

Wildfire Panel

Moderator

Anita Daddar Vice President, Excess Liability AEGIS Insurance Services, Inc.	Donald G. Stone Of Counsel Paine Hamblen	Jonathan Woldemariam Director – Wildfire Mitigation San Diego Gas & Electric	Bill Pfister Managing Director Edison Electric Institute
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The AEGIS logo is located in the bottom right corner of the slide.

Wildfire Consequences

- Property Damage
- Lives Lost
- Fire Suppression Costs
- Insurance Claims
- Litigation Costs
- Insurance Costs
- Utility Operation Costs
- Insurance Coverage



Wildfire Liability Challenges for Utilities

- Expanding Liability for Wildfires
- Expanding Categories for Claimants
- Expanding Damage Claims
- Evolving Standards and Public Policy

Wildfire Consequences

- Camp Fire - \$10 Billion (2018)
- Tubbs Fire - \$8.7 Billion (2017)
- Lahaina Fire - \$5.5 Billion (2023)
- Woolsey Fire - \$4.2 Billion (2018)
- Thomas Fire - \$2.25 Billion (2018)
- Marshal Fire - \$2.5 Billion (2021)

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Wildfire Consequences

- \$90 Million Award to 17 Named Plaintiff Homeowners with damages to be determined for 2,500 additional property owners in Oregon Class Action re: Labor Day Fires (June 2023)
 - “Negligence” finding for failure to implement “Public Safety Power Shutoff” (PSPS)*
 - *But see *Gantner v. PG&E*, 15 Cal 5th 396, 536 P.3d 676 (2023)
 - [Class action for implementation of PSPS barred because of interference with authority of CPUC]
- \$85 Million Award to 9 Plaintiffs re: 2020 Labor Day Fires (Jan 2024)

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Wildfire Litigation Liability Theories

- Negligence
- Gross Negligence
- Trespass
- Public and Private Nuisance
- Negligent / Intentional Infliction of Emotional Distress
- Vicarious Liability for Negligence of Third Parties
- Premises Liability
- Punitive Damages
- Inverse Condemnation (CA)
- Limited Strict Liability (USFS / BLM Permits)

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Expanding Property Damages Claims

Historic: "Value Before and After Loss"

Recent:

- Replacement / Restoration Cost
- Emotional Distress (Negligence) & Annoyance / Inconvenience (Nuisance)
- Damage Multipliers (e.g., Timber / Trespass; Crop Loss)
- Loss of Use / Business Loss / Loss of "Business Opportunity"
- "Toxic Exposure" & "Stigma" Claims
- Punitive Damages

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Expanding Public Entity Damage Claims

- Fire Suppression
- Evacuation / Emergency Response Costs
- Debris Removal
- Loss / Damage to Infrastructure
 - Roads, water, storm water drainage, sewer, culverts, sidewalks
- Loss of Tax Revenue
- Resource Loss / Damage
 - Open Space, Parks Vegetation
- Soil Erosion / Soil Stability / Flood Control
- “Intangible Environmental Damages” (IEDs)

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Class Action Litigation

Historic: Class Action Certification Inappropriate for Wildfires – Individual Issues Predominate

Recent:

- Liability Only
- Issues Only
- Evacuation
- Medical Monitoring

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Eminent Domain – Inverse Condemnation (CA)

The taking or damage of public property for public use, without just compensation by a governmental entity that has not instituted formal proceedings

Eminent Domain – Inverse Condemnation (CA)

“No Property may be taken or damaged for public use without just compensation”

Article 1 § 19 California Constitution

“An electrical corporation may condemn any property necessary for the construction and maintenance of its electric plant” (Cal. Pub. Util. Code §612)

Inverse Condemnation (CA)

- Electric utilities have legislated authority to take property by eminent domain;
- Electric utilities are defined by statute to include every corporation or person owning, controlling, operating or managing any electric plant for compensation [California Public Utility Code Section 218 (a)];
- Transmission of electric power is a “public use” ... status of the utility as a private corporation is not determinative

Barham v. Southern California Edison, 74 Cal App 4th 744 (1999)

Eminent Domain – Inverse Condemnation (CA)

- Requires no showing of fault, breach of standard of care or foreseeability of harm
- Subrogees of property owners have an interest in property taken by a government entity
Aetna Life & Casualty Co v. City of Los Angeles, 170 Cal App 3d 865 (1985)
- Inadequate maintenance may also provide a legal basis for inverse condemnation claim
McMahan's of Santa Monica v. City of Santa Monica, 146 Cal App 3d 683,696 (1983)

Inverse Condemnation (CA)

In the Express Context of Wildfires California's Law of Inverse Condemnation Allows Recovery for:

- Fair Market Value of the Property Taken
- Actual Attorney Fees
- Actual Costs / Expert Witness Fees
- Prejudgment Interest

CA Law of Inverse Condemnation Rejected

“When property damage is an unintended result of the government’s act or policy, it cannot be said that property was “taken or damaged for public use’.”

City of Austin v. Liberty Mut. Ins., 431 S.W.3d 817) (Tex. App. 2014) [fire]

“Some affirmative voluntary act to take property or cause the instrumentality [here water] from entering the property owners land would have to occur before ‘inverse condemnation’ law could be applied to impose liability for such an event.”

Knutson v. City of Fargo, 714 NW2d44 (2006) [rejecting *Barham v. Southern California Edison*, 74 Cal App 4th 744 (1999)]

Federal Law of Inverse Condemnation

“A taking only results when the government **intends to invade** a protected property interest or the asserted invasion is **the ‘direct, natural, or probable result of an authorized activity and not the incidental or consequential injury** inflicted by the action’.”

“Even where the effects of the government action are predictable, to constitute a taking, an **invasion must appropriate a benefit to the government** at the expense of the property owner, or at least preempt the owners right to enjoy his property for an extended period of time, rather than merely inflict an injury that reduces its value.”

Ridge Line Inc. v United States, 346 F.3d 1346 (Fed. Cir. 2003)
[5th Amendment] [water]

See also *Cary v. US*, 552 F3d 1373 (Fed. Cir. 2009)
[5th Amendment] [fire]

Wildfire Consequences

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- Insurance Claims
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- Insurance Costs
- Utility Operation Costs
- Insurance Coverage



An aerial photograph of a large dam and reservoir in a dry, mountainous landscape. The reservoir is dark, and the surrounding terrain is brown and rocky. A bridge is visible in the foreground. Text is overlaid on the image.


Wildfire Panel

Jonathan Woldemariam

Director – Wildfire Mitigation

SDG&E

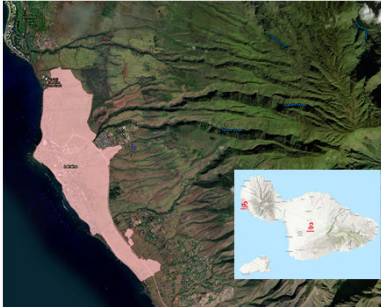
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Recent Global Wildfires

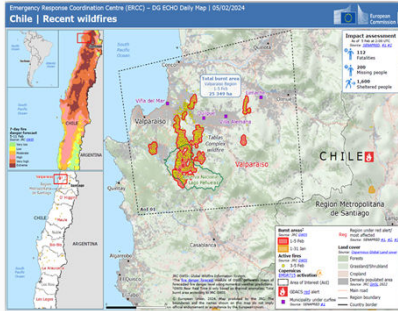
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Lahaina, Maui (2023)



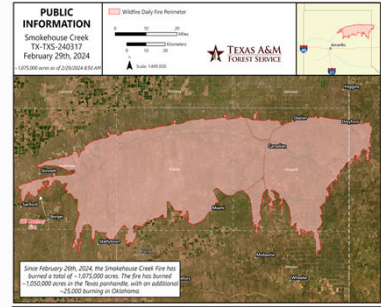
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Chile (2024)



03

Texas (2024)

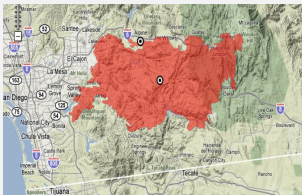


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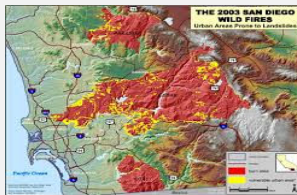
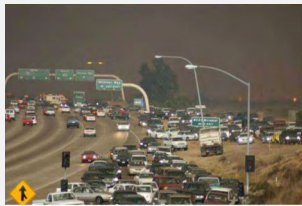


San Diego County's "Megafire" History

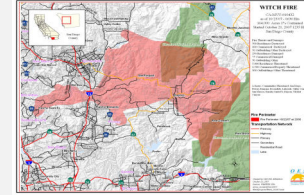
Laguna Fire (1970)



Cedar Fire (2003)

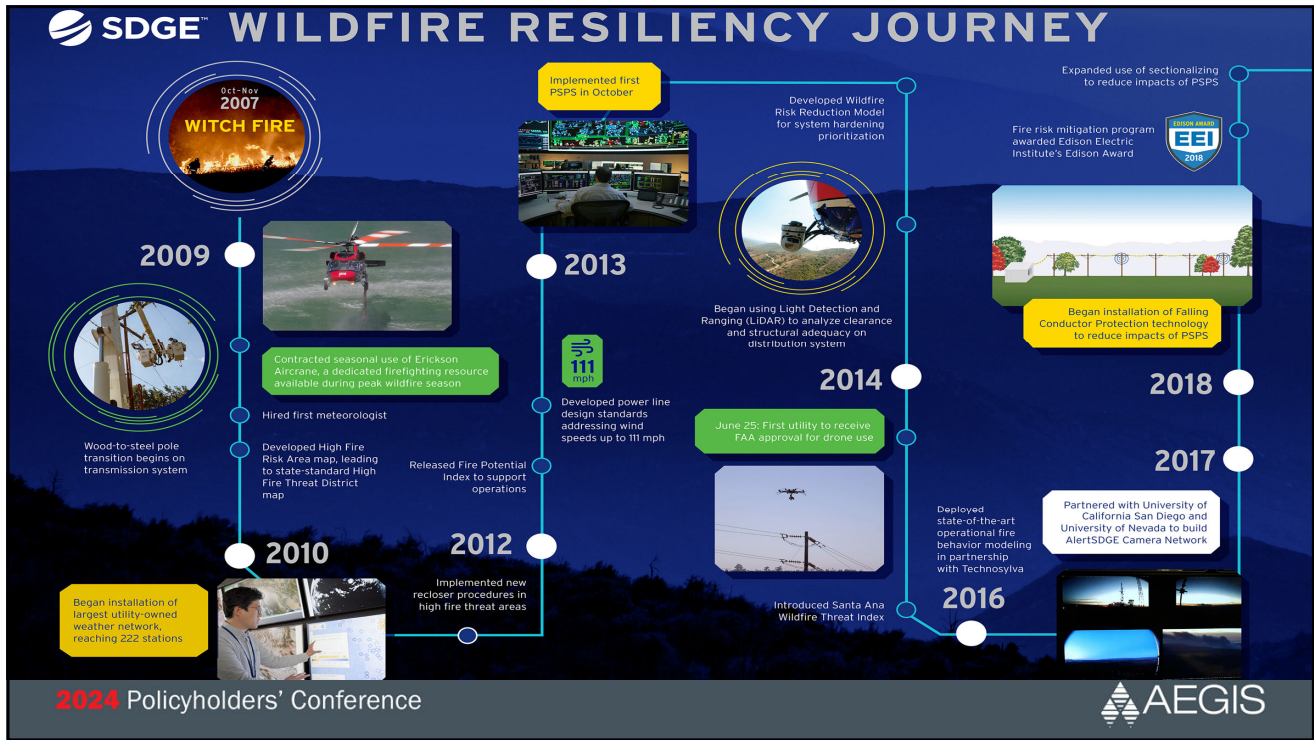


Witch Fire (2007)

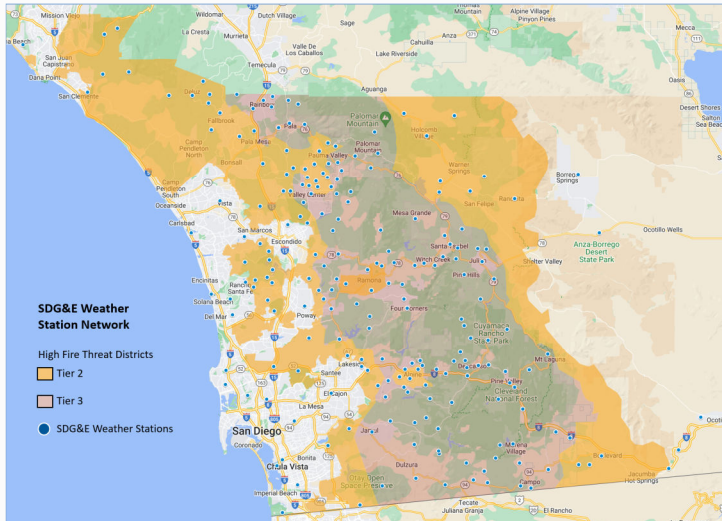


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SDG&E Weather Network: 222 Weather Stations

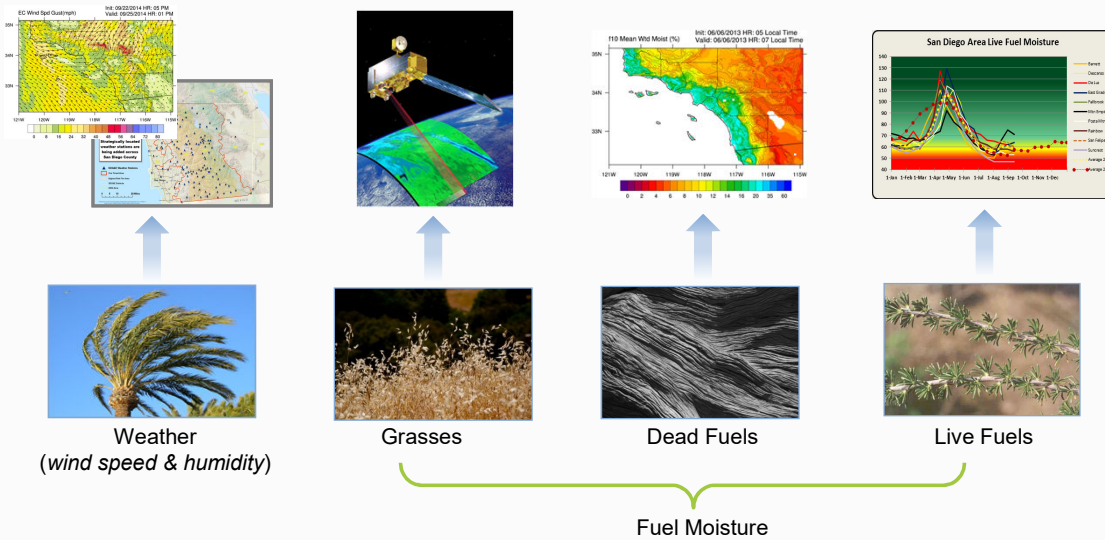


SDG&E owns and operates the densest utility weather network in the nation

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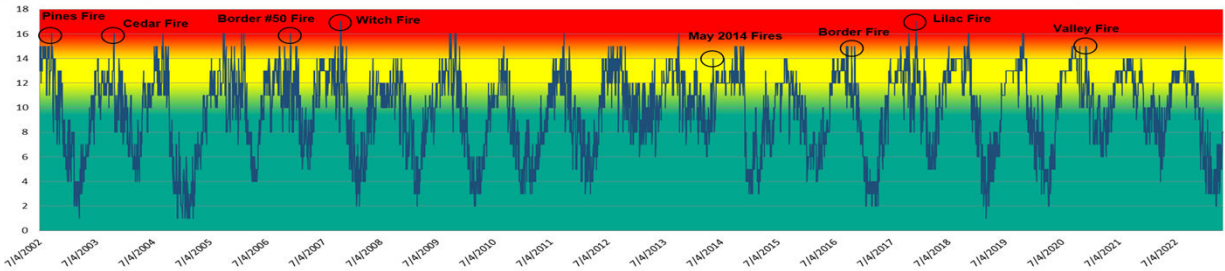
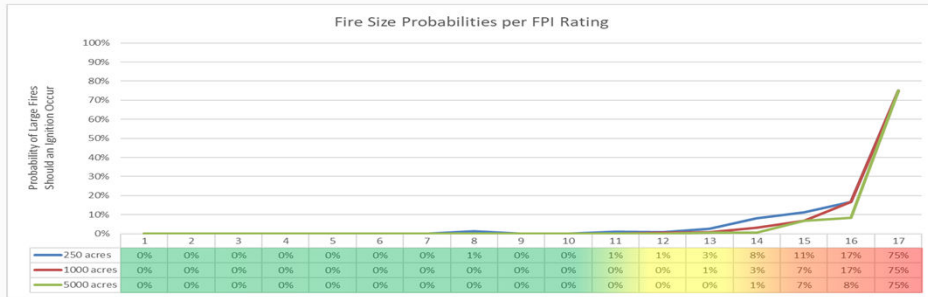
SDG&E's Fire Potential Index (FPI)



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Understanding Your Fire Potential



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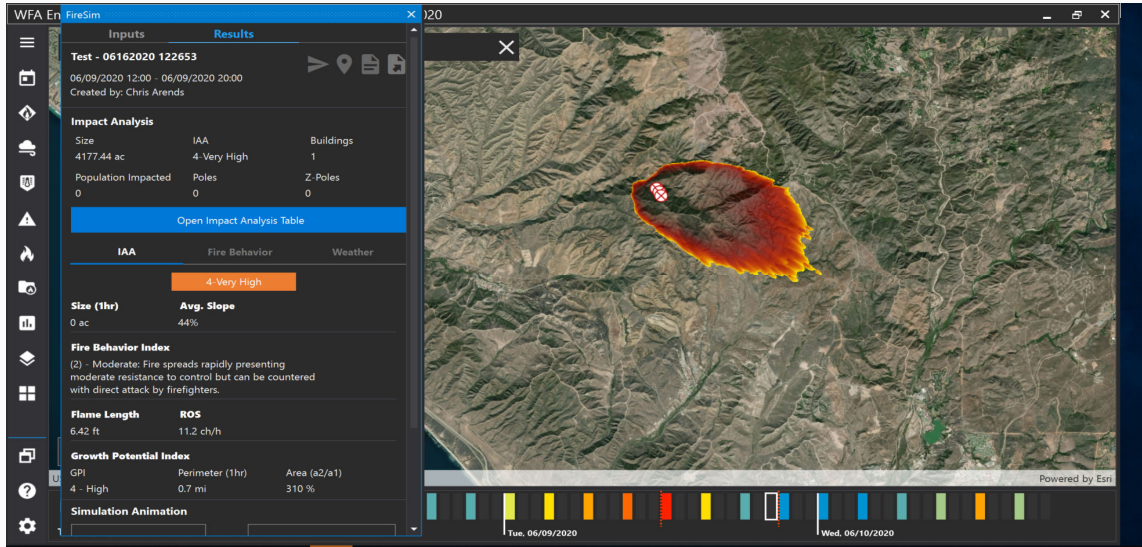


Alert SDG&E Camera Network and AI Smoke Detection

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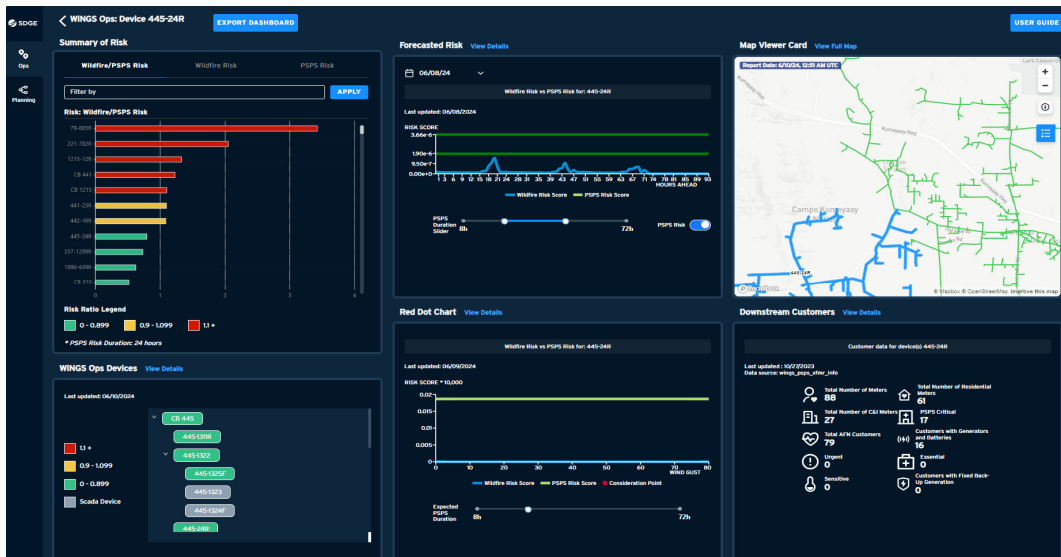
Wildfire Behavior Modeling Informs Risk Modeling



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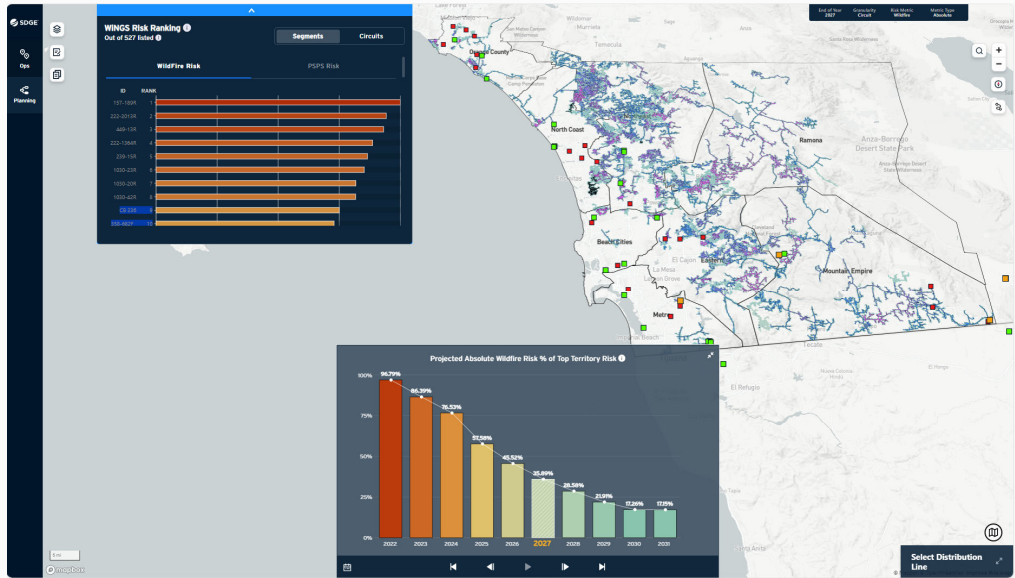
Wildfire Risk Modeling Informs Operations



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Wildfire Risk Modeling Informs Strategic System Hardening



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SDG&E Wildfire Innovation By The Numbers

SUPERCOMPUTING
440 million
computing hours per year to support resilience to extreme weather

WILDFIRE SUPPRESSION
>95%
Of all wildfire ignitions are held to below 10 acres due to aggressive air response

COMMUNITY + CUSTOMER SOLUTIONS
40K
Access and functional needs customers supported through award-winning applications and generator programs

WEATHER FORECASTING
>1 billion
Historical weather observations training AI-based wind forecasting models

VEGETATION MANAGEMENT
98%
Reduction in ignition rate caused by vegetation contact since 2014

ADVANCED PROTECTION
ZERO
Ignitions downstream of Sensitive Relay Profile enabled devices

WILDFIRE RISK MODELING
>10 million
Wildfire simulations conducted daily to inform operational wildfire risk models

DRONE-BASED INSPECTIONS
>3.8 million
Images taken for all poles and structures training AI-based inspection models

GENERATOR PROGRAMS
7,800
Generators given to customers in need to increase resilience

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A background image featuring a dark brown wood grain pattern with several thin, white power lines crisscrossing across it.

Wildfire Panel

Bill Pfister

Managing Director, Business Analytics & Energy Supply

Edison Electric Institute

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The AEGIS logo, consisting of a stylized white triangle and the word "AEGIS", is located in the bottom right corner of the slide.

2024 Industry Priorities



Clean Energy & ESG



Customer Affordability



Industry Financial Health



Policy & Regulatory Implementation



Preparing for Increased Electrification



Resilience & Grid Security



Siting & Permitting Reform



Storm Response & Wildfire Mitigation

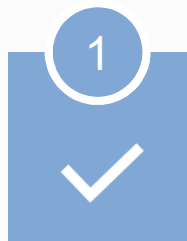


Workforce Development

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CEO Task Force on Wildfires Strategic Workplan



Mitigations
(Technology & Process)



Partnerships



Financial Health



Financial Risk Transfer

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Mitigation Actions & Technology Implementation

- In the face of increasingly risky conditions, electric companies are making significant investments to limit ignitions related to their infrastructure
 - Companies shared and will continue to share operational practices and technology options to reduce risk of ignition, through a series of meetings and ongoing partnerships
 - EEI white paper explores common categories of wildfire mitigation actions that can be deployed across the industry, albeit in ways that reflect local conditions and risks
- EEI developed a framework for common industry action to address wildfire risk
 - Consistent with the framework, companies are assessing risks and developing mitigation plans that respond to their risks, with the goal of making these public
 - Public Safety Power Shutoffs (PSPS) are an important consideration in wildfire mitigation plans, but these both reduce risk and create other challenges; educating all stakeholders about PSPS is key



Partnerships to Address Risk

- Wildfires are a societal problem that require holistic, societal-level solutions
 - Ongoing engagement with land management agencies to ensure access to rights-of-way and permits to perform vegetation management and other mitigation work
 - Educating state and local regulators and legislators about wildfire risks, liabilities, and impacts on the financial health of electric companies
 - Advocating for resources to enable state and local governments to address land and forest management issues that contribute to increased risk and fire ferocity
 - Advocating for smarter building codes and funding for fire-safe infrastructure and state firefighting resources
- Increased engagement with state regulators about the need for prudent, risk-based investment to reduce wildfire risk
 - Advocating for regulatory approval for mitigation activities and investments that reduce risk and provide other benefits to the energy grid and customers



Ensuring Financial Health of Electric Companies

- Electric companies cannot continue to serve as the insurers of last resort for third-party wildfire liabilities
- EEI is working with members and other stakeholders to identify and develop a range of state and federal legislative options to reduce financial exposure associated with wildfire liabilities
 - These include mutual insurance pools, national or regional funds, Price-Anderson-like concepts, and damage limitations
- Member companies will consider other financial tools to address liquidity concerns arising from wildfires and the related negative impacts on access to capital that do not require legislative action
 - These include a range of possible tools, including catastrophe bonds and credit-linked securities

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Financial Health: The Wildfire Crisis Requires a Comprehensive Legislative Approach

- **Make Mitigation a Priority:** Identifying options for federal funding to support state and local risk mitigation, particularly around land and fuel management
- **Mitigation on federal lands:** Reform the processes by which the federal land management agencies grant us access to perform critical vegetation management and other risk mitigation activities is essential
- **Modeling and technology to support mitigation:** Support legislation that increases funding for modeling and technology
- **Liability and loss support:** Wildfire risks have changed dramatically in just a matter of years. Electric companies, insurance companies, and customers cannot manage these risks and losses with current financial and insurance products. Congressional support is needed to bring stability to insurance markets and protect the financial health of electric companies
- **Equitable access to recovery money:** Explore potential for FEMA and the Stafford Act to be amended to ensure that resources to support recovery are available to all victims of wildfires

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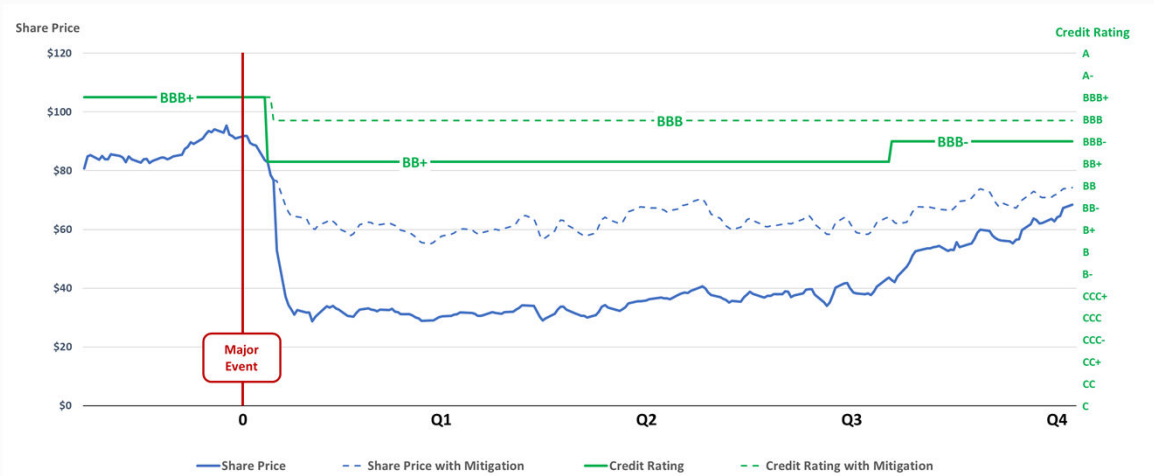


Financial Risk Transfer

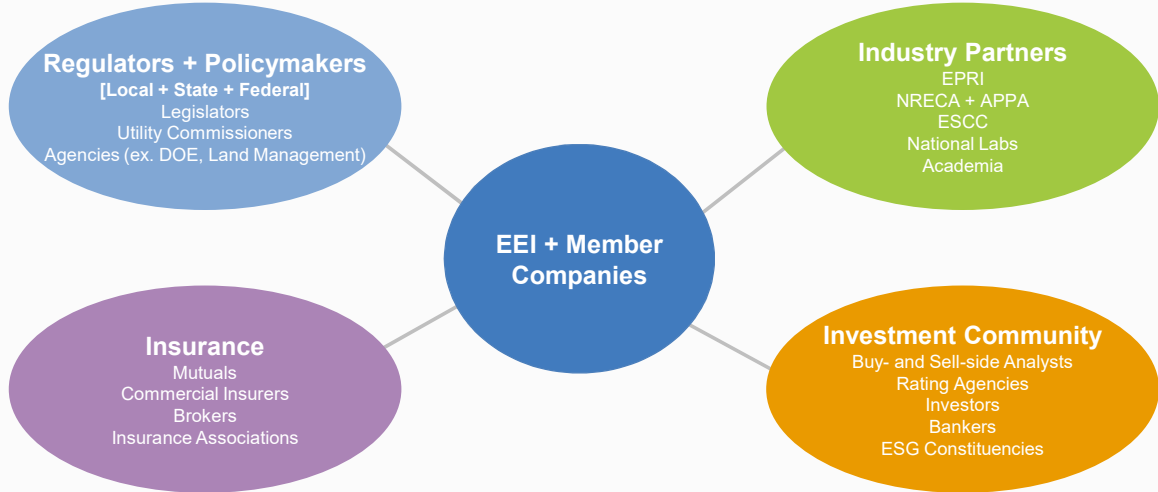
- Many electric companies are facing challenges securing appropriate insurance coverage at reasonable rates because of increasing wildfire risks and a retreat of insurers/reinsurers offering liability coverage
 - The homeowners' insurance market for wildfire coverage is also shrinking, exacerbating the situation
 - Companies and regulators recognize that potential significant and unbounded wildfire liability cannot be addressed fully using existing insurance programs
- EEI formed a wildfire insurance steering committee to engage with the industry mutuals to educate and explore new insurance products
- EEI is also engaging with insurance trade associations, large commercial insurance companies, insurance brokers, and regulators on education around wildfire risk and potential paths forward

Financial Impacts of Wildfire on Utilities and Customers

Typical Market Performance During Major Event



Ongoing and Planned Focused Engagement



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EEI Member Priorities for Industry Mutual Insurers

- Enhanced Communication
- Strategic Transparency and Understanding
- Industry Collaboration
- Key Stakeholder Education
- Liability Data Analytics & Modeling
- Liability / Wildfire Risk Mitigations

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Learning from Each Other



EEI / AGA Enterprise Risk Management (ERM) Committee Meeting hosted by SDG&E in May 2024

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The **Edison Electric Institute (EEI)** is the association that represents all U.S. investor-owned electric companies. Our members provide electricity for nearly 250 million Americans, and operate in all 50 states and the District of Columbia. As a whole, the electric power industry supports more than 7 million jobs in communities across the United States.

Bill Pfister
 Managing Director,
 Business Analytics &
 Energy Supply
BPfister@eei.org
 202-508-5531

In addition to our U.S. members, EEI has more than 70 international electric companies, with operations in more than 90 countries, as International Members, and hundreds of industry suppliers and related organizations as Associate Members.

Organized in 1933, EEI provides public policy leadership, strategic business intelligence, and essential conferences and forums.

For more information, visit our Web site at www.eei.org.

EEI | Edison Electric Institute
 701 Pennsylvania Avenue, NW
 Washington, D.C. 20004-2696
 202-508-5000 | www.eei.org

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Wildfire Excess Follow Form – Additional \$25M Capacity



