

STATE INSURANCE COMMISSIONER JOHN GARAMENDI

**CALIFORNIA DEPARTMENT OF INSURANCE
WILDFIRE RESPONSE TEAM**

***Southern California Wildfires One-Year Anniversary Report
October 25, 2004***

I. INTRODUCTION:

The October 2003 Southern California wildfires resulted in an estimated 3631 primary structures destroyed, 24 deaths and 739,597 acres destroyed, mostly in San Diego and San Bernardino counties. A recent data call of the top 76 insurers (representing approximately 95% of the Southern California market) with complaints reflects that approximately 18,636 insurance claims were filed, with 2,734 of those being total loss claims.

II. Consumer Inquiries and Complaints:

TABLE B - Wildfire Complaints and Recoveries (as of October 4, 2004)

Type of complaint	# of Written Complaints (Request for Assistance)	Amounts Recovered by Consumers by California Department of Insurance
Total of WILDFIRE <u>underinsurance</u> complaints	316 (47% of 676)	\$3,338,682
Total of <u>all</u> WILDFIRE complaints (Including Underinsurance cases)	676	\$10,483,356

Note:

Significance of the frequency of wildfire complaints: The Department's normal complaint numbers are at a consistent level of about 1%.

For example, of the more than one million automobile insurance claims filed in California (a conservative number), the California Department of Insurance (CDI) receives only about 10,000 consumer complaints relating to auto insurance. This is about a 1% frequency rate. Other lines of insurance have similar frequencies.

However, the 2003 Southern California wildfires produced about 3,000 insured total loss homeowners claims.

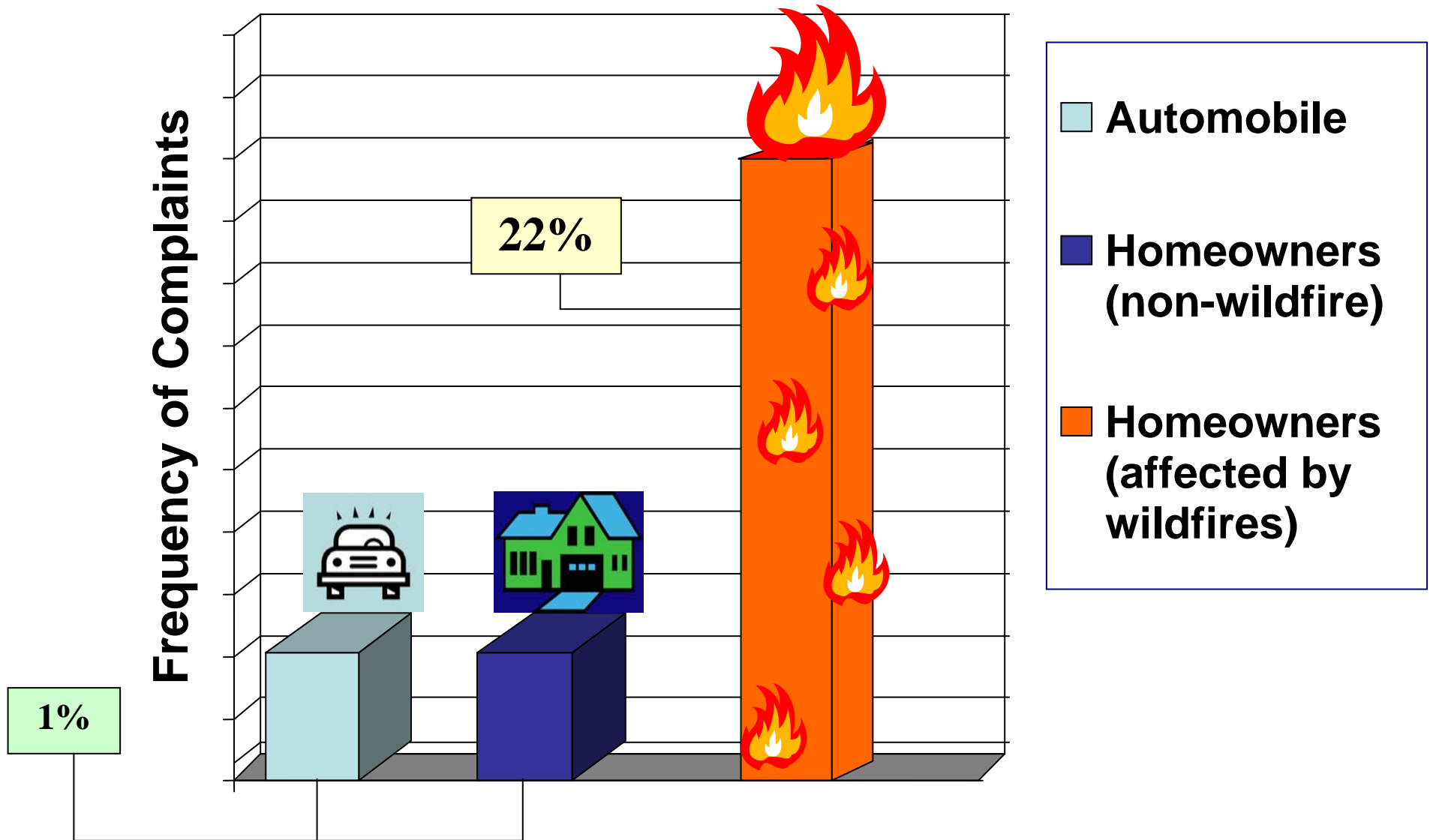
Of those, 676 consumer complaints were filed (all but a few were total loss claims), or more than 22% of all total loss claims resulting from the fires.

This is a twenty-fold increase in the Department's normal frequency.

While some of this increase can be caused by the extra publicity resulting from the wildfires, it is these spikes that indicate that a major problem has occurred in the market that must be investigated and addressed.

Southern California Wildfire Report

22% Increase in Consumer Complaints about Insurance Companies' Claims Practices



III. San Diego County Rebuilding Data

**TABLE C - Additional Data Obtained from the San Diego County Permit Office
(As of October 1, 2004)**

Location	Areas Included	Dwellings Destroyed
Unincorporated Cities of San Diego	Crest, Valley Center, Harbinson Cyn. Julian, Alpine, Ramona, Lakeside	2138
City of San Diego	San Diego, Scripps Ranch & Tierra Santa	335
City of Poway		54
Native American Lands	Rincon, Sun Pasque, Barrona & Viejas	165
Total primary dwellings destroyed: San Diego County		2,691

**TABLE D - NUMBER of BUILDING PERMITS ISSUED IN SAN DIEGO COUNTY
(As of 10/1/04)**

- 2691** San Diego County Homes Destroyed
- 655** Number of Permits Issued on Destroyed Homes (25% of 2691)
- 1491** Plans Submitted for Plan Checks (55% of 2691)
- 150** Homes Completed and that Received a Certificate for Occupancy (6% of 2691)

Note:

There were a total of 2,691 homes totally destroyed as a result of the San Diego wildfires. 655 building permits have been issued.

That is 24% of the total dwellings destroyed. However, 1491 building plans have been submitted for plan checks. Once this process is completed, 80% of the dwellings would have received building permits.

Furthermore, only 150 people have actually completed construction and received certificates for occupancy of the newly constructed dwelling. This is about 6% of the total losses in San Diego.

IV. San Bernardino County Rebuilding Data

TABLE E:

San Bernardino County

Building and Safety Division
Old and Grand Prix Fires Information

Based on data collected by the County Assessor's Office for the affected unincorporated areas, a total of 659 homes, 11 commercial buildings, and 60 outbuildings were destroyed, with an additional 208 homes, 1 commercial building and 10 outbuildings damaged. The breakdown of homes destroyed and damaged within the unincorporated communities is as follows:

<u>Community</u>	<u>Homes Destroyed</u>	<u>Homes Damaged</u>	<u>Total</u>
Arrowbear Lake	0	1	1
Cedar Glen	313	17	330
Cedar Pines Park	16	5	21
Crest Park	5	0	5
Crestline	49	22	71
Devore	8	7	17
Fontana sphere	0	2	2
Hesperia	2	4	6
Lake Arrowhead	2	6	8
Lytle Creek	21	11	32
Rancho Cucamonga	2	7	9
Rimforest	14	4	18
Running Springs	0	8	8
San Antonio Heights	13	25	39
San Bernardino	214	82	301
Sky Forest	0	1	1
Twin Peaks	0	5	5
Valley of Enchantment	0	1	1
Total	659	208	867

Permit information for reconstruction of damaged or destroyed structures in San Bernardino County:

Number of permits applications submitted: 255

Number of permits issued: 210

Applications pending (in plan review): 45

Number of residences completed: 16

Number of damaged residences completed: 22

Note: Possible reason for low percentage of homes completed: When consumers are unable to settle their insurance claims or insurers delay in paying the proper amount to rebuild the home, the permit and rebuilding process can be greatly delayed.

V. Update on the Major Complaint Issues:

A. Underinsurance Complaints:

Underinsurance complaints make up about 47% of all complaints filed on the wildfires. Of the 316 underinsurance complaints, Consumer Services Division (CSD) has been successful in getting reformation and payment over policy limits on about 50 cases, with several other cases still pending. CSD has referred all eligible pending cases to the CDI's newly expanded Mediation Program. For underinsurance issues, the mediation program is voluntary on both parties. If the insured or the insurer decides not to participate, we cannot force participation.

B. One-Year Policy Limit on Right to File Suit (Potentially Expires October 26, 2004). All homeowners insurance policies contain a "Suit" provision that requires the insured to file suit on a dispute within one-year from the date of loss. The one-year period will approximately expire on October 26, 2004, however this period could be tolled under certain circumstances. The Commissioner sent a general letter to all property insurers addressing this issue.

Legal Review: CDI's Legal Department has analyzed this matter and has expressed the opinion that the one-year statute should be suspended (tolled) during the period of time that the claim is being investigated until such time as the claim is denied. Also, the legal opinion suggests that the period is tolled during the time the complaint is in the formal mediation process. Based upon this opinion, the one-year statute should be extended beyond one year (in most cases). It becomes a question of fact as to how long the statute is tolled.

C. Mediation Program: CSD is administering the mediation program for disputes over any wildfire claims, including underinsurance disputes. To date, we have opened more than 200 mediation cases. The goal in referring most pending cases is twofold: (1) to resolve the disputes and (2) toll the one-year policy statute of limitations. **Note:** The California Fair Plan has so far refused to participate in the mediation program for all of its underinsurance complaints (7 so far). The Fair Plan (like all insurers) has this right to refuse to participate as stated in the new mediation law, Senate Bill 64. The Department of Insurance is seeking a solution to this lack of cooperation, by contacting the Fair Plan.

D. Additional Living Expenses (ALE)

The unresolved ALE issues involve (1) the fact that some policies only allow one-year of ALE and that one-year is fast approaching (October 26, 2004) and (2) ALE is limited both by time and amount. The Department's Legal Division has worked with Commissioner Garamendi to request that insurers extend the additional living expenses for an additional year.

VI. Additional Actions by the Department of Insurance

A. Market Conduct Examinations

The Consumer Services Division (CSD) has met with the Market Conduct Division (MCD) to identify the best candidates for a targeted exam. MCD will be examining six insurers with the highest percentage of complaints to total loss claims. **See Table, below.**

Three exams will be combined to include Claims and Rating & Underwriting issues (Farmers, Allstate and Century National).

Three other exams will focus on Rating & Underwriting issues (State Farm, First American, and Travelers). These exams are being scheduled and exam notices will be sent to the insurers. A more definitive exam schedule should be completed in the next two weeks.

TABLE F - INSURERS IDENTIFIED FOR MARKET CONDUCT EXAMINATION

COMPANY NAME	Written Claims Complaint(s) Count - as of 10/4/04	Written Rating & Underwriting Complaint(s) Count - as of 10/4/04	COMPANY RESPONSES: Total # of Wildfire CLAIMS, submitted as of 6/1/04	COMPANY RESPONSES: Total # of Wildfire CLAIMS submitted; Total or Major Loss
STATE FARM GENERAL INSURANCE COMPANY	32	90	4,431	611
ALLSTATE INSURANCE COMPANY	58	65	3,188	487
FARMERS GROUP	45	47	3,674	491
CENTURY-NATIONAL INSURANCE COMPANY	13	13	406	74
FIRST AMERICAN GROUP	13	10	410	67
TRAVELERS GROUP	3	6	184	33

End Report: TC/102504