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March 25, 2024

Sen. Joe Manchin, Chairman
Sen. John Barrasso, Ranking Member
Energy and Natural Resources Committee Office
304 Dirksen Senate Building
Washington, DC 20510

RE: Written testimony submitted following the Committee's March 12, 2024 hearing:
to Examine the Findings and Recommendations of the Wildland Fire Mitigation and
Management Commission

- S. 2018 Connect Our Parks Act – Requires the National Park Service to plan within 2 years to deploy cellular and broadband (100/20 Mb) in national parks.
- S. 1764 Western Wildlife Support Act – Directs federal land management agencies to expedite deployment and permitting of technology for wildfire fire detection.
- S. 2855 Close the Gap Act – Promotes deployments of communications facilities on 95% of federal lands; eliminates NEPA and NHPA for expansions of an existing wireless facility.
- S. 873 America's Outdoor Recreation Act – Requires land managers to "foster the installation" of broadband, which includes wireless, recreational areas of federal lands.

Dear Chairman Manchin, Ranking Member Barrasso, and members of the Senate Energy and Natural Resources Committee:

I am a Fire and Utility Consultant and an Honorary Firefighter with the San Diego Fire Department. It is my honor to provide written testimony, which I am today submitting for the record, to this committee regarding four specific bills over which your committee has jurisdiction, but perhaps more broadly, I'm relaying information for you to be aware of going forward as you consider bills that include telecommunications equipment as part of 1) a solution to fire; 2) a solution to emergency communication in the midst of the wilderness.

No agency within the federal government, nor any agency at the state level that I'm aware of, is keeping track of fires initiated, in whole or in part, by telecommunications equipment. I have worked with several attorneys to create fire safety language for local zoning ordinances with respect to macro towers as well as small cells (5G). Most recently I have worked with attorney W. Scott McCollough who served as the Texas Assistant Attorney General for Telecommunications & Utilities for a decade. Attorney McCollough was hired by residents of

Malibu, California to create a telecommunications ordinance that would be as fire safe as possible.

Attorney McCollough was aware that even though we have national standards for fire safety and building codes, many states exempt the telecommunications industry from these standards. Counties may adopt various fire and building codes if they wish, but they do not always choose to do so. The same can be said of municipalities. It is safe to say that for decades the telecommunications industry has been policing itself when it comes to fire safety.

Before this committee approves bills that use cell towers as solutions for fire protection, please read my testimony and understand that the solution that may have been suggested to you could, in fact, be a causal factor.

In my work with attorney Scott McCollough and in my own testimony as a Fire and Utility Consultant, I do not reference a fire that has been started, in whole or in part, by telecommunications equipment unless I have read the fire incident report and/or read and studied a state's public utility commission findings following sometimes multi-year long investigations.

I was brought in by Attorney McCollough to investigate fires in Southern California over an approximately 15-year period. I will use the information gleaned from this investigation to paint a picture for you as to what is happening on the ground, but I do not believe this information is reaching Washington DC. What I am offering you is a slice of the truth, both from fires that were proven to have been started by telecom equipment and telecom-fire coverups that have been confidentially reported to me.

I'm aware through firefighter sources as well as individuals within the telecommunications industry that multiple telecommunications equipment-initiated fires are covered up by gifts of firefighting equipment to fire departments and/or municipalities. A hook and ladder truck costing approximately \$2 million buys a great deal of silence.

The focus of my testimony, however, is not grounded in the gifts carriers provide to fire departments, volunteer and municipal, to buy silence. My testimony is based on fire investigation documents which are footnoted in my testimony.

The slice of the truth that is known and proven took place and Southern California between 2007 and 2018. Four major wildfires were started because of structural or electrical engineering deficiencies, lack of maintenance and repair, and most of the offenders – both carriers and infrastructure builders – were accused by the California Public Utilities Commission of attempting to impede the fire investigations. These are all known carriers and infrastructure builders who would likely be building in the national parks and wilderness areas that are the subject of the four bills under your committee's jurisdiction. In some instances, evidence was destroyed and evidence was claimed to be "privileged" by the attorneys who represented some of the guilty parties. That is not how fire investigations work. But this is how the telecommunications industry works very, very hard to suppress the truth about the fire risks of their equipment.

Before our fire investigation for the years between 2007 and 2018 had concluded, Attorney McCollough and I learned that Malibu had burned not just once because of telecommunications equipment. It had burned twice at the hands of telecom. That second fire, the infamous Woolsey Fire, carried a price tag of over \$6 billion in damages.

First a bit of education about cell towers and the risks, and then details of our findings:

INTRODUCTION TO TELECOM FIRE RISKS

Cell towers and related telecommunications equipment can cause wildfires. Each cell tower is an electrical device. When electrical devices fail, electrical fires can be triggered. Cell tower fires cannot be extinguished through conventional means. Anyone putting water on a cell tower fire before the electricity is cut, which can take up to 60 minutes in a metropolitan area and up to two hours in a rural area,¹ may be electrocuted. Imagine a cell tower fire in a national park or remote federal land in the midst of a high wind event and there is nothing that can be done until the utility cuts the power.

As mentioned, our investigation into the extent of telecommunication fires focused very much in Southern California because we had been hired to help protect the city of Malibu; please keep in mind our findings are applicable to cell towers everywhere. Here's what we found.

Our team working in Malibu – telecommunication's attorney W. Scott McCollough, electrical engineer Tony Simmons, P.E. and myself – linked four major fires to telecommunications equipment within a 15-year period in Southern California alone, costing well over \$6 billion in damages. These fires will be evaluated within this paper but in brief they are the Guejito Fire (2007) in San Diego which merged into the explosive Witch Creek Fire, Malibu Canyon Fire (2007), Woolsey Fire in Malibu & LA County (2018) which burned for one month and took the lives of three people trying to escape, and the Silverado Fire in Irvine (2020).

Though these fires are always well reported in the media at the time, fire investigations can take years. Very often the telecommunication industry's role in the initiation of fires is proven years down the road. This understandable delay means the general public and even local leaders may have no awareness of the role telecommunications equipment plays in the initiation of these fires. The fault most often lies with telecommunications' failures in electrical engineering, structural safety, and maintenance; these faults are often understated and/or covered up.²

According to the Federal Communications Commission (FCC), safety belongs to the locality to regulate.^{3 4} That includes safety setbacks. Because of the risk of fire due to telecommunications equipment, placing cell towers in national parks and on federal land which is often remote and surrounded by dry forests, will increase fire risks. Understand that every single cell tower added

¹ "Protecting Malibu's Future: Preventing Electrical Fires in Cell Towers by Introducing Enhanced But Generally Accepted Engineering Design Rigor and Adequate Proof of Work in the Application," Susan Foster & Tony Simmons, P. E., Updated May 8, 2022 by S. Foster. Attachment 1 Community Memo, Memorandum from W. Scott McCollough to Malibu City Council, "Response to Planning Commission Recommendation and Staff Draft Conforming Provisions," April 8, 2021.

² Ibid.

³ 2014 Infrastructure Order ¶ 202.

⁴ 2020 Section 6409 Dec R and NPRM ¶43.

to our national parks and federal lands increases the fire risk rather than ameliorating that risk. This is true not only in the drought-stricken West. This holds true for the entire country.

I have heard the false narrative that cell towers are needed in national parks so that an injured hiker can call for help. This is an outdated solution, and one that fails to take into consideration the fire risks associated with telecommunications equipment that could cause a fire an injured hiker would not be able to outrun. Here is the solution: the iPhone 14 and 15 series has the ability to contact emergency services in remote regions without cellular service. Emergency SOS via Satellite was launched by Apple in 2022. This service has successfully aided stranded people, allowing them to reach emergency services without a phone signal. In other words, hikers should be prepared when they go into the wilderness. This committee should not introduce additional fire risks but rather inform hikers they should hike with at least an iPhone 14. The Boy Scouts had it right: “Be prepared.”

The use of what amounts to ministerial permits – with the rubberstamping of cell tower permits – should be discouraged because then electrical, structural and fire safety will be left unchecked, and the telecommunications industry will be policing telecom. We have seen the results of that with over \$6 billion worth of damage in the last 15 years alone, thousands of homes lost or damaged, dozens of casualties, lives disrupted, and the environment and wildlife threatened.

S. 2855 Close the Gap Act promotes deployments of communications facilities on 95% of federal lands; eliminates NEPA and NHPA for expansions of an existing wireless facility.

Senators, you must have environmental review which is exactly what NEPA – the National Environmental Policy Act – is for. You also want to abide by NHPA – the National Historic Preservation Act. To abandon the former is to increase your fire risk. To abandon the latter is to risk turning the Grand Canyon into a postcard that resembles a pincushion. If you abandon these guardrails, you indeed facilitate telecom making their own rules. And here is what we found in our investigation of Southern California telecom-initiated wildfires.

It is particularly germane to note that in the Malibu Canyon Fire, the California Public Utilities Commission (CPUC) accused all negligent parties of impeding the fire investigation. These parties included: Southern California Edison (SCE), AT&T, Verizon, Sprint (now T-Mobile) and NextG, now owned by Crown Castle. Because AT&T, Verizon and Sprint admitted to their participation in the initiation of the fire without having to litigate, the CPUC and the Safety and Enforcement Division (SED) were more critical of and punitive with SCE and NextG.⁵ All of these parties conduct business in Los Angeles County and provide telecommunications services and electrical services (SCE) to Los Angeles County.

In addition to the Malibu Canyon Fire, the \$6 billion Woolsey Fire was the fault of Southern California Edison’s own telecommunications company. Edison impeded the fire investigation.

⁵ DECISION CONDITIONALLY APPROVING THE SOUTHERN CALIFORNIA EDISON COMPANY SETTLEMENT AGREEMENT REGARDING THE MALIBU CANYON FIRE, BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, Decision 13-09-028 September 19, 2013.

The failure of multiple perpetrators of multiple fires to candidly and honestly facilitate the fire investigations of the fires their companies recklessly initiated through structural and electrical engineering failures, and/or failure to maintain equipment in a timely manner, should provide a cautionary tale to this committee that is looking to cell towers to ameliorate an increasing fire risk across this country.

Any and all entities that have established a reputation with the state PUC for failing to cooperate in a fire investigation should not be left to supervise themselves.

For context, let us look at the Malibu Canyon Fire and the Woolsey Fire, and understand why they occurred. To suggest that environmental review is no longer relevant is astonishing with the challenges faced by changing climate, rising temperatures, a drought with no end in sight, and increased fire risk with every single Wireless Telecommunications Facility permitted on federal lands.

Understanding how these telecommunications fires start may help legislators appreciate that to turn away from cell tower engineering design requirements and scrutiny by dismissing environmental review altogether invites unmitigated fire risks on pristine and sacred land the federal government is tasked with preserving. It is crucial to understand that environmental review includes fire and climate challenges.

First, let us take the Malibu Canyon Fire. The fire occurred in October 2007 when three utility poles fell to the ground during a Santa Ana windstorm. The California Public Utilities Commission (CPUC) approved settlement agreements totaling \$51.5 million with Southern California Edison (SCE) and NextG Networks (now owned by Crown Castle) as both punishment and enhancement of public safety moving forward. Again, AT&T, Verizon and Sprint (now T-Mobile) admitted to their part in the fire and thus were fined though not as significantly as SCE and NextG Networks.⁶

The Woolsey Fire started on November 8, 2018. The Ventura County Fire Department received notice of a fire, soon-to-be known as the Woolsey Fire, at the Santa Susana Field Laboratory in the Simi Hills, just south of Simi Valley. The fire ignited at two points simultaneously and these two locations were designated by CalFire as Sites 1 and 2.

To quote directly from INVESTIGATION REPORT OF THE WOOLSEY FIRE: “The messenger wire extended about one quarter mile east to Site 1 between poles number 4650857E and 4557126E; these two poles supported several other communications conductors in addition to an ECS communications conductor from Site 2. Trees in this area had been growing into the communication conductors between these poles and pressing them together. This overgrowth caused the energized messenger wire and its lashing wire to make contact with another messenger wire and its lashing in the same span. The contact between the two sets of wires caused an arc, which partially melted the lashing wires and caused hot fragments of lashing wire

⁶ CPUC ENHANCES SAFETY, ISSUES \$51.5 MILLION IN PENALTIES AND REMEDIATION AGAINST SCE AND NEXTG FOR MALIBU CANYON FIRE, Docket #: 1.09-01-018, Press Release, Sept. 19, 2013.

to fall into the brush below. These hot metal fragments ignited the brush and started a second fire there at Site 1.”⁷

These two brush fires converged as they burned south and became the Woolsey Fire. The Woolsey Fire burned 96,949 acres of land, destroyed 1,643 structures, caused three fatalities, and prompted the evacuation of more than 295,000 people in the area. The total damage to property was estimated to be \$6 billion.⁸

The telecommunications role in this fire is as follows: The negligence for the Woolsey Fire was not placed at the feet of one of the telecommunications giants but rather Southern California Edison’s own telecommunications backhaul line which was SCE’s responsibility to maintain.

The Safety and Enforcement Division (SED) found that on a May 10, 2018, telecommunications inspection of their equipment, an SCE employee failed to assign a priority level to the condition associated with a broken Edison messenger wire and a broken Edison lashing wire. This condition should have been marked as urgent and it was not. The failure to repair telecommunications equipment went unrecognized for six months. Southern California Edison did not contest the SED’s findings. In other words, telecommunications equipment belonging to Southern California Edison and a failure to maintain that equipment properly played a significant role in the initiation of the Woolsey Fire.⁹

Just as the CPUC accused all parties in the Malibu Canyon Fire of failing to cooperate fully in the fire investigation, the same failure to cooperate in the Woolsey Fire investigation conducted by the Safety and Enforcement Division (SED) was well-documented.

Wildfires by their very nature are extraordinarily destructive, which makes fire investigation observations at the earliest possible time critical to understanding the events that occurred and finding the cause or causes. Southern California Edison failed to provide a comprehensive set of data and evidence that Safety and Enforcement Division (SED) requested. Edison impeded and prolonged SED’s investigation, according to the Fire Investigation Report.¹⁰ Edison’s actions prevented SED from reviewing all available information from the point at which the fire had least disturbed the electric facilities.

According to the Report: “The actions of Edison’s first responders cannot preemptively be under the direction of Edison counsel. Any notes, reports, or text messages that SED requested would not be generated under the direction of Edison counsel and accordingly should not be subject to attorney-client or work product privilege. For the reasons stated above, SED’s investigation determined that Edison is in violation of PU Code § 316 and GO 95, Rule 19 for failing to provide: the list of evidence and records used for Edison’s own investigation, as well as

⁷ INVESTIGATION REPORT OF THE WOOLSEY FIRE, SAFETY AND ENFORCEMENT DIVISION ELECTRIC SAFETY AND RELIABILITY BRANCH LOS ANGELES.

⁸ Ibid.

⁹ [PROPOSED] ADMINISTRATIVE CONSENT ORDER AND AGREEMENT, Issued pursuant to Commission Resolution M-4846 (adopting Commission Enforcement Policy on November 5, 2020), October 21, 2021.

¹⁰ INVESTIGATION REPORT OF THE WOOLSEY FIRE, SAFETY AND ENFORCEMENT DIVISION ELECTRIC SAFETY AND RELIABILITY BRANCH LOS ANGELES.

photographs, notes, reports, and text messages generated by first responders. In the spirit of full and transparent cooperation with the Commission and its staff, it is imperative that Edison respond to SED data requests with the most comprehensive information available. Without such comprehensive information, SED cannot conduct a thorough investigation, determine the root cause of the incident, expeditiously remedy any issues and prevent future similar incidents from occurring.”¹¹

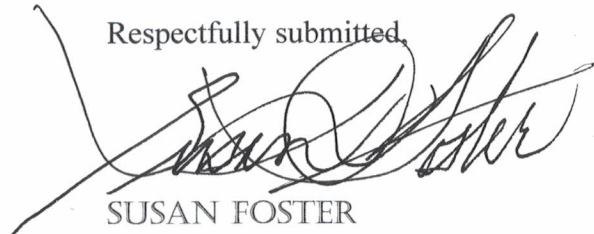
It was the reckless disregard for safety by overloading utility poles because it is profitable to do so that triggered the Malibu Canyon Fire. It was a failure by SCE to maintain their telecommunications equipment that contributed to the initiation of the Woolsey Fire, the most destructive fire in California’s history up until that point.

To compound SCE’s reckless disregard for safety [Malibu Canyon Fire] and negligence of its existing equipment [Woolsey Fire], SCE further punctuated their culpability by intentionally impeding both fire investigations. These facts should immediately shift the calculus for leaders everywhere.

The above facts should compel lawmakers to seriously call into question whether we should be trusting telecommunications infrastructure builders and the carriers with policing themselves by rubberstamping applications, which is essentially what a failure to adhere to NEPA and NHPA would be. Furthermore, the above facts should compel legislators to halt the rollout of 4G/5G on increasingly dry and fire prone federal lands.

If I can provide you with additional information or answer any questions, I stand ready to assist in any way possible.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Susan Foster', written over a horizontal line.

SUSAN FOSTER
Fire & Utility Consultant
Honorary Firefighter SDFD

¹¹ Ibid.