

TABLE OF CONTENTS

I. INTRODUCTION.....5

II. THE PETITIONER’S INTEREST.....7

III. FACTUAL BACKGROUND.....9

A. Admitted home insurance carriers are nonrenewing a significant number of policies in regions throughout the State of California. The extent of the nonrenewals is unknown. Some customers are replacing their coverage through the California Fair Plan. Others are replacing their coverage through non-admitted home insurance carriers.....11

B. The extent to which the non-admitted market is picking up risks that have been dropped by admitted carriers is unknown. The rate impact on consumers is unknown, but generally consumers appear to be paying more for less coverage without Guarantee Fund protection.....13

C. Insurers’ use Wildfire Risk Models appears to be a primary driver of nonrenewals, reduced competition, and higher premiums paid to non-admitted carriers but the extent to which is unknown.....13

D. The use of Wildfire Risk Models by admitted carriers appears to be reducing affordability and availability of home insurance throughout California.....14

E. Wildfire risk models do not appear to be factoring in individual and community risk reduction.....15

IV. PROPOSED ACTIONS.....15

A. The Commissioner should conduct investigatory hearings into Wildfire Risk Models and their impact on home insurance underwriting and rating.....15

B. The Commissioner should investigate the impact of Wildfire Risk Models on home insurance availability and affordability throughout California.....17

C. The Commissioner should solicit policy proposals to ensure models are reliable and reasonably and consistently applied in underwriting and rating.....18

V. CONCLUSION.....19

1 **TABLE OF AUTHORITIES**

2
3 **Statutes and Regulations**

4 Gov. Code § 11340.6.....5
5 Cal. Ins. Code § 1861.02(e).....5
6 10 CCR § 2644.1.....5
7
8 Cal Ins. Code §1861.05.....5, 17
9 Cal. Ins. Code § 1861.10.....6
10 10 CCR § 2662.1.....7
11
12 Pub. Res. Code §4291.....11, 19
13
14 Cal. Ins. Code §§ 10090-10100.2.....12
15
16 Cal. Ins. Code §1764.1.....13
17
18 Cal. Ins. Code §678.1.....14
19
20 10 CCR § 2360.016, 18
21
22 10 CCR § 2644.4. (e).....16
23
24 Ala. Code (1975) §§27-31D-1-27-31D-5.....19

25
26 **Rate and Advisory Organization Filings**

27 Insurance Services Office/Verisk Analytics, Inc. 16-4354.....11
28
29 The Travelers Companies - Insurance 13-6444.....17
30
31 California Fair Plan 17-1258.....17
32
33 California Fair Plan 10-7479.....17
34
35 California Casualty Management Co. 13-4908.....17

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The Hartford Financial Services Group, 11-9208.....17
Farmers Insurance Group 12-5072.....17
CSAA Insurance Exchange 16-934.....17

Cases

Calfarm Ins. Co. v. Deukmejian
48 Cal.3d 805 (1989).....6
20th Century Ins. Co. v. Garamendi
8 Cal.4th 216 (1994).....6
St. Cyr v. California Fair Plan Association
223 Cal.App.4th 786.....12
Association of California Insurance Companies v. Dave Jones
S226529 (Jan. 23, 2017).....6, 8

Other Authorities

Advisory Notice: Eligibility guidelines and the use of loss information by residential property insurers, California Department of Insurance (April 24, 2003).....6
Facts + Statistics: Top 10 Costliest Wildland Fires In The United States, Insurance Information Institute.....10
Arindam Samanta PhD, *Fireline Overview*, Verisk Insurance Solutions.....10
ISO: New Tool Shows Where Wildfire Danger Lies, Property Casualty 360 (March 11, 2004).....10
Kevin Smith, *This is how a California wildfire can change your homeowners insurance rate*, San Gabriel Valley Tribune.....12
2017 California Home Insurance Survey, United Policyholders.....13, 17
www.uphelp.org.....*passim*

1 **I. INTRODUCTION**

2 Pursuant to Gov. Code § 11340.6¹, United Policyholders (“UP”) respectfully requests that
3 the Commissioner conduct investigatory hearings to develop the record for a subsequent
4 rulemaking pursuant to Cal. Ins. Code § 1861.02(e)², or other such action as deemed appropriate
5 with respect to the use of Wildfire Risk Models, including *inter alia*, Insurance Services Office
6 (“ISO”)/Verisk FireLine and CoreLogic Wildfire Risk Analysis (“Wildfire Risk Models”) in
7 property insurance rate applications³ and underwriting.⁴
8
9

10 _____
11 ¹ Gov. Code § 11340.6 reads in relevant part: ...[a]ny interested person may petition a state
12 agency requesting the adoption, amendment, or repeal of a regulation as provided in Article 5
13 (commencing with Section 11346). This petition shall state the following clearly and concisely:
14 (a) The substance or nature of the regulation, amendment, or repeal requested. (b) The reason for
15 the request. (c) Reference to the authority of the state agency to take the action requested;
16 Section 11346: (a) It is the purpose of this chapter to establish basic minimum procedural
17 requirements for the adoption, amendment, or repeal of administrative regulations.

18 ² Cal. Ins. Code § 1861.02(e): “[t]he commissioner shall adopt regulations implementing this
19 section and insurers may submit applications pursuant to this article, which comply with those
20 regulations...”

21 ³ Pursuant to Cal. Ins. Code § 1861.05(a), “[n]o rate shall be approved or remain in effect which
22 is excessive, inadequate, unfairly discriminatory or otherwise in violation of this chapter. In
23 considering whether a rate is excessive, inadequate or unfairly discriminatory...Where the
24 Commissioner finds that a rate or proposed rate is excessive or inadequate, the rate or proposed
25 rate shall not be used nor remain in effect. If the rate or proposed rate is excessive, the
26 Commissioner shall indicate the highest rate that would not be excessive, which the insurer may
27 adopt by amendment to its application, or the Commissioner shall reject the rate in its entirety. If
28 the rate or proposed rate is inadequate, the Commissioner shall indicate the lowest rate that
would not be inadequate, which the insurer may adopt by amendment to its application, or the
Commissioner shall reject the rate in its entirety.” 10 CCR §2644.1

⁴10 CCR § 2360.0 sets forth “Eligibility Guidelines,” [which] “are specific, objective factors, or
categories of specific, objective factors, which are selected and/or defined by an insurer, and
which have a *substantial relationship to an insured's loss exposure*.” (emphasis added). 10 CCR
§ 2360.2 maintains that “[a]n insurer shall maintain eligibility guidelines for every line of
insurance offered for sale to the public. The Eligibility Guidelines shall be sufficiently detailed to
determine the appropriate rating plan for the insured. An insured or applicant who meets the

1 UP is heavily engaged with stakeholders, including the Governor’s Tree Mortality Task
2 Force, on insurance availability and affordability issues driven, at least in part, by increased use
3 of the Wildfire Risk Models by insurers in their rate filings and underwriting plans. UP has also
4 discussed the issue with Department of Insurance staff, who have expressed an interest in further
5 exploring the effect of Wildfire Risk Models on the California insurance market.
6

7 UP participated as a consumer intervenor in a rate proceeding involving CSAA Insurance
8 Exchange (CSAA 16-934) where the use of the FireLine model was a central issue.⁵ Because the
9 proceeding was limited in scope to FireLine’s use in a specific insurer’s rating plan and did not
10 conclusively resolve the appropriate use of the model or address its impact on the market more
11 broadly, UP respectfully requests that the Commissioner conduct investigatory hearings to
12 develop the record for a subsequent rulemaking or other such as action as appropriate.⁶ UP will
13 be seeking compensation as a petitioner pursuant to 10 CCR § 2662.1.⁷
14
15
16

17 eligibility guidelines shall qualify to purchase the insurance.” *See also:*
18 [http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-](http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/Advisory-Notice-April-24-2003.pdf)
19 [commiss-opinion/upload/Advisory-Notice-April-24-2003.pdf](http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/Advisory-Notice-April-24-2003.pdf).

20 ⁵ *See* [http://uphelp.org/sites/default/files/attachments/united_policyholders -](http://uphelp.org/sites/default/files/attachments/united_policyholders_-_petition_to_intervene_request_for_hearing_notic._1.pdf)
21 [_petition_to_intervene_request_for_hearing_notic._1.pdf](http://uphelp.org/sites/default/files/attachments/united_policyholders_-_petition_to_intervene_request_for_hearing_notic._1.pdf).

22 ⁶ The Commissioner’s “powers are not limited to those expressly conferred by statute; rather, it is
23 well settled in this state that administrative officials may exercise such additional powers as are
24 necessary for the due and efficient administration of powers expressly granted by statute, or as
25 may fairly be implied from the statute granting the powers.” *20th Century Ins. Co. v. Garamendi*,
26 8 Cal.4th 216, 245 (1994) (citing *Calfarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989)); *See*
27 *also Association of California Insurance Companies v. Dave Jones*, S226529 (Jan. 23, 2017).

28 ⁷ 10 CCR § 2662.1: The purpose of this Article is to establish procedures for awarding advocacy
fees, witness fees and other expenses to petitioners, intervenors and participants in proceedings,
including proceedings other than rate proceedings, before the Insurance Commissioner in
accordance with Section 1861.10(b) of the Insurance Code: (a) Any person may initiate or

1 **II. THE PETITIONER’S INTEREST**

2 United Policyholders (hereinafter “UP”) is a non-profit, 501(c)(3) public benefit
3 corporation, incorporated under the laws of the state of California. UP’s mission is “to be a
4 trustworthy and useful information resource and an effective voice for consumers of all types of
5 insurance in all 50 states.”⁸ UP does not sell insurance or accept financial contributions from
6 insurance companies. UP give[s] [consumers] the straight scoop on insurance matters; guide[s]
7 [consumers] through the claims process; answers{s} [consumer] questions; and fight[s] for
8 [consumer] rights.” UP’s website serves as an information clearinghouse for consumers on
9 purchasing insurance, making claims, and policyholders legal rights.
10

11 UP was founded in 1991 after the Oakland-Berkeley Hills Firestorm to assist
12 homeowners with insurance claim issues. Through its specialized knowledge of the insurance
13 claims process and subject matter expertise, UP has been successfully guiding homeowners on
14 the path to disaster recovery for 26 years. A diverse range of policyholders throughout California
15 communicate on a regular basis with UP, which allows us to provide important and topical
16 information to courts, legislators, regulators, and commentators, regarding insurance principles
17 and reform proposals likely to impact large segments of the public and business community.
18
19
20
21

22 intervene in any proceeding permitted or established pursuant to this chapter, challenge any
23 action of the commissioner under this article, and enforce any provision of this article.

24 (b) The commissioner or a court shall award reasonable advocacy and witness fees and
25 expenses to any person who demonstrates that (1) the person represents the interests of
26 consumers, and, (2) that he or she has made a substantial contribution to the adoption of any
order, regulation, or decision by the commissioner or a court...

27 ⁸ To learn more about UP’s mission, resources, and advocacy work, see www.uphelp.org.
28

1 UP's work is divided in three programs: *Roadmap to Recovery*TM, which provides tools
2 and resources for solving insurance problems after an accident, loss, illness or other adverse
3 event; *Roadmap to Preparedness*, which promotes disaster preparedness and insurance literacy
4 through outreach and education in partnership with civic, faith based, business and other non-
5 profit associations, including the Governor's Tree Mortality Task Force and *Advocacy and*
6 *Action*, which advances pro-consumer laws and public policy related to insurance matters,
7 principally through the submission of *amicus curiae* briefs to appellate courts which are authored
8 on a *pro bono* basis by experienced insurance attorneys in consultation with UP staff counsel.⁹
9
10

11 UP has a Board of Directors made up of disaster survivors, insurance lawyers, and claim
12 and financial professionals. It also includes the Executive Director who oversees daily operations
13 and sets policy priorities. UP's funding comes primarily from individual donors and charitable
14 foundations, businesses, and government agencies. UP is based in San Francisco, California and
15 employs four full-time staff members, including counsel listed on this petition.
16

17 UP has a long and distinguished history working with the California government on
18 insurance matters. UP has worked closely with many levels of California government, including
19 the Governor's Office, the Department of Insurance, and the Legislature. UP's Executive
20 Director has testified before the California Senate and Assembly on insurance matters, for
21 example on the here-relevant issue of earthquake and catastrophic risk insurance availability and
22 affordability on May 14, 2014 before the Senate Insurance Committee.¹⁰
23
24

25 ⁹ See, e.g., *amicus curiae* brief supporting Commissioner Dave Jones in *ACIC et al v. Dave*
26 *Jones*, Case No. S226529, Decision entered January 23, 2017 ([http://uphelp.org/association-](http://uphelp.org/association-california-insurance-companies-et-al-v-dave-jones-his-capacity-insurance-commissioner)
27 [california-insurance-companies-et-al-v-dave-jones-his-capacity-insurance-commissioner](http://uphelp.org/association-california-insurance-companies-et-al-v-dave-jones-his-capacity-insurance-commissioner)).

28 ¹⁰ UP's advocacy work is catalogued at www.uphelp.org/programs/advocacyandaction.

1 UP has also been involved in the crafting and implementation of numerous legislative
2 and regulatory proposals regarding insurance consumer issues over its decades-long history,
3 including: Reforms to Cal. Ins. Code 2071 – Requirements in Case Loss Occurs; Reforms to
4 790.03 – adoption of Fair Claims Settlement Practices Act; and AB 2064 – Reforms to
5 earthquake insurance mandatory offer letter. As discussed above, UP recently participated as a
6 consumer intervenor in a rate proceeding in which use of the FireLine model was central.
7

8 UP also works closely with the Department and the Legislature on widespread issues
9 affecting disaster survivors, including cancellations, non-renewals due to insurer-reliance on
10 computer-based risk models, and regulatory authority pertaining to mitigating pervasive
11 underinsurance. As part of the *Roadmap to Recovery* and *Roadmap to Preparedness* programs,
12 UP regularly seeks input from policyholders around the state who face these challenges.¹¹
13

14 UP's Executive Director has worked on issues affecting insurance consumers in
15 California since 1988. Ms. Bach was involved in the rulemaking and implementation of
16 Proposition 103 between 1989-1991 and co-founded UP in 1991. Ms. Bach has been appointed
17 for six consecutive terms as an official consumer representative to the National Association of
18 Insurance Commissioners. Ms. Bach also served as counsel to a Special Master overseeing
19 reforms at the Department of Insurance during the 1990s; served on the Product Enhancement
20 Advisory Board to the California Earthquake Authority from 2006-2008; and was appointed to
21 the Department's Consumer Advisory Task Force in 2008.
22
23
24
25
26

27 ¹¹ See http://www.uphelp.org/library/resource/survey_results.
28

1 **III. FACTUAL BACKGROUND**

2 In 1991, the Oakland-Berkeley Firestorm caused \$1.7 billion in damage, still the
3 costliest fire in California to date.¹² Following this catastrophic event and others that ensued,
4 several major insurers writing business in California approached ISO about developing an
5 improved wildfire rating system using satellite imagery.¹³ The FireLine model has been available
6 to insurers since at least 2004.¹⁴ ISO maintains that since the year 2000, wildfires have caused \$6
7 billion in losses.¹⁵ The FireLine model has been used in at least five rate applications, including
8 CSAA 16-934, in which UP participated as a consumer intervenor. CoreLogic offers a similar
9 product billed as “Wildfire Risk Analysis” which has also been used by insurers.
10
11

12 For purposes of this petition, UP will focus on the FireLine model. The FireLine model is
13 a risk-classification model, which means it creates a risk “score” based on certain factors. The
14 FireLine model looks at the slope of the property, the access to the property for firefighting, and
15 the amount of fuel on the property and adjacent.¹⁶ A higher score would indicate, *e.g.*, a steep lot,
16
17

18 ¹² Insurance Information Institute, *Facts + Statistics: Top 10 Costliest Wildland Fires In The*
19 *United States* (<https://www.iii.org/fact-statistic/-statistics-wildfires>, last visited Sept, 26, 2017).

20 ¹³ See ISO presentation on FireLine to the Governor’s Task Force of Tree Mortality, Regulations
21 Working Group, Thursday, February 9, 2017, Sacramento, CA: Arindam Samanta PhD, Fireline
22 *Overview*, Verisk Insurance Solutions
(http://www.fire.ca.gov/treetaskforce/downloads/WorkingGroup/Regulations/FireLine_Overview_CA_ISO_Workshop_AS.pdf).

23 ¹⁴ See *ISO: New Tool Shows Where Wildfire Danger Lies*, Property Casualty 360, March 11,
24 2004 (<http://www.propertycasualty360.com/2004/03/11/iso-new-tool-shows-where-wildfire-danger-lies>)

25 ¹⁵ See <http://www.verisk.com/images/downloads/fireprotection/LOCATION-fireline.pdf>.

26 ¹⁶ *Id.* UP also received more detailed information about the FireLine model during the course of
27 proceeding 16-934 but recognizes that much of that information is confidential.
28

1 the presence of fuel, and a narrow road. In some respects, the FireLine model is actually quite
2 simple; it looks at *some* on-the-ground factors that ostensibly measure the property’s risk profile,
3 through satellite imagery.¹⁷ No in-person “FireLine inspections” are conducted.¹⁸
4

5 The Governor formed the Tree Mortality Task Force (“TMTF”) “comprised of state and
6 federal agencies, local governments, utilities, and various stakeholders that will coordinate
7 emergency protective actions, and monitor ongoing conditions to address the vast tree mortality
8 resulting from four years of unprecedented drought and the resulting bark beetle infestations
9 across large regions of the State.”¹⁹ The TMTF’s members include County Supervisors and
10 Emergency Management personnel²⁰, CalFire, the Department of Insurance, and insurers.²¹
11

12 In 2016, UP was approached by members of the TMTF to consult for a subgroup looking
13 at insurance implications of prolonged drought and the bark beetle infestation. UP has
14 participated in weekly conference calls with the TMTF and Executive Director Amy Bach
15 presented to the TMTF at a workshop (along with ISO) in Sacramento on February 9, 2017.²²
16
17

18 ¹⁷ UP would request that the Commissioner make public all confidential communications and
19 documents contained within ISO's Fireline filing (16-4354).

20 ¹⁸ UP is aware that some insurers do conduct in-person inspections and CalFire inspections [Pub.
21 Res. Code §4291] and non-statutory criteria are also used by insurers in determining eligibility;
22 however it appears that the FireLine Score carries more weight than any other factor and there is
no uniform mitigation or eligibility standard that all insurers use for every property.

23 ¹⁹ See <http://www.fire.ca.gov/treetaskforce/>.

24 ²⁰ Amador, Calaveras, El Dorado, Fresno, Kern, Madera, Mariposa, Placer, Tulare, Tuolumne.

25 ²¹ See <http://www.fire.ca.gov/treetaskforce/about>.

26 ²² See http://uphelp.org/sites/default/files/guides/tree_mortality_tf_ppt_2-1-9-17.pdf.
27
28

1 **A. Admitted home insurance carriers are nonrenewing a significant number of**
2 **policies in regions throughout the State of California. The extent of the**
3 **nonrenewals is unknown. Some customers are replacing their coverage**
4 **through the California Fair Plan. Others are replacing their coverage**
5 **through non-admitted home insurance carriers.**

6 Residents in the Wildland Urban Interface (“WUI”) and rural areas, particularly in
7 foothill and Sierra counties appear to be encountering new and significant challenges keeping
8 insurance in place, in many cases with carriers that they have been with for decades.²³ TMTF
9 County managers have shares with UP countless documented cases on residents receiving non-
10 renewal notices from insurers who they have been customers with for decades in many cases. For
11 many, the options to replace insurance coverage are the California Fair Plan²⁴, which offers less
12 coverage than a traditional home policy unless a “difference-in-conditions” policy is purchased
13 to “wrap around” the Fair Plan policy; or a non-admitted carrier. In either case, the homeowner
14 will pay significantly more premium for equivalent or less coverage. UP requests the
15 Commissioner issue a data call to the California Fair Plan that would include the level of
16 granularity necessary to determine the growth of policies in WUI and rural areas.
17

18
19 _____

20 ²³ See, e.g., Kevin Smith, *This is how a California wildfire can change your homeowners*
21 *insurance rate*, San Gabriel Valley Tribune (August 18, 2016)

22 ²⁴ *St. Cyr v. California Fair Plan Ass’n*, 223 Cal.App.4th 786 (2014) (“In response to insurers’
23 reluctance to write “basic property insurance” for homeowners who live in high risk or otherwise
24 uninsurable areas, in 1968, the Legislature enacted the “Basic Property Insurance Inspection and
25 Placement Plan,” [Cal. Ins. Code §§ 10090-10100.2]. The purposes of the statute are to: (1)
26 assure stability in the property insurance market, (2) assure the availability of basic property
27 insurance as defined in the Plan, (3) encourage the maximum use, in obtaining basic property
28 insurance, of the normal insurance market, and (4) provide for the “the equitable distribution
among admitted insurers of the responsibility for insuring qualified property for which basic
property insurance cannot be obtained through the normal insurance market by the establishment
of a FAIR Plan, an industry placement facility and a joint reinsurance association.”)

1 **B. The extent to which the non-admitted market is picking up risks that have**
2 **been dropped by admitted carriers is unknown. The rate impact on**
3 **consumers is unknown, but generally consumers appear to be paying more**
4 **for less coverage without Guarantee Fund protection.**

5 The vision of the California Department of Insurance (“CDI”) is “insurance protection
6 for all Californians.”²⁵ Thus, the CDI “act[s] to ensure vibrant markets where insurers keep their
7 promises and the health and economic security of individuals, families, and businesses are
8 protected.” In other words, the Commissioner is charged with ensuring that California’s
9 insurance market is robust, healthy, and competitive. One of the most important factors in
10 gauging a healthy insurance market is competition amongst admitted carriers. When surplus lines
11 or non-admitted carriers not subject to important regulatory protections begin taking on risks
12 traditionally covered by the admitted market, it generally indicates a problem.²⁶ The extent of the
13 growth is unknown, but by all accounts there is significant growth in the secondary market.
14

15 **C. Insurers’ use Wildfire Risk Models appears to be a primary driver of**
16 **nonrenewals, reduced competition, and higher premiums paid to non-**
17 **admitted carriers but the extent to which is unknown.**

18 To corroborate what UP had been hearing from the TMTF and other stakeholders, UP
19 launched a survey which found, *inter alia*, that 77% of respondents saw an insurance premium

20 ²⁵ See <https://www.insurance.ca.gov/0500-about-us/vmvg.cfm>.

21 ²⁶ See Cal. Ins. Code §1764.1: “NOTICE: 1. THE INSURANCE POLICY THAT YOU [HAVE
22 PURCHASED] [ARE APPLYING TO PURCHASE] IS BEING ISSUED BY AN INSURER
23 THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE
24 CALLED “NONADMITTED” OR “SURPLUS LINE” INSURERS. 2. THE INSURER IS NOT
25 SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT THAT
26 APPLY TO CALIFORNIA LICENSED INSURERS. 3. **THE INSURER DOES NOT**
27 **PARTICIPATE IN ANY OF THE INSURANCE GUARANTEE FUNDS CREATED BY**
28 **CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR CLAIMS OR**
PROTECT YOUR ASSETS IF THE INSURER BECOMES INSOLVENT AND IS UNABLE
TO MAKE PAYMENTS AS PROMISED. (Emphasis added).

1 increase in the last three years; 25% were struggling to pay their insurance and their mortgage;
2 20% had been non-renewed by their insurer within the last three years; and, most significantly,
3 47% of those who were non-renewed were given “FireLine Score” as the reason.²⁷ Thus, UP
4 believes that Wildfire Risk Models, specifically FireLine, are driving non-renewals, reduced
5 competition, and higher premiums paid to non-admitted carriers.²⁸ UP is aware that the
6 Commissioner is in the process of collecting relevant data from insurers to determine the extent
7 to which consumers in WUI and rural areas are moving to the non-admitted market.²⁹ UP
8 requests the Commissioner issue a data call to surplus lines agents to determine growth of
9 policies in WUI and rural areas since January 1, 2016.
10
11

12 **D. The use of Wildfire Risk Models by admitted carriers appears to be reducing**
13 **affordability and availability of home insurance throughout California.**

14 Unless something changes, UP believes that more California homeowners in WUI and
15 rural areas will be forced into either the California Fair Plan or the surplus lines market – where
16 they will most often pay higher premiums for less coverage. UP believes that this is a significant
17 public policy issue that warrants further involvement from the Commissioner, as well as the
18 models’ vendors and the insurance industry. UP is hopeful that investigatory hearings will be a
19 constructive step toward finding solutions, as it will bring together all stakeholders, including
20 affected homeowners, in a fact-finding forum to determine the full extent of the impact of
21 Wildfire Risk Models on insurance availability and affordability in California.
22

23
24 ²⁷ See <http://www.uphelp.org/sites/default/files/blog/2017hosurveyca.pdf>.

25 ²⁸ Cal. Ins. Code §678.1 which governs insurance non-renewals requires insurers to provide
26 notice and the reason for the non-renewal and must include information about the California Fair
27 Plan, but does not prohibit an insurer from using, *e.g.*, a FireLine score as justification.

28 ²⁹ See 2017 Community Service Statement and Fire Availability Data Call

1 **E. Wildfire risk models do not appear to be factoring in individual and**
2 **community risk reduction**

3 The FireLine model is remarkable not because it is overly complicated as many
4 catastrophe models are; it is remarkable because of how crude it appears to be. It does not look at
5 a variety of factors, which could help determine how likely the property is to be affected by a
6 wildfire. For example, it does not look at community firefighting capability, firebreaks, or
7 consider mitigation efforts of individual property owners. Thus, the model is a snapshot in time
8 of an individual property that looks only at certain *risk* factors, without giving consideration to
9 *mitigating* factors. There is no FireLine model analog for mitigation.³⁰

10
11 **IV. PROPOSED ACTIONS**

12 **A. The Commissioner should conduct investigatory hearings into Wildfire Risk**
13 **Models and their impact on home insurance underwriting and rating**

14 UP respectfully requests that the Commissioner conduct investigatory hearings to
15 document insurers' use of Wildfire Risk Models for rating and underwriting. This would include
16 a compilation of insurers' use of such models and public testimony by insurers and vendors
17 regarding reliability of models and insurer confidence in the models and subsequent use.
18

19 UP believes it is necessary to determine the extent to which insurers look at an insured's
20 FireLine Score in context with other factors. UP is of the belief that FireLine Score carries more
21

22 ³⁰ UP is aware that ISO and CalFire are exploring the possibility of creating a model that would
23 integrate the risk classification from the FireLine model with predictive analysis, which would
24 look at the effect of firefighting community and individual mitigation efforts. ISO does retail a
25 Public Protection Classification ("PPC") product, which looks at a community's ability to
26 prevent and suppress fires, but ISO maintains it has limited utility for wildfires. *See:*
27 <https://www.isomitigation.com/spring-2016/the-difference-between-fireline-and-ppc.html>. From
28 UP's experience, it appears that the PPC criteria are not nimble enough to truly assess
community wildfire mitigation efforts. PPC does not appear to carry significant weight in the
rate making and underwriting processes, whereas the FireLine model is *very* significant.

1 weight that any other factor. 10 CCR § 2360.0 requires risk factors to bear a “substantial
2 relationship to an insured's loss exposure.” UP does not dispute that a FireLine Score or
3 equivalent metric may bear a *some* relationship to an insured's loss exposure but it is not clear
4 that risk increases above a certain “score” nor has UP ever seen a demonstration that different
5 combinations of factors (slope, fuel, and access) that produce the same scores have the same risk.
6 The FireLine model also does not account for individual and community mitigation efforts which
7 may significantly influence how fire behaves, regardless of a home’s FireLine Score. UP
8 requests the Commissioner produce a comparison of wild fire rate relativities across insurers by
9 geographic location and rate increases by granular geographic area in current filings.
10
11

12 As described above, a crude, one-size-fits-all approach (*e.g.*, using a FireLine Score) to
13 underwriting appears to be contributing to availability and affordability challenges for
14 homeowners in WUI and rural areas. Because insurers have embraced technology that does not
15 require them to conduct in-person inspections of homes and do not appear interested in giving
16 credit for mitigation, individual or community, Wildfire Risk Models appear to be playing an
17 outsized role in insurer decision-making. In addition, regulators have a difficult time analyzing
18 the value of risk models in the underwriting processes. Thus transparency is needed regarding
19 how much weight insurers give them in the underwriting process.
20
21

22 UP believes that the Commissioner also needs guidance when reviewing rate filings in
23 which FireLine or another Wildfire Risk Model is used as part of the rating plan.³¹ UP is aware
24

25 ³¹ 10 CCR § 2644.4. (e) For the earthquake line of business and for the fire following earthquake
26 exposure in other lines, projected losses and defense and cost containment expenses may be
27 based on complex catastrophe models using geological and structural engineering science and
28 insurance claim expertise. The use of such models shall conform to the standards of practice as
set forth by the Actuarial Standards Board and the applicant shall have the burden of proving, by

1 of the following filings, which implicated the FireLine model: The Travelers Companies -
2 Insurance 13-6444; California Fair Plan 17-1258 and 10-7479; California Casualty Management
3 Co. 13-4908; The Hartford Financial Services Group, 11-9208; Farmers Insurance Group 12-
4 5072 and CSAA Insurance Exchange 16-934.³² UP is interested in helping the Commissioner,
5 develop and implement Wildfire Risk Model guidelines for use in the rate review process, in
6 order to analyze the variation among different insurers given the same model output.
7

8 **B. The Commissioner should investigate the impact of Wildfire Risk Models on**
9 **home insurance availability and affordability throughout California.**

10 UP respectfully requests that the Commissioner conduct field hearings and gather data,
11 *inter alia*, California Fair Plan and surplus/excess lines policy growth in WUI and rural areas. As
12 described above, UP's 2017 California Home Insurance Survey³³ found that "Fireline Score" was
13 given as a reason to a significant number of respondents as to why their insurance had been non-
14 renewed. UP urges the Commissioner to, in addition to conducting a hearing with insurers and
15 vendors, conduct field hearings in WUI and rural areas (*e.g.*, Oakland Hills, San Diego County,
16
17
18

19 a preponderance of the evidence, that the model is based upon the best available scientific
20 information for assessing earthquake frequency, severity, damage and loss, and that the projected
21 losses derived from the model meet all applicable statutory standards. **UP believes that a**
22 **rulemaking may be necessary to implement or augment existing regulations to specify the**
23 **appropriate use and vetting criteria for Wildfire Risk Models such as FireLine.**

24 ³² UP was an intervenor in CSAA 16-934 and raised arguments that the use of FireLine may be
25 in violation of § 1861.05. However, UP ultimately signed a stipulation which included the
26 following language: "Petitioner (UP) does not stipulate to the use of the FireLine model to
27 achieve the agreed upon 5.8% rate reduction. Petitioner views the FireLine model as having
28 significant negative impact on the availability and affordability of home insurance in some
regions." UP is aware that the stipulation "represents the complete and final settlement resolving
all issues between the Parties (UP, CSAA, and the Commissioner) regarding the Application.

³³ *Id.* at fn. 28 (<http://www.uphelp.org/sites/default/files/blog/2017hosurveyca.pdf>).

1 TMTF Counties) where insurance availability and affordability has become an issue. UP will
2 provide witnesses for such field hearings in order to assist in fact-finding.

3 During investigatory hearings, the Commissioner should gather public testimony from: (1)
4 *consumers*, as to the experience with rate increases, non-renewals, shopping and loss prevention
5 associated with property insurance in wild fire prone areas and regarding their experience
6 maintaining or obtaining property insurance following a wild-fire event or wild fire claim; (2)
7 *from local officials*, regarding their experience with wildfire rating and wildfire prevention
8 activities; and (3) *from insurers* regarding their changes in rates and underwriting since January
9 1, 2015³⁴ and gather data related to wildfire risk and wildfire prevention activities they have
10 engaged in with individual policyholders or communities.
11

12
13 **C. The Commissioner should solicit policy proposals to ensure Wildfire Risk Models
14 are reliable and reasonably and consistently applied in underwriting and rating**

15 UP respectfully urges the Commissioner to solicit policy proposals that will ensure that
16 Wildfire Risk Models are reliable and reasonably and consistently applied by insurers in
17 underwriting and rating. One such proposal would be to amend 10 CCR § 2360.0 such that
18 “eligibility guidelines” insurers use must include a meaningful assessment and, if warranted a
19 premium reduction and/or continued coverage (*i.e.*, a prohibition on cancellation and non-
20 renewals), of a homeowner’s investments in mitigation.³⁵ UP’s work at the National Association
21 of Insurance Commissioners and with the TMTF has confirmed that home hardening adds real
22
23
24

25
26 ³⁴ Subject to results of the 2017 Community Service Statement and Fire Availability Data Call

27 ³⁵ See generally <http://uphelp.org/mitigation>.
28

1 value that is not captured by a FireLine Score in isolation.³⁶ Unfortunately, California has fallen
2 behind other states with respect to requiring that insurers give discounts to homeowners who
3 make statutorily –proscribed³⁷ investments to make their home more resilient.³⁸ UP would hope
4 that the investigatory hearing process would yield constructive dialogue between stakeholders,
5 yielding the most effective solutions to the very important issues outlined herein.
6

7 **V. CONCLUSION**

8 As a result of the foregoing, petitioner United Policyholders has great concern about the
9 availability and affordability of property insurance in particular areas of the state and great
10 concern about the reliability of and seemingly arbitrary application by insurers of wild fire
11 models. Thus, petitioner respectfully requests the Commissioner conduct investigatory hearings
12 to support a subsequent rulemaking or other such action as deemed appropriate.
13
14

15
16 **Dated: October 6, 2017**

17 _____s/_____

18 Amy R. Bach, Esq.
19 Daniel R. Wade, Esq.

20 *Counsel for United Policyholders*

21
22 ³⁶ See http://uphelp.org/sites/default/files/guides/naic_c_committee_mitigation_ppt_8-17.pdf.

23 ³⁷ Many statutes follow the Institute for Home and Building Safety “Fortified Standards” see,
24 e.g., Ala. Code (1975) §§27-31D-1-27-31D-5; see also <http://www.aldoi.gov/pdf/legal/2016-07%20-%20Modification%20to%20Ala.%20Bulletins%202013-07,%202010-03%20and2009-07.pdf>. UP and the TMTF have urged insurers to voluntarily adopt a uniform set of mitigation
25 criteria, based in part on Pub. Res. Code §4291, but thus far have not been successful.
26

27 ³⁸ See
28 http://uphelp.org/sites/default/files/guides/2017.08.03_naic_mitigation_discount_handout.pdf.

1 **PROOF OF SERVICE**

2
3 I, declare that I am a resident of the State of California, member of the State Bar of
4 California, over the age of eighteen years, and service is made at my direction. My business
5 address is 381 Bush Street, 8th Floor, San Francisco, California 94104. On October 6, 2017, I
6 served the following document(s) by email on the parties listed below:

7 **UNITED POLICYHOLDERS' REQUEST FOR INVESTIGATORY HEARINGS**

8
9 Daniel Goodell
10 Rate Enforcement Bureau Chief
11 California Department of Insurance
12 45 Fremont Street, 21st Floor
13 San Francisco, CA 94105
14 Tel. No.: (415) 538-4111
15 Daniel.Goodell@insurance.ca.gov

Lisbeth Landsman-Smith
Senior Staff Attorney
California Department of Insurance
300 Capitol Mall, Suite 1600
Sacramento, CA 95814
Tel No.: (916) 492-3561
Lisbeth.Landsman@insurance.ca.gov

16 Ken Allen, CPCU, AIE
17 Deputy Commissioner
18 Rate Regulation Branch
19 California Department of Insurance
20 South Tower, 300 S Spring St
21 Los Angeles, CA 90013
22 Tel: 213-346-6783
23 E-mail: Ken.Allen@insurance.ca.gov

Edward Wu
Staff Counsel and Public Advisor
Office of the Public Advisor
California Department of Insurance
300 South Spring Street, 12th Floor Los
Angeles, CA 90013
Tel. No.: (213) 346-6635
edward.wu@insurance.ca.gov

24 Joel Laucher
25 Chief Deputy
26 California Department of Insurance
27 45 Fremont Street, 21st Floor
28 San Francisco, CA 94105
Tel. No.: (415) 538-4381
Joel.Laucher@insurance.ca.gov