

Only You Can Prevent Forest Fire Insurance Headaches

► **Pamela Hans’ practice focuses on insurance recovery, and corporate and commercial litigation. Below, she provides five tips for dealing with natural disasters and their impact on businesses.**

The wildfires that devastated California this past fall caused between \$9 billion and \$13 billion worth of damage, according to various estimates. About 2,000 businesses suffered losses from the Camp, Woolsey and Hill fires, according to California Insurance Commissioner Dave Jones. Beyond those that suffered property damage or were directly in the path of destruction, many other businesses were doubtless affected. After any high-impact disaster, the economic ripples spread wide.

Among the indirect sources of disaster-triggered loss: Closed roads can prevent customers from reaching you. You may suffer delays leading to extra expense and lost income if the components your business relies upon cannot be made or delivered to you. These sources of business income loss can occur nationally and internationally after any major disaster.

Given the variety of ways in which a natural disaster can impact your business, it is important to understand how your insurance policies cover business income loss, and to consider all sources of potential loss and the coverage that your insurance policies provide. All of these factors need to be considered when you prepare your insurance claim.

Below are five tips for dealing with natural disasters and their impact on your business.

1. Locate Your Insurance Policies

After any loss, one of the first steps you should take is

to locate all potentially applicable insurance policies and promptly notify those insurers of the loss. Your insurance broker should be able to assist you in this process – and should give prompt notice under all potentially applicable insurance policies.

2. Prepare and Use Your Contingency Plan

Preparation can be key to a business’ successful recovery from a natural disaster. A well-thought-out contingency plan saves time, money, and especially headaches. While any plan will reflect your business’ particular circumstances, there are a few components you should include:

- A recovery timetable for business operations.
- A “loss estimate and priorities” chart.
- Primary and backup “hot sites” for business operations.
- Organization of outside vendors for essential operations such as communications and computer services.
- Fully stocked supplies, as prices will invariably rise.
- Established communication with customers and, if necessary, the media.
- A dialog with competitors to see if anyone is willing to share information and resources.

Most insurance companies will require that a policyholder take appropriate steps to mitigate its loss. A well-thought-out and executed contingency plan can help to demonstrate that your business has met these requirements.

3. Review the Scope of Your Policies

Your business’ insurance policies may include coverage

both for damage to your property and for business interruption, a standard coverage in business property policies. Depending upon the type of coverage that you purchased, your policies may also cover “contingent” business income losses that result from damage to suppliers or other properties upon which your business relies. Contingent business interruption coverage may be available when there is no damage to your property – though generally, the damage to suppliers or others must be caused by a type of event (e.g., flood) for which you have coverage. Furthermore, some policies cover for time element losses when access to your business is prevented by law. It is possible to purchase special coverage for loss occurrences that interfere with access routes to policyholder premises, impede navigation on waterways or restrict air travel, or pollute land or water within a certain proximity.

Understanding the full extent – and limitations – of the coverage you have purchased is important both at the point of purchase and at the time of a loss.

4. Assemble a Team of Experts

When preparing for or responding to disaster, it is always best to look to those who can help. Brokers and risk managers are the first line of assistance when it comes to business interruption coverage. They know what types of coverage are necessary to protect a policyholder and what the best policies are in today’s insurance market, as well as the reputation and claims-paying practices of various insurance companies. When disaster strikes, your broker can help process claims and act as an effective intermediary.

Your corporate counsel and risk managers are striving for the same goal, so they should be natural allies. However, many companies fail to encourage teamwork between the two. Risk managers work to help

the policyholder minimize risk and purchase adequate insurance to protect against risk. Corporate counsel’s role is to advise on and prepare for legal questions, and to appropriately respond to real or threatened losses.

When effectively combined, the expertise of brokers, risk managers and corporate counsel can minimize recovery time and maximize insurance coverage.

5. Communicate with Your Insurance Company

One of your first communications during a disaster should be to your insurance company.

Before loss occurs, develop a strategy for communicating with your insurance company and its adjusters to make sure that notice is given promptly, required information is relayed and loss details are preserved to the extent possible.

It is essential to keep track of policy deadlines, notice requirements, and other obligations imposed by insurance companies and insurance brokers. Failure to comply with timely notice provisions can forfeit coverage or trigger a legal battle to obtain it. Ensure that all parties comply with contractual requirements and deadlines. These requirements cover notice of loss and proof of loss, and contractual limitation periods for suits or arbitrations against the insurer.

Often an insurance company will assert that they have not received the information needed



Pamela D. Hans is the managing shareholder of Anderson Kill’s Philadelphia office. Her practice concentrates in the area of insurance coverage exclusively on behalf of policyholders. Reach her at 267-216-2720 or phans@andersonkill.com.



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to respond to a claim. Provide them with all reasonably requested information as soon as possible and create a system to confirm their receipt. Document all their requests for information and your responses to them. While it may be tempting to take shortcuts on this front, keeping a detailed log of your submissions can reduce headaches later. Remember that the only party that benefits from a delay is the insurance company, so don't make it easy for them to delay by not responding promptly and in well-documented detail to requests. Persistence pays off.

Communicate frequently so that the resolution of your issues and the overall progress of your claim feels more like a partnership than a provided service or obligation. It is far easier to address issues while the claim is still being adjusted than saving them for the end of the process, when they may create further problems.

If possible, provide your insurance company with written notification or proof of previous major expenses for which you seek coverage. If the claim is going to take a while, submit your claim in installments and demand partial payments, as costs will continue to incur. Document any insurance company misconduct or failure to perform, and seek counsel if necessary.

Benefits of Being Prepared

When natural disaster strikes it can be hard to know what to do first. Vendors, suppliers, customers – there are so many aspects of your business that can be affected by a sudden disruption to your business' functioning. With thorough planning and a strong policy, a prepared policyholder can strategize in advance of disasters and better understand the rules of coverage. ■