cannot operate without administrative functions and these areas touch every aspect of the business and this is the justification for allocation. A continuing review of cost allocation will be a policy and more importantly, it will not be a standard and may change from time to time.

**Note 2: Direct and Indirect Costs**

Starting in July 2019, the CEA, acting as the interim administrator of the CWF, started tracking employees who were working directly on the CWF. These hours were tracked in a time tracking software that is on CEA's SharePoint intranet site.

The following hours were captured and the CEA applied each employees hourly rate + the predetermined burden rate to determine the direct labor charge for the CWF for the two months ending Feb'20.

<u>Department</u>	<u>Hours</u>	<u>Salaries &amp; Benefits</u>		
1. Comms	71	4,471	CWF Salary & Benefit costs =	120,708 <b>A</b>
2. Exec	62	14,015	CEA Salary & Benefit costs =	4,171,379 <b>B</b>
3. Finance	412	58,760		<u>4,292,087 <b>C</b></u>
4. IT	0	0	Allocation % =	2.81% = <b>A/C</b>
5. Internal Ops	16	700		
6. Legal	267	42,762		
	<u>827</u>	<u>120,708</u>	<b>Total Direct Costs</b>	

All other indirect costs were allocated to the CWF based on the 2.81% allocation noted above. The following indirect expenses were charged to the CWF:

<u>Account Name</u>	<u>Acct #</u>	<u>Amount</u>	
Rent-Office and Parking	86400-16	6,275	
Rent-Office Equip/Furniture	86450-16	495	
Building Maintenance and Repairs	86475-16	49	
EDP Hardware <5000	86505-16	10,872	
EDP Software <5000	86506-16	1,239	
Furniture/Equipment <\$5000	86500-16	32	
Office Supplies	86510-16	434	
Printing & Stationery	86520-16	0	
Postage	86530-16	0	
Telecommunications	86550-16	879	
IT Services	88195-16	3,554	
		<u>23,829</u>	<b>Total indirect Costs</b>
		<u>144,537</u>	<b>Grand Total charged to CWF for the two months ended Feb'20</b>

# **Reporting Requirements**

**California Wildfire Fund  
Update on Plante Moran Consulting Engagement  
As of February 29, 2020**

In October of 2019, the CEA engaged with Plante Moran (CEA's auditors), on behalf of the California Wildfire Fund, to perform the following services:

1. Review and analyze Statement No. 84, Fiduciary Activities, of the Governmental Accounting Standards Board and advise on its applicability to the Fund.
2. Determination of the fund type of the California Wildfire Fund and advise on the proper presentation of financial statements for the Fund.
3. Advise on more specific financial statement reporting requirements, as they arise.

**Results of Plante Moran's analysis**

***Item #1***

How will the CEA's financial statements be impacted by the CWF and by GASB Statement No. 84, *Fiduciary Activities*?

***Analysis***

The CEA is a special-purpose government entity and would remain an enterprise fund under GASB standards. Based on our analysis, Plante Moran has concluded, subject to concurrence by the CEA, that the CWF is not a component unit of the CEA. Therefore, the CWF itself will not be required to be included in the CEA's financial statements.

However, under GASB 84, because the CEA is custodian of the CWF's cash and investments, given that the bank accounts of the CWF were created in the name of the CEA, the holding of those assets would be considered a fiduciary activity. This would require the CEA to report those held assets as a custodial fund in CEA's separate stand-alone financial statements. As a result, GASB would require those holdings (cash and investments of the CWF) to be reported within the CEA's financial statements in a separate Statement of Fiduciary Net Position and any additions/subtractions to these accounts be disclosed in a Statement of Changes in Fiduciary Net Position. These fiduciary statements would be reported on separate pages that immediately follow the CEA's balance sheet, income statement, and statement of cash flows.

Additional disclosures due to the addition of these fiduciary funds required by GAAP are limited. Other than cash and investment disclosures required by GASB 40 and GASB 72, the only required additional disclosure would be explaining the relationship between the CEA and the CWF, of which these disclosures could be as vague or as detailed as determined by management.

Should management elect not to comply with GASB 84 by omitting these fiduciary fund statements, the auditor's opinion would be modified by issuing a qualified opinion on the financial statements of the CEA. An example of the modification to the audit opinion letter related to that qualification would be, "In our opinion, the basic financial statements present fairly, in all material respects, the financial position of the CEA and changes in its financial position and cash flows in accordance with accounting principles generally accepted in the United States of America with the exception of the omission of required fiduciary funds required under GASB Statement No. 84,

*Fiduciary Activities*, specifically related to the custody of the California Wildfire Fund's cash and investments in the amount of \$XXXX.”

We would anticipate there to be an additional fee for our audit of the CEA related to the implementation of GASB 84 and related audit testing for the year ended December 31, 2019 of approximately \$4,000.

#### **Item #2**

Can the CWF issue stand-alone GAAP financial statements?

#### **Analysis**

It is our understanding that the CWF is not a separate legal entity; therefore, it cannot issue stand alone financial statements purporting that it is a stand-alone organization. However, the CWF may be able to issue stand-alone fund financial statements, assuming the CWF is able to determine which entity the CWF fund belongs to (i.e., is it a fund of the State of California)?

If this question cannot be answered, the CWF would not be able to disclose within its financial statements which reporting entity the CWF belongs to, which would be considered a material omission of a required disclosure within its financial statements, based on the guidance within the AICPA State and Local Audit Guide. This would result in a modified audit opinion, likely one that would be considered an adverse opinion, which informs the reader that the financial statements do not conform to GAAP due to the omission of a material disclosure.

Any separate audit of CWF would be an additional fee, separate from the audit fee of CEA.





## California Catastrophe Response Council Memorandum

April 23, 2020

Agenda Item 5: Wildfire Fund Durability Analysis and Management - Discussion of the Administrator's analysis and management of the durability of the Wildfire Fund through, among other things, modeling and risk transfer/reinsurance.

Recommended Action: Discussion Item

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### **Background**

The 2019 Wildfire Fund Legislation states that among the duties of CEA, as the Interim Administrator of the Wildfire Fund (Fund) and with the oversight and approval of the California Catastrophe Response Council (Council), is to "buy insurance or take other actions to maximize the claims paying resources of the fund." (Pub. Utilities Code § 3284(e)). Protection of the Wildfire Fund through implementation of a prudent risk transfer strategy is essential to increasing the claim-paying capacity and durability of the Wildfire Fund.

CEA continues to operate under the Risk Transfer Policy approved on August 7, 2019, which articulates the policies that govern the procurement of insurance and other forms of risk transfer contracts, if available from the market on reasonable economic terms. Given the complex and competitive aspects of these sophisticated financial markets, the open and public discussion with the Council of specific pricing or structuring strategies would potentially harm CEA's market position, to the detriment of the Wildfire Fund and its California beneficiaries. Through the broad grant of authority to CEA to execute a risk transfer strategy and purchases, consistent with the written Risk Transfer Policy, reinsurance protection for the Fund went into effect in September 2019, just two months after enactment of AB 1054 and the creation of the Fund.

Since that time, CEA has been working to develop additional tools and approaches to managing and seeking to extend the durability of the Wildfire Fund. This memorandum summarizes that work, the details of which will be reported to the Council at this meeting.



## **Analysis & Development of Stochastic Models**

CEA has engaged two independent consultants – Filsinger Energy Partners and Guy Carpenter – to model the durability of the Fund under a variety of conditions to understand the variability of loss, the sensitivity to certain assumptions, and the potential benefit of purchasing risk transfer. Both groups worked with Governor Newsom’s office during the development of AB 1054. The two analyses were performed independently and modeled the durability of the Fund over a 15-year period under a variety of assumptions. The models provide a framework to understand the effects of the unique characteristics of the Fund and the risk that it covers, and provide a decision-making framework to test the effects of reinsurance and other funding on Fund durability.

There are two primary goals in purchasing reinsurance: (1) to increase the Fund’s durability and (2) to enhance the Fund’s claim-paying capacity. The decision to purchase reinsurance depends on availability, price and a thoughtful balance between these two goals. For example, if the Fund maximizes claim-paying capacity by purchasing a significant amount of reinsurance, this will increase short-term claim-paying capacity, but the cost of such reinsurance could diminish long-term durability. This quandary is not unique to the Fund. It is the same as any insurer or funding mechanism faces in deciding to purchase reinsurance.

The Fund is unique in that it covers high-severity / low-frequency catastrophic events subject to a specific loss trigger. Historical data upon which to price risk transfer and measure its effectiveness is limited. First, commercial catastrophe-loss models are needed as a starting point to gain insights into, and understand the potential losses and the variability of, wildfire damage in California. Second, the loss trigger to the Fund adds an additional level of complexity since the Fund pays only if the wildfire damage is determined to have been caused by a prudent IOU and required IOU retentions are met. This novel loss trigger creates additional modeling assumptions and uncertainty which provides both a reason to seek risk transfer and, by creating upward pressure on risk transfer pricing could, in turn, create a reason to forgo purchasing risk transfer. Using stochastic catastrophe-loss models and financial projections is a best practice for understanding the interplay of risk transfer limits, cost and fund durability.

## **2019 Reinsurance Program Summary**

The Fund was initially capitalized through a \$2 billion loan from the State and initial contributions from San Diego Gas and Electric and Southern California Edison totaling



approximately \$2.7 billion. Through the use of financial models for evaluating the reinsurance program, CEA believed it was essential to the long-term durability of the Wildfire Fund and the enhancement of its claim-paying capacity that CEA enter the international reinsurance markets. At the time of procurement of reinsurance, the Fund was exposed to risk of liability and loss during the 2019 wildfire season, which started just a few months after the Fund was created.

Procurement of reinsurance was challenged by back-to-back record wildfire seasons (2017 and 2018). In the wake of those seasons, reinsurance availability tightened, premium expectations lifted, and prior losses deteriorated. Reinsurer's confidence declined in the catastrophe-loss models and the models did not include recent wildfire seasons. Half of the most destructive wildfires have been utility caused and subrogation settlement rates have impact on loss outcomes. These factors proved challenging along with the retrocessional coverage exclusions and/or severe capacity limitations reduced the number of reinsurers willing and able to provide reinsurance to the Fund.

The reinsurance coverage purchased at negotiated pricing improved the Fund durability across various loss scenarios by increasing the claim-paying capacity of the Fund. The coverage was for third party insured losses emanating from the two investor owned utilities meeting the requirements for the Fund, Southern California Edison and San Diego Gas & Electric.

Each of the reinsurers that participated in the 2019 reinsurance program exhibit strong financial strength with an A.M. Best rating of A- or better, and a combined surplus of \$85 billion. The reinsurance contract is for a term of nearly nine months, extending from September 10, 2019 through May 31, 2020.

## **Conclusion**

CEA will continue to evaluate the durability of the Wildfire Fund using reinsurance as an option to increase claim-paying capacity and enhance durability. The expected benefits of reinsurance are largely dependent on the market price, terms and availability. If CEA determines reinsurance is essential to the durability of the fund, it will begin the process of purchasing reinsurance. CEA will only buy reinsurance to protect the Fund if contracts can be negotiated and structured on reasonable terms and all participants meet the Approved Risk Transfer Policy criteria.



## California Catastrophe Response Council Memorandum

April 23, 2020

Agenda Item 6: Investment Policies

Recommended Action: Discuss and consider whether to authorize CEA, as Interim Administrator of CWF, to replace existing investment policies with a consolidated Investment Policy with expanded duration limits and credit diversification.

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### **Background**

The 2019 Wildfire Legislation authorized the Administrator, currently the CEA as Interim Administrator, to invest Wildfire Funds assets in any investments qualified under Government Code section 16430 and/or vehicles that are within the guidelines and policies approved by the Council. CEA developed two written Investment Policies for the Wildfire Fund (one for the Primary Account and one for the Claim-Paying Account) modeled on the Investment Policies that govern investments of the Earthquake Authority Fund, which is also subject to Government Code section 16430. These Wildfire Fund investment policies were approved and adopted on August 7, 2019, and CEA has invested CWF assets in compliance with those policies.

The staff at the CEA initially believed the CWF should have two investment policies applicable to two subaccounts of the CWF – Primary and Claim-Paying subaccounts – and that the two separate investment policies were necessary due to the potential for significant differences in the liquidity needs of the CWF, with the Claim-Paying account needing highly liquid, short duration investments to ensure timely claim payments, and the Primary account having longer duration investments to increase yield. Upon further analysis, and based on internal discussions and meetings with the participating utility companies, it appears that the amount of time between the occurrence of a covered wildfire event and the eventual payment of claims from CWF asset will likely be longer than one year. As a result, CEA staff no longer believes that the prudent management of CWF's assets requires the maintenance of two separate investment policies. The substantial lead time between a covered wildfire and the onset of claim payments will



provide ample time for the Administrator to adjust investment strategies to meet liquidity needs.

This leads CEA to recommend to the Council that it discuss and consider whether to authorize CEA to consolidate the dual investment policies into a single investment policy, and in the new policy make adjustments to allow for increased investment earnings, while keeping investments well within the statutory limits of Government Code section 16430.

The overall maturity limit of the proposed CWF policy would increase maximum duration from 3 years to 7 years, and increase the maximum maturity from 5 years to 12 years. However, corporate securities with maturities greater than 10 years but less than 12 years will be limited to less than 25% of the CWF portfolio. The proposed policy would allow for additional Agency securities and governmental securities along with more corporate exposure than what is currently permitted. Full detail of the proposed investment policy changes are shown in the attachment to this memorandum.

In general, these types of changes would allow for the CWF to increase its investment returns by taking advantage of credit diversity and composition along with increased duration, while still meeting its goal of preserving principal and liquidity due to its unknown liability structure.

Again by way of illustration, Table 1 below shows that by making these proposed changes, the CWF could increase its income return by approximately 0.33% under normal market conditions. Based on the current invested assets of approximately \$4.8 billion that would equal approximately \$16 million of incremental income for a total income return of approximately 2.01% and total annual income of approximately \$96 million.

**Table 1**

Normal Market Conditions				
Investment Category	Composition	Estimated Incremental Yield Over Current CWF Policy	Estimated Incremental Income for \$1B (\$ in MM)	Estimated Incremental Income for \$4.8B Portfolio (\$ in MM)
U.S. Treasuries	45%	0.100%	\$0.5	\$2.1
U.S. Agencies	10%	0.175%	\$0.2	\$0.8
All Others	5%	0.175%	\$0.1	\$0.4
Corporates (Also includes Bankers Acceptances, CDs, Commercial Paper)	40%	0.650%	\$2.6	\$12.4
<b>Total</b>	<b>100%</b>	<b>0.331%</b>	<b>\$3.3</b>	<b>\$15.8</b>
<b>Total CWF Portfolios as of March 31, 2020</b>		<b>1.674%</b>		<b>\$79.8</b>
<b>Projected CWF Portfolio</b>		<b>2.006%</b>		<b>\$95.5</b>
<b>% Change of Total Projected CWF Portfolio vs. Current CWF Portfolio</b>				<b>20%</b>



As a result of COVID-19, there has been significant volatility in the marketplace – U.S. Treasury rates have decreased significantly with the 2-year Treasury currently yielding under 0.30% versus 1.57% at the end of 2019 and credit spreads have dramatically widened with “A” rated corporate bonds trading at 2.20% over U.S. Treasury bonds versus 0.70% at the end of 2019.

While CEA and its advisors do not expect these market conditions to persist long-term, we have analyzed the current portfolio and the hypothetical portfolio with the proposed changes if reinvested in the current market conditions. Based on the current invested assets of approximately \$4.8 billion with 95%, or over \$4.5 billion, invested in U.S. Treasuries and approximately 5%, or \$215 million, invested in commercial paper and corporate bonds, and an overall duration of 2.25 years, the total income return would be approximately 0.35% or \$16.4 million under current market conditions. Table 2 shows the hypothetical portfolio with the proposed changes under current market conditions, which would generate approximately 0.73%, or \$35 million, of incremental income for a total income return of approximately 1.08% and total income of approximately \$51.3 million.

**Table 2**

Current Market Conditions				
Investment Category	Composition	Estimated Incremental Yield Over Current CWF Policy	Estimated Incremental Income for \$1B (\$ in MM)	Estimated Incremental Income for \$4.8B Portfolio (\$ in MM)
U.S. Treasuries	45%	0.100%	\$0.5	\$2.1
U.S. Agencies	10%	0.175%	\$0.2	\$0.8
All Others	5%	0.175%	\$0.1	\$0.4
Corporates (Also includes Bankers Acceptances, CDs, Commercial Paper)	40%	1.650%	\$6.6	\$31.4
<b>Total</b>	<b>100%</b>	<b>0.731%</b>	<b>\$7.3</b>	<b>\$34.8</b>
<b>Hypothetical CWF Portfolios if Reinvested as of March 31, 2020</b>		<b>0.345%</b>		<b>\$16.4</b>
<b>Projected CWF Portfolio</b>		<b>1.076%</b>		<b>\$51.3</b>
<b>% Change of Proposed Portfolio vs. Current Portfolio Under Current Market</b>				<b>212%</b>

Regardless of market conditions, as illustrated in Tables 1 and 2, changes to investment policies could generate significant benefit over the current portfolio due to the increase in credit diversification and composition along with an increase in duration. These changes would not present a risk of CWF assets being invested in instruments that fall outside of the limitations of Government Code section 16430.



## **Recommendation**

Staff recommends that the Council discuss and consider authorizing CEA, as Interim Administrator of CWF, to replace existing investment policies with a consolidated Investment Policy with expanded duration limits and credit diversification.

**CA Statute 16430 and CWF Investment Policies**

<b>Investment</b>	<b>16430</b>	<b>Current CWF</b>	<b>Proposed CWF</b>
<b>U.S. Treasury</b>	Yes	<b>Primary:</b> Yes, maturity limit of 5 years <b>Claims:</b> Yes, maturity limit of 5 years	Yes, maturity limit of 12 years, should represent 45% of the portfolio
<b>U.S. Agency</b>	Yes	<b>Primary:</b> No <b>Claims:</b> Yes, maturity limit of 181 days	Yes, maturity limit of 12 years, should not represent more than 20% of the portfolio with no one agency representing more than 5% of the portfolio
<b>California Municipals</b>	<ul style="list-style-type: none"> <li>• Bonds / notes of the State (CA), or those for which the faith and credit of CA are pledged</li> <li>• Bonds / notes of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the state, municipal utility district, or school district of this state</li> </ul>	<b>Primary:</b> No <b>Claims:</b> No	No
<b>Federal Land Banks or Federal Intermediate Credit Banks</b>	Yes	<b>Primary:</b> No <b>Claims:</b> No	Yes, maturity limit of 12 years
<b>Central Bank for Cooperatives</b>	Yes	<b>Primary:</b> No <b>Claims:</b> No	Yes, maturity limit of 12 years
<b>Federal Home Loan Bank</b>	Yes	<b>Primary:</b> No <b>Claims:</b> No	Yes, maturity limit of 12 years
<b>Federal National Mortgage Association</b>	Yes	<b>Primary:</b> No <b>Claims:</b> No	Yes, maturity limit of 12 years
<b>Federal Home Loan Mortgage Corporation</b>	Yes	<b>Primary:</b> No <b>Claims:</b> No	Yes, maturity limit of 12 years
<b>Tennessee Valley Authority</b>	Yes	<b>Primary:</b> No <b>Claims:</b> No	Yes, maturity limit of 12 years
<b>Commodity Credit Corporation for the Export of California Agricultural Products</b>	Yes	<b>Primary:</b> No <b>Claims:</b> No	Yes, maturity limit of 12 years



**CA Statute 16430 and CWF Investment Policies**

<b>Investment</b>	<b>16430</b>	<b>Current CWF</b>	<b>Proposed CWF</b>
<b>Bankers Acceptances</b>	Yes, for those that are eligible for purchase by the Federal Reserve System	<b>Primary:</b> No <b>Claims:</b> Yes, for those that are eligible for purchase by the Federal Reserve System	Yes, for those that are eligible for purchase by the Federal Reserve System
<b>Negotiable Certificates of Deposits</b>	Yes, for those issued by a federally or state-chartered bank or savings and loan association, a state-licensed branch of a foreign bank, or a federally or state-chartered credit union	<b>Primary:</b> No <b>Claims:</b> Yes, for those issued by a federally or state-chartered bank or savings and loan association, a state-licensed branch of a foreign bank, or a federally or state-chartered credit union and with a maturity limit of 181 days	Yes, for those issued by a federally or state-chartered bank or savings and loan association, a state-licensed branch of a foreign bank, or a federally or state-chartered credit union and with a maturity limit of 360 days
<b>United States Small Business Administration or the United States Farmers Home Administration</b>	Yes	<b>Primary:</b> No <b>Claims:</b> No	Yes
<b>Export-Import Bank of the United States</b>	Yes	<b>Primary:</b> No <b>Claims:</b> No	Yes
<b>Student Loan Marketing Association</b>	Yes	<b>Primary:</b> No <b>Claims:</b> No	No
<b>Negotiable Order of Withdrawal Accounts (NOW Accounts)</b>	Yes	<b>Primary:</b> No <b>Claims:</b> No	Yes

**CA Statute 16430 and CWF Investment Policies**

Investment	16430	Current CWF	Proposed CWF
<p><b>Commercial Paper</b></p>	<ul style="list-style-type: none"> <li>• “Prime” quality</li> <li>• Approved by the Pooled Money Investment Board by (A) being organized and operating within the U.S. and having total assets in excess of \$500MM OR (B) organized within the U.S. as a federally or state-chartered bank or a state-licensed branch of a foreign bank, special purpose corporation, trust, or limited liability company and having program-wide credit enhancements</li> <li>• Not exceed 270 days</li> <li>• Not represent more than 10% of outstanding CP of an issuing federally or state-chartered bank or a state-licensed branch of a foreign bank, corporation, trust, or limited liability company</li> <li>• Not exceed 30% of the resources of an investment program</li> </ul>	<p><b>Primary:</b> No <b>Claims:</b> Yes</p> <ul style="list-style-type: none"> <li>• “Prime” quality</li> <li>• Approved by the Pooled Money Investment Board by (A) being organized and operating within the U.S. and having total assets in excess of \$500MM OR (B) organized within the U.S. as a federally or state-chartered bank or a state-licensed branch of a foreign bank, special purpose corporation, trust, or limited liability company and having program-wide credit enhancements</li> <li>• Not exceed 180 days</li> <li>• Not represent more than 10% of outstanding CP of an issuing federally or state-chartered bank or a state-licensed branch of a foreign bank, corporation, trust, or limited liability company</li> <li>• Not exceed 30% of the resources of an investment program</li> <li>• If &gt;15%, the dollar weighted average maturity cannot exceed 31 days</li> </ul>	<p>Yes</p> <ul style="list-style-type: none"> <li>• “Prime” quality</li> <li>• Approved by the Pooled Money Investment Board by (A) being organized and operating within the U.S. and having total assets in excess of \$500MM OR (B) organized within the U.S. as a federally or state-chartered bank or a state-licensed branch of a foreign bank, special purpose corporation, trust, or limited liability company and having program-wide credit enhancements</li> <li>• Not exceed 270 days</li> <li>• Not represent more than 10% of outstanding CP of an issuing federally or state-chartered bank or a state-licensed branch of a foreign bank, corporation, trust, or limited liability company</li> <li>• Not exceed 30% of the resources of an investment program</li> </ul>
<p><b>International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, the Government Development Bank of Puerto Rico</b></p>	<p>Yes</p>	<p><b>Primary:</b> No <b>Claims:</b> No</p>	<p>Yes, maturity limit of 10 years (exclude GDB of Puerto Rico)</p>

**CA Statute 16430 and CWF Investment Policies**

Investment	16430	Current CWF	Proposed CWF
<b>Corporate Bonds / Notes</b>	Yes, for those securities within the top three ratings of a nationally recognized rating service (i.e. "A", "AA", and "AAA" categories or at least "A-/A3")	<b>Primary:</b> No <b>Claims:</b> Yes, for those securities that are rated at least "A/A2" or "P-1/A-1/F-1+" with a maturity limit of 180 days	Yes <ul style="list-style-type: none"> <li>• Maturity limit of 12 years</li> <li>• Ratings of at least "A-" or "A3" for long-term securities</li> <li>• Ratings of at least "P-1", "A-1", "F-1+" for short-term securities</li> <li>• Securities rated in the "A" category should be not represent more than 30% of the total portfolio</li> <li>• No more than 25% should mature between 11-12 years</li> <li>• 2% limit per issuer</li> <li>• Corporates should not represent more than 40% of the portfolio (including CDs, CP, and BAs)</li> </ul>



## California Catastrophe Response Council Memorandum

April 23, 2020

Agenda Item 7: Claims Administration Responsibilities

Recommended Action: Discussion Item

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CEA Executive Staff will provide a high-level overview of the claim paying process as outlined in AB 1054, and will discuss on-going plans to procure consulting services with respect to this administrative function. Notably, the Council is charged with responsibility to approve the procedures established by the Administrator for the “review, approval, and timely funding of eligible claims.”

For reference purposes, several key provisions of AB 1054 that relate to the Council and Administrator’s responsibilities regarding claims procedures are set forth below:

### **Pub. Utilities Code § 3281. Administrator’s General Duties & Powers**

**The administrator shall carry out the duties of this part and may do all 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 (b)
- (h) Undertake such other activities as are related to the operation, management, and administration of the fund, as approved by the council.

**Pub. Utilities Code § 3284. Fund Purpose & Claims Procedures**

(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.

...

**(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.**

**Pub. Utilities Code § 3291. Operation of the Fund.**

...

(f)(1) **An electrical corporation** meeting the applicable requirements of subdivision (b) [*setting forth requirements for participation in CWF*] **may seek payment from the fund to satisfy settled or finally adjudicated eligible claims. Only eligible claims shall be made against or paid by the fund. In accordance with the procedures established by the administrator, the administrator shall review and approve any settlement of an eligible claim as being in the reasonable business judgment of the electrical corporation before releasing funds to the electrical corporation for payment.**

Settlements of subrogation claims that are less than or equal to 40 percent of total asserted claim value as determined by the administrator shall be paid unless the administrator finds that the exceptional facts and circumstances surrounding the underlying claim do not justify the electrical corporation's exercise of such business judgment. To the extent approved by the administrator, a settlement shall not be subject to further review by the commission.



(2) The administrator shall approve a settlement of an eligible claim that is a subrogation claim if the settlement exceeds 40 percent of the total asserted claim value, as determined by the administrator, and includes a full release of the balance of the asserted claim **so long as the administrator finds that the electrical corporation exercised its reasonable business judgment in determining to settle for a higher percentage or on different terms based on a determination that the specific facts and circumstances surrounding the underlying claim justify a higher settlement percentage or different terms.** A subrogation claim that is finally adjudicated shall be paid in the full judgment amount.

To supplement CEA's existing expertise on claim processing, claim accounting, and general claim administration matters, CEA is in the process of identifying consulting professionals to aid CEA as it discharges the statutory responsibility to "establish and approve procedures for the review, approval, and timely funding of eligible claims." Such consulting services will be particularly useful to the CEA and the Council as it relates to the wide range and complexity of claims that typically arise from a utility-caused wildfire.



## California Catastrophe Response Council Memorandum

April 23, 2020

Agenda Item 8: Considerations for Selection of Administrator

Recommended Action: Discussion Item—Suitable for Action as Council Determines

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### Background

California Government Code Section 8899.72 (AB 111, 2019) provides that the California Catastrophe Response Council (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.*

Pursuant to that section, the California Earthquake Authority (CEA) has been serving as Interim Administrator of the Wildfire Fund since July 12, 2019, the effective date of Section 8899.72 and related Wildfire Fund Legislation.

At the request of the Council during its January 16, 2020 meeting, CEA has prepared materials for the Council's consideration and use in performing its statutory duty to appoint the Administrator.

### Framework for Selecting the Administrator

The Council's appointment of the Administrator should follow a framework designed to ensure that the appointment is made through a diligent and transparent process, and leads to the appointment of an Administrator that has the full range of competencies and expertise necessary to effectively and efficiently administer the CWF. The framework contemplates four related steps:

1. Identify Core Competencies: The first step involves referencing the short statutory list of required qualifications—claims administration experience, claims trust management experience, and other relevant experience—and from that build out a detailed list of core competencies required in any entity that might serve as Administrator.
2. Consider Process Options for Identifying Candidates: The second step is to identify the range of potential process options available to the Council to identify candidates. Those process options include (a) a private-sector option, involving the running of a competitive procurement (RFP/RFQ) to identify for-profit companies or private sector organizations willing and able to undertake the duties of Administrator, and to evaluate the potential costs, benefits, and risks to the CWF of contracting out this function; (b) a governmental/legislative option, involving a request that the Legislature either identify and provide budget resources to an existing state agency to stand-up the agency’s operational ability to perform as Administrator, or create and fund a new agency or public instrumentality to perform these tasks; or (c) the CEA option, which simply involves designating CEA as the Administrator.
3. Risk Evaluation: Third, each of the above process options should be evaluated by reference to several risk factors posed by pursuing the option, including statutory risks arising from the need to meet the stated statutory requirements, tax-related risks arising from the need to preserve the ability of CWF to function on a tax exempt basis, the risk of process costs eroding CWF assets, and the risk that the time incurred or delays resulting from a process will adversely impact the effectiveness of CWF’s administration.
4. Evaluation & Selection: The final step is to evaluate and balance these elements to allow the Council to make a well informed fiduciary decision on the selection and appointment of the Administrator.

Each of these framework steps is discussed in order:

### **1. Core Competencies**

Based on the statutory requirements of AB 1054, the function and purpose the CWF, as well as the administrative needs of the Council to perform effective oversight of the





administration of the CWF, the Administrator should possess, at a minimum, the following core operational and administrative competencies:

- Relevant (catastrophe-related) claims administration experience
- Experience in management of claims trusts
- Ability to prepare a plan of operation for the management and administration of the CWF
- Ability to assist the Council in the preparation and submission of the Council's annual reports to the Legislature
- Adequate existing staff, and the ability to acquire additional staff if needed, including staff that may be dedicated solely to the administration of the CWF
- Experience with revenue bonds and debt financing, including structuring and ratings
- Ability to perform cost allocation to ensure reasonable and appropriate cost allocation to and among funds under common management
- Understanding of the California Insurance market and unique nature of catastrophic risks
- Knowledge and experience with risk transfer markets and mechanisms (e.g., reinsurance, catastrophe bonds)
- Experience organizing and facilitating public meetings under the Bagley-Keene Act
- Experience in compliance with other statutory requirements for governmental entities (e.g., Political Reform Act of 1974, Public Records Act).

## **2. Process Considerations**

The next steps in the framework involves identifying and considering the several processes that can be undertaken to identify and/or create an entity to perform the functions of the Administrator. There are basically three process options available to the Council:

- a. Private-Sector Option—Engaging in a competitive procurement process. Should the Council choose to engage in a competitive procurement process to find a private-sector company or organization to serve as Administrator, the Council would either need to request that CEA develop and run the procurement, or would need to seek assistance from another agency, such as the Procurement Division of the Department of General Services (DGS), to run the procurement. Notably, if

CEA were requested by the Council to run the procurement process, that may cause CEA to be conflicted-out from being considered for the role of Administrator. While CEA would certainly run a fully transparent and fair procurement process, potential bidders might nonetheless believe or assert that that process was not fair to bidders.

Thus, a better option may be to have an independent agency or body like DGS run the procurement. However, because there is not statutory mandate in AB 1054 or AB 111 that DGS provide procurement related services to the Council or the Interim Administrator, and because neither the Council nor CEA are budget-level agencies funded by the state, it is unclear whether DGS would undertake the assignment. Upon the request of the Council, CEA can contact DGS' Procurement Division to explore that option, and to evaluate the costs and timelines of this option.

- b. Legislative Option – Seeking legislation to designate and fund an existing agency or creation of a new agency to act as Administrator. Nothing contained in AB 1054 or AB 111 identified an existing agency as a potential candidate to serve as Administrator, not does that legislation appear to authorize the Council to unilaterally designate or appoint a state agency or department to fill that role. Nonetheless, one option available to the Council would be to request that a member of the Legislature introduce and seek passage of legislation to either create a new state entity to act solely as the Administrator of the CWF, or to assign those duties to an existing agency or department. Given the current limitations on the legislative calendar for 2020 due to the COVID-19 crisis, the Council would need to anticipate that this option probably cannot be undertaken until the 2021 session, with any successful bill taking effect in January 2022.
- c. The CEA Option – Appointing the CEA as Administrator. Because this is the only one of the three options on which CEA can speak with confidence, Part II of this memorandum focuses on The CEA Option. The intention is to document for the Council what the general costs, benefits, and risks would be of selecting CEA as the Administrator.

### **3. Risk Factors in Evaluating Options.**

For each of the available process options for appointing the Administrator, CEA recommends that the Council consider several risk factors, including at a minimum, (a) whether the option is likely to result in identifying an administrator that will meet the



express statutory qualifications in AB 1054; (b) tax considerations; (c) cost controls; and (d) implementation timelines for each option.

- a. Statutory Qualifications. In creating the Council and tasking it with the duty to select the Administrator, the Legislature dictated that “the administrator shall have relevant experience in claims administration, the management of claims trusts, or other relevant experience.” (Cal. Gov’t Code Section 8899.72) Accordingly, any process option should be evaluated in light of the likelihood that it will produce candidates and ultimately an Administrator who meets the stated requirements.
- b. Tax Status Considerations. AB 1054 did not define the legal standing or status of the Wildfire Fund. While the Wildfire Fund is created as a statutory fund that is expressly “outside the state treasury,” AB 1054 did not designate the fund as any type of legal entity, such as a public instrumentality, agency, or department, nor did it authorize the creation of a state law corporation to embody the Wildfire Fund. However, without question the Legislature intended the Fund be administered in a manner free from dilution by taxation. The Fund is expressly exempt from any taxation by California and the Fund is clearly not intended to result in the accumulation or accretion of wealth, directly or indirectly, to any party so as to subject the Fund to federal tax. In determining a process for the identification and selection of the Administrator, the Council must keep in mind the risk that the selection might undermine the clear intention that the Wildfire Fund be permitted to operate on a tax-free basis.
- c. Costs. Each process option, and the candidates that they will generate, should also consider the potential for administration costs to erode the durability of the Fund. Each category of candidates will have different cost-related factors, but the factors would include the potential need for administrator profit margins, and whether the option can generate economies of scale or operational efficiency.
- d. Timeline for Implementation. The timeline for each process will vary. A private-sector procurement is likely to take 6 to 12 months to complete, and a legislative option may not produce an Administrator until early 2021.



## The CEA Option

At this point, CEA is readily able to define the contours and terms under which CEA may serve as the Administrator; but CEA lacks the ability to predict the outcome of other process options for selecting the Administrator. At the outset, CEA will continue to note that CEA's management is not advocating either for or against appointment as the Administrator. CEA is a statutory entity, a public instrumentality created to perform whatever functions are dictated by the Legislature and its Governing Board. Thus, when the Legislature directed CEA to serve as Interim Administrator of the CWF, CEA undertook those duties without hesitation or reservation, in compliance with statutory direction. CEA will continue to do the same should the Council designate CEA as the Administrator.

To assist the Council in evaluating its option of appointing CEA as Administrator, CEA provides the following information about the CEA and the terms under which it would administer the CWF.

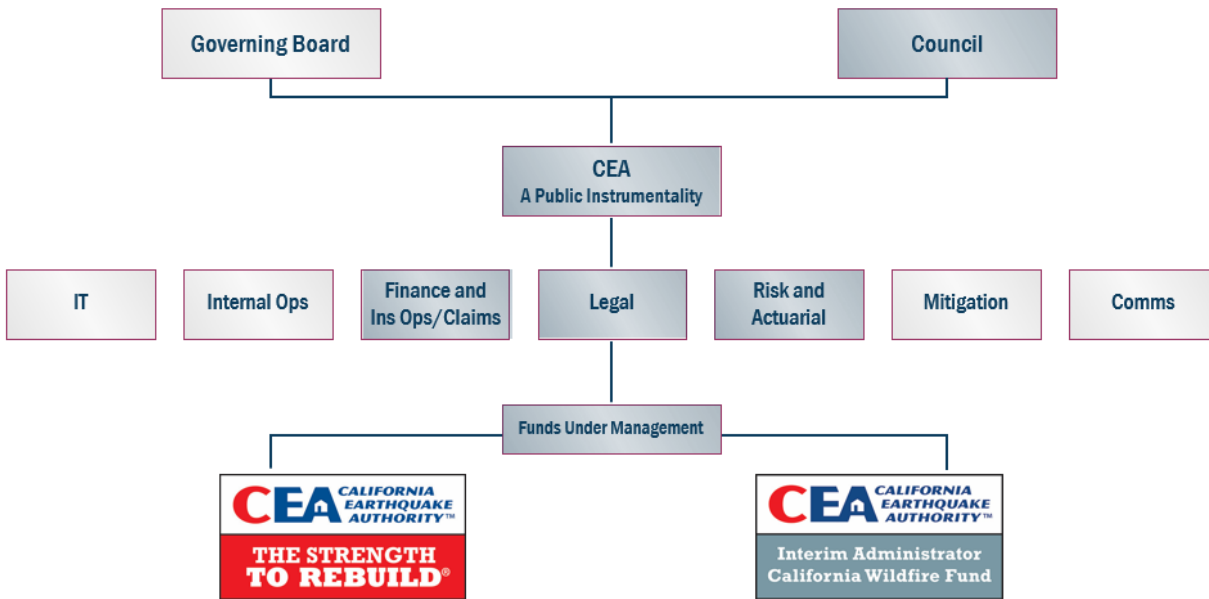
### A. CEA's Legal Status and Operating Structure

CEA was formed through legislation in 1995 and 1996 to address primarily a homeowners-insurance availability crisis that followed the 1994 Northridge earthquake. The Legislature established CEA as a "public instrumentality of the State of California" and stated that "the exercise of its powers is an essential state governmental function." Ins. Code § 10089.21.

In connection with the creation of CEA, the state sought and obtained a ruling from the IRS that CEA could operate, administer and accrue assets in the California Earthquake Authority Fund free from federal income tax, because CEA and the CEA Fund were "integral parts" of the State of California.

CEA currently employs a staff of more than 160 people. Since July 2019, a significant number of CEA's staff have contributed directly or indirectly to the performance of CEA's duties as Interim Administrator of the CWF. Below is an overview of CEA's current operating and governance structure, including both the governance of its earthquake insurance business and the oversight of CEA's administration of the CWF:

### CEA's Operating Structure



In the short term, CEA has been able to stretch its resources to undertake and perform all its Interim Administrator responsibilities and has avoided adding additional permanent staffing given the uncertainty as to how long CEA's role with the CWF will continue. This is because as a fully built-out organization, CEA is able to use efficiencies of scale for the benefit of the CWF, only augmenting its staff modestly with temporary employees to perform CWF work. The current staffing approach, however, is not easily sustained over the long term. A resolution of CEA's status will greatly assist CEA in making prudent, longer term staffing and resource decisions.

#### B. CEA's Core Competencies

Over the past several decades, CEA has developed core operational and administrative competencies that uniquely align with those required of the Administrator. CEA checks all of those boxes, and thus would represent a choice that is consistent with the statutory directives in AB 1054.

- Relevant (catastrophe-related) claims administration experience  
CEA has a well-established earthquake claim administration oversight capability. Claims under CEA policies are administered by the claims offices of its participating insurers, so CEA's primary claim functions involve

oversight, payment processing and data collection. These functions are similar to the functions that will be required when overseeing the claim administration processes of the investor owned utilities after a covered wildfire. However, CEA intends to seek advice from a third-party consultant with deeper experience with wildfire claims to evaluate whether and what types of additional capabilities might be added to CEA’s existing resources.

- Experience in management of claims trusts
 

The CEA’s earthquake insurance fund (the CEA Fund) is a claims trust fund or account that stands ready to pay claims after the next major earthquake. Presently the CEA Fund has approximately \$7 billion in liquid assets under management, and total earthquake claim-paying capacity of more than \$18 billion.
- Ability to prepare a plan of operation for the management and administration of the CWF.
 

In compliance with CEA’s statute, CEA prepared and maintains a Plan of Operations for CEA’s earthquake insurance operations.
- Ability to assist the Council in the preparation and submission of the Council’s annual reports to the Legislature
 

CEA prepares and submits annual reports to the Legislature, Governor, and Department of Insurance, and also prepares and submits reports following earthquakes that result in claims under CEA policies.
- Adequate existing staff, and the ability to acquire additional staff if needed, including staff that may be dedicated solely to the administration of the CWF
 

CEA’s statute provides broad discretion for CEA to add any staff, consultants, professionals, advisors and other resources necessary for the effective and efficient operations. CEA’s staffing can be quickly adjusted as necessary to meet the demands of the CWF and the Council.
- Experience with revenue bonds and debt financing, including structuring and ratings
 

CEA’s claim-paying resources for earthquake insurance authorizes CEA to issue revenue bonds and enter into other types of capital markets agreements to enhance resources. Over the past 15 years, CEA has issued more than \$750 million in revenue bonds. CEA is currently working with DWR on the structuring of a revenue bond issuance for the benefit of the CWF.
- Ability to perform cost allocation to ensure reasonable and appropriate cost allocation to and among funds under common management



CEA has developed and is currently utilizing an allocation methodology to ensure that CWF and the CEA Fund bear their own administrative costs.

- ☑ Understanding of the California Insurance market and unique nature of catastrophic risks  
CEA was created as an integral part of the California insurance marketplace, to provide a market to bear the risk of catastrophic losses to homes from major earthquakes. CEA works closely with its participating insurers, who occupy a majority share of the California personal lines market. This market familiarity is particularly important for the Administrator to manage the handling of insurance industry subrogation claims against utility companies.
- ☑ Knowledge and experience with risk transfer markets and mechanisms (e.g., reinsurance, catastrophe bonds)  
CEA is the largest purchaser of catastrophe reinsurance in the US and second largest in the world (measured by coverage amount), using both traditional reinsurance markets and alternative risk transfer tools like CAT bonds.
- ☑ Experience organizing and facilitating public meetings under the Bagley-Keene Act  
CEA’s Governing Board, like the Council, is subject to the Bagley-Keene Open Meeting Act. Since CEA began operations in 1997, CEA has facilitated the compliant conduct of dozens of public meetings.
- ☑ Experience in compliance with other statutory requirements for governmental entities (e.g., Political Reform Act of 1974, Public Records Act).  
CEA has a fully staffed compliance team that manages compliance with any applicable statutes and regulations that apply to CEA as a public instrumentality of the state.

C. CEA’s Incurred and Projected Costs in Administering the Wildfire Fund

The following chart sets forth the actual and projected operating expenses that CEA has and will incur to act as Administrator of the CWF. In a “stead state” free of addition activities required from the occurrence of a covered wildfire that may draw on the assets of the CWF, these incurred and projected expenses are a fair indicator of the projected annual cost of having CEA act as the Administrator.



**California Wildfire Fund**  
**Operating Expenses - Actual & Projected**

Description	Six months ended December 31, 2019	Two months ended February 29, 2020	Projected Annual Spend
<b>Personnel expenses</b>			
1. Amounts allocated from CEA employee time	438,067	120,707	1,100,000
2. Direct expenses from CWF temps	<u>144,110</u>	<u>40,114</u>	<u>650,000</u>
	<u>582,177</u>	<u>160,821</u>	<u>1,750,000</u>
<b>General and administrative expenses</b>			
1. Travel	3,934	6,407	50,000
2. Office Rent, Parking, and Maint	22,032	6,820	50,000
3. Equipment, Hardware, and Software expense	66,329	23,849	135,000
4. Office Supplies	959	434	2,400
5. Telecom expense	4,679	879	12,000
6. Consulting – Financial Services	170,242	51,157	320,000
7. IT Services	28,818	-	60,000
8. Bank Fees	45,079	21,366	200,000
9. Advertising – RFQ expense	5,500	-	-
10. Misc expense	<u>916</u>	<u>472</u>	<u>-</u>
	<u>348,488</u>	<u>111,384</u>	<u>829,400</u>
<b>Total Ongoing Operating Expenses</b>	<u>930,665</u>	<u>272,205</u>	<u>2,579,400</u>
11. 3rd party legal and consulting fees	<u>170,780</u>	<u>1,402</u>	<u>TBD</u>
<b>Total Operating Expenses</b>	<u>1,101,445</u>	<u>273,607</u>	<u>2,579,400</u>

It should be noted that there remains a contingency that could impact the projected costs of administering the CWF – the outcome of PG&E’s bankruptcy restructuring. The presence or absence of PG&E (or a successor to PG&E) as a participant in the CWF will of course impact the total cost of administering the fund, but CEA cannot readily predict the materiality of that variable. However, any cost variance should be generally commensurate with the relative size of PG&E’s risk exposure and capitalization contributions.

**A. Conclusion**

In summary, should the Council desire, CEA stands ready to accept the role of Administrator of the Wildfire Fund. Should the Council desire to take another process path, CEA also stands ready to assist in the procurement or other identification of an Administrator, and will ensure that the transition of duties is efficient and smooth for the benefit of the people of the State of California.