



CA insurance alert re: Debris & mud flow damage in wildfire-impacted regions

Wildfires that destroy vegetation and char the ground also reduce the ability of soil to absorb water when it rains. In the Western United States it's common for wildfires to occur in the fall dry season and be followed by winter rains. This means that properties in the impacted region become vulnerable to flooding, erosion, mudflow and debris flow damage resulting from post-wildfire rains.¹

Your agent or insurer will tell you that standard home insurance policies exclude coverage for damage due to flooding, mudslides, mudflow, landslides and debris flow. But if you have proof that your property was damaged by a flood or mudflow that was **triggered or "proximately caused"** by an event that *is* covered, (fire, accidental breakage) you should provide that proof to your insurer and follow United Policyholders' guidance on making your strongest case to get them to reverse their claim denial. Visit www.uphelp.org.

Property owners in wildfire-impacted communities have an increased risk of damage from debris, slides and mudflow, home and business owners should take preventative steps **and** be aware of limitations and exclusions in standard policies for those categories of damage. Using sandbags, wattles and other flood and erosion control strategies is critically important to protecting life and property in regions that have been impacted by wildfires. Check with your local government on any program or help they may offer. Insurers rarely will pay for work that's necessary to prevent imminent damage. You should do all you can to protect your property and household.

You can (and should) buy flood insurance if you can afford it. Note: Most flood policies have a 30-day waiting period after purchase during which no claims will be covered. This is designed to prevent people from buying insurance for a loss already in progress.²

If you find yourself in a situation where a relatively recent wildfire burned hillsides and areas near your home and caused mud or debris flow that damaged your property, you can make a claim under your home policy, (even if you have no coverage for flood damage) on the grounds that the fire (a covered peril) was the "proximate cause" of the damage.

¹ Damage-causing events are referred to as "perils." Fire is a peril. Flooding is a peril. Policy wording determines which perils are covered and which are not. Generally speaking, ambiguities in insurance policies give the consumer the right to have an ambiguous exclusion interpreted as it makes sense to them, as long as their interpretation is reasonable.

² For more info, see: www.uphelp.org/pubs/dirt-insurance-protection-mud-flow-damage, and www.floodsmart.gov.



Professional water, soil and weather experts have long recognized that there is a “fire-flood” sequence that occurs after wildfires. In California, courts recognize a “proximate cause” doctrine that focuses on the *predominant* or *most important* cause in a chain of events, and can nullify policy language that excludes one or more causes. (See Cal Ins Code § 530).

If it can be shown that a wildfire (a risk covered by your homeowners policy) was the most important cause of damage, you have a strong case for coverage. Your success will depend on how recent and close the fire was to the origination of the mud, slide, flooding, etc.

The “proximate cause” doctrine is not new in California. However, following the tragic mudslide and debris flow that destroyed lives and homes in the town of Montecito in 2018, the California legislature clarified that if a loss results from a combination of perils, one being a landslide, mudslide, mudflow, or debris flow, coverage shall be provided under the same terms and conditions as they would for a wildfire if the wildfire is the efficient proximate cause of the loss (Cal Ins Code § 530.5).

To view the California Department of Insurance bulletin regarding mudslide coverage in Montecito (2018), visit:

January 29, 2018 Notice from State of CA to All Property and Casualty Insurance Companies Providing Homeowners and Commercial Property Insurance in the CA Fire Areas and Other Interested Persons:

<http://www.insurance.ca.gov/0400-news/0100-press-releases/2018/release012-18.cfm>

If you have a policy that covers flood damage and your home is damaged from mud and/or debris flow, but a wildfire is not determined to be the “proximate cause,” read our tips titled [“The dirt” on insurance protection for mud flow damage](#) then contact the insurer that sold you the flood coverage. Most flood insurance is sold through the National Flood Insurance Program. As long as the source was mostly liquid, (closer to “chocolate shake”, not “chocolate cake”) your flood insurance should cover the damage.