



# Wildfire Liability Risk for Community Water Systems

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# Inverse Condemnation



- **Inverse condemnation:** The government takes private property but fails to pay compensation as required by the 5<sup>th</sup> Amendment.
- The property owner sues to obtain the required just compensation.

# Inverse Condemnation



- In CA, inverse condemnation also covers damaging of property.
- If a public agency damages property “*for a public use,*” then it owes the owner compensation (damages).
- Also applies to investor-owned as well municipal/public utilities (PUDs? CSDs?).



# Wildfire Liability Risk



- **Strict Liability:** A public entity is liable for property damage substantially caused by a public improvement, regardless of foreseeability or fault.

# Devastating Consequences for Water Providers



- **2008 Freeway Complex Fire**

- Orange County
- Started by car
- Yorba Linda Water District
- \$69 million

- **2017 Thomas Fire**

- Ventura and Santa Barbara Counties
- SCE cited as cause in March
- City of Ventura and Casitas Municipal Water District

# Call to Action for Common Sense Reforms



THE COALITION FOR  
**FIRE PROTECTION**  
**ACCOUNTABILITY**

# Amicus Brief in Yorba Linda Case



- ACWA
- League of California Cities
- California State Association of Counties
- CSAC Excess Insurance Authority
- *“...it would be unconscionable to hold water purveyors responsible in inverse condemnation for damages caused by fires that they did not start ...”*
- *“...the trial court effectively expanded the scope of inverse condemnation by allowing the case to proceed against the District despite the fact that the District did not create the fire nor cause it to invade the neighborhood in which the property damage occurred.”*

# Coalition Partners



- Public Water Providers from across the State
- Labor
- Water Associations
- Cities
- Counties
- Chambers of Commerce
- Business Advocates



# Inverse Condemnation



## Questions