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FACING FLOODS AND FIRES: EMERGENCY PREPAREDNESS FOR NATURAL DISASTERS IN NATIVE COMMUNITIES

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

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FACING FLOODS AND FIRES: EMERGENCY PREPAREDNESS FOR NATURAL DISASTERS IN NATIVE COMMUNITIES

THURSDAY, JULY 21, 2011

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:15 p.m. in room 628, Dirksen Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR FROM HAWAII

The CHAIRMAN. The Committee will come to order.

Aloha and welcome to the Committee's oversight hearing on Facing Floods and Fires: Emergency Preparedness for Natural Disasters in Native Communities.

This is an incredibly important issue to Tribes and Native peoples. In just the past few months, Native communities in New Mexico, Montana, Washington, Nebraska, and South Dakota have faced floods, fires, tornadoes, and severe storms. Lives were lost, homes destroyed, and sacred sites endangered.

Pertinent to the hearing, the monitor displayed pictures of disasters. A map displayed also shows many of the natural disasters in Native communities over the past 10 years. I think we can all agree that these visuals are very, very moving.

I have a lifetime of experience in dealing with effects of natural disasters. In the middle of the Pacific Ocean, Hawaii can be affected by disasters all around the Pacific Rim. Hawaii was reminded of its vulnerability in March when a tsunami warning and evacuations were issued following the devastating earthquake in Japan. Small tropical storms can quickly turn into hurricanes and devastate whole communities and islands.

Hawaii also experiences thousands of earthquakes from volcanic activity every year. They can cause loss of life, property, and electricity throughout the islands.

Disasters like these can have lasting effects on people and can undermine our sense of community and safety.

In Hawaii, we have learned time and again the value of being prepared and importance of quick and coordinated responses when a natural disaster strikes. We have the same fears for safety of all people as other Native communities and some of the same frustra-

tions dealing with coordination and collaboration. In Hawaii, we have to coordinate Federal, State, and local efforts among the seven inhabited islands.

Here in the Continental United States, Tribes deal with at least that many agencies in getting aid to their people and communities. Today we are fortunate to have six Federal witnesses to examine the role of each agency in responding to natural disasters. We want to hear what is working well and where improvements are needed. We will also hear from a Tribal witness who knows firsthand the devastating effects of natural disasters.

From this hearing we hope to identify ways Federal response can be improved, both administratively and legislatively, so Tribes can prepare for and respond to the natural disasters in a way that protects their members, their infrastructure, and their cultural resources and homelands.

At this moment, I want to ask my partner here, Senator Barrasso, for his opening statement.

STATEMENT OF HON. JOHN BARRASSO,
U.S. SENATOR FROM WYOMING

Senator BARRASSO. Well, thank you very much, Mr. Chairman. I was actually out in the hall studying that map, another map like that out in the hallway, and I really do want to thank you for holding this hearing today on emergency preparedness in Indian Country.

Often we don't pay much attention to the need for emergency preparedness until after there is a disaster, but the risk of one form or another of natural disaster in Indian Country is not theoretical and, as we can see, it is real, and Indian communities need to be prepared to deal with this reality. Each year, many Indian communities face the threats of tornadoes, hurricanes, floods, fires, and even blizzards. Recent events in the Southwest and in Montana and elsewhere have demonstrated how serious these kinds of events can be. In some Indian communities there are other risks with a potential for great damage, from active volcanoes, earthquakes, tsunamis. Given all of these risks, it is critical that there be adequate preparation and contingency plans in place.

Now, Mr. Chairman, as we know, Interior's Office of the Inspector General recently released a report and that report identified inadequacies in the BIA's monitoring of wildland fire suppression program costs. Reading some of the findings in the Inspector General's report, one can't help but wonder if the inadequacies are limited to just cost monitoring.

So I look forward to hearing from the agencies on how they are working with each other and with the Tribes to prepare for these serious risks.

So thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much for your opening statement, Senator Barrasso.

Senator Johnson.

STATEMENT OF HON. TIM JOHNSON,
U.S. SENATOR FROM SOUTH DAKOTA

Senator JOHNSON. Welcome, and I would like to thank you, Chairman Akaka and Vice Chairman Barrasso, for holding this hearing. This hearing is timely as we are facing unprecedented flooding in my home state of South Dakota. These floods are impacting the five Tribes along the Missouri River and frequently, in recent years, we have had our share of disasters in South Dakota, from blizzards to droughts to tornadoes. Indian Country has been affected by all of these disasters.

From most reports I can tell you that cooperation and consultation have been positive in this latest disaster. However, this has not always been the case. As we examine the response and outcome of these disasters, we should also examine the possibility of providing our Tribes with the ability to appeal directly to the Federal Government for assistance, as opposed to working through the State. This would be in line with the Federal Government's treaty and trust responsibility to American Indians.

The agencies represented here today have crucial roles in responding to disasters in our Indian communities. Though not here today, the Department of Transportation also has a role. Sadly, one month ago today we lost two Tribal members in the Lower Brule Indian reservation when an outdated culvert failed and a major artery to the reservation washed out. This is a terrible tragedy that could possibly have been prevented if the culvert had been upgraded.

I understand the Federal Government is working with the Tribe to repair this critical access road, but may only be able to restore the road to its original specifications. We need to examine if this needs to be changed, if this road previously needed an upgrade culvert, or why are we replacing the culvert with a culvert that we know to be insufficient.

As we move ahead, I look forward to working with you, Chairman Akaka, and your staff to see what needs to be done to get the Tribes the tools they need to respond to disasters that hit their reservations.

The CHAIRMAN. Thank you very much, Senator Johnson.

Senator Udall, please proceed with your statement.

STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO

Senator UDALL. Thank you very much, Chairman Akaka, and thank you also to Vice Chairman Barrasso for holding this timely hearing.

As the Chairman knows, my state of New Mexico has experienced an unprecedented fire season this year, after months and months without rain. The actual numbers are startling. The U.S. Forest Service calls this the driest year in 117 years. They have been keeping numbers for 117 years; they have never seen anything this dry. The largest fire in New Mexico's history, the Las Conchas fire, still burning and after almost a month is only 80 percent contained. The fire has burned more than 160 acres. That is more than 244 square miles of forest service, Tribal, private, DOE, and BIA land, and it has cost almost $45 million to date.

The Las Conchas fire has burned over 100 homes and other structures, hundreds of sacred sites, and damaged natural resources. The Jemez Mountains historically burned completely in a healthy 30- to 40-year cycle, with fires clearing out the underbrush and debris below all Ponderosa pines stands, but because of decades of forest fire suppression, some of that dating back 100 years or more, the forest of the Jemez Mountains have become unhealthy, filled with fuel and overcrowded with trees. Much of the Las Conchas fire was a catastrophic crown fire, the kind of fire that leaves nothing but ash and vitrified impermeable soil behind.

Now, as the New Mexico monsoon season begins, flooding, debris flows, and mud slides are threatening communities below the burn watersheds. Many of these communities are Native American communities.

One of these communities is the Santa Clara Pueblo, and I look forward to our Santa Clara governor, Governor Walter Dasheno, speaking to the Committee during the second panel about his Tribe's experiences and efforts to protect homes and sacred sites.

Over 16,600 acres of Santa Clara land was burned by the Las Conchas fire in an intensely hot crown fire. Much of the Pueblo's forest was burned and the fire came within miles of the Santa Clara village. Santa Clara's excellent fire crews helped throughout the fire and was on the front lines protecting their land and other Federal and private land. When the town of Los Alamos was evacuated, the Pueblo of Santa Clara and other nearby Tribes opened their doors and facilities to the evacuees.

But as the fire dies down, the work is just getting started for Santa Clara and other Pueblos. Already there have been several mud slides in Santa Clara Canyon and the debris ponds, their fishing ponds are filling with debris. The Army Corps of Engineers helped provide 47,000 sandbags to protect structures and the Interagency Burn Area Emergency Response Teams continue to assess the canyon and do emergency treatments. These Interagency BAER Teams continue to assess the threats of erosion and flooding, and are taking emergency actions, including reseeding severely burned watersheds, creating erosion barriers, removing debris, including dead trees, cleaning and lining culverts, creating debris ponds, putting in floating booms to catch ash in the reservoirs, road and culvert repair, and bridge removal.

There is a lot of work and coordination going into these teams and I hope that Governor Dasheno can shed some light on how that process is moving forward when he testifies.

Again, I thank Chairman Akaka for holding this hearing and inviting Santa Clara's strong leader, Governor Walter Dasheno, to come and give testimony.

I would also, Chairman Akaka, ask permission. There are many other Pueblos that have been impacted by this, and I know you generally welcome written testimony, that they might be able to give and submit written testimony on the impacts of disasters and fires with them. So thank you very much, again, for holding this hearing, and look forward to hearing all the witnesses.

The CHAIRMAN. Thank you very much, Senator Udall.

Senator Tester, would you please proceed?

STATEMENT OF HON. JON TESTER,
U.S. SENATOR FROM MONTANA

Senator TESTER. Yes. Thank you, Mr. Chairman, and thank you, Ranking Member Barrasso for holding this hearing. I think it is a very important hearing. I want to welcome the Committee members. This is a great panel, half a dozen folks who can really answer, I think, a lot of questions that need to be answered as we address issues of natural disasters in Indian Country, and I appreciate the work each and every one of you do. I think we see one another too often. So thank you.

In my state of Montana, American Indians deal with everything from severe winter storms, tornadoes, to wildfires, to flooding. Right now we are being flooded pretty hard in different areas of the State of Montana. Montana always dries out; I am sure wildfires will come soon thereafter.

We had record-breaking rainfall this spring on top of record-breaking snow. You know that is a recipe for floods and, sure enough, that is exactly what happened; flooded homes, flooded hospitals, flooded schools, and flooded businesses. There are still places in Montana that are extremely wet. They will be wet, probably, into the fall. Then they will have to deal with things like mold and other associated problems.

In fact, last year Rocky Boy, who you are very familiar with, Mr. Grinnell, had land flooding and landslides ruin a brand new health clinic in Rocky Boy's Indian Reservation that took 20 years to get built, and it was taken out in a month. In fact, less than a week. And having it wiped out after all the work to get it built was pretty devastating.

These natural disasters not only devastate resources, they devastate people and spirit, and it is not good, especially with folks who are living in third-world conditions right now.

Most of us in the room are aware of the Government's responsibility, trust obligations for American Indians. In those treaties that were signed decades ago, Tribes gave up vast quantities of land and resources in exchange for promises from the United States Government.

In preparation for this hearing, I was happy to see that various agencies take these situations in their work very seriously. However, there are always concerns, and I have several. One concern comes directly from Tribal leaders, as they tell me that all too often, depending on the situation, different programs at different agencies apply and they get ping-ponged around a bit. It is very confusing and very time-intensive.

They also tell me all too often they are not partners working in a true government-to-government relationship, and you guys all know what that means. Instead, they have to wait for people within the bureaucracy to decide or potentially even the State of Montana to decide.

I am also concerned about efficiency. When you have several different agencies that overlap in their work, oftentimes there are extra dollars spent on administration when in fact that money needs to be put on the ground and should be put on the ground. Quite honestly, I would just tell you from my perspective, at this level, that is an issue we can talk about, but it is really an issue

that the folks at the table right here need to really work to do, and that is don't worry about the turf, just make sure the money gets to ground so that the job gets done. I think that is critically important.

Now, in Crow Reservation earlier this year they were devastated by early spring rains that I just described and today Tribal officials still report that 200 families are displaced; they are living day-to-day with family members or friends or in temporary housing. Most of those folks don't have a lot of dough, and their capacity to navigate through a complicated Federal bureaucracy and figure out where they should go and who is going to pay for what, it ain't gonna happen. That is all there is to it. So they need help. And the longer we wait, the more expensive it gets to recover.

So I very much appreciate the work you guys do. I want to go back and say that we can always be critical of your work, but I very much appreciate the work you do. We just need to work on making things more efficient, more streamlined, and more user-friendly.

With that, Mr. Chairman, I have to say I am going to have to leave early today, but thank you very, very much for this hearing.

The CHAIRMAN. Thank you very much, Senator Tester.

Senator Murkowski, please proceed.

STATEMENT OF HON. LISA MURKOWSKI,
U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman. I appreciate you having this hearing this afternoon. I know many of us on the Committee are interested in hearing from our witnesses today. My comments will be very brief.

When I came in, I noted the very, very inaccurate map that you have displayed for us. Alaska, as we all know, is not a tiny itty-bitty little State up in the upper lefthand corner of the United States of America. But I will note to those who are looking at it that we have our share of push pins; severe storms, flooding, and the fires. The good news for us is we do not have any of the yellow or the green push pins, which would indicate tornadoes or hurricanes. If we get to that point, I would suggest that we all move somewhere else, because we get a lot of natural disasters but, fortunately, hurricanes and tornadoes are not among them.

We have learned, we didn't actually need to learn it from the GAO reports that have been out there, but most Alaskan villages, in fact, 86 percent of our Alaskan villages are affected by some level of erosion or flooding, but few qualify for Federal assistance. Most of our small villages don't qualify for the assistance under the program because they don't meet the cost-benefit criteria. This is an issue that we have discussed. I will be looking forward to exchanging some comments with Administrator Fugate, Mr. Black as we explore some of these issues.

I have had a sit-down with those within FEMA, some others within agencies to understand how Alaska, recognizing that we are not connected to the rest of the Country, when we face a natural disaster, we need to have our own contingency plan because we don't have the availability of the neighbors around us. Our closest neighbor is Canada, and ensuring that we are able to respond to

the needs, but recognizing, if you will, that most of those push pins out there are in remote communities that are not accessible by road, that are very limited in their infrastructure, we have some unique problems.

I look forward to working not only with you, Mr. Chairman, and the other Members of the Committee, but with the fine panel that we have assembled here as to how we address it. Thank you.

The CHAIRMAN. Thank you very much, Senator Murkowski.

Now we will receive the statement of Senator Hoeven.

STATEMENT OF HON. JOHN HOEVEN,
U.S. SENATOR FROM NORTH DAKOTA

Senator HOEVEN. Thank you, Mr. Chairman. I will keep my opening comments brief. I look forward to the opportunity to ask some questions of each of our witnesses. I want to thank you for being here today; thank the Chairman for arranging this opportunity to meet with you.

I don't have to tell at least a number of you that we have truly had record flooding in North Dakota and it has affected us tremendously, both on our reservations and off. I want to thank you up front for the help that we have received, important help that we have received from FEMA, in conversations, Director Fugate, you and I have had. I guess I also want to emphasize that your ongoing help and support is going to be incredibly important, and I am going to want to go through some of the programs and make sure that we are maximizing all possible help and support for individuals that have been affected by terrible flooding up to this year.

Also, General McMahon, good to see you again. Appreciate you being up in our state and the protection measures that the Corps is undertaking, and, likewise, will want to go through and make sure that we are utilizing all of the protection measures available at your disposal.

And certainly, Mr. Black, get your thoughts as well on anything else that you think we need to do, but also that we can do to help the members of our reservation who this year, particularly, have been hit by flooding, as well as, like I say, people throughout the State of North Dakota.

So, again, thanks for being here. I am looking forward to your testimony and the opportunity to discuss these important issues.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Hoeven.

I again welcome the first panel of witnesses to the Committee today. With that, I appreciate all of the agencies who play a major role in responding to natural disasters and are with us today. It is important to have you all at the table so we can paint a comprehensive picture of the Federal Government's response to natural disasters in Native communities.

I want to remind you again, reiterating what Senator Udall asked, I want to remind you the record for the hearing will remain open for two weeks from today, so we welcome any additional written comments for the Committee.

On the panel we have Mr. Michael Black. He is the Director of the Bureau of Indian Affairs at the Department of Interior; Mr. Craig Fugate is the Administrator of the Federal Emergency Man-

agement Agency at the Department of Homeland Security.; Ms. Mary Wagner is Associate Chief of Forest Service at the Department of Agriculture; Brigadier General McMahon is the Commander of the Northwestern Division of the Army Corps of Engineers; Mr. Randy Grinnell is the Deputy Director of Indian Health Service at the Department of Health and Human Services; and Mr. Fred Tombar is the Senior Advisor for Disaster Recovery in the Office of the Secretary at the Department of Housing and Urban Development.

Again, welcome to every one of you.

Mr. Black, we will please proceed with your testimony.

STATEMENT OF MICHAEL S. BLACK, DIRECTOR, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. BLACK. Good afternoon, Chairman Akaka, Vice Chairman Barrasso, and Members of the Committee. As you said, my name is Mike Black, and I am the Director of the Bureau of Indian Affairs with the Department of Interior. Thank you for the opportunity to present the views of the Department on Facing Floods and Fires, Emergency Preparedness for Natural Disasters in Native American Communities.

The Bureau of Indian Affairs provides services directly through contracts, grants, or compacts to a service population where about 1.7 million American Indians and Alaska Natives who are enrolled members of 565 federally recognized Tribes living on or near Indian reservations in the 48 contiguous United States and Alaska. Programs are funded and operated in a highly decentralized manner, with almost 90 percent of all appropriations expended at the local level and approximately 63 percent of appropriations provided directly to Tribes and Tribal organizations through grants, contracts, and compacts. Tribes and Tribal organizations use the contracted funds to employ Tribal police officers, social workers, school teachers, foresters, and firefighters, amongst many other professions. In addition, Indian Tribes look to the BIA for a broad spectrum of services, including emergency response to natural disasters in Indian Country.

Given the Secretary's commitment to improving the safety of Indian communities, the DOI Office of Emergency Management, OEM, commissioned an expert study on how to improve the BIA's ability to support Tribal preparedness, response, recovery, and mitigation efforts. The report is expected to be finalized at the end of this month.

As illustrated by the examples in my written testimony, the BIA responds to natural disasters, which can vary significantly in size and scope, for events as large as Hurricane Katrina to small fires on Indian lands. Responses to natural disasters in Indian Country require extensive coordination among the affected Tribes, Federal agencies, State and local governments. While the BIA's role is somewhat limited, BIA personnel are most often the first responders to natural disasters in Indian Country.

Fighting fires on Indian land is distinctive from the response of other natural disasters in Indian Country. For fighting fires, the BIA works within an extensive interagency network to provide the needed aircraft engines, dozers, crews, overhead and logistical sup-

port. The BIA provides both direct service to Tribes and technical assistance to Tribes who have compacted and/or contracts BIA fire programs. The Tribes have the flexibility to compact 638 contract and provide additional resources through cooperative agreements for fire suppression. Roughly one-third of the fire programs are compacted or contracted under the authority of Public Law 93–638.

To date, there have been over 2,100 fires that have burned approximately 138,000 acres of Indian land this U.S. calendar year. DOI's Office of Wildland Fire Coordination funds fire preparedness, readiness, suppression, and rehabilitation activities performed by the Land Management Agencies and the BIA. The BIA's Wildland Fire and Aviation Management Program, also known as BIA–NIFC, was implemented through the branch of Wildland Fire Management based at the National Interagency Fire Center in Boise, Idaho. BIA–NIFC represents Indian Country on fire management issues addressed at the national interagency level. In addition, BIA–NIFC provides guidance to BIA regional directors and their fire staff regarding wildland fire and aviation management.

For other non-fire types of natural disasters, such as floods, tornadoes, and winter storms, the BIA provides assistance with available resources such as personnel, equipment, funding, and technical assistance to the Tribes. In addition, the BIA assists Tribes in coordination with other Federal, State, local agencies and governments in emergency and recovery efforts. For example, record winter snowfall in the Northern Rocky Mountains, combined with record snow melt and spring precipitation, has resulted in record flooding throughout the Missouri River basin. The flooding has impacted communities and reservations in Montana, North Dakota, South Dakota, Nebraska, and Iowa, including at least 20 Tribal governments.

Recently, Crow Agency was hit hard by flooding, and the BIA was able to assist the Tribe with the procurement of clean drinking water, assisted in boat rescues, provided cots and blankets to shelters, inspected BIA dams and transportation infrastructure on the reservation, helped to fill and place sandbags, and made BIA equipment and personnel resources available to the Tribe.

The BIA continues to provide assistance with ongoing flooding and fire situations affecting many of the Tribes today.

This concludes my statement, and I would be happy to answer any questions. Thank you.

[The prepared statement of Mr. Black follows:]

PREPARED STATEMENT OF MICHAEL S. BLACK, DIRECTOR, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

I. Introduction

Good afternoon Chairman Akaka, Vice-Chairman Barrasso, and Members of the Committee, my name is Mike Black and I am the Director of the Bureau of Indian Affairs at the Department of the Interior. Thank you for the opportunity to present the views of the Department of the Interior (DOI) on Facing Floods and Fires—Emergency Preparedness for Natural Disasters in Native Communities.

The Bureau of Indian Affairs (BIA) provides services directly or through contracts, grants, or compacts to a service population of about 1.7 million American Indians and Alaska Natives who are enrolled members of 565 Federally recognized Tribes living on or near Indian reservations in the 48 contiguous United States and Alaska. Programs are funded and operated in a highly decentralized manner, with almost 90 percent of all appropriations expended at the local level, and approximately 63

percent of appropriations provided directly to Tribes and Tribal organizations through grants, contracts, and compacts. Tribes and Tribal organizations use the contracted funds to employ Tribal police officers, social workers, school teachers, foresters, and firefighters. In addition, Indian Tribes look to the BIA for a broad spectrum of services, including emergency response to natural disasters in Indian Country.

Given the Secretary's commitment to improving the safety of Indian communities, the DOI Office of Emergency Management (OEM) commissioned an expert study on how to improve the BIA's ability to support Tribal preparedness, response, recovery, and mitigation efforts. The report is expected to be finalized at the end of this month.

II. The Department's Response to Natural Disasters Occurring in Native Communities

As illustrated in the examples below, the BIA responds to natural disasters of significant variety in size and scope, from events as large as Hurricane Katrina to small fires on Indian lands. Responses to natural disasters in Indian Country require *extensive* coordination among, the Indian Tribe affected, the Department of Interior components including the BIA, local governments and a number of state agencies and federal agencies. While the BIA's role is somewhat limited, BIA personnel are the first-responder to natural disasters in Indian Country. Moreover, the BIA often provides assistance to Tribal governments before, during and after an incident. In most instances, BIA responds by deploying human resources, equipment, funding, providing technical assistance to Tribes and assisting other federal agencies.

III. Hurricane

A. Hurricane Katrina

Hurricane Katrina affected six federally recognized Tribes, located in Alabama, Louisiana and Mississippi. The BIA responded by sending police officers, forestry and firefighters to assist Tribes in Alabama, Louisiana, and Mississippi.

For example, BIA police officers assisted the Tribal police department and supported local relief efforts such as conducting house-to-house searches and investigating local crimes. The BIA forestry and firefighters provided chainsaws and heavy equipment to clear fallen trees and other debris from the roads in order for trucks to bring in much-needed supplies to the region.

The BIA's Eastern Regional Office, headquartered in Nashville, Tennessee, and the BIA Choctaw Agency in Philadelphia, Mississippi, assisted the recovery efforts of the Mississippi Choctaw Tribal government, which included arranging for fresh water to be delivered to the reservation.

In the aftermath of Hurricane Katrina, BIA deployed personnel to Mississippi to work with the federal agencies and the Tribes. These teams operated in the disaster zone for six months.

IV. Wildland Fires

To date, there have been over 2,100 fires that have burned approximately 138,000 acres of Indian lands this calendar year.[1] The fires have affected BIA offices in the following regions—Northwest, Pacific, Rocky Mountain, Southwest Western, Eastern Oklahoma, Southern Plains, Eastern and Midwest. Wildland fire suppression on federal lands is an interagency effort with assistance provided by federal, Tribal, state and local cooperators. No single department, bureau, Tribal government or agency can go it alone to provide the needed aircraft, engines, dozers, crews, overhead and logistical support.

The BIA provides both direct service to Tribes and technical assistance to Tribes who have compacted and contracted BIA fire programs. The Tribes have the flexibility to compact, 638-contract and provide additional resources through cooperative agreements for fire suppression. Roughly one-third of the fire programs are compacted or contracted under the authority of the Indian Self-Determination and Education Assistance Act, Pub. L. No. 93–638, as amended.

DOI's Office of Wildland Fire Coordination funds fire preparedness, readiness, suppression, and rehabilitation activities performed by the land management agencies and the BIA. The BIA's Wildland Fire and Aviation Management Program (BIA–NIFC) is implemented through the Branch of Wildland Fire Management, based at the National Interagency Fire Center (NIFC) in Boise, Idaho. BIA–NIFC represents Indian Country on fire management issues addressed at the national interagency level. In addition, BIA–NIFC provides guidance to BIA Regional Direc-

[1] For the most up to date numbers see *http://www.nifc.gov/nicc/sitreprt.pdf* (last visited July 20, 2011).

tors and their fire staff regarding wildland fire and aviation management. This program provides protection for nearly 56 million acres of trust and/or protected lands for Tribal governments. BIA–NIFC's first priority is to provide for firefighter and public safety in every wildland fire management activity. BIA–NIFC provides for effective wildland fire protection, fire use and hazardous fuels management, and timely rehabilitation on Indian forest and range lands held in trust by the United States, based on management plans approved by the Indian land owner.

BIA–NIFC works with various interagency wildland fire coordination organizations including DOI's Office of Wildland Fire Coordination (OWFC), U.S. Forest Service (USFS), National Association of State Foresters (NASF), Federal Emergency Management Agency (FEMA), National Wildfire Coordinating Group (NWCG), National Multi-Agency Coordination Group, and various Geographic Area Coordination Centers (GACC) located throughout the United States. International assistance and coordination occur as needed.

The Fire Management Plan (FMP) process, which identifies and integrates all wildland fire management and related activities within the context of approved land/resource management plans, provides decision support to aid managers in making informed decisions in response to unplanned ignitions. The types of resources assigned to wildland fires are dependent on fire complexity. Simple fires with low complexities are considered Type 5 fires and the most complex fires are designated Type 1 fires.

The BIA's Wildland Fire budget is separated into the following accounts or programs:

Preparedness

Includes the range of deliberate, critical tasks, and activities necessary to build, sustain, and improve the capability to protect against, respond to, and recover from wildland fire incidents.

Suppression

Suppression funding supports a range of suppression management actions from intensive suppression of wildfires to monitoring wildfires in areas in which burning accomplishes resource benefits or where it is too dangerous to place firefighters. Emergency stabilization actions are taken during and immediately following a wildfire to reduce the effects of floods, landslides and erosion. Severity funding is the authorized use of suppression funding for extraordinary preparedness activities. It is used to improve initial response capabilities when abnormal, severe wildfire conditions occur, and it is subject to strict controls to better manage the expenditure of funds.

In the event of severe abnormal conditions, agencies and Tribal governments in the same geographic region are encouraged to work together to request severity funding. Each request must describe the current fire situation and include a cost estimate. The completed request is submitted to the BIA–NIFC by the Agency/Tribal government with concurrence of the BIA Regional Director. Authorization to use severity funding is valid for 30 days. Severity extension request are allowable and approvals are normally made in 30 day increments.

Hazardous Fuels Reduction

DOI funds the treatment of hazardous fuels across Indian Country. These treatments can occur within the Wildland Urban Interface (WUI), primarily with DOI wildland fire hazardous fuels funding and outside the Wildland Urban Interface (non-WUI) with other BIA land management funds. The WUI are fire-prone areas where wildland fuels meet and mix with homes and other urban fuels.

Burned Area Rehabilitation (BAR)

This program has funding to stabilize and prevent unacceptable degradation to natural and cultural resource, to minimize threats to life or property resulting from the effects of a fire, or to repair, replace, or construct physical improvements necessary to prevent degradation of land or resources.

Emergency Stabilization (ES)

This program is for emergency treatments to minimize threats to life or property or to stabilize and prevent unacceptable degradation to natural and cultural resources resulting from the effects of a wildfire.

A. Las Conchas Fire—New Mexico

The Las Conchas Fire is a very complex wildfire fire that was managed by as many as three Type I Teams at its peak. Last month, the Las Conchas Fire burned onto the Santa Clara Pueblo Indian Reservation, located in New Mexico, and burned 16,000 acres of the Santa Clara Canyon watershed. The fire also burned over 3,100

acres of the Jemez Pueblo Reservation, and 63 acres on the Kewa Pueblo Reservation (formerly known as Santo Domingo). As of the writing of this testimony, the Las Conchas Fire is 75 percent contained.[2] The fire threatens animal and fish habitats, air quality, water quality, cultural sites, and medicinal and food gathering sites. The fire also created an additional loss of commercial timber base. In addition, the fire puts village and Tribal residents at risk to flooding from coming monsoon rains.

The BIA Southwest Region currently has fire crews deployed to the Las Conchas Fire. The Regional and Agency Fire Management Officers (FMO) and Assistant FMO's coordinated the information flow with local agencies and provided resource advisors to the Type 1 Incident Management Teams (IMT). The BIA Southwest Regional Director served as the Point of Contact for the Type 1 IMT and Area Command Team (ACT), and the BIA Agency Superintendents attended the daily briefings of the Type 1 IMTs.

In response to the Las Conchas Fire, DOI's Burned Area Emergency Response (BAER) Team assessed the damage to and potential threats to Indian lands. The Team's first priority has been the Santa Clara Canyon. The DOI BAER Team joined other BAER teams to make up the Las Conches BAER Team. The Las Conches BAER Team has divided the fire into the North Zone and South Zone. The task of the Team is to collaborate and share resources to provide a unified approach to assessing fire effects.

The BIA assigned a Pub. L. No. 93–638 Contract Self Determination Specialist to work with the Santa Clara Pueblo to speed contracting procedures for emergency stabilization projects.

B. White Swan Fire—Washington

On February 12, 2011 the White Swan Community on the Yakama Reservation was hit with gale force winds causing damage to 262 homes and structures. As a result of the winds, a small chimney fire grew out of control and pushed a fire through the community of White Swan. The fire burned 225 acres and made over 80 Tribal members homeless. The White Swan Fire was a Type 3 fire.

During the White Swan Fire incident, BIA Yakama Agency personnel coordinated with the Yakama Tribe and county fire districts to contain and control the White Swan Fire. Personnel from the BIA Northwest Regional Office (NWRO) and the Yakama Agency provided direct services to organize and implement post-fire community support and relief. The NWRO provided over 75 person-hours of direct support and the Yakama Agency staff provided over 460 person-hours of direct support. In addition, to assist the Yakama Nation and its members, the BIA transferred $20,000 to the Tribe via a Pub. L. No. 93–638 contract for repairs to damages homes owned by enrolled members of the Yakama Nation.

Agencies contributing to the recovery effort included the Yakama Tribal Government, the Tribe's Emergency Management Team, the BIA, the Indian Health Service (IHS), FEMA, the U.S. Department of Agriculture, Yakima County, utility companies and numerous faith-based volunteer organizations.

V. Floods

Record winter snowfall in the Northern Rocky Mountains combined with record snowmelt and spring precipitation has resulted in record flooding throughout the Missouri River Basin. The flooding has impacted communities and reservations in Montana, North Dakota, South Dakota, Nebraska and Iowa. The flooding has affected at least 20 Tribal governments.

A. Flooding of Crow Tribe Reservation, Montana

In May, Crow Tribe's Reservation experienced severe flooding. The Tribe quickly established a Unified Command and the Incident Command Team included officials from the Crow Tribe, the BIA, Indian Health Service and Big Horn County Department of Emergency Services (Big Horn DES). The BIA procured clean drinking water, assisted in boat rescues, provided cots and blankets to shelters, inspected BIA dams on the Reservation, helped to fill and place sandbags and made BIA equipment available.

Agencies contributing to the recovery effort included the BIA, Big Horn DES, Indian Health Service, BLM, National Weather Service, Montana Highway Patrol, Montana Department of Transportation, U.S. Geological Survey, Environmental Protection Agency, American Red Cross, Army Corps of Engineers, Bureau of Reclamation, Farm Service Agency, and the National Park Service (NPS), to name a few.

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[2] *See http://www.nifc.gov/nicc/sitreprt.pdf* (last visited July 20, 2011).

B. Flooding of the Spirit Lake Reservation, North Dakota

On May 10, 2011, the President declared the State of North Dakota a major disaster area and included reservations for the Spirit Lake, Fort Berthold and Turtle Mountain.[3] Rising waters of the Devils Lake inundated three key BIA roads and resulted in the loss of access to one residence. The total estimated damages for the three roads are $800,000.

The BIA and the Federal Highway Administration (FHWA), under Pub. L. No. 93–638, obligated $5.9 million during the spring of 2011 to construct three-foot-emergency berms along the entire seven miles of roads and perimeter levees located on the Spirit Lake Reservation. With funding made available through the FHWA and through a partnership with the Bureau of Reclamation, which provides on-site technical dam construction expertise, the seven miles of roads and perimeter levees have been re-designed and are in the process of being re-constructed to serve as permanent "dams" to current federal standards.

Roughly 1,200 plus hours have been expended by BIA personnel at the Fort Totten Agency and the Great Plains Regional Office including resources from Trust Services, Transportation, and Natural Resources.

Agencies contributing to the recovery effort include the Spirit Lake Tribe, the BIA, the IHS, FEMA, the American Red Cross, North Dakota Department of Transportation, State Division of Emergency Management, and county and city officials.

VI. Conclusion

This concludes my statement. I would be happy to answer any questions.

The CHAIRMAN. Thank you very much, Mr. Black.

Mr. Fugate, would you please proceed with your testimony?

STATEMENT OF CRAIG FUGATE, ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. FUGATE. Thank you, Mr. Chairman, Senators.

Mr. Chairman, I think the last time we really had a conversation was during my confirmation, and at that time you pointed out the issues and challenges of our territories and trusts in the Pacific. When I got to FEMA, one of the early opportunities I had was to begin working with listening sessions, listen to different constituency groups. One of the issues that came up very early in dealing with Tribal issues and the federally recognized Tribes was the perception, which is probably more real than I would have liked to admit at the time, that FEMA did not recognize the nation-to-nation relationship between the Tribes and the Federal Government, and I think it was because of our overriding legislation that provides disaster assistance does not recognize that relationship.

The Stafford Act, currently as written, only identifies that the governor of a State or territory can request a declaration of a disaster from the President of the United States. That means that federally recognized Tribes were oftentimes depended upon the governor to make that decision, and it was also based upon the impact statewide, not Tribal; and several here in their previous roles dealt with this where they had requested disaster declarations to include Tribal areas, but those Tribes also had areas of impact outside of their State that was not declared.

We have taken the following steps at FEMA. The first is in recognizing the sovereignty of the Tribes previously, Tribal governments were oftentimes required to be a sub-grantee to the State of which the declaration was issued to. This produced tremendous

[3] *See http://governor.nd.gov/media-center/news/disaster-declaration-approved-north-dakota-flooding* (last visisted July 20, 2011).

challenges, particularly in States that have constitutional requirements that they do not provide any assistance to Tribal governments, but also affected the sovereignty of the Tribes that many of them felt that they were not in a subservient relationship to the State by being a sub-grantee.

We did changed under the CFR the requirements that allow self-determination of the Tribes, once a declaration is issued, to be the direct grantee from FEMA for disaster assistance, and we have been able to execute that in several recent disasters where the Tribe elected to be the direct grantee and not a sub-grantee.

We firmly believe that our responsibility is to continue to recognize this is a nation-to-nation relationship, and we also must recognize that Tribal governments must have self-determination. Through history and practice in some States, they work very well and enjoy cost-share and other benefits from the State that would not benefit them if they were the grantee. Many Tribes don't have the ability, because of the complexity of the programs and the size of the Tribe, to serve as a grantee because of the financial oversight requirements. But where we can and have, we want to recognize that self-determination.

The other areas that we administer are in our grant programs. This body, after recognizing the Tribal governments initially and homeland security grants weren't getting funding, established a minimum of $2 million in the Tribal Homeland Security Grant Program. Secretary Napolitano, upon entering her office, having served as governor of Arizona and having recognized unique challenges that Tribal government has in homeland security, under her own authority, directed us to increase that to $10 million to provide even greater funding to those Tribes seeking those funds.

We work with Tribal governments to do training specific to their needs. Over 2,000 members of over 300 Tribes have been through our Emergency Management Institute. We are taking our Ready Program, which is our initiative for citizen preparedness, and have been working with Tribal leaders and elders to develop Ready Indian Country to take preparedness tools into the communities.

But we also work very closely with our Federal partners. And again, I think, as you pointed out, sometimes our difficulties in working interagency is oftentimes where our legislation comes from, the oversight of our committees, and the history of our programs.

We work very well in Stafford Act declarations because we have a clear direction of the national response framework utilizing our functional supports to do that. But when we are not in a declaration, when we don't have the Stafford Act, our programs are much more limited because we don't have a prior relationship, financially or otherwise, in the Stafford Act to provide assistance in disasters that did not warrant a Stafford Act declaration.

So we recognize those challenges. We continue to work these issues. But we also understand that dealing with these programs have oftentimes complex financial reimbursement models is still impact on Tribal governments, particularly when it comes to cost share and other activities. So we recognize that and continue to work within the authorities we have to streamline that process, but we also still recognize that under the Stafford Act it is limited to

the governor of the State or territory to request a disaster declaration of the President, and that requirement must be met before any financial assistance or direct service provision under assistance from the Federal programs can be implemented once the President has declared a disaster.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Fugate follows:]

PREPARED STATEMENT OF CRAIG FUGATE, ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, U.S. DEPARTMENT OF HOMELAND SECURITY

I. Introduction

Good afternoon Chairman Akaka, Vice Chairman Barrasso, and distinguished Members of the Committee. My name is Craig Fugate and I am the Administrator of the Federal Emergency Management Agency (FEMA). It is an honor to appear before you today on behalf of FEMA to discuss Tribal communities and emergency preparedness.

II. FEMA's Tribal Policy reflects the "Whole Community"

To address the demands and challenges of emergency management, the work of FEMA is interconnected with all our partners and stakeholders in an effort we call the "Whole Community." As part of this effort, FEMA and its partners at the federal level; state, local, and Tribal governments; non-governmental organizations in the non-profit, faith-based, and private sector communities; as well as individuals and communities work together to leverage our strengths to support emergency management efforts in communities across the country.

FEMA's leadership in emergency management comes from diverse backgrounds, but we share something vital: direct, on-the-ground experience in state, local, and Tribal emergency management. Our experiences have helped us realize and appreciate the important role that our partners play in disaster preparedness, response, and recovery. FEMA's success is heavily dependent upon our ability to communicate, coordinate, support, and work closely with these groups.

FEMA continues to build on past Tribal partnerships while developing new relationships. Tribal communities, with their long history in community disaster response and recovery, are a particularly important stakeholder in our whole community initiative. FEMA recognizes the consistent participation and partnership of American Indian and Alaska Native Tribal governments is vital in assisting FEMA to achieve its mission.

FEMA and the Department are committed to enhancing nation-to-nation relations with Tribal governments. The first FEMA Tribal Policy was created in 1998 after Tribal communities reached out to then-Administrator James Lee Witt. The policy forged a commitment to building strong and lasting partnerships and assisting Tribes in preparing for hazards, reducing vulnerabilities, and recovering from disasters.

Under the current Administration, and Department of Homeland Security Secretary Janet Napolitano, FEMA updated and strengthened its Tribal Policy, which I signed in June 2010. The new FEMA Tribal Policy is even more robust than the previous version and details a more collaborative engagement between FEMA and the 565 federally-recognized Tribes across the country.

In the 2010 policy, FEMA commits to nation-to-nation relationships, collaboration with Tribes on FEMA policy development with Tribal implications, and to minimizing the imposition of unfunded mandates upon American Indian Tribes.

The updated policy reiterates the Agency's view of Tribal governments as inherently sovereign nations and not political subdivisions of states. To this end, and to the extent permitted by law, FEMA consults with Tribal governments and addresses any concerns before taking actions that may affect those nations.

In addition, the new policy expressly states that FEMA will identify and take reasonable, appropriate steps to eliminate or diminish procedural impediments to working directly and effectively with Tribal governments. In particular, the policy states that FEMA will review portions of the Robert T. Stafford Disaster Relief & Emergency Assistance Act, and other laws, policies, and administrative rules in emergency management activities to determine how FEMA may work more directly with local Tribal communities.

FEMA's efforts to work with, and support, the Whole Community are echoed in our coordination efforts across the entire emergency management team, which is required daily by the National Response Framework (NRF) during a federally de-

clared disaster. Through this framework, FEMA leads the coordination of communities, Tribes, states, the federal government, and private-sector and nongovernmental partners to provide effective national responses to emergencies. To support Tribal communities, as they face the same range of disasters that other jurisdictions face, FEMA Tribal affairs specialists maintains daily working relationships with Tribal liaisons at our partner agencies. In addition, during active disaster responses and recovery efforts, FEMA may use this authority to issue "mission assignments" that bring specialty assistance from many of our federal partners, such as the Bureau of Indian Affairs, U.S. Army Corps of Engineers, U.S. Health and Human Services, and U.S. Department of Housing and Urban Development.

III. Increased Outreach to Tribal Partners

The updated FEMA Tribal Policy I signed in 2010 was accompanied by further outreach and support for American Indian and Alaskan Native Tribal governments.

In my role as the FEMA Administrator, I have tried to engage Tribal communities directly and was honored to be a keynote speaker at the National Congress of American Indians conferences in 2009 and 2010. I also conducted Tribal leader listening sessions after these presentations to explain FEMA programs and listen to Tribal issues and concerns.

In December 2010, I participated in a White House Tribal Nations Conference attended by representatives of more than 400 Tribes and hosted by President Obama, several cabinet secretaries, and other senior administration officials. During the event, I participated in a breakout session on Criminal Justice and Security for Secretary Napolitano that emphasized the new Tribal Law and Order Act of 2010 (P.L. 111–211), designed to improve the effectiveness of Tribal justice systems.

These direct interactions with Tribal representatives have helped me to both learn more about what FEMA can do to support these important partners, and provide increased support to Tribal communities. Since I came to FEMA, FEMA has increased the number of employees dedicated to working with Tribal governments on disaster response, recovery, mitigation, and preparedness issues. Even before this increase, FEMA had a cadre of Tribal Affairs Stafford Act employees in place who were employed and assigned on an as-needed basis to support Federal Coordinating Officers during the recovery phase of a disaster response.

In 2010, FEMA hired ten new permanent, full-time employees as Intergovernmental Tribal Affairs Specialists to work out of each of the FEMA Regions. This new group of specialized FEMA employees works directly with all federally-recognized Tribes within a region to help the communities develop disaster mitigation plans and enhance emergency management capabilities. They also serve as ambassadors for FEMA and the federal government within the Tribal communities by providing support in navigating technical requirements and policies.

FEMA also hired an attorney within the Agency's Office of Chief Counsel (OCC) who is trained and experienced in Federal Indian Law. FEMA also sponsors a comprehensive training program through the Emergency Management Institute (EMI) in Emmitsburg, MD with four courses targeted specifically to the Tribal emergency management community.

To further strengthen Tribal communities' emergency management capacity, DHS/FEMA in 2010 raised the nationwide total for the Tribal Homeland Security Grant Program (THSGP) from less than $2 million, the minimum required under the law, to $10 million. The THSGP grants are designed to enhance the ability of Tribal nations to prevent, protect against, respond to, and recover from potential terrorist attacks and other hazards. Tribes are also regular recipients of DHS/FEMA Hazard Mitigation Grant Program funds, Emergency Operations Center funds, Operation Stonegarden Funds, and Pre-Disaster Mitigation Grant funds.

IV. Success Stories

As stated in FEMA's Tribal policy and demonstrated by ongoing nation-to-nation relationship building, the Agency is deeply committed to honoring the trust relationship and sovereignty of Tribal governments. While working within legal constraints that may require certain approvals from U.S. States in which a Tribal nation is located, FEMA strives for direct communication and collaboration wherever possible to ensure that no damage or potential eligibility is overlooked, especially as it pertains to the FEMA Public Assistance program.

FEMA Tribal Affairs staff and Regional staff strive to include Tribal representatives in day-today emergency management, so that when disaster strikes, the Tribal community knows its rights and options when applying for federal disaster assistance. Currently, only States can request a major disaster or emergency declaration from the President under the Robert T. Stafford Disaster Relief & Emergency Assistance Act. But, as sovereign nations, Tribes may elect to apply for federal disaster

assistance either directly or as part of a state's disaster request. As direct grantees, Tribes manage their own projects and work directly with FEMA officials through the recovery process.

In 2010, the Chippewa Cree Tribe on the Rocky Boy's Reservation of north central Montana forged a new direct grantee relationship with FEMA after surviving a flood disaster. The community suffered through the destruction of substantial Tribal infrastructure when a foot of rain and snowmelt caused more than $31 million worth of damage to roads; water and sanitation lines; and their local health clinic. The Tribe tried to fund the losses internally but soon went to the state to add its request to the state's appeal to the President for a federal disaster declaration.

In June 2010, the President approved the Governor's full request for the acknowledged damages at the Rocky Boy's Reservation, enabling the Tribe to begin its work as a direct federal disaster assistance grantee. As a direct grantee, a Tribe must sign an agreement with FEMA, develop a Public Assistance Administrative Plan, comply with audit requirements, and pay any required non-federal cost share. Due to the severity of the flooding, in the case of the Rocky Boy's Reservation the approved declaration was for 100 percent of the approved cost and did not require the usual 25 percent state cost share.

FEMA has also partnered with other federal agencies to support Tribes with their housing needs. In a successful one-time program that began in 2007, Tribal governments across the nation partnered with FEMA to use government excess manufactured housing. In accordance with Congressional guidelines and following excess property regulations, unused manufactured homes were transferred to Tribal governments. FEMA worked in consultation with the General Services Administration and the Department of Housing and Urban Development (HUD), as well as Tribal governments, to develop a distribution plan so that all Tribes had an equitable chance to participate.

These homes met all HUD housing regulations for air quality with specifications equivalent to units purchased off-the-lot. As a component of the partnership, Tribal governments did not pay to purchase the units, but were responsible for transportation and unit set up. HUD determined that the costs were considered eligible for reimbursement under the Indian Housing Block Grant program.

V. Conclusion and Looking Ahead

Efforts to enhance FEMA's relationships with Tribal nations are ongoing and FEMA is committed to working closely with this important community. In the coming weeks, FEMA will announce a new campaign for FEMA's *Ready.gov* Campaign called *Ready Indian Country*.

Ready Indian Country is an initiative designed to promote preparedness within Tribal communities through education and outreach in an effort to save lives and prevent property losses. The program will use public outreach and the support of Tribal elders to encourage individuals and families in Indian Country to take the basic steps necessary to prepare themselves for potential emergencies. *Ready Indian Country* will provide a foundation for Tribal communities to enhance citizen preparedness while serving as a resource for the development and implementation of community pre-disaster policies and procedures.

Thank you again for the opportunity to appear before you today to discuss emergency preparedness and Tribal communities, I am happy to address any questions from the Committee at this time.

The CHAIRMAN. Thank you very much, Mr. Fugate.

Ms. Wagner, will you please proceed with your testimony?

STATEMENT OF MARY WAGNER, ASSOCIATE CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Ms. WAGNER. Chairman Akaka, Members of the Committee, I am Mary Wagner, Associate Chief of the Forest Service. Thank you for the opportunity to appear before you today to present on this important topic.

I am going to leave you with a few nuggets. The work we do with relationships. The Forest Service and the USDA recognize the inherent sovereign status and reserved rights of Tribes. We see consultation as the cornerstone of the Federal-Tribal relationship and Forest Service line officers from the district level, the forest level,

the regional level, and the national level frequently meet and consult with Tribal leaders that have treaty and other federally protected rights on national forest system lands.

I want to talk a little bit about the work we do before the incident or in this case I am going to use fire as an example.

Fuels treatment is an important preparedness strategy for public lands. The implementation and utilization of vegetative fuels treatment is critical for land management agencies, including Tribal nations, to reduce the risk of wildland fires. Because Arizona and New Mexico have gotten so much attention of late, in the Southwest region, as an example, over the last five years, $200 million has been invested, resulting in over 835,000 acres treated to reduce hazardous fuels and make landscapes more resilient to fire.

Congress has recognized the importance, the utility and value of fuels treatment and has created legislation to assist land management agencies to become more effective in implementing fuels treatments. Examples like the Collaborative Forest Restoration Program in New Mexico, which also created the Southwestern Ecological Restoration Institute, the Tribal Forest Protection Act, and the Collaborative Forest Landscape Restoration Act are among those pieces of legislation that Congress has recognized as important.

I want to talk a little bit about preparedness, what we do before the incident. Preparedness for us is really to set the stage for success and build relationships before an invent. We conduct it in an interagency environment and it includes activities with Federal agencies, Tribal, local, and State resources to prepare for an upcoming season.

Taking actions to determine priorities for firefighter and public safety, identifying resources at risk, to stage or preposition assets when conditions indicate; to seek severity funding to augment assets so they are available in high fire danger situations. We host pre-season training; we work in the interagency environment to do that. We provide the interagency community with daily and long-term weather forecasts so people can be prepared. It is all work that is conducted in partnership with interagency cooperators and partners.

The work we do during the fire: The Forest Service and the Department of the Interior manage the primary Federal wildland fire suppression crews and assets. Tribes, State foresters, and local fire protection districts also provide fire suppression crews and assets to the interagency effort and service partners to the Federal agencies. Fire suppression crews and firefighting assets are shared and assigned by an interagency system. Incident management teams show up to a fire when one breaks. They arrive at an incident often with Tribal liaison specialists to initiate consultation with Tribes and develop management strategies for the incident. Tribes also reciprocate often by providing dedicated Tribal resource advisors to the incident management team.

The work we do after the fire, importantly, is the Burned Area Emergency Response, and, Mr. Udall, you described that very, very well. Common posted fire threats include flash flooding, mud flows, rock fall, hazard trees, and high-impact erosion. As an example, to assist and coordinate the BAER activities of the Los Conchas fire,

an interagency group of managers was assigned to an area command team. The group includes Pueblos affected by both the Los Conchas and Pacheco fires, and includes Pueblo government officials, New Mexico State Forestry, Bureau of Indian Affairs, National Park Service Bureau of Land Management, and the Forest Service. Meetings are convened and all the interagency representatives come to discuss the issue of recovery and coordination.

Through mutual agreement, all of the parties agree to a national incident management organization being assigned to coordinate all of the BAER efforts among various jurisdictions. Tribal consultation is a key part of that. Tribes help us identify sacred sites, cultural sites, and traditional cultural properties, and help us mitigate and stabilize treatments for those important sites.

USDA agencies and programs assist with post-burn watershed-wide consequences to soil and vegetation resources, as well as impacts to Tribe and private lands. We have nutrition and food programs, land conservation programs, crop and livestock loss programs, loan programs and housing assistance. We stand at the ready to assist.

This concludes my testimony and I would be happy to answer any questions. Thank you.

[The prepared statement of Ms. Wagner follows:]

PREPARED STATEMENT OF MARY WAGNER, ASSOCIATE CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Introduction

Chairman Akaka, Ranking Member Barrasso and members of the Committee, I am Mary Wagner, Associate Chief of the U. S. Forest Service. Thank you for the opportunity to appear before you today to present the role of United States Department of Agriculture (USDA) and the Forest Service in assisting Native American communities to prepare for and respond to natural disasters such as wildfires and floods.

Government-to-Government Relationship With Tribes

Native Americans have a unique status established by the Constitution. The Forest Service and USDA are committed to a government-to-government relationship with federally recognized Native American Tribes. At the Forest Service, we recognize that Tribal people were the original stewards of the lands that now comprise the National Forest System. In addition, for some National Forest System lands the Forest Service is responsible for fulfilling treaty obligations of the United States. Much National Forest System land now shares borders with Tribal land. As part of the government-to-government relationship, the Forest Service often consults and coordinates with Tribes in the management of National Forest System lands and the provision of Forest Service program services. Through this process, the Forest Service seeks to understand and identify areas for common management objectives, as well as to recognize differing landownership and management objectives. The Forest Service intends to be good neighbors and foster beneficial collaborative relationships and partnerships with Tribes in the management of common landscapes and ecosystems.

There are a number of Federal laws that build upon the Constitutional bedrock of the sovereignty of Tribal governments. Key among those laws for the Forest Service are the Federal Land Policy and Management Act (FLPMA) of 1976 and the National Environmental Policy Act (NEPA) of 1969, both of which provide opportunities for consultation and coordination and commit agency employees to seek and encourage active Tribal participation in many aspects of land management and program services administration and delivery. In the National Forest Management Act of 1976 (NFMA) land management planning process, the Forest Service consults with Tribes and invites their participation In addition, Forest Service line officers (Chief, Associate Chief, Deputy Chiefs, Regional Foresters, Station Directors, Area Director, Forest Supervisor and District Rangers), in accordance with agency policy, frequently meet and consult with the leaders of Tribes that have treaty and other

Federally protected rights on National Forest System lands. Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments,* requires Federal agencies to develop an "accountable process" for ensuring meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications. Forest Service Manual (FSM) and Forest Service Handbooks (FSH) further define and clarify agency policy with respect to Tribes and are used extensively throughout the agency.

Forest Service—Fire Preparedness

The Forest Service is responsible for managing nearly 193 million acres of National Forest System lands in 42 states and Puerto Rico. We manage these lands mindful of the role they play in providing clean water, wildlife and wildlife habitat and other resources valued by communities and neighboring landowners, including Tribes. The Forest Service has a long and largely successful history of consulting and coordinating with Tribes in a government-to-government relationship on all aspects of forest and natural resource conservation and management, including wildland fire preparedness and wildfire suppression response. In the interagency environment of wildland fire management, the wildland fire management agencies of Tribes and Bureau of Indian Affairs (BIA) are full partners in managing wildland fires, including coordinating and allocating assets to prepare for and suppress wildland fire.

The Forest Service also assists Tribes prepare for wildland fire through the Cooperative Fire Assistance Program. Tribes may apply to for assistance in training wildland fire fighters and acquiring firefighting equipment through the State Forester.

Through coordination and unified command within a geographical area, interagency leaders determine priorities for fire fighter and public safety, identify resources at-risk to wildland fire, and identify post-burn fire rehabilitation needs. For example, in the Southwest Area, interagency wildland firefighting resources are coordinated by the Southwest Coordinating Group (SWCG) which includes agency representatives from the Forest Service (USDA), the four Bureaus of the U.S. Department of the Interior (the Bureau of Indian Affairs, the National Park Service, the Bureau of Land Management, and the Fish and Wildlife Service), as well as the States of Arizona and New Mexico. In the Southwest Area, the Bureau of Indian Affairs represents Tribes with three members on the nine members SWCG. The SWCG manages the Southwest Coordination Center (SWCC), which is responsible for coordinating and facilitating the movement of wildland firefighting assets within the Southwest Area or as needed nationally through the National Interagency Coordination Center (NICC) in Boise, Idaho.

In the extreme fire season of 2011, the Southwest Area engaged in daily coordination efforts. Resource allocation decisions between fires were made by the SWCG in Multi-Agency Coordination (MAC) meetings. The MAC is comprised of representatives from all wildland fire management agencies. This information was used in assigning fire fighting assets to specific areas or jurisdictions, including Tribal lands where they would be able to safely and effectively suppress ignitions in the initial attack phase.

MAC meetings were conducted daily as the Southwest Area reached Preparedness Level 5, the highest level of fire suppression preparedness. The Intelligence and Predictive Services Program, which assesses long-term weather forecasts to determine winter season moisture regimes, provided the MAC group with daily and long-term weather forecasts as part of the preparedness effort. This information is used to set priorities. For example, critical suppression assets, such as hotshot crews, are allocated based on expected or forecasted weather and/or fire ranking and priority. Wildfire ranking is based on the fire's threat to communities, including Tribal communities and municipal watersheds; property, including Tribal and private lands, as well as, historic and cultural resources; and critical natural resources such as threatened and endangered species habitat.

Forest Service—Fire Suppression

The Forest Service and the Department of the Interior agencies manage the primary Federal wildland fire suppression crews and assets. The State Foresters and local fire protection districts also provide fire suppression crews and assets to the interagency effort and serve as partners with the Federal agencies. Fire suppression crews and firefighting assets are shared and assigned by an interagency system that includes priority for human health and safety, socio-cultural attributes and biological/natural resources. In periods of high fire danger or during a wildfire incident, Tribal lands are assigned fire prevention and/or suppression crews and assets as fire ignition danger increases. When a critical fire ignites or a fire builds into a large

fire on Tribal lands, interagency fire suppression crews and assets are directed to the Tribal agencies that manage the affected lands. Incident Management Teams (IMTs) arrive at an incident with Tribal Liaison Specialists to initiate consultation with affected Tribes on a government-to-government basis as management strategies are developed for the incident.

In 2011, the Southwest Area MAC assigned an Area Command IMT to supervise the multiple IMTs assigned to suppress each of the large wildfires. One of the missions for the Area Command is to provide responsive service to and coordination with government officials and community leaders, including Tribal leaders for the affected Nations. Several national Type 1 IMTs were assigned to the record-setting Wallow Fire in Arizona, including one IMT assigned to manage and suppress the Wallow Fire on the San Carlos Apache Reservation. For the New Mexico Las Conchas Fire, additional IMTs were ordered and inserted due to the multiple jurisdictions affected by the fire and a desire by the host agencies to ensure adequate attention was given to Tribal lands.

Forest Service—Burned Area Emergency Response

The Burned Area Emergency Response (BAER) is a program that addresses post-fire emergencies to human life, safety and property, as well as, critical natural and cultural resources in the immediate post-fire environment on federal lands. Common post-fire threats include flash flooding, mudflows, rock fall, hazard trees and high impact erosion.

Under the BAER program, scientists and other specialists quickly evaluate post-fire threats to human life, safety, property and critical natural or cultural resources including traditional cultural properties and sacred sites and take immediate actions to manage unacceptable risks. BAER assessments begin when it is safe to enter the burned area, but usually before the fire is completely contained. BAER may include soil stabilization treatments (e.g., seeding and mulching,) or structure stabilization treatments such as road storm proofing (e.g., constructing rolling dips, and removing undersized culverts, to pass water and avoid damage).

For example, to assist and coordinate BAER assessments and prescriptions in the complex jurisdictional environment of the Las Conchas Fire, an interagency group of managers was assigned to the Area Command Team. The group includes the Pueblos affected by both the Las Conchas and Pacheco fires and specifically includes Pueblo government officials, New Mexico State Forestry, Bureau Indian Affairs, National Park Service, Bureau of Land Management, and the Forest Service. Meetings were convened with all the interagency representatives to discuss the issues of coordination. Through consultation, the Regional Forester for the Southwest Region introduced the idea of using a National Incident Management Organization (NIMO) Team to coordinate all of the BAER efforts among the various jurisdictions. All of the Federal agencies, including the Pueblo governments agreed to the NIMO structure of coordination and implementation. Indeed, for some areas of the Las Conchas Fire BAER assessment and prescriptions are completed.

Tribal consultation is an important part of Forest Service BAER assessments. BAER team personnel and the forest supervisor consult with Tribal governments including elders designated by the Nation to identify sacred sites, cultural sites and traditional cultural properties and to address mitigation or stabilization treatments for those sites.

For example, in response to the Las Conchas and Pacheco fires, the Forest Service provided one of its full-time National Incident Management Organization (NIMO) teams to assist all agencies and jurisdictions affected by the fire by establishing a unified interagency organization structure for burn recovery planning and implementation. This included numerous agency Burned Area Emergency Response (BAER) teams and development of an internal and external communication plan.

To assist and coordinate BAER assessments and projects for the Las Conchas and Pacheco fires, an interagency group of managers was assigned to the Area Command. The group includes the Pueblos affected by the fires and specifically includes officials of the Tribal government, New Mexico State Forestry, DOI (Bureau Indian Affairs, National Park Service, Bureau of Land Management), and the Forest Service. Because of the large area burned by both fires, when the BAER teams started to come on-line, it was recognized that an organized structure was needed to ensure that the different BAER teams were connected, coordinated, and that there was a central point for communication with all the Federal, Tribal and state, and local officials. Meetings were convened with all the interagency representatives to discuss the issues of coordination. The Regional Forester for the Southwest Region introduced the idea of using a NIMO Team to coordinate all of the BAER efforts. All of the Federal and state agencies, including the Tribal governments, agreed to the

NIMO structure. The team has been in place for a few weeks now and reports back to the interagency team.

USDA agencies and programs assist with post-burn, watershed-wide consequences to soil and vegetation resources as well as appurtenances and real property on Tribal, and private lands. USDA is acting to provide aid, assistance and expertise, both technical and financial to the people and property owners affected by the fires or the post-burn effects of flooding and erosion. Attached is an appendix of USDA agencies, which can support post-fire recovery efforts.

Forest Service—Fuels Treatments

The implementation and utilization of vegetative fuels treatments is critical for the wildland management agencies including Tribal Nations to reduce the risk of severe wildland fires. The Forest Service consults as government-to-government with Tribal Nations to design and implement purposeful fuels treatments. Fuels treatments must be carried out in anticipation of a wildland fire event. It is not practicable to commence fuels reduction work when a wildland fire is burning.

Wildfire, a landscape scale phenomenon, acknowledges no political or national boundary. Fuels treatments are an on-going fire preparedness effort, the purpose of which is to alter fire behavior; and the value of which, is only realized when a wildland fire roars to existence. Years of arduous efforts with many partners and governments in the proposal, planning and implementation stages for fuels treatment yield great benefits when a wildfire ignites. Fuels treatments are effective in disrupting the alignment of wildfires because the fuel structure and arrangement has been modified or changed, and as a result fire behavior lessens its intensity thus allowing wildland suppression personnel to effectively directly attack the fire. Fuels treatments serve as strategic anchor points on the landscape from which to implement suppression operations and/or protect property and other societal attributes. Congress has recognized the utility and value of fuels treatments and has enacted legislation to assist land management agencies become more effective in implementing fuels treatments. Two examples are: the Collaborative Forest Restoration Program and the Tribal Forest Protection Act.

The Community Forest Restoration Act of 2000 authorized the New Mexico Collaborative Forest Restoration Program (CFRP). Since 2001, this program has reduced fuels and restored forests, rangelands and watersheds on approximately 23,744 of acres in New Mexico including approximately 7,137 acres of Tribal lands.

The Tribal Forest Protection Act of (TFPA) of 2004 provides Indian Tribes the opportunity to apply for and enter into stewardship contracts to protect Indian forest land, including projects on Federal land that borders on or is adjacent to Indian forest land and poses a fire or other threat to Indian forest land under the jurisdiction of the Indian Tribe or a Tribal community.

In New Mexico, the Sixteen Springs TFPA project is a forest health improvement project designed to reduce hazardous fuels and fire risk to a large wildland urban interface community. The Mescalero Apache Tribe, a partner in the Greater Ruidoso Area Wildland-Urban Interface Working Group, is implementing and managing the stewardship contract on Lincoln National Forest. In 2008, the Mescalero Apache Tribe received an additional 5,000 acres for their forest stewardship contract in the Perk-Grindstone project area situated directly adjacent to Ruidoso, NM. When the fuels treatments are completed, the Perk-Grindstone project will provide a critical anchor point for wildland fire community protection in the Greater Ruidoso area, as well as critical access for future forest restoration and fuels reduction projects on the Mescalero Apache Reservation.

Conclusion

USDA is ready to assist Tribal governments and communities to avoid, mitigate or replace lost natural resources, crops, infrastructure developments or property due directly to the occurrence of the wildfire or the post-burn environmental and social consequences. We are committed to our government-to-government relationship as Sovereigns with Tribes and welcome the opportunity to consult with Tribal governments as the post-fire recovery begins for the land and the people. Chairman Akaka, Ranking Member Barrasso, this concludes my testimony today; I am happy to answer any question that you or the Committee Members may have.

Attachment

FACT SHEET: USDA PROGRAMS THAT ASSIST INDIVIDUALS AND BUSINESSES FOLLOWING DISASTER—JULY 2011

USDA's authority to provide emergency assistance for its various disaster relief programs exists under the Robert T. Stafford Disaster Relief and Emergency Assist-

ance Act, Agriculture Secretary Disaster declarations, Food and Nutrition Act of 2008, as well as other authorizing legislation.

Nutrition Assistance

USDA's Food and Nutrition Service (FNS) provides food assistance to those in need in areas affected by a disaster. This Federal assistance is in addition to that provided by State and local governments.

USDA provides disaster food assistance in three ways:

- Provides USDA Foods to State agencies for distribution to shelters and other mass feeding sites;
- Provides USDA Foods to State agencies for distribution directly to households in need in certain limited situations;
- Authorizes State agencies to issue Disaster Supplemental Nutrition Assistance Program (D–SNAP) benefits.

www.fns.usda.gov/disasters/disaster.htm

USDA Foods for Disaster Assistance—Under the National Response Framework, FNS provides USDA Foods to disaster relief agencies to feed people at shelters and mass feeding sites. States can also, with FNS approval, release USDA Foods to disaster relief agencies to distribute directly to households that are in need. Such direct distribution takes place when normal commercial food supplies channels such as grocery stores have been disrupted, damaged or destroyed, or are unable to function. *[Triggering event: With respect to authority provided by the Stafford Act, a request by a State Governor and a Presidential disaster declaration are required to trigger such authority. No such Presidential declaration is required to invoke Section 416 of the Agricultural Act of 1949 or the Agriculture and Consumer Protection Act of 1973.]*

D–SNAP—FNS can authorize the issuance of D–SNAP when the President declares a major disaster with individual assistance. States must request that FNS allow them to issue emergency benefits in areas affected by a disaster. FNS works closely with States to prepare plans for D–SNAP.

- People who might not ordinarily qualify for the Supplemental Nutrition Assistance Program (SNAP) may be eligible for D–SNAP if they had expenses related to protecting, repairing, or evacuating their homes; or if they have lost income as a result of the disaster.
- People who are already participating in the regular SNAP may be eligible for additional benefits under the D–SNAP.
- Disaster benefits are provided similar to regular program benefits—through an EBT card that can be used at authorized food retailers to buy food. [Triggering event: Presidential disaster declaration for individual assistance under the Stafford Act.]

Landowners, Farmers, Ranchers and Producers Assistance

Conservation Programs

Emergency Conservation Program (ECP)—ECP provides funding for farmers and ranchers to rehabilitate farmland damaged by wind erosion, floods, hurricanes, or other natural disasters, and for carrying out emergency water conservation measures during periods of severe drought. The natural disaster must create new conservation problems, which, if not treated, would: impair or endanger the land; materially affect the productive capacity of the land; represent unusual damage which, except for wind erosion, is not the type likely to recur frequently in the same area; and be so costly to repair that Federal assistance is or will be required to return the land to productive agricultural use. Program availability is subject to the availability of funding. *[No Presidential or Secretarial declarations required.]*

http://www.fsa.usda.gov/FSA/webapp?area=home&subject=coprtopic=ecp

Emergency Watershed Protection Program (EWP)—The NRCS EWP program helps protect lives and property threatened by natural disasters such as floods, hurricanes, tornadoes, and wildfires. The program provides technical and financial assistance to preserve life and property threatened by excessive erosion and flooding. Owners, managers, and users of public, private, or Tribal lands are eligible for EWP assistance if their watershed area has been damaged by a natural disaster. Program availability is subject to the availability of funding. *[No Presidential or Secretarial declarations required.]*

http://www.nrcs.usda.gov/programs/ewp/

Emergency Watershed Protection Program—Floodplain Easements—The NRCS Emergency Watershed Protection Program Floodplain Easements provides for the purchase of floodplain easements as an emergency measure. Floodplain easements restore, protect, maintain, and enhance the functions of the floodplain; conserve natural values including fish and wildlife habitat, water quality, flood water retention, ground water recharge, and open space; reduce long-term federal disaster assistance; and safeguard lives and property from floods, drought, and the products of erosion. Program availability is subject to the availability of funding. *[No Presidential or Secretarial declarations required.]*

http://www.nrcs.usda.gov/programs/ewp/Floodplain/index.html

Emergency Forest Restoration Program (EFRP)—EFRP provides payments to eligible owners of nonindustrial private forest (NIPF) land in order to carry out emergency measures to restore land damaged by a natural disaster. Program availability is subject to the availability of funding. [No Presidential or Secretarial declarations required.]

http://www.fsa.usda.gov/FSA/
webapp?area=home&subject=diap&topic=efrpCrops

Assistance with Crop or Livestock Loss

Crop Insurance—Producers should contact their crop insurance agent or provider as soon as possible to report any losses or prevented planting.

Noninsured Crop Disaster Assistance Program (NAP)—NAP provides financial assistance to eligible producers affected by drought, flood, hurricane, or other natural disasters. NAP covers noninsurable crop losses and planting prevented by disasters. Landowners, tenants, or sharecroppers who share in the risk of producing an eligible crop are eligible. Eligible crops include commercial crops and other agricultural commodities produced for food, including livestock feed or fiber for which the catastrophic level of crop insurance is unavailable. Also, eligible for NAP coverage are controlled-environment crops (mushroom and floriculture), specialty crops (honey and maple sap), and value loss crops (aquaculture, Christmas trees, ginseng, ornamental nursery, and turf grass sod). *[No Presidential or Secretarial declarations required.]*

http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=nap

Tree Assistance Program (TAP)—TAP was authorized by the 2008 Farm Bill and provides partial reimbursement to orchardists and nursery tree growers for replanting, salvage, pruning, debris removal and land preparation if losses due to natural disasters exceed 15 percent. *[No Presidential or Secretarial declarations required.]*

http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=tap

Supplemental Revenue Assistance Payments Program (SURE)—SURE was authorized by the 2008 Farm Bill and covers crop revenue losses from quantity or quality deficiencies only those counties and contiguous counties declared disaster areas by the Agriculture Secretary or in cases where the overall production loss exceeds 50 percent. *[Requires a natural disaster declaration by the Secretary for production losses under 7 U.S.C. 1961(a)]*

http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=sure

Emergency Assistance for Livestock, Honeybees, and Farm Raised Fish (ELAP)—ELAP was authorized by the 2008 Farm Bill to provide emergency relief to producers of livestock, honeybees, and farm-raised fish and covers losses from disaster such as adverse weather or other conditions, such as blizzards and wildfires not adequately covered by any other disaster program. [No Presidential or Secretarial declarations required.]

http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=elap

Livestock Forage Disaster Program (LFP)—LFP was authorized by the 2008 Farm Bill to provide assistance to livestock producers for forage losses due to drought and losses due to wildfire on public lands. *[No Presidential or Secretarial declarations required.]*

http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=lfp

Livestock Indemnity Program (LIP)—LIP was authorized by the 2008 Farm Bill to provide assistance to livestock producers for livestock deaths from disaster events, in excess of normal mortality. *[No Presidential or Secretarial declarations required.]*

http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=lip

Loans

Emergency Loan Program (ELP)—FSA provides emergency loans to help producers recover from production and physical losses due to drought, flooding, other natural disasters, or quarantine. Emergency loans may be made to farmers and ranchers who own or operate land located in a county declared by the President as a disaster area or designated by the Secretary of Agriculture as a disaster area or quarantine area (for physical losses only, the FSA Administrator may authorize emergency loan assistance). Emergency loan funds may be used to: restore or replace essential property; pay all or part of production costs associated with the disaster year; pay essential family living expenses; reorganize the farming operation; and refinance certain debts. *[Triggering event: A quarantine imposed by the Secretary, a natural disaster, or a natural disaster or emergency designated by the President under the Stafford Act.]*

http://www.fsa.usda.gov/FSA/webapp?area=home&subject=fmlp&topic=efl

Housing Assistance

Single-Family Housing—For emergency assistance with immediate housing contact FEMA. *http://www.fema.gov/*.

Once the emergency is over, those wishing to buy or repair a home in an eligible rural area may qualify for a loan or loan guarantee through USDA. Please contact your local USDA Service Center for additional information.

Loan servicing options are available to help families who experience financial problems as a result of the disaster. Servicing options include:

- Moratoriums—a temporary period where no payment is required—for 6 to 24 months for borrowers who have lost employment, sustained severe property damage or medical expenses.
- Reamortization—rescheduling loan payments to determine a new monthly payment amount—if needed following a moratorium or to resolve account delinquency.

To request loan servicing assistance, borrowers should contact the *Centralized Servicing Center* at:

USDA Rural Development
Centralized Servicing Center
Post Office Box 66889
St. Louis, MO 63166
Phone: (800) 414–1226
TDD: (800) 438–1832

http://www.rurdev.usda.gov/rd/disasters/disassistance.html

Multi-Family Housing—Residents in Rural Development-financed apartment complexes who are displaced by a natural disaster may apply for occupancy at any USDA-financed apartment complex and receive special priority consideration for the next available unit. Displaced tenants who are receiving *Rental Assistance* may have their subsidy transferred if the complex they move to is eligible for the Rental Assistance program.

Although Rural Development expects borrowers' hazard insurance to cover damage costs associated with the disaster, we can consider temporary measures to reduce borrowers' financial burdens and work with them, if needed, to develop a servicing workout plan.

To request loan servicing assistance, borrowers should contact Multi-Family Housing Specialists in their *State Office*. Other Links that highlight USDA Rural Development program assistance:

http://www.usda.gov/wps/portal/usda/
usdahome?navtype=MS&navid=SAFETY
*http://www.disasterassistance.gov/daip__*en.portal

Community Utility Assistance

Emergency Community Water Assistance Grants—Grants are designed for rural communities with a significant decline in quantity or quality of drinking water. The population must not exceed 10,000 and median household incomes of 100 percent of a State's non-metropolitan median household income. Grants may be made for 100 percent of project costs. The maximum grant is $500,000 when a significant decline in quantity, imminent source shortage or quality of water occurred within 2 years, or $150,000 to make emergency repairs and replacement of facilities on existing systems.

To apply, community leaders should contact Utilities Program Specialists in their *State Office. [No Presidential or Secretarial declarations required.]*

The CHAIRMAN. Thank you very much, Ms. Wagner.

General McMahon, would you please proceed with your testimony?

STATEMENT OF BRIGADIER GENERAL JOHN R. MCMAHON, COMMANDER, NORTHWESTERN DIVISION, U.S. ARMY CORPS OF ENGINEERS, U.S. DEPARTMENT OF THE ARMY

Mr. MCMAHON. Good afternoon, Mr. Chairman and Members of the Committee. I am Brigadier General John McMahon, the commander of the Northwestern Division of the Army Corps of Engineers, and I am very pleased to be here today to testify on the matter of emergency preparedness for natural disasters in Native communities, particularly as it relates to flooding.

As you know, 2011 has been an extremely challenging year for the Nation in terms of tornadoes, fires, and flooding across multi-State areas. Along with other Federal agencies, Tribes, States, and numerous local entities, the Corps has undertaken a multitude of response activities to mitigate the risk to the public and its infrastructure.

The Corps has authority under Public Law 84–99 for emergency management activities. Under this authority, the Chief of Engineers is authorized to undertake activities including disaster preparedness, advanced measures, emergency operations such as flood response and post-flood response, rehabilitation of flood control works threatened or destroyed by flood, protection or repair of federally authorized shore protective works threatened or damaged by coastal storms, and provisions of emergency water due to drought or contaminated source.

Corps emergency assistance during a flood event is temporary in nature to meet the immediate threats and may only be undertaken to supplement non-Federal efforts. The assistance is to mitigate risk to life and public safety by providing protection of critical public infrastructure against flood waters. Therefore, the use of Public Law 84–99 precludes the protection of private residences and other developments unless such protection must be afforded to protect critical public facilities and infrastructure within that area. Under the law, Tribes and States must commit all available resources such as supplies, equipment, funds, and labor, as a general condition to receive Corps assistance. These Corps emergency efforts are not intended to provide permanent solutions to flood risks.

To request assistance from the Corps, the Tribe may come directly to the Corps with a request that includes a detailed assessment of the resources committed, the current actions in which the Tribe is engaged, and the type and description of assistance being requested, for example, technical or direct.

The Corps Flood Control and Coastal Emergency appropriation account funds preparedness for emergency response to natural disasters. Prior to spring flooding, flood packets are sent to Tribes in multiple Corps districts. These flood packets contain information on Corps authorities under Public Law 84–99, sample request letters, information on innovative flood fight equipment, a sandbag brochure, and other related flood fight information. Information is

also placed on the Corps' public Internet site and a 24-hour emergency operations phone line is distributed.

Our district commanders, Tribal liaisons and emergency management staff personally meet with interested Tribes to discuss Corps authorities under Public Law 84–99, share lessons learned from previous flood events, conduct tabletop exercises, review sandbagging techniques, and strengthen the relationship between the Corps and the Tribes.

The Corps coordinates very closely with all Tribal Nations. The Corps has adopted and continues to reinforce a Tribal policy principle set consistent with the Department of Defense and the Department of the Army guidance. Fundamental to this Tribal policy is the Corps' continued recognition of the sovereign status of Tribal governments, our obligation to consult on a government-to-government basis, and a commitment to fulfill our Nation's trust responsibilities to Tribes in accordance with the Constitution, treaties, executive orders, statutes, and Supreme Court decisions that define that responsibility.

We continue to reach out to Tribes in as many venues as possible, including participation by Corps leadership in the annual National Conference of American Indians. Although Tribes can come directly to the Corps for assistance, close coordination also occurs with appropriate State emergency management offices. The Corps has also participated in national workshops held by Tribal assistance coordination groups which provide Federal, Tribal, State, and local agencies an opportunity to plan for natural disasters in Native American communities and to learn how to work with each other during a natural disaster and to learn about partner agency capabilities, resources, and responsibilities.

This year, 23 Tribes located within flood-prone areas in the Northwestern Division in both the Columbia and Missouri River basins were consulted with in preparation for the 2011 flood season. From February through July, the Corps responded to requests from 17 Tribal Nations across, again, the Columbia and Missouri River basins by providing over 300,000 sandbags, over 80 rolls of plastic, numerous one-ton sandbags, and numerous Crisafulli pumps to protect critical Tribal public infrastructure from the threat of flooding. The Corps is also engaged with numerous Federal, State, and Tribal agencies to coordinate its flood fight response.

These consultations resulted in multiple Tribes understanding the Corps' capabilities and authorities, which further facilitated success with the ongoing flood fight. One example of the interagency coordination is in North Dakota, where the Corps was provided access to the Bureau of Indian Affairs communications network in an area with limited availability to help ensure reliable communications.

The Corps fully recognizes the Federal Government's trust responsibilities to the Tribes. Tribal liaisons and other Corps staff have been and continue to be deployed in the field, working directly with Tribes to ensure that the Corps is fully aware of and understands the issues and concerns with regard to response to flooding response. The Corps will continue to engage Tribes in order to be responsive to the needs and requests for assistance, and as flooding

events occur response efforts are and continue to be a priority, and coordination will occur to the conclusion of such events.

Mr. Chairman, I appreciate the opportunity to participate in this hearing, and I would be pleased to answer questions of you or other Committee members. Thank you.

[The prepared statement of General McMahon follows:]

PREPARED STATEMENT OF BRIGADIER GENERAL JOHN R. MCMAHON, COMMANDER, NORTHWESTERN DIVISION, U.S. ARMY CORPS OF ENGINEERS, U.S. DEPARTMENT OF THE ARMY

Introduction

Mr. Chairman and Members of the Committee, I am Brigadier General John R. McMahon, Commander of the Northwestern Division of the U.S. Army Corps of Engineers (Corps). I am pleased to be here today to testify on the matter of emergency preparedness for natural disasters in native communities, particularly as it relates to facing floods. The year 2011 has been an extremely challenging time for the nation, in terms of tornados and flooding across multi-state areas. Along with other federal agencies, Tribes, States and numerous local entities, the Corps has a multitude of response activities ongoing to best mitigate the public risk from these multiple and inordinate severe weather events.

In regards to response, the Corps has authority under Public Law (PL) 84–99, Flood Control and Coastal Emergencies (FCCE) (33 U.S.C. § 701n) (69 Stat. 186), for emergency management activities. Under PL 84–99, the Chief of Engineers, acting for the Secretary of the Army, is authorized to undertake activities including disaster preparedness, Advanced Measures, emergency operations (Flood Response and Post Flood Response), rehabilitation of flood control works threatened or destroyed by flood, protection or repair of federally authorized shore protective works threatened or damaged by coastal storm, and provisions of emergency water due to drought or contaminated source.

Response Activities

Corps emergency assistance under PL 84–99 during a flood event is temporary in nature to meet an immediate threat and may only be undertaken to supplement non-federal efforts. The assistance is to mitigate risk to life and public safety by providing protection to critical public infrastructure against flood waters. Therefore, the use of PL 84–99 precludes the protection of private residences or other developments unless such protection must be afforded to protect critical public facilities and infrastructure within the area. Tribes and States must commit all available resources such as supplies, equipment, funds and labor as a general condition to receive Corps assistance. Furthermore, Corps emergency efforts are not intended to provide permanent solutions to flood risks. Therefore, all flood fight material removed at the conclusion of a flood event is the responsibility of the respective Tribe or State.

To request assistance from the Corps, the Tribe may come directly to the Corps with a request that includes a detailed assessment of the resources committed, the current actions in which the Tribe is engaged, the type of assistance the Tribe is requesting (technical or direct), a point of contact, and specific details with regard to what the Tribe is exactly looking for in the way of assistance. Tribes may also request assistance from the Corps through appropriate state emergency operation centers.

Preparedness

The Flood Control and Coastal Emergency appropriation account funds preparedness with regard to emergency response to natural disasters, flood fighting and search-and-rescue operations, and rehabilitation of flood control and hurricane protection structures. Disaster preparedness activities include coordination, planning, training, and conducting response exercises with local, state, and federal agencies. Prior to spring flooding, flood packets are sent to Tribes in multiple Corps Districts. Flood packets contain information on Corps authorities under PL 84–99, sample request letters, information on innovative flood fight equipment, a sandbag brochure, and other related flood fight information. Information is also placed on the Corps' public Internet site and a 24-hour emergency operations phone line is distributed. District Commanders, Tribal Liaisons, and Emergency Management staff personally meet with interested Tribes to discuss Corps authorities under PL 84–99, share les-

sons learned from previous flood events, conduct tabletop exercises, review sandbagging techniques, and strengthen the relationship between the Corps and the Tribes.

Coordination

The Corps coordinates very closely with all federal, Tribal, and state partners. Although Tribes can come directly to the Corps for assistance, close coordination also occurs with appropriate state emergency management offices. This year, the Corps used a joint information center to coordinate among all response agencies and transparently communicates to all affected parties to include Tribes. The Corps has also participated in national workshops held by the Tribal assistance coordination group which provides federal, Tribal, state, and local agencies an opportunity to plan for natural disasters in Native communities, to learn how to work with each other during a natural disaster in Native communities, and to learn about partner agency capabilities, resources, and responsibilities.

2011 Operations

This year, twenty-three Tribes located within flood prone areas of the Northwestern Division were visited to prepare for the upcoming flood season. From February through July, the Corps responded to requests from seventeen Tribal Nations located across the Columbia and Missouri river basins by providing over 300,000 sandbags, over eighty rolls of plastic, numerous one-ton sandbags, and utilizing Crisafulli pumps to protect critical Tribal infrastructure from flood threats. The Corps was also engaged with numerous federal, state, and Tribal agencies to coordinate its flood fight response. This resulted in multiple partners understanding the Corps' capabilities and PL 84–99 authorities, which further helped in the sharing of information with Tribal leaders. Additionally, in North Dakota, the Corps was provided access to the Bureau of Indian Affairs (BIA)/Department of Interior) (DOI) communications network in an area with limited availability, to help ensure reliable communications. Staff attended and participated in multiple briefings with regional, state, and Tribal leadership, attended a variety of public meetings, and also reached out to Tribal members via Tribal talk radio.

Conclusion

Finally, I would like to emphasize that the Corps fully recognizes the Federal Government's trust responsibilities to the Tribes. Tribal Liaisons and other Corps staff have been, and continue to be, deployed, working directly with Tribes to ensure that the Corps is fully aware of and understands the issues and concerns with regard to flooding events. The Corps will continue to engage Tribes in this manner to be responsive to needs and requests for assistance. As flooding events occur, coordination efforts are a priority and coordination will occur through to the conclusion of such events.

Mr. Chairman, I appreciate having the opportunity to participate in this hearing. This concludes my testimony. I would be pleased to answer any questions you or the Committee may have.

The CHAIRMAN. Thank you very much, General McMahon.

Now we ask Mr. Grinnell for your testimony.

STATEMENT OF RANDY GRINNELL, DEPUTY DIRECTOR, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. GRINNELL. Mr. Chairman and Members of the Committee, good afternoon. My name is Randy Grinnell. I am the Deputy Director of the Indian Health Service. I am pleased to have this opportunity to appear before you today and discuss the important issue of emergency and disaster preparedness and response in Indian Country.

IHS plays a unique role within the Department of Health and Human Services to meet the special Federal trust responsibility of providing health care services and resources to the 565 federally-recognized Tribes. This comprehensive program is provided through a system of IHS-operated, Tribally-operated, and urban-operated programs based on authorities founded in treaties, judicial determinations, and acts of Congress.

With its headquarters in Rockville, Maryland, IHS has 12 area offices that include over 600 IHS and Tribally-operated hospitals and ambulatory facilities, as well as 34 urban Indian health programs located in 36 States. Most of these are located on or near reservations and, along with the urban programs, they work in partnership with Tribes and Tribal leadership to provide patient care and public health services.

Tribal governance decisions determine the role and relationship that IHS has with each Tribe and how these programs are provided. Currently, 54 percent of the resources that IHS receives from Congress is now managed by Tribes, as evidenced by, in Alaska, 100 percent of the program is now managed by the Tribes and the Native corporations in Alaska.

IHS clinical and program staff have well-established, ongoing relationships with Tribes, Tribal organizations, and Tribal health programs. These relationships and program interactions between IHS and Tribal staff are invaluable during emergency responses to disasters. The need to plan and prepare for emergencies and disasters is a responsibility of Federal, State, local, and Tribal officials. IHS plays a support role in disaster preparedness, response, and recovery in Indian Country. We recognize how important that role is and our staff works to ensure the provision and continuity of health services to our patients and communities, regardless of conditions.

IHS is also committed to improving our technical assistance, communication and coordination with Tribal emergency preparedness and management programs, and those of our Federal partners. IHS medical, environmental health, engineering, and behavioral health staff frequently work with the Tribes and the health care facilities to plan and prepare for things such as floods, wildfires, tornadoes, and hurricanes.

In response to a disaster, IHS staff will help Tribes assist damage and needs, locate necessary support and resources, and serve as liaisons between Tribal emergency management leadership and other Federal partners. If a Federal emergency or disaster is declared, IHS then will assume the role of Tribal liaisons in support of HHS responses under the ESF–8 public health and medical services that contribute to a broader Federal response.

Each of our 12 area offices varies in staff capability and capacity. Some of the services at these area offices include medical care and medicines; medical logistics and patient transport; physical and environmental health safety; potable water and sewage system engineering; acquisition and operational support; food safety inspection; assessment of dwellings, structures, and infrastructure; addressing emotional and behavioral health needs, including suicide prevention and cluster response.

Although IHS's primary role is not emergency and disaster preparedness, response and recovery planning and operations, events may result in a temporary deployment of IHS staff and resources between area offices and health care facilities. Regardless of the status of any Federal or State emergency declaration, IHS headquarters, area office, and local staff work to maintain good communication and coordination between Tribes and other resources. De-

partment of Human Health and Services and IHS also provide support during non-declared emergency.

IHS seeks to provide the best culturally acceptable health services to all federally recognized Tribes, while respecting their sovereignty and self-determination, and we remain committed to providing comprehensive health care services to Indian Country in response to emergencies and disasters. Finally, IHS is a willing partner to participate in forums to help improve this overall process.

This concludes my remarks and I would be happy to answer any questions. Thank you.

[The prepared statement of Mr. Grinnell follows:]

PREPARED STATEMENT OF RANDY GRINNELL, DEPUTY DIRECTOR, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. Chairman and Members of the Committee:

Good afternoon. My name is Randy Grinnell, and I am the Deputy Director of the Indian Health Service (IHS). I am pleased to have this opportunity to appear before you today, and discuss the important issue of emergency and disaster preparedness and response in Indian Country.

The need to plan and prepare for naturally occurring and manmade emergencies and disasters is the responsibility of Federal, State, local and Tribal officials, as well as individual communities and families. Potential threats, risks, and response methodologies may vary across the country, but the core principles of having well integrated and coordinated preparedness, training, response, and recovery plans and programs in place before disaster strikes, is essential, regardless of where we live.

Compared to our Federal, State, local and Tribal partners, IHS has a relatively small and limited support role in emergency and disaster preparedness, response, and recovery in Indian Country. However, we recognize the importance of that role, and strive to ensure the provision and continuity of health services to American Indian and Alaskan Native (AI/AN) communities, regardless of conditions on the ground. IHS is committed to provide the delivery of these services, no matter the hazard or environment. Likewise, IHS is committed to improving our communication, integration, and coordination with Tribal emergency preparedness and management programs, and those of our Federal, State, local and non-government organization (NGO) partners.

I would like to provide a short overview of IHS special trust responsibilities to the Tribes, and our support role in emergency and disaster preparedness, response, and recovery.

IHS/Federal Special Trust Responsibilities

The IHS plays a unique role within the U.S. Department of Health and Human Services (HHS), to meet the Federal special trust responsibility by providing health services and resources to the five-hundred-sixty-five (565) Federally recognized AI/AN Tribes. IHS provides comprehensive health services to approximately 1.9 million AI/ANs through a system of IHS, Tribal, and Urban Indian (I/T/U) operated health service units and programs, based on authorities founded in treaties, judicial determinations, and Acts of Congress.

The mission of the Agency is to raise the physical, mental, social, and spiritual health of AI/ANs to the highest level, in partnership with the population we serve. The Agency aims to assure that comprehensive, culturally acceptable personal and public health services, including traditional medicine, are available and accessible to the service population. Our obligation is to promote healthy AI/AN people, communities, and cultures, and to honor the inherent sovereign rights of Tribes.

The IHS seeks to work in partnership with the Tribal communities it serves and, as such, IHS health care facilities and their administration includes Tribal representatives who closely participate, as key stakeholders, in the health services preparedness and delivery system. Current public laws, Federal policies, and individual Tribal governance decisions determine the role and relationship IHS has with each Tribe, and the corresponding level and methods of health services delivery, support, oversight, control, and resources IHS provides. These governing authorities often affect Federal-level support to Indian Country during emergencies and disasters.

IHS Organization and Capabilities

The IHS Headquarters (IHS–HQ) is located in Rockville, Maryland. The Agency has twelve (12) strategically located Area Offices across the United States, which includes IHS and Tribally operated hospitals and ambulatory health centers, as well as 34 Urban Indian health programs, located in thirty-six (36) states. The I/T/U health care system provides patient care and public health services within Indian reservations and communities, and has well-established ongoing partnerships with Tribal governments and programs. These daily interactions between the IHS and Tribal staff have proved to be invaluable during emergency responses to disasters.

Based on a number of variables, the IHS Area Offices vary in staff capabilities of essential health service, including: preventive, clinical, surgical, and trauma medicine; behavioral health; environmental and public health; facilities, water, and sanitation engineering; and, to a very limited extent, emergency and disaster management.

Provision of Health Services in Indian Country, in the Context of Emergency and Disaster Preparedness and Response

IHS and Tribally operated health care facilities are generally located on or near Tribal lands, along with the 34 Urban Indian health programs, to provide the most convenient and accessible health resources and services to local Tribal eligible populations. As emergencies and disasters occur in their respective areas, the health care programs will continue operations, often in highly stressed environments, for as long as they can sustain the operations-tempo, and for as long as it remains safe for staff and patients to work and receive care at the primary health care facility. Due to their location however, and depending on the scope of the emergency or disaster, these facilities and staff may be: quickly overwhelmed by the volume of patients seeking aid and assistance; understaffed during a disaster or emergency period; or often, forced to evacuate their primary facility with little or no notice and relocate health services and patients to alternate commercial or private care facilities away from the hazard, and generally outside of the I/T/U health services system.

For preparation of plans and training, and in preparation for and response to actual emergencies and disasters, IHS staff work with Tribal emergency management programs and provide essential technical advice, services, and on-scene support. IHS medical, environmental health, engineering, and behavioral health staff frequently work with the health care facilities and Tribes to help prepare for known seasonal and recurring events such as flooding, wildfires, tornados, and hurricanes. In the event of unforeseen emergencies and disasters, IHS staff may respond to help Tribes assess damage and needs, locate necessary support and resources, and serve as liaisons between Tribal emergency management leadership and teams, and other Federal partners responding to the incident. If a Federal emergency or disaster is declared, IHS staff will assume the role of Tribal liaison in support of the HHS led Emergency Support Function (ESF#8; Public Health and Medical Services) contributing to the broader Federal response.

Regardless of the status of a Federal declaration, IHS support to Tribes includes, but is not limited to the provision of: medical care and medicines; physical and environmental health safety; potable water and sewage system engineering, acquisition, and operational support; food safety inspection; assessment of dwellings, structures, and infrastructure; satisfying emotional and behavioral health needs, including suicide prevention and cluster response; and, medical logistics and patient transport. IHS staff also support the relocation of medical records and health services equipment to temporary or alternate facilities of opportunity outside the hazard areas. The primary purpose of the IHS is not to provide for emergency and disaster preparedness, response, or recovery planning and operations. However, surge events, may result in the temporary deployment of staffing and resources between Area Offices and local health care facilities.

Inherent in all aspects of the above discussions, and regardless of the status of any given State or Federal emergency or disaster declaration, IHS HQ, Area Offices, and I/T/U staff seek to maintain proactive communication and coordination with all appropriate Tribal, local, State and Federal partners to maximize assured integration, efficacy, and efficiency of plans and response.

Complexities Affecting Health Service, and Emergency and Disaster Support to Tribes

Under the Indian Self-Determination and Education Assistance Act (ISDEAA), many Tribes across the country have assumed responsibility for health care delivery and emergency preparedness within their communities during emergency situations. IHS Area Office and HQs staff provide technical assistance and support, as appropriate.

When an emergency or disaster does not receive a Stafford Act Presidential emergency or disaster declaration, Tribes may not independently request a Presidential emergency or disaster declaration. Rather, in such circumstances, Tribes would only be authorized to request support and resources from Federal, State, local, NGO and private sources. If there is a Presidential declaration, Tribes may become direct grantees.

It is important to note that Tribal leadership and emergency management program leaders may find governing statutes, policies, regulations, and procedures confusing, and have expressed their frustration at times during Tribal listening sessions with Federal departments and agencies. IHS also appreciates the attention this Committee has given to these expressed concerns by working with Tribes to better understand various policies and authorities in how they intersect or overlap.

Summary

In summary, IHS seeks to provide the best culturally acceptable health services to all Federally recognized Tribes, while respecting their sovereignty, and self-determination. IHS is committed to providing comprehensive health services to Indian Country in response to emergencies and disasters, whether Presidentially declared, or not. In addition, IHS will continually seek opportunities to improve our communication, integration, and coordination with all Federal, State, local, Tribal and NGO partners.

Finally, IHS participates in forums to review, discuss, and improve Federal-level coordination, resourcing, and response to Indian Country emergencies and disasters.

This concludes my remarks, and I will be happy to answer any questions you may have.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Grinnell.

Now we will take the testimony of Mr. Tombar.

STATEMENT OF FRED TOMBAR, SENIOR ADVISOR FOR DISASTER RECOVERY, OFFICE OF THE SECRETARY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. TOMBAR. Mr. Chairman and Members of the Committee, good afternoon. On behalf of Secretary Donovan, I would like to thank you for inviting HUD to provide comments today. My name is Fred Tombar, and I am a Senior Advisor for Disaster Recovery in the Office of the Secretary.

Let me first reaffirm HUD's support for the government-to-government relations with federally organized Native American Tribes. HUD is committed to honoring this core principle in our work with American Indians and Alaska Natives.

As you stated, Mr. Chairman, one goal of this hearing is to set the stage for greater collaboration among Federal agencies and Tribes in preparing for and mitigating against natural disasters. To put this into perspective, I would like to first describe HUD's programs for assisting Tribes that can be used to assist in disaster recovery.

The Native American Housing Assistance and Self-Determination Act of 1996, as amended, or NAHASDA, provides formula-based housing block grant assistance for Indian Tribes or their Tribally designated housing entities. NAHASDA's Indian Housing Block Grant, IHBG, program continues to be the largest single source of housing capital in Indian Country. From 1998 to 2011, over $9.4 billion has been allocated to Tribes for affordable housing.

Our Office of Native American Programs, or ONAP, also administers two very successful loan guaranty programs for Tribes. As a block grant, the IHBG program is flexible. HUD encourages and insists grant recipients to amend their Indian housing plans to redirect funds to mitigate damage when disasters occur. For example,

Tribes with damage from fires or floods could reprogram existing IHBG dollars to assist Indian families whose homes were damaged or destroyed. In addition, NAHASDA permits Tribes to submit proposals at any time of the year for model activities to serve residents of affordable housing. Under this authority, if approved, Tribes may carry out activities to mitigate the effects of disasters that would not otherwise be eligible for the program.

Another HUD program is the Indian Community Development Block Grant program that provides Federal aid for Indian Tribes and Alaska Native villages to develop viable Native American communities. Grants are awarded competitively to eligible Indian Tribes and Alaska Native villages to improve the housing stock, provide community facilities, make infrastructure improvements, fund micro-enterprises, and expand job opportunities. Over the last several years, approximately $65 million has been appropriated for this program annually. Grants are awarded to Tribes and qualified Tribal organizations pursuant to authorizing legislation. Single-purpose grants are awarded competitively pursuant to an annual NOFA, or Notice of Fund Availability.

A key resource available to Tribes to address disasters is the imminent threat, or IT component of the ICDBG program. Over the last several years, Congress has set aside a portion of the ICDBG funds appropriated for emergencies that constitute imminent threats to health and safety. For this fiscal year, $3.3 million were available. These IT grants alleviate or remove threats to health and safety that require an immediate solution. IT requests are available on a first come, first served basis at any time after NOFA publication. HUD funds are available for all eligible requests until expended. Since fiscal year 2001, HUD has awarded 75 IT grants, totaling $25 million. Of those, eight were for Tribes resulting from presidentially declared disasters.

In addition, IT grants that specifically address emergency Tribes and Tribal organizations may also reprogram some of the existing single-purpose ICDBG funds to address emergency and other disaster situations. The ICDBG regulations allow a grantee to amend its single-purpose ICDBG to address the threats of public safety.

Thank you for the opportunity to provide comments today, and I am available for any questions.

[The prepared statement of Mr. Tombar follows:]

PREPARED STATEMENT OF FRED TOMBAR, SENIOR ADVISOR FOR DISASTER RECOVERY, OFFICE OF THE SECRETARY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Introduction

Mr. Chairman, Mr. Vice Chairman, and Members of the Committee; good afternoon. On behalf of Secretary Shaun Donovan, I would like to thank you for inviting HUD to provide comments on the challenges facing Native communities and federal agencies in addressing emergency responses and preparedness for natural disasters.

My name is Fred Tombar, and I am Senior Advisor for Disaster Recovery in the Office of the Secretary. My comments today will focus primarily on the emergency preparedness and disaster mitigation actions taken by HUD's Office of Native American Programs (ONAP). ONAP is located within the Office of Public and Indian Housing (PIH).

PIH is responsible for the management, operation and oversight of HUD's Native American and Native Hawaiian housing and community development programs. These programs are available to 565 federally recognized Indian Tribes and the State of Hawaii's Department of Hawaiian Home Lands. We serve these entities di-

rectly, or through their Tribally designated housing entities (TDHE), by providing formula-based housing block grants and loan guarantees designed to support affordable housing and community development. Our partners are diverse; they are located on Indian reservations, in Alaska Native Villages, and on the Hawaiian Home Lands.

It is a pleasure to appear before you, and I would like to express my appreciation for your continuing efforts to improve the housing conditions of American Indian, Alaska Native and Native Hawaiian peoples. From HUD's perspective, much progress has been made. Tribes are taking advantage of new opportunities to improve the housing conditions of the Native American families residing in Indian Country. This momentum needs to be sustained as we continue to work together toward creating a better living environment in Native American communities.

Let me first reaffirm the Department of Housing and Urban Development's support for government-to-government relations with federally recognized Native American Tribes. HUD is committed to honoring this core principle in our work with American Indians and Alaska Natives.

Purpose of the Hearing

One goal of this hearing is to set the stage for greater collaboration among federal agencies and Tribes in preparing for and mitigating natural disasters. I will begin with an overview of how HUD's Office of Native American Programs (ONAP) has coordinated the mobilization of its Area ONAPs to respond to disasters, give some actual examples of how the Department has responded to recent and past natural disasters, and then provide a list of HUD's Native American housing and community development programs that can be used to fund these efforts.

HUD/ONAP Coordination Efforts

ONAP Area Office Disaster Assistance (Tribal Special Assistance) Teams

In response to unprecedented flood damage on reservations in their jurisdiction, HUD's Northern Plains Area ONAP, in conjunction with its HUD Region VIII Field Policy Management and Federal partners, took a proactive leadership role in bringing together resources and support for Tribes. The approach also addressed the Department's Strategic Goal to Facilitate Disaster Preparedness, Recovery, and Resiliency. For the last several months, in anticipation of the severe flooding conditions that are now affecting the area, Northern Plains ONAP has hosted, facilitated, and participated in intra- and interagency meetings and conference calls to plan a coordinated response.

Northern Plains ONAP also reached out to the 32 federally recognized Indian Tribes located in that region to get updates on any flooding damage that occurred. As information and updates were obtained, it was shared internally with the other HUD program offices and HUD Field Policy Management leadership in the Department's regional and field offices, as well as with our sister and partner federal agencies.

The recent flooding impacted 13 Tribes: six Tribes in Montana (Crow, Blackfeet, Fort Belknap, Fort Peck, Chippewa Cree and Northern Cheyenne), one in Nebraska (Omaha), four in North Dakota (Turtle Mountain, Fort Berthold, Standing Rock and Spirit Lake), and two Tribes in South Dakota (Sisseton and Yankton).

In addition to this year's flooding events, there is ongoing flooding occurring at the Spirit Lake (formerly Devil's Lake) Nation in North Dakota. Devil's Lake and the surrounding bodies of water have been rising for approximately 17 years. Water in the Devil's Lake Basin continues to rise because there is no outlet. A release of water from the basin would have a significant impact on neighboring agricultural areas, as well as for Canada. If released, the water would flow into Canada. Because of concerns regarding water quality, Canada is unwilling to accept an outflow from this water source.

In a coordinated effort, the Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA), the Department of Transportation (DOT), Indian Health Service (IHS), the Department of Agriculture (USDA), HUD, and several other state and federal agencies have been collaborating to assist the Tribe and area non-Tribal communities for years. ONAP, IHS, and USDA continue working together to cooperatively fund a lagoon to replace one that is in danger of flooding the community.

A Model for Coordinated Flood Mitigation: The Spirit Lake Long-Term Flood Recovery Plan

Although several Northern Plains Tribes are now experiencing flood damage, the North Dakota Spirit Lake Tribe has suffered flood damage to its communities for an extensive period of time. In December 2010, the Spirit Lake Recovery Plan was

issued to provide focused cost- and time-efficient strategies to address the 17-plus years of flooding experienced by the Tribe. The Plan was generated as a part of FEMA's Emergency Support Function 14 (ESF 14 Long-Term Community Recovery), and involves numerous Recovery Plan partners at the Tribal, federal, state, and local levels. Northern Plains ONAP staff traveled to Spirit Lake during September and December to assist in finalizing and "kicking off" the Recovery Plan implementation.

In March, the Northern Plains ONAP established a *Tribal Special Assistance (TSA) Team* to provide the highest level of focused technical assistance and funding to assist the Spirit Lake Tribe in addressing the goals identified in its Long-Term Recovery Plan generated as part of the FEMA ESF#14, developed to address flood damage resulting from rising lake levels at Spirit Lake.

The most pressing issue identified by the Tribe is the relocation of the sanitation lagoon at St. Michaels. Northern Plains ONAP provided intensive on-site and remote technical assistance to the Tribe, and was successful in obtaining approval for $900,000 in Indian Community Development Block Grant Imminent Threat funds to be used as "gap financing," in conjunction with USDA and IHS funds, to relocate the lagoon.

The Northern Plains ONAP TSA Team and its partners are also working with the Tribe to address other priority goals in the Recovery Plan. For example, there is the need for the Tribe to hire an Economic Recovery Manager (using Economic Development Administration funds) to assist in coordinating recovery actions on the reservation.

Northern Plains ONAP and its Region VIII Federal partners (Federal Emergency Management Agency (FEMA), the Environmental Protection Agency (EPA), United States Department of Agriculture—Rural Development (USDA–RD), Indian Health Service (IHS), Bureau of Indian Affairs (BIA), Department of Transportation (DOT) and the Department of Commerce-Economic Development Administration (DOC–EDA)) are following up by partnering with the Tribe and state and local organizations to conduct an on-site Hazard Mitigation Assistance Implementation Training and Workshop at Spirit Lake. This will occur August 2–4, 2011. This will also provide a valuable opportunity for the ESF 14 federal partners to brief new Tribal political leadership and assist in orienting the new Spirit Lake Long-Term Community Recovery Manager, a new position created by the Tribe.

The HUD Region VIII Administrator traveled to Spirit Lake with his counterpart EPA Regional Administrator to view firsthand the flooding impact on the Tribal communities, and they provided leadership and support in our interagency partnerships to support the Tribe in accomplishing its disaster recovery goals.

The Spirit Lake Long-Term Recovery Plan will be used as a guide when assisting pother Tribal governments in disaster planning and recovery. Through regular communication with the Recovery Plan partners, the TSA Team collaborates to share information, and identify, access, and leverage funding needed to accomplish the Tribe's goals. The TSA Team also locates and coordinates technical assistance resources to enhance the Tribal capacity to plan, implement strategies, and sustain its progress towardrecovery. The establishment of the TSA Team is a valuable resource that ONAP is in the process of replicating in each of its six Area Offices.

ESF 14—Additional Outreach and Coordination

In addition to support for the successful Tribal-specific ESF 14 partnership, Northern Plains ONAP has reached out to the national natural hazards academic and professional community to share information regarding the unique challenges, opportunities, and best practices of applying the ESF 14 principles to Indian Country. Last week, the Northern Plains ONAP Administrator was a joint presenter, along with representatives from Spirit Lake, Department of Commerce, and EPA at the 36th Annual Natural Hazards Research and Applications Workshop, hosted by the University of Colorado Natural Hazards Center. The panel, moderated by the FEMA National ESF 14 Coordinator, used the Spirit Lake Recovery Plan as a case study for illustrating best practices in using ESF 14 as a model for working with Tribal communities to address long-term disaster recovery.

EPA and FEMA Coordination

The Northern Plains ONAP has formed partnerships with several federal agencies, including EPA, USDA, BIA, Commerce, Army Corp of Engineers, and FEMA. Regular and ongoing communication occurs with the EPA Region VIII Tribal Liaison, and the EPA Region VIII ESF 14 coordinator. In addition, the Northern Plains ONAP participated in a planning and coordinating conference call with the FEMA Federal Coordinating Officer for South Dakota to share information and resources in support of Tribes impacted by floods in that state.

HUD Coordination

The Northern Plains ONAP ensures that HUD Region VIII Field Policy Management and program office leadership are kept apprised of the latest information about Tribes impacted by floods and other disasters in their states. They hosted a Region VIII briefing session with the Regional Administrator and Program Directors to update them on flooding conditions, and to identify additional non-ONAP program resources that may be made available to assist Tribes. The Northern Plains ONAP also conducts conference calls with the HUD field office directors located in the seven states where our Tribal clients are located to update and coordinate recovery assistance efforts.

HUD Disaster Coordination Team

A Northern Plains ONAP employee is being deployed to a Disaster Recovery Center to provide individual assistance to families impacted by the floods in Minot, North Dakota. Although off-reservation, some of the affected families requiring assistance will be members of nearby federally recognized Tribes.

HUD Region VIII Field Policy Management has a Disaster Recovery Team, which includes Northern Plains ONAP staff, to provide immediate assistance to families displaced as a result of a disaster. Using flexibilities allowed under its existing authorities, HUD can provide waivers to facilitate the provision of temporary housing assistance. For example, it can provide housing authorities with additional time to submit tenant verification, flexibilities in assessments and cost limitations, and waivers to increase the flexibility of existing grant programs.

In addition to assisting disaster victims, the Region VIII Field Policy Management Disaster Team builds and coordinates cooperative relationships and promotes effective partnerships with federal, state, and local counterparts including Congressional staff, local and state authorities, and community-based organizations so that HUD's disaster relief efforts are optimally coordinated. The team develops and implements strategy on emergency preparedness planning and training with internal and external stakeholders at the field level. Expert advice in evaluating HUD's regional and field offices overall capability in responding to disasters is provided by the Disaster Team. The Disaster Team establishes a coordinated capacity within the operating environment that demonstrates HUD's proper role and responsibility during disasters to ensure that available HUD programs and services are provided to victims. It also provides necessary embedded support and assistance to headquarters, regional, and field office management in order for the agency to respond effectively to disasters.

Tribal Outreach

The Northern Plains ONAP is in regular communication with all affected Tribes to provide technical assistance and obtain the latest information regarding the impact of disaster events on homes, families, infrastructure, and the Tribal communities as a whole. They provide this information to Headquarters each Thursday for inclusion in the Department's Disaster Report to the Secretary.

Another Model: ONAP's Response to Damage from Hurricanes Katrina and Rita

Five federally recognized Indian Tribes reported damage within their service areas due to Hurricanes Katrina (August 29, 2005) and Rita (September 24, 2005). Those Tribes are located in the service areas covered by two ONAP Area Offices; the Southern Plains Area ONAP located in Oklahoma City, and the Eastern Woodlands Area ONAP located in Chicago. The Chitimacha, Tunica-Biloxi, and the Alabama Coushatta Tribes are served by ONAP's office in Oklahoma City, and the Poarch Band of Creek Indians and the Mississippi Band of Choctaws are served by the Chicago office. In response to the disasters, the two Area ONAPs contacted all affected Tribes on a regular and recurring basis to determine the extent of the damages in an effort to help coordinate a comprehensive and meaningful response. These efforts included providing technical assistance in preparing applications for financial assistance.

Hurricane-related damages at the five Tribes totaled $6,957,000. ONAP was able to provide $1,980,278 in assistance through the Imminent Threat provisions of the Indian Community Development Block Grant Program.

In May 2006, following Hurricanes Katrina and Rita, HUD's Office of Public and Indian Housing conducted a survey of public housing agencies, Indian Tribes and Tribally designated housing entities to determine their level of preparedness for natural disasters and similar events. Included in the survey were questions designed to determine the level of related insurance coverage.

Twelve Tribes were used as a representative sampling. This sample size is small, but survey results are consistent with the perceptions of HUD staff. Survey results

indicated that over 80 percent of Tribes had a disaster response/recovery plan, but less than half felt that they had sufficient resources to respond to a disaster situation. Half of the responders stated that wildfires, tornadoes, or flood-related disasters were not specifically identified in their current emergency preparedness plan. The survey indicated that all Tribes had property insurance based on replacement cost.

Native American Programs Available to Address Disasters

Indian Housing Block Grant Program

The Native American Housing Assistance and Self-Determination Act of 1996, as amended, or NAHASDA, provides formula-based housing block grant assistance to Indian Tribes or their TDHEs. NAHASDA's Indian Housing Block Grant (IHBG) program continues to be the largest single source of housing capital in Indian Country. From FY 1998 through FY 2011, over $9.4 billion has been allocated to Tribes for affordable housing. ONAP also administers two very successful loan guarantee programs for Tribes.

As a block grant, the IHBG program is flexible. HUD encourages and assists grant recipients to amend their Indian Housing Plans to redirect funds to mitigate damage when disasters occur.

Indian Community Development Block Grant Program

The Indian Community Development Block Grant (ICDBG) program provides federal aid for Indian Tribes and Alaska Native Villages to develop viable Native American communities. Grants are awarded competitively to eligible Indian Tribes and Alaska Native Villages to improve the housing stock, provide community facilities, make infrastructure improvements, fund micro-enterprises, and expand job opportunities.

Eligible activities include housing rehabilitation, acquisition of land for housing, and assistance for homeownership opportunities for low- and moderate-income persons, construction of single- or multi-use facilities, streets and public facilities, and economic development projects—especially those sponsored by nonprofit Tribal organizations or local development corporations.

The ICDBG program was authorized in Section 106(a)(1) of the Housing and Community Development Act of 1974. Over the last several years, approximately $65 million has been appropriated for the program annually.

The purpose of the ICDBG program is the development of viable Indian and Alaska Native communities, including the creation of decent housing, suitable living environments, and economic opportunities primarily for persons with low- and moderate-incomes (defined as 80 percent of the area median).

Funds can be used for acquisition of real property, housing rehabilitation (and new construction in certain cases), public facilities, and infrastructure. Grants are awarded to Tribes and qualified Tribal organizations. Pursuant to the authorizing legislation, single-purpose grants are awarded competitively pursuant to an annual Notice of Funding Availability (NOFA).

ICDBG Imminent Threat Grants

A key resource available for Tribes to address disasters is the Imminent Threat (IT) component of the ICDBG program. Over the last several years, Congress has set-aside a portion of the ICDBG funds appropriated for emergencies that constitute imminent threats to health and safety. For fiscal year 2011, $3,301,080 was available. These IT grants are intended to alleviate or remove threats to health or safety that require an immediate solution. IT requests are available on a first come, first served basis. Applications may be submitted at any time after NOFA publication, and if the following criteria are met, the request may be funded until the amount set aside is expended. The IT request must include the following documentation:

- Independent verification from a third party (i.e., Indian Health Service, Bureau of Indian Affairs) of the existence, immediacy, and urgency of the threat must be provided;
- Evidence that the threat is not recurring in nature, i.e., it must represent a unique and unusual circumstance that has been clearly identified by the Tribe or village;
- Evidence that the threat affects or impacts an entire service area and not solely an individual family or household; and
- Documentation that funds are not available from other Tribal or federal sources to address the problem. The Tribe or village must verify that federal or local agencies that would normally provide assistance for such improvements have no funds available by providing a written statement to that effect. The Tribe or vil-

lage must also verify in the form of a Tribal council resolution (or equivalent) that it has no available funds, including unobligated Indian Housing Block Grant funds, for this purpose. The NOFA includes a ceiling on IT grants. In the FY 2008 NOFA, for the first time, ONAP increased the IT grant ceiling for Presidentially-declared disasters to $900,000. That year and through the FY 2011 NOFA, the ceiling on other IT grants is $450,000.

Since FY 2001, and counting the IT grants awarded so far in FY 2011, 75 IT grants totaling $25,289,320 have been awarded. Of those, eight were made to Tribes resulting from Presidentially-declared disasters.

IT grants have been used for the following purposes: replace dry wells; relocate lagoons; address winter storm damage; repair failing sewage systems; upgrade water delivery systems; relocate homes and repair foundations; remediate mold; repair roads resulting from winter storm damage; and provide Hurricane Katrina relief.

In addition to IT grants that specifically address emergencies, Tribes and Tribal organizations may also reprogram some or all of their existing Single Purpose ICDBG funds to address emergency and/or disaster situations. The ICBDG regulations allow a grantee to amend its single purpose ICDBG to address imminent threats to health and safety.

Conclusion

This concludes my prepared remarks. I would be happy to answer any questions you may have.

The CHAIRMAN. Thank you very much, Mr. Tombar, for your testimony.

At this time, we will take questions, and I am going to defer first to Committee members for their questions, so let me call on Senator Udall for his comments and questions.

Senator UDALL. Thank you very much, Chairman Akaka.

For all of the agencies, I want to try to get a sense of how well prepared you are in emergency situations. I think each of you mentioned, and, Mr. Tombar, you finished up with the comment about allocated money for emergency situations, and I am wondering when you have hit these kind of emergency situations, whether it is flooding or wildfires or hurricanes, tornadoes, whatever it is, how much of your budget is dedicated to emergency mitigation on an annual basis.

Do you tend to run out of funds on a regular basis, on a yearly basis, looking at that? And how often does that force you into diverting funds from other areas? And if you are headed down a road that I think some of you might be, is there a better way to approach this?

Mr. Black, why don't we start with you down there? Anybody else that wants to answer.

Mr. BLACK. Okay, Senator, I would address that basically in two different program areas. When you talk about the wildland fire program, I think we are much better set up to deal with emergency situations there, largely because we have the programs, we have the infrastructure and we have the funding to deal with wildland fire. We also have the interagency coordination available to us.

Now, when we are dealing with non-fire incidents such floods, hurricanes, tornadoes, and winter snowstorms, we are not nearly as well equipped. We don't have those type of programs available to us; we don't have funding specifically set aside to deal with emergency or non-fire emergency type situations. We have a limited number of staff available to us within the Indian Affairs programs. We have two emergency coordinators up at the central of-

fice level. Collateral duty is how we handle it largely out at the regional and local level.

Mr. FUGATE. Well, Senator Udall, we do have a dedicated fund, it is called the Disaster Relief Fund. It is an annual appropriation that is based upon a level of disaster impact of historical precedents and also deals with outstanding disasters. Those funds are available under a Stafford Act declaration to provide, depending upon the level of impacts and the declaration itself, both programs for individual and family assistance, as well as recovery and expenses borne by the government dealing with that disaster. So those funds are designed to provide disaster response and recovery.

Under that fund we also have tasking authority to our Federal agencies, many of whom, depending upon what the needs could be, we actually, with the Corps of Engineers and others, when it is outside their authorities, have tasking authority from FEMA. An example, up in Minot, we are actually working a lot of issues where, through the Federal interagency, either through their own authorities or our tasking authority, we can get things done. But that fund is our annual appropriation that is based upon a level of disaster activity over about a five-year average.

Senator UDALL. Thank you.

Ms. Wagner?

Ms. WAGNER. Senator Udall, we have a specific account, Wildland Fire Suppression, that provides us the resources to take emergency action on suppression. The suppression account does the firefighting activity, as well as the Burned Area Emergency Response. You all know we have been in a situation at times in our past where we have not had the flexibility and we have actually transferred from different accounts to cover our fire suppression expenditures. The FLAME Act has certainly afforded us more flexibility; we appreciate that, thank you. We are working across the Nation on a cohesive wildland fire strategy with local, State, Tribal, Federal partners to make sure that we can always cover our response actions.

On presidential declared emergency disasters, the Technical Assistance Incident Management team structure and the like can be triggered when that is provided, and we provide assistance that way.

Mr. MCMAHON. Senator Udall, thank you for the question. With respect to how well prepared the agency is, I think probably the biggest constraint we face is in the Flood Control and Coastal Emergencies Account, which is the appropriation through which response is funded. This account typically does not receive appropriations, so when a disaster occurs, we move money around, much like Mary just described, to accommodate the activities and response to the flood.

But I also think your question has another aspect to it, which is how well are our fellow citizens prepared. And I would argue that I think we are generally rather complacent and believe that it won't happen to me, so we don't always invest in insurance, as an example, or make evacuation plans or evacuation kits. It seems to me that a lot of emphasis should go there through whatever means so that people are prepared to, first and foremost, take care of themselves and their family.

Thank you.

Mr. GRINNELL. Yes, Senator Udall, as far as response to disasters, Indian Health Service and Tribes, they have two key resources: their people, their staff, their medical staff, as well as funding that they are able to procure health care through the private sector. The Director also has a very limited emergency fund that is primarily used whenever there is a disaster that affects a health care facility or community, and those funds may be made available on a case-by-case basis.

We also have some funding that addresses water and wastewater facilities that usually are affected by disasters, and again that funding is limited. Also, Secretary Sebelius has at her disposal the Commission Corps of the Public Health Service. In disaster situations she can activate those and we can reach out and get additional assets to a particular location.

Mr. TOMBAR. People come to work at HUD because they care about housing people and developing communities, and post-disaster is when you see the best of HUD come to life. So in terms of the preparation of our staff, we are great there. The resources, while we do have, as I mentioned, about $3 million of an annual appropriation of $65 million that is set aside for imminent threats, unfortunately, as is the case this year, because there are so many needs to be met through disasters federally declared, presidentially declared or not, it often is insufficient to address the needs that are there.

Fortunately, Congress has provided the Secretary with some flexibility to provide waivers and meet the needs of some of these communities through other appropriations and other programs that we have, so we frequently work with Tribes and communities that are impacted to notify them of those flexibilities and make sure that, to the extent that they can, they act on those flexibilities and we provide the waivers that are requested.

Senator UDALL. Thank you very much.

I know we ran over a little bit. I apologize, Chairman Akaka and to the other Members of the Committee.

The CHAIRMAN. Thank you very much, Senator Udall.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman. I appreciate the responses from each of the panelists on the previous question.

Administrator Fugate, I want to ask you just very briefly. When we were together before the Homeland Security Appropriation Committee several weeks back now, I brought up the flooding that had affected Crooked Creek and Red Devil, which are both Alaska Native villages in Western Alaska. The President had declared a disaster, as was requested by our governor, but the Individual Assistance program was denied, and we followed up with the State. They clearly believe that the magnitude of loss that was suffered there merited the Individual Assistance program.

But I understand that this situation is not unique, that we have many small communities that feel that perhaps they have been discriminated or the treatment is just not on a level playing field when it comes to the individual assistance, when they see the damage to these very isolated communities.

So two questions to you, really, on this issue: Why do you figure individual assistance was not made available? And do you agree that we see a situation more often than not with our smaller, more rural communities, including some of our Alaska Native communities that are disadvantaged when it comes to FEMA providing the individual assistance?

Mr. FUGATE. Senator, the assistance is based upon impact to the State. And again, when you deal with small communities, those numbers oftentimes don't show that it has overwhelmed the State's capability. And I recognize many States do not have programs for individual assistance, but, again, it is based upon, as much as we look at these disasters, we oftentimes find ourselves saying this did not exceed the capability of the State and we do not issue a disaster declaration.

That never takes away from the impact to the homes and the people that were impacted, but it is a recognition that the Stafford Act was not designed to be the first line of provision of assistance for any level of disaster. So there are many disasters that occur in this Country that will not be declared by the President, or they may only be declared for one area or category.

But you do point out one of the challenges that we have, that in these reviews we do try to look at and factor in the unique case of the ruralness, the impacts to the communities, but it is judged based upon the way the Stafford Act directs us to, a statewide impact. So in small communities, rural communities, and coming from the State of Florida, where I have a lot of big cities, but I have some very rural counties, I saw many times, when you went and saw the damage, you are going this is really bad, but in context to the population of the State of Florida, it would not warrant the President declaring it.

Senator MURKOWSKI. It just seems like in so many situations you can read the writing before you have even made the application, that even though the consequence to that small village, that remote community is considerable, is devastating, that the way the system is built, that individual assistance just can't be there, and your example of the Florida one is spot-on; it just causes me to wonder if we need to look at perhaps a different approach, a different model here.

I wanted to ask probably several of you, Mr. Black, Administrator, and probably you as well, Mr. Grinnell and Ms. Wagner, in terms of the encouragement to train and hire Alaska Natives, American Indians in these programs where we are responding to natural disasters, in Alaska many Alaska Natives up north in the interior are trained and quite competent in terms of their wildland firefighting.

But it seems to me that when we are talking about response to a natural disaster, particularly in more remote areas, you have a real good fit within many of your Native communities. It gives an opportunity for the Native people to travel to the disaster site, you work on the disaster, and it is not like you have folks coming from the city; you have individuals that are used to living out on the land and in some more difficult situations. Then when the disaster has been addressed, they are able to return to their community, return to a subsistence lifestyle.

What is the priority that is placed on recruiting and training our first peoples for some of our emergency response teams? And I will let any of you start. Ms. Wagner, you are nodding affirmatively. Why don't we let you begin?

Ms. WAGNER. You bet. In different places, in different regions and forests across the Country we have specific examples where there have been partnerships. I know with the economic recovery funding, a couple of Tribal examples where crews were actually put in place, given skills and training, and are continuing to work on forest restoration projects beyond the economic recovery funding. So it is something of keen interest to us. Tribal leaders and local line officers work often on how we can improve employment opportunities, skill development for crews that Tribes or BIA are staffing.

When it comes to how far and wide do we deploy resources to an emergency or an incident, we count on the interagency coordination system to basically resource those assets where they need to be. So a lot of times we don't see Alaska Native crews travel down to the lower 48 unless it is a really extreme situation. I think there is opportunity for us to do more, and I would be willing to explore that with you further.

Senator MURKOWSKI. I would like to do that, because I do think it is important.

Mr. Black, Mr. Fugate, what are we doing either within FEMA? Go ahead.

Mr. FUGATE. Well, very quickly, FEMA, again, we provide training. Over 300 of the Tribes have had folks at our training institute in Emmitsburg, as well as we have had workshops with institutes of higher education and work with those organizations for providing training opportunities.

As far as hiring goes, again, our issue has always been we are geographically based, but when we go into disasters and we are in a disaster area, we try to do local hires and hire people from the community. So it is really specific to when we are in those areas whether to bring in everybody from the outside. Our goal is generally about 10 percent of being able to hire people locally, bring them into the system because of their local knowledge. So that is really dependent upon where it occurs and our ability to hire for that disaster.

Senator MURKOWSKI. Mr. Black?

Mr. BLACK. Well, within Bureau of Indian Affairs, we actively recruit and employ Native Americans and Alaska Natives throughout all of our programs, including our fire and our law enforcement programs as well, which are largely our first responders and our emergency responding programs.

Senator MURKOWSKI. Well, I appreciate the comments and I think it is important, particularly coming from that small State up in the upper left-hand corner in the box, because to get resources to us, if we have had an earthquake and our airports are down, if we are isolated by the natural disaster, which is not too far from a real possibility, we have to rely on ourselves, so we need to know that we have had local people that have been trained.

So I would like to make sure that as we build on these conversations that I have had with the folks from FEMA, Mr. Fugate, and

I appreciate you putting that meeting together, and, Ms. Wagner, what we can do with Forest Service, I think it is important that we really do try to emphasize that local hire and making sure that we have the individuals that are trained prior to the disaster hitting us.

Thank you.

I didn't give you a chance to speak, Mr. Grinnell, because I saw that my time was well expired.

So I appreciate it, Mr. Chairman. Thank you.

The CHAIRMAN. Thank you very much, Senator Murkowski.

Now Senator Johanns, would you please proceed? You may make remarks as well as your questions.

STATEMENT OF HON. MIKE JOHANNS,
U.S. SENATOR FROM NEBRASKA

Senator JOHANNS. Mr. Chairman, thank you. I will pass on the remarks just so I can get to questions so I can get to my next meeting. All of us have to be two places at once.

Mr. Fugate, good to see you again. If I could maybe start with you. Doing some research for the hearing, I ran across a statistic, I think it is accurate, that 45 out of the total 565 federally recognized Tribes participate in the flood insurance program as a Tribe, which seems to me to be just an abysmal rate, not good at all. I would like to ask you two things about that. Number one, what do you think is driving that low participation rate? And, secondly, are there any efforts in place to try to boost that participation and are you seeing any signs of success?

Mr. FUGATE. I'm sorry, Senator, no success. I think the first issue is to challenge that. For a government to be eligible to have flood insurance, they must first adopt ordinances that require certain practices in building codes design that would reduce future risk. I think it is in the adoption of that model legislation that requires you not build in certain areas, you build certain ways to minimize that flood risk is the first hurdle, particularly for smaller Tribes in small geographical areas. But that is still a requirement to be able to then establish the flood insurance program.

The second part is too, I think, in many cases, that until flooding has taken place and they realize that it is not covered under the other programs, and it oftentimes is the best line of defense, it is something that we oftentimes find, after a flood, there is now interest in doing that. But again, it is a program that does require the Tribe to take the first steps to adopt the ordinances. And I would agree the scenario we have to continue to work on, but it, again, requires to be able to do the mapping.

As the Corps will point out, in many cases we also have to look at existing flood control structures and their effectiveness, and then provide them with base flood maps, as well as their ordinances, before we can begin to offer flood insurance. And it would still require individuals to purchase that flood insurance to provide that benefit, and for many folks that is a cost that they just, right now, aren't able to take.

Senator JOHANNS. You know, you are describing a problem that there are probably some Tribes out there that can address it if they make it a priority, but there would be so many Tribes that could

not; they do not have the resources, the staff, the capability. I mean, that is a fairly significant undertaking even for a fair sized community, much less a Tribe with limited resources and personnel. So if you were to give us a suggestion as to an approach, is there a legislative approach that we might employ, or are we just stuck here?

Mr. FUGATE. I don't think we are stuck here, and I think it is a very good question and I would like to respond in writing. I think there are some things that we could look at. There may be streamlining of some of that process, but, again, because much of this is based upon the jurisdictions being mapped and adopting those ordinances, and then enforcing those ordinances, which means building codes, land use, and land zoning, it is not just merely we can turn the program on. There is some overhead that, depending upon what the Tribal government already has in place, it may be an incremental increase, it may be a hurdle that is so high that it is very difficult to be able to get to the point where they could be a flood insurance community.

Senator JOHANNS. It is not like you folks don't have a few things on your agenda at the moment, but I really would request that you put some brain power behind this one because it seems like a problem that is intractable.

Mr. FUGATE. This will actually be a good case. We updated our Tribal policy, and one of the things we recognized is that in our general counsel's office we had nobody who specialized in Tribal law, nation-to-nation relationships. So this would actually be a good question to ask them to go back and look at the national flood insurance program as it relates to nation-to-nation relationships, and the rules and regulations and what are applicable and what may be challenges, and what FEMA can do on our own.

So I think this would be a good test case for our Tribal counsel to really look at one specific program and get some answers back to you about what that looks like.

Senator JOHANNS. That would be great. Feel free to supply that to the Chairman and the Ranking Member and the entire Committee; I think we would all be interested in how to improve that situation.

General, I would be totally remiss if I didn't say hello again. Although this is kind of a localized question, I would like you to just give me a quick update on how things are going on the Missouri River. Obviously, we are seeing a lot of flooding there. What is your current assessment of that situation?

Mr. MCMAHON. Very briefly, Senator, the good news is we are beginning to create space in the reservoir system, and that gives us more flexibility than in monitoring release rates through the system. Generally speaking, the historical levels of releases, especially out of Gavins, which is the last dam in the system, remain at 150,000 cubic feet per second, and that is causing continued innundation downstream.

I don't think that situation is going to change much in terms of the innundation until we really turn down the spigot to about 40,000 cubic feet per second, which will take some time through the fall, and at that time the fields will drain back into the channel and we will begin the assessment process and the follow-up repair.

Senator JOHANNS. So barring heavy rain, which can change everything very, very quickly, looks like still into the fall before we start to see the water recede.

Mr. MCMAHON. Yes, sir.

Senator JOHANNS. Okay.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Johanns.

I know Senator Udall has a few questions, and I will have my questions after you.

Senator UDALL. Okay. I just have a couple more questions here directed to Ms. Wagner and Mr. Black.

Your agencies continue to participate in the Burned Area Emergency Response, the BAER effort, for the Las Conchas and Pacheco fires in New Mexico. As you mentioned, there has been extensive work on and around Santa Clara Pueblo land, but also on other Tribal land, most predominantly Nambe Lake at the Nambe Pueblo and at Cochiti Pueblo's lake, both of which are downstream of severely burned watersheds. And it is my understanding that these BAER Teams working in these areas are in the process of proposing actions and getting approval for funding.

Last week I sent letters to your agencies urging that the process of approval be expedited with adequate funding for the proposed actions. I know some emergency measures have already been put in place, but considering the impending monsoon season, I again urge you to lend immediate attention to the efforts proposed by the BAER Teams in New Mexico.

And my question is, will you work with your regional offices to ensure that the BAER Team process moves quickly for the Las Conchas and Pacheco fires? And can you describe if there are any barriers that are in place that would prevent us from moving fairly quickly on this?

Ms. WAGNER. I appreciate the question, Senator. On both Pacheco and Las Conchas, we have approved the BAER requests that have come into the national office. Regional offices have authority up to $500 million; the Washington office has an unlimited authority, so we have been providing some oversight for those requests. The most recent approval was done on July 19th for the Las Conchas second BAER request.

Senator UDALL. Thank you very much.

Mr. Black?

Mr. BLACK. Yes, sir. The latest report I got is the north BAER Team, which is the BIA, and we have the south BAER Team, which is the Forest Service and National Parks Service, the south BAER Team has completed their assessments, and their recommendations are being provided; the north BAER Team, which is BIA, will have their assessment completed this week, and those recommendations will be coming in.

As of now, we have already approved $500,000 for immediate ES actions on the Pueblos affected by Las Conchas and $100,000 for immediate action on the Nambe Pueblo to date. Then as soon as those recommendations, that is a high priority for us to get those things moved through.

Senator UDALL. Thank you very much. As I know you all are aware, sometimes you see the fire and see what happens as a re-

sult of the fire and it looks like a tremendous catastrophe, but sometimes the worst is the flooding afterwards, especially when you get intense heat of these crown fires that put the soil in a condition they can't absorb water. So we really appreciate you putting your quick attention on this and moving it, recognizing that.

Thank you very much, Mr. Chairman. I am finished with my questioning.

The CHAIRMAN. Thank you very much, Senator Udall.

My question is to the entire panel. In all of your testimonies you acknowledge that Tribes are sovereign governments with a government-to-government relationship with the United States, and that the United States has a trust responsibility toward Tribes. However, you also are aware that Tribes must go through the governor of a State to be eligible for Federal assistance under the Stafford Act. In your opinion, do you think the Stafford Act should be amended to allow Tribes as governments to request a declaration of emergency from the President?

Let me start with Mr. Black.

Mr. BLACK. Mr. Chairman, in my visits with the Tribal leaders over the past couple months in dealing with a lot of the emergency situations we have had, that has been a desire that has been expressed to me through the Tribes. At this point, I haven't had the chance to vet that through the Department, as far as getting a position for the Department. Thank you.

The CHAIRMAN. Mr. Fugate?

Mr. FUGATE. Mr. Chairman, in my listening sessions, that was heard numerous times from Tribal elders and members of the Tribal governments, the frustration that they would go through the governor. Again, we have done what we could under our rules and regulations as allowing Tribes self-determination to be the grantee once a declaration is issued, and we would be willing to work with the Committee on technical language if that is the desire. But at this point the Stafford Act is, again, a governor must make that request, and that is the process that we currently process our request for disaster declarations to the President.

The CHAIRMAN. Thank you.

Ms. Wagner?

Ms. WAGNER. Mr. Chairman, thank you to my FEMA colleague for that. I would defer to his thoughts about approaches in the future, and we would be happy to work with this Committee on expanding that authority.

The CHAIRMAN. General McMahon?

Mr. MCMAHON. Mr. Chairman, the Corps is not limited from direct contact and coordination and consultation with Tribes in an active flood fight. Under Public Law 84–99, we typically receive requests that I described in my opening statement, and respond accordingly within that authority in Public Law 84–99.

The CHAIRMAN. Thank you.

Mr. Grinnell?

Mr. GRINNELL. Yes, Mr. Chairman. In terms of our listening sessions with Tribal leaders that Dr. Roubideaux has convened over the last year, the issue has come up in terms of relationships of States with Tribes and their ability to access resources in times of emergencies. It continues to be an issue that is brought up by

them. Specific to IHS and the Department of Health and Human Services, the Tribes, through law, have the ability to compact and contract and assume programs, and they have direct access to any of our programs and services directly.

The CHAIRMAN. Mr. Tombar.

Mr. TOMBAR. Mr. Chairman, I will actually defer to Administrator Fugate on this, as FEMA is the lead agency governed by the Stafford Act. But I will say that for HUD's programs and our relationships that are directly with the Tribes, we find that that relationship works best in terms of working with the Tribes to determine what their needs are and being able to provide resources to fund those needs.

The CHAIRMAN. Here is another question for the entire panel. Is your agency part of an interagency task force or working group that brings Federal agencies together to collaborate and coordinate on Tribal policies and programs? If not, do you think such a task force would assist your agency in responding to natural disasters in Native communities?

Mr. Black?

Mr. BLACK. Thank you. We do participate in the National Interagency Fire Working Groups and those type of activities. Related to non-fire emergencies, the Office of Homeland Security and Emergency Services within Indian Affairs is working to establish a Tribal Assistance Coordination Group. It is more informal right now. Formalization of such a group would largely help the Tribes to reach some type of a one-stop shop activity and provide a unified process for the Tribes to go to to access materials and information regarding how they can access different funds and resources and stuff related to emergency situations. Thank you.

The CHAIRMAN. Thank you.

Mr. Fugate.

Mr. FUGATE. Mr. Chairman, Department of Homeland Security and Secretary Napolitano obviously has a much greater portfolio than just a disaster response, so everything from borders to immigration to law enforcement issues are areas that we have liaisons within the Department that we work across the interagency with these issues. Again, when it comes to disasters, our interagency activities are based upon the form of government that is essentially a State-centric approach in working with our agencies, and we oftentimes find ourselves having to do extra effort when it comes to the issues that we run into in trying to address the sovereignty of the Tribes.

Again, when a disaster is declared, many of those mechanisms are in place, but outside of a Stafford Act declaration there is limited formal coordination because we don't have the ability to provide assistance or direct assistance. Outside of that, in the area of grants and other programs under the Homeland Security Act as amended by the Post-Katrina Emergency Management Reform Act, we are not limited in those programs that are not tied to the Stafford Act, so we continue to work through the various agencies and interagency on preparedness issue. But I agree there could be further improvement.

The CHAIRMAN. Ms. Wagner?

Ms. WAGNER. We also participate in the National Wildland Fire Coordinating Group, so we have a national interagency environment where we can work together, and that is replicated in geographic areas across the Country, so it is a real strength when it comes to fire response and burned area emergency response. Programs within USDA, there are resources that have been put together and are available across all USDA agencies that are available to Tribes, a guide to USDA programs, but modeling that across the Federal sector would also benefit.

The CHAIRMAN. Thank you.

General?

Mr. MCMAHON. Mr. Chairman, in answer to the first part of your question about whether or not the agency is part of an interagency task force to collaborate on Tribal policy and programs, I am not aware of any of which the Corps or the Department of the Army is a part. However, in an active flood fight, such as that going on in the Missouri River Basin, we have very robust coordination with FEMA, with the Bureau of Reclamation and other Federal agencies as we work together to respond. We have been conducting a daily 5:00 Central standard time stakeholder call through this event that began in late May, and we have not only the Federal partners on there, but State Departments of Transportation, the NRC, another Federal commission, is present there, and we work together to coordinate our activities and response to the flood fight.

The CHAIRMAN. Thank you.

Mr. Grinnell?

Mr. GRINNELL. Indian Health Service is part of HHS. Emergency preparedness is not actually a primary focus of the health care delivery system, either directly managed by us or by Tribes. However, because our programs are at the community level, we are typically working hand-in-hand with Tribes from the very beginning, even before a disaster, during a disaster and after a disaster, and I think that that is an important asset that we bring to a disaster situation. We are very open to participating and we would love to be there because even after things happen we are still going to be there providing health care and working directly with those Tribes.

The CHAIRMAN. Thank you.

Mr. Tombar?

Mr. TOMBAR. Yes, Mr. Chairman. HUD's role is to develop communities, and we cannot do that alone, and we recognize that it takes a community effort, and that starts first with the Federal community. Secretary Donovan has been a huge proponent of collaboration across the Federal agencies around the issues of community development. That is certainly seen in a disaster recovery context, so we have, in response to this year's many floods and other disaster events that have happened, worked with many other Federal agencies, including some of the folks here, Department of Homeland Security, FEMA, EPA, USDA, and others, to respond to the needs of Tribes and work with them collaboratively to address those needs.

The CHAIRMAN. Thank you very much.

I am going to now ask Senator Hoeven whether you have any questions to this panel.

Senator HOEVEN. I do, Mr. Chairman. Thank you.

I would like to focus, if I could, for just a few minutes on flood response. On our reservations, as well as off reservation, we have had flooding across the State. It has been everything from the Red River, the James River, the Cheyenne River, the Missouri River, Souris River, Little Yellowstone, and I might be missing some, but we had just an incredible amount of flooding and that persists.

So if I could start with Director Fugate, again, thank you for the disaster declarations that we have received that have triggered both public assistance and, in some cases, individual assistance as well. Let me start on the public assistance piece, which really goes to everything; it is schools, any public infrastructure, but very often roads are a real issue, and then being proactive on roads.

If you could kind of detail for me for just a minute the assistance that you can provide on roads both to get them back up to a level where we don't have recurring flood problems, to the extent possible, and also proactive, where, in cases like Spirit Lake Nation, where you have this flooding continuing to rise because of the continued rise of Devils Lake, what we can do proactively so that people have access to their homes and farmsteads.

And I am going to ask the same question to General McMahon as well.

Mr. FUGATE. Senator, in this case you have some very specific questions that, from Washington, D.C., I couldn't comment directly on which roads, but in general roads that are the responsibility of the government of jurisdiction, whether it is Tribal or State or political subdivisions, that are not Federal aid highways because of non-duplication of Federal benefits, if they are damaged by the event, would be eligible under public assistance for repairs, bringing them back up to a state based upon prior conditions, intended purpose. Obviously, we don't take unpaved roads to a paved status in those repairs.

The other part of that is looking at mitigation, and mitigation is based upon can we reduce future damages, but also with the caveat it has to reach a reasonable cost-benefit. We are not going to spend $10 million to repair a $100,000 road. So we have to also look at the cost-benefit.

It is not always practical, nor is it cost-effective, merely to restore access back to areas that have long-term flood impacts. So, again, we look at this case-by-case. But, in general, roads that are not funded by another Federal agency, that are the responsibility of the jurisdiction, whether it is a Tribal government, local or State government, would be eligible for repairs if the damage was caused by the event, and there are mitigation dollars available to provide improvements to reduce future impacts, but they all must go through the cost-benefit analysis and, again, that is something that our Federal coordinating officer working with the State is in a much better position to look at individual roads or questions about those roads.

Senator HOEVEN. And for roads where the water continues to come up and it is an issue of building that road up so you can maintain access, say, to a rural community or to homes or farmsteads or businesses, proactively, water is coming up, not yet over the top of the road, what can you do in a situation like that?

Mr. FUGATE. Generally, we come in as a cost reimbursement to the action, State and local government, based upon damages or on protective measures. So again it would be based upon that we are not going to, oftentimes, be able to take care of something unless it has reached a point where it requires emergency protective measures or has actually been damaged by the event.

Senator HOEVEN. General, how about you and the proactive aspect, where you know the water continues to come up, as we have that case with the closed basin in Spirit Lake and Devils Lake basin area?

Mr. MCMAHON. Yes, sir. I think there are a myriad of examples where the Corps has responded to requests from Native American Tribes, and I would like to submit that listing attached for the record, Mr. Chairman.

The CHAIRMAN. Without objection.

[The information referred to follows:]

Recent USACE interaction with Tribes

Prior to spring flooding, flood packets are sent out to Tribes in multiple US Army Corps of Engineer's (Corps) Districts. These flood packets contain information on the Corps' Public Law (PL) 84–99 authorities, sample request for assistance letters, information on innovative flood fight equipment, a sandbag brochure and numerous other flood fight information. District Commanders, Tribal Liaisons, and Emergency Management staff meet with interested Tribes to brief on the Corps' PL 84–99 authorities, lessons learned from previous flood events, conduct table top exercises, review sandbagging techniques, and to build the relationship between the Corps and the Tribes. Information is also placed on the Corps' public Internet site and a 24 hour emergency operations phone line is distributed.

The following is a list of Tribes that were visited prior to this year's flood season in the Missouri River basin:

Wyoming: Wind River Reservation

Montana: Blackfeet Nation, Rocky Boys Reservation, Fort Belknap Reservation, Fort Peck Tribe

North Dakota: Standing Rock Sioux Tribe, Three Affiliated Tribe

South Dakota: Cheyenne River Sioux Tribe, Sisseton Wahpeton Tribe, Yankton Sioux Tribe, Flandreau Santee Sioux Tribe

Nebraska: Winnebago Tribe of Nebraska, Omaha Tribe of Nebraska, Santee Sioux Tribe, Ponca Tribe of Nebraska

Kansas: Iowa Tribes of Kansas and Nebraska, Sac and Fox Nation of Missouri in Kansas and Nebraska, Kickapoo Tribe of Kansas, Prairie Band of Potawatomi Nation

During a flood fight the Corps uses a Joint Information Center to coordinate among response agencies and communicate transparently to all external stakeholders including Tribes. The Corps has participated in national workshops held by Tribal assistance coordination groups, which provides federal, Tribal, state and local agencies an opportunity to plan for natural disasters in Native communities, learn how to work with each other during a natural disaster in Native communities, and learn about partner agency capabilities, resources, and responsibilities.

The following list is a summary of support provided to Tribes to date with regard to the Corps' Missouri flood response.

15–18 Feb 2011—SD—Oglala Sioux Tribe at Pine Ridge Reservation: On 15 February 2011 the Oglala Sioux Tribe sent a request for technical and direct assistance to the Corps. Staff is deployed to the reservation and provided technical assistance from 16–18 February. A large area by the White River and Calico Creek was flooding. Several roads were impassible, with residents trapped in homes. Some of the residents were elders requiring medical attention. At least one school was at risk of flooding. Tribal leadership expressed concerns over limited resources. Flooding was caused by rapid snowmelt and two Tribally operated dams that had exceeded capacity. Agency coordination included the Corps, Bureau of Indian Affairs (BIA), Federal Emergency Management Agency (FEMA), Army National Guard (ANG),

South Dakota Division of Emergency Services, and the South Dakota Department of Transportation.

15 Feb 2011—NE: Request for technical assistance from Ponca Tribe of Nebraska

17 Feb 2011—NE: Technical assistance provided to the Ponca Tribe to discuss potential flooding and preparedness.

17 Feb 2011—ND: Standing Rock Sioux Tribe provides notification of request to develop a request letter for obtaining assistance, the Corps assisted.

17 Feb 2011—MT: The State of Montana requested technical assistance for several communities in the State, including Fort Belknap. An initial assessment was completed by the Corps and sent to the State Division of Emergency Services as well as the Tribe. The recommendation provided was to continue to monitor the conditions in the City of Fort Belknap.

01 Mar 2011—SD: Completed a site visit to the Flandreau Santee Sioux Tribe to discuss flood assistance and visited areas of concern in preparation for 2011 flooding.

08 Mar 2011—ND: Received request for assistance from the Standing Rock Sioux Tribe. The Corps provided requested assistance.

10 Mar 2011—MT: Initial assessment of the Fort Belknap Reservation completed and forwarded to the State of Montana. The Corps recommended that the State continue to monitor the conditions in the City of Fort Belknap. Corps staff coordinated with Tribal officials, advising them how to make an official request.

13–19 Mar 2011: The Corps conducted meetings and briefings with the Blackfeet Nation, Ft Peck, Three Affiliated, Sisseton Wahpeton Oyate, and the Flandreau Santee Sioux Tribe,

14 Mar 2011—MT: The Corps met with the Blackfeet Nation Tribal leadership and emergency management staff. During the meeting the Corps received a request for advanced measures technical assistance from the Blackfeet Tribe of Montana. They requested safety inspections and reports on the following BIA dams on the Blackfeet Reservation: Two Medicine Dam, Four Horn Dam, and Swift Dam. The Corps continued to coordinate with the Tribe from Mar through July. Agency coordination included the BIA, IHS, and Montana Division of Emergency Services.

14 Mar 2011—MT: The Fort Belknap Indian Community requested technical and direct assistance, specifically requesting sandbags and plastic sheeting. The Corps provided 2 rolls of plastic and 8,000 sandbags. At the time, the National Weather Service provided information that there was a 90 percent chance that over a foot of water would be on the water intake building with a 50 percent chance that it may go to three feet. This is a small structure located adjacent to the river. Recommendation to the Tribe was to build a temporary sandbag dike around the building. Prison labor was utilized for sandbag placement. Agency coordination included the Montana Department of Emergency Services, BIA, and IHS.

17 Mar 2011: The BIA notifies Tribes of the Corps' PL 84–99 Tribal flood fighting capabilities.

22 Mar 2011: The Corps and BIA begin regular response coordination information sharing.

22 Mar 2011: The Corps extends coordination efforts and puts BIA in communication with staff in the Mississippi Valley Division to being coordination in the Mississippi River basin.

23 Mar 2011—MT: Ft Belknap sends an additional request for direct assistance to the Corps. An additional 10,000 sandbags were provided.

06 Apr 2011—MT: The Ft Belknap ring levee is completed. The Corps provided technical assistance for the construction of a temporary sandbag structure to protect the water intake pump station, Tribe provided labor. 8,000 Sandbags were provided.

21 Apr 2011—SD: Received request for emergency operations technical assistance for Low Head Dam in the City of Flandreau to determine potential measures that may be needed to alleviate additional flooding in the area and to increase safety. There is concern that that dam may not be safe, in need of repair, or could possibly be removed in order to increase safety and not cause flooding to residents in the area. The Corps provided technical assistance.

05 May 2011—WY: Received a request for advanced measures technical assistance to evaluate the flood threat (initial assessments) to the following areas located in the Eastern Shoshone and Northern Arapaho Tribe of the Wind River Reservation: Ethete, Fort Washakie, Arapaho, St. Stephens, Crowheart, Burris, Dinwoody, and Johnstown. The rivers of concern in this area are the Big Wind River, Little Wind River, and Popo Agie River and their associated tributaries. The Corps provided technical assistance in addition to the initial assessments. Fortunately, flood waters began to recede; therefore, advanced measures were not authorized.

23 May 2011—MT: The Crow Nation Tribe requested direct assistance. The Corps provided the Tribe with 75,000 sandbags.

25 May 2011—MT: The Corps met with Crow Nation leadership to provide technical assistance. Key issues included access to roads and bridges, food for the displaced, access to medical facilities, a boil water order and water treatment plant shutdown. The Corps participated in daily EOC briefings and assisted in bridge assessments. Agency coordination included BIA, BOR, IHS, USDA, and ANG.

26 May2011—MT—Crow Nation Tribe: The Corps updated Tribal leadership, briefs EOC, continue bridge assessments, and coordinates an afternoon conference with FEMA.

26 May 2011—ND—Standing Rock Sioux Tribe: The Corps received a request for technical assistance from the State of North Dakota EOC and the Tribe. A technical team member was dispatched to the Ft. Yates area and provided assistance to the Tribe.

27 May 2011—ND: Standing Rock Sioux Tribe sent a request for technical and direct assistance to the Corps. A conference call was conducted with the Tribe and BIA on the specifics of the request. Due to the holiday weekend, the Chairman was unavailable to meet again until 01 Jun 2011.

30 May 2011—MT: Fort Peck Tribe sent a request for technical and direct assistance to the Corps.

31 May 2011—ND—Standing Rock Sioux Tribe: The Corps deployed a technical team to Ft. Yates. The Corps held an initial meeting with Tribal leadership then participated in a public meeting. Key issues of concern included the Ft Yates roadway, Sitting Bull site, Airport Road, sewage lagoon, projected lake elevations, water flows, and erosion

01 June 2011—ND—Standing Rock Sioux Tribe: The Corps met with Tribal leadership and provided an update on contracting actions, release plans, projected weather outlook, and participated in a public meeting. Agency coordination included the BIA, IHS, FEMA, North Dakota, US Attorney, FEMA, and BOR.

01 and 09 June 2011—MT—Ft Peck Tribe: The Corps provided a total of 51 rolls of plastic and 50,000 sandbags. Over the course of 2–3 weeks, technical teams visited the communities of Brockton, Poplar and Wolf Point numerous times responding to technical assistance requests for the sewage lagoons and the construction of a temporary levee in Poplar, MT.

02 June 2011 ND—Standing Rock Sioux Tribe : The Corps met with Tribal leadership, concerns expressed included the Ft Yates roadway, Ft Yates water intake, and the water intake pump house. A public meeting was held with the Corps, BOR, BIA, IHS, and ANG. The Corps participates in daily radio talk shows. The Corps awarded a contract to provide erosion protection to locations along the Sitting Bull historical site and the Ft. Yates water intake for $150,000. This contract was completed on 05 June 2011. Also, on 02 June 2011, the Corps received a request from the Standing Rock Sioux Tribe for direct assistance. The Corps sent 50,000 sandbags and 30 rolls of plastic.

03 Jun 2011—ND—Standing Rock Sioux Tribe: The Corps meets with Tribal leadership and provides an update. The BIA and DOI provided the Corps with access to communications network to ensure reliable communication capabilities. The Corps participated in a public meeting, a radio talk show, and a conference call with the North Dakota and South Dakota US Attorney's Office to address, jail, Police Department road access, potential need for evacuations and public safety issues.

03–04 Jun 2011—WY—Eastern Shoshone and Northern Arapaho Tribes of the Wind River Reservation: The Corps' technical team was on site providing technical assistance to the Tribal communities. No further assistance requested.

03 Jun 2011—ND—Standing Rock Sioux Tribe: BOR approached the Corps about an erosion problem that required immediate attention. The agency is in the process of completing construction of a new water treatment facility and erosion around the site was placing the project at risk. The Corps expedited the permitting action for the placement of rip rap on the shoreline to stabilize the site.

04 Jun 2011—ND—Standing Rock Sioux Tribe: The Corps awarded a second contract for the protection of the North and South causeways at Ft. Yates for $600,000. The North side was completed on 15 Jun and the south side was completed on 02 Jul.

05 Jun 2011—NE—Omaha Tribe: The Omaha Tribe sent a request for technical and direct assistance to the Corps. The Corps sent a technical team multiple times during the construction of a temporary levee and also provided 20,000 sandbags. Staff continued to provide daily briefings and participate in radio talk shows. The team conducted a boat tour along the shoreline to evaluate erosion and the contractor begins preparatory work on the roadway site.

06 Jun 2011—MT: Chippewa Cree Tribe of the Rocky Boy's Reservation sent a request for direct and technical assistance and the Corps provided the Tribe 10,000

sandbags. Additional on-site technical assistance was provided in the following days to develop a safety plan while roadway work was conducted.

07 Jun 2011—ND—Standing Rock Sioux Tribe: The Corps continues daily briefings for leadership and community members. Efforts are also underway with the Rocky Boy, Omaha Tribe, and Yankton Sioux Tribe.

08 Jun 2011—ND—Standing Rock Sioux Tribe: The Corps conducts final briefing with Tribal leadership and a final radio show. The Tribe presents the Corps with a Star Blanket. The Corps continues to monitor conditions and construction.

08 Jun 2011—NE—Santee Sioux Tribe: The Tribe requested technical and direct assistance to maintain access to the community. The requests were fulfilled by the Corps.

09 Jun 2011—MT: The Corps met with Rocky Boy leadership. Flash flooding event had passed so the Corps is shown areas of concern. Tribe requests information on any possible sources of replacement of funding.

11 Jun 2011—MT—Ft. Peck: The Corps met with Ft Peck representatives and toured the Wolf Point pump house to review sandbagging efforts.

12 Jun 2011—MT—Ft. Peck: The Corps toured the sewage lagoons with Ft Peck representatives.

13 Jun 2011—MT—Ft. Peck Tribe: The Corps meets with Tribal Council. Key concerns include potential damage to lagoons, need for rip rap slope protection for areas experiencing erosion, condition of Ft Peck Dam, water release plan, duration of releases, Tribal consultation, and protection of the pump house. Agency coordination included the BIA and IHS.

14 Jun 2011—MT—Ft. Peck Tribe: The Corps tours the pump house, meets with Vice- Chairwoman, provides update on Ft. Peck Dam releases, weather and status of pump house sandbagging efforts, briefs Tribal Council, revisits lagoon site, and tours roadway levee construction.

15 Jun 2011—MT—Ft. Peck Tribe: Technical assistance continues as well as sandbagging.

17 Jun 2011—MT—Ft. Peck Tribe: Pump house work placed on hold due to declining water levels. The Corps met with Tribal Council and provided an update on current projections and conditions as well as addresses rumors and concerns.

18–21 Jun 2011—MT: Monitoring efforts and briefing for Ft. Peck Tribal leadership.

22 Jun 2011—SD: The Corps participated in a conference call regarding the Crow Creek Sioux Tribe's water intake. Key issues included water quality, change out of screens, additional costs, possible need to relocate the intake, insufficient water production, Corps releases, and Tribal consultation.

22 Jun 2011—NE—Santee Sioux Tribe: The Tribe requested technical and direct assistance. The Corps provided 30,000 sandbags to the Tribe.

22 Jun 2011—ND: The Corps met with the Standing Rock Sioux Tribe to discuss levee concerns. The Tribe was under the impression that they were responsible for the levee when it was really the City of Ft Yates responsibility. A site visit was conducted and meeting held with the BIA.

23 Jun 2011—ND—Standing Rock Sioux Tribe: The Corps met with Tribal leadership to brief on the latest projections and conduct a radio talk show with the Chairman and Vice- Chairman.

23 Jun 2011—SD—Crow Creek Sioux Tribe: The Crow Creek Sioux Tribe sends a request for technical and direct assistance to the Corps due to issues with their water intake at the spillway of Big Bend Dam. The Tribe along with BIA, IHS, and the Corps worked together and determined a fix to their siltation of the filters at the water intake.

26–27 Jun 2011—NE—Santee Sioux Tribe: The Tribe requested technical and direct assistance. The Corps provided numerous 1 ton sandbags to assist the Tribe and Nebraska Department of Roads.

06 Jul 2011—NE/IA—Winnebago Tribe: The Winnebago Tribe sent a request for technical assistance to the Corps. Hydrological engineers with the Corps provided a flood profile and engineering analysis on a potential road raise to allow the WinneVegas Casino to reopen as requested.

Other flood fighting/disaster response

Albuquerque District provided sand bags and flood fight training at Nambe, Santo Domingo, Santa Clara, Jemez, San Ildefonso and Cochiti Pueblos earlier this year.

Memphis District has, and continues to coordinate with a Tribal coalition led by the Mississippi Choctaw, Caddo and Osage over effects to archeological sites/human remains caused by the operation of the New Madrid/Birds Point projects, which required execution of a planned levee breach.

New Orleans District has been in recent contact with the Chitimacha in regards to this year's flooding.

Mr. MCMAHON. But more specifically to your question, Senator Hoeven, there are examples when roads, bridges, causeways can be undertaken as part of public infrastructure and protected as the water rises, and we have asserted that authority and used it where it is appropriate. There are other examples, and one of them involved a Native American Tribe recently, where they had surrounded their enclave, casino and some administrative buildings, with a very nice ring levee, but did not have an access road to it; they had to use a boat or other transportation. And in that case, public infrastructure wasn't part of the equation, so that specific request had to be denied, unfortunately.

There is a set of criteria that apply, and when we can demonstrate that those criteria are met, we are absolutely out there and doing our very best.

Senator HOEVEN. Mr. Chairman, if I may continue for just a minute. I see my time is up, but if I could go on just for a minute.

I think there are some instances where we can prevent significant damage and cost for not only Tribal government, but local, State, and Federal as well, if we are proactive, and maybe the Corps has some programs in the case of roads that are better suited.

Let me switch for just a moment to homes, and come back to Director Fugate. Now for homes that have been either partially or maybe completely damaged in the flooding. On the public assistance side, your reimbursement works very well, and we are at the level where it is going to be 90 percent, then the State steps in for most of the rest, and in some cases Tribal and local. But on the individual assistance side, for individuals where their home is destroyed and they didn't have flood insurance, take me through any help you can provide.

Mr. FUGATE. Well, you just identified probably the biggest impact is not having flood insurance, because there is no program in the Federal Government that will make you whole, take care of your mortgage or rebuild your home. The Individual Assistance Program directed by Congress, adjusted by Consumer Price Index, if you were able to max out just about everything in the impact, may get up to about $32,000.

And the example of numbers I am very familiar with because I have the final numbers. The Tennessee floods of last year that had many homes flooded and destroyed, the average amount of direct Federal assistance—and this is a grant; they don't have to repay it back—was under $8,000. You are not going to rebuild your home for $8,000. And it was never the intention in the Stafford Act that the Individual Assistance Program made you whole or rebuilt your home, that is why there is a key step there that oftentimes gets overlooked. They go from I don't have insurance to what assistance FEMA can provide me, and that is a Small Business Administration loan.

This is one of the caveats that, when the President declares a disaster, it not only activates the Stafford Act Individual Assistance, it activates the low interest Small Business Administration loans, and for many people that will be the avenue by which they

can rebuild their homes. But it carries the burden that if they already have an existing mortgage, they also have now another loan on top of that to rebuild.

But if you took everything that we can do in our Federal programs, in the FEMA IA program and maxed it out, which is rare, it still will not provide sufficient funds to rebuild. That is why we work with HUD, because in the low-income—and also in Minot we had preexisting housing conditions because of the oil boom, so we already had a shortfall to begin with. So the housing we are losing is being exasperated because there are not rental properties or places we can lease while people rebuild. We work very close with HUD as they work with the States with their block grant and other dollars for affordable housing.

We really look at FEMA as the bridge. We look at our partners at HUD and others as the longer term solution to, oftentimes, preexisting conditions, but also the reality that, without insurance, we are not going to make people whole, we are not going to, oftentimes, get them back into home ownership, and we have to work very closely with HUD and the State on what some of the longer term solutions are for housing.

Senator HOEVEN. So the HUD programs are the best fit to kind of dovetail and put together the best possible package.

Mr. FUGATE. And that, again, is a reflection of the coordination between Secretary Donovan and Secretary Napolitano looking, as we came into this administration, of the situations we had post-Katrina, but also demonstrating by working together and bringing Federal programs together, we can work to help the longer term issues.

But it is a mistake for people to rely upon FEMA grant assistance as the mechanism that will make them whole; it is a combination of Small Business Administration disaster loans, FEMA grant, HUD and other programs, which goes back to the core issue: of all the hazards in this Country, the one that produces the greatest vulnerability is flooding when people don't have flood insurance.

Senator HOEVEN. And can that SBA loan be either a second mortgage behind the first or take out the first and be the full mortgage, either one?

Mr. FUGATE. Either one. And again, within the SBA program, what they will generally do is provide the coverage there, provide a much higher value than we can, our grants for rebuilding. They also offer, as part of that low interest program, again, for qualified homeowners, that they can do things such as elevation and mitigation to their homes they rebuild. This also is the only assistance we have available for businesses that flood, since FEMA programs don't provide assistance to businesses.

Senator HOEVEN. Okay, who is the best person on your staff that I can have somebody on my staff work with to put together the best possible practice, bringing in HUD and whatever resource mix maximizes the recovery assistance? Who would be the Native person that is really good with that we can work with?

Mr. FUGATE. Our Federal coordinating officer, and I believe we have already been working with HUD on establishing long-term recovery in North Dakota, particularly in Minot, because we know we have a big housing issue, and I will have our Federal coordinating

officer and get the person who is currently heading up long-term recovery, because that is where we really bring in our Federal partners on the interagency to work the long-term issues with the State. And because the governor had already established a housing task force pre-flood dealing with housing issues we are also integrating with that team to address both the preexisting condition that has now been exasperated by the flooding.

Senator HOEVEN. That would be great. If you could give me that person's name, we want to make sure we are looking at every avenue available. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Hoeven.

I want to thank this panel for your responses. I also want to include in the record the material that the General had asked be placed in the record. And I want to thank you for your valuable responses that will help us in our work here to deal with emergency preparedness. Again, I want to thank you for your time; you have been very generous. Thank you, first panel.

I would like to invite the second panel to the witness table. Serving on our second panel is Governor Walter Dasheno, Governor of the Pueblo of Santa Clara.

Governor Dasheno, I want to thank you for taking the time to be with us today and your patience here, as well. I know that you have a lot to do back home in dealing with the recent fire, but your testimony here today will allow us to hear of your recent personal experiences.

I would like to turn to my colleague and good friend, Senator Udall, to continue with this introduction, since I know he is well aware of the effects of your recent fire and has been out to your Pueblo to see where he can be helpful. Senator Udall.

Senator UDALL. Thank you, Chairman Akaka. I am pleased to introduce my good friend, Governor Walter Dasheno, of the Santa Clara Pueblo. I first want to thank Governor Dasheno for taking the time and the expense to testify today. We recognize his sacrifice in coming all the way during a very uncertain time for his Tribe, and I want the Committee to know that in New Mexico the fire season is closely followed by the annual monsoon season, so that in addition to losing much of the Tribe's forest and sacred sites to the fires, Santa Clara Pueblo has already experienced many mud slides and movement of debris and damage to some of their ponds that exist in Santa Clara Canyon.

The Governor and the Pueblo have worked around the clock to protect their village and sacred sites with some 47,000 sandbags, the building of debris pools, and other precautions. Our Committee is lucky to have the Governor come and testify in the midst of a natural disaster. Governor Dasheno's presence in the Committee today is only made possible because he was so diligent in past weeks working to ensure his community is as prepared as possible for any major rainstorms and flooding.

I have worked with Governor Dasheno for years and admire his excellent leadership skills and the dedication he has to the Santa Clara Pueblo. Governor Dasheno is currently serving his eleventh term as Governor of Santa Clara Pueblo, has worked with Tribal Government for 38 years, he was the Director of the first Depart-

ment of Energy contract for the Los Alamos Pueblo projects, and was Santa Clara's first Intergovernmental and Public Relations Officer. Prior to holding that position, he served the Santa Fe Indian School for seven years as Intergovernmental Liaison and has also held the position of Director of Planning for the Eight Northern Pueblos Council.

In addition to being a member of the Eight Northern Pueblos Council, Governor Dasheno is also a member of the All Indian Pueblo Council and the National Congress of American Indians. He has been a valued contributor to Federal Indian programs through his work on the Indian Health Service Committee to assist with the Service's consultation policy and previous service as Chairman of the Commission on Indian Affairs and a member of the Bureau of Indian Affairs. Governor Dasheno studied liberal arts and theology at Donscota College, a Franciscan undergraduate school in liberal arts and theology. He also attended high school at the prestigious St. Catherine School in Santa Fe and served in the U.S. Navy and is a Vietnam veteran.

I want to again reiterate the great leadership that has come from Governor Dasheno during the Las Conchas fire. From the start of the fire Santa Clara fire teams were on the front lines protecting the safety of all New Mexicans, and as evacuees poured out, 12,000, out of Los Alamos, the Governor welcomed them into Santa Clara Pueblo facilities. Then when the fire blazed through his own Pueblo's land, Governor Dasheno was quick to immediately engage Federal agencies to bring any needed supplies and technical assistance to ensure his community was protected from coming floods.

I welcome Governor Dasheno to our Committee and thank him for his attendance and contribution to today's discussions. It is my sincere hope that the Pueblo of Santa Clara is able to safely clear the next several weeks of monsoons, and I look forward to working with him to ensure that this is possible.

Thank you again, Chairman Akaka, and I look forward to Governor Dasheno's testimony and also to the questioning.

The CHAIRMAN. Thank you very much, Senator Udall.

Before we receive the testimony of the Governor, I would like to, for the record, state that I have further questions of the first panel and that I will submit them for their responses.

Governor Dasheno, we are so happy to have you here and I look forward to your testimony. Would you please proceed?

STATEMENT OF HON. WALTER DASHENO, GOVERNOR, PUEBLO OF SANTA CLARA, ESPANOLA, NM; ACCOMPANIED BY JOHN PEREA, SENIOR ASSOCIATE, CRC & ASSOCIATES, LLC

Mr. DASHENO. Aloha, Mr. Chairman.

The CHAIRMAN. Aloha.

Mr. DASHENO. I was here before in a different session, in May, when the hearings were about appropriations. Seems like I always come to be asking for money or otherwise. I certainly appreciate the comments and humble statements that Senator Udall made. Just a couple of corrections. This is my twelfth year in office, and I wanted to state that it was not 40,000, but we bagged 60,000 bags of sand. So just for the record, Mr. Chairman, Secretary, Senator Udall.

Before we start, if you could allow me, Mr. Chairman, to say a few sayings in my language, which is appropriate because of the hardships that we have gone through this last few days. I have a message from my people from Santa Clara Pueblo to convey to you, and appropriately they asked me to say it in our Tewa language so that you can feel the wording that comes from their hearts, their minds and souls. So if you would allow me, Mr. Chairman.

[Message in Native language.]

Mr. Chairman, Members of the Committee, my name is Walter Dasheno. I am the Governor of the Pueblo of Santa Clara, and thank you for this opportunity to testify. It is regrettably that Santa Clara Pueblo has developed expertise with both fires and floods. We have been devastated not only by the Las Conchas fire, which is still burning and a preclude to flooding in the Santa Clara Canyon. Flooding will likely endanger homes, our senior citizens' center, our Tribal administration buildings, also other facilities that are adjacent to our lands. Debris and residue have contaminated our watershed and will continue to pass on into the Rio Grande.

Our traditional homelands and spiritual sanctuary, the Santa Clara Canyon have practically been destroyed, and as we all know as Native people, mountains, rivers, animals, spiritual locations are similar to churches throughout the Country, so in a sense our church has been destroyed. But we will stand up again and learn from this process of what needs to be done.

We estimate that over 17,000 acres of our forest lands have been burned. With past fires, 80 percent of our forest and a huge part of our heritage has been destroyed. This fire has also burned thousands of acres of traditional lands, including the lands of origin, the P' opii Khanu, the headwaters of our Santa Clara Creek. Forest loss is also devastating to wildlife, recreational resources and to the purity of our water, which we have used for irrigation and many traditional purposes.

As a matter of fact, on August the 12th, which is going to be occurring in approximately three weeks, we will be celebrating our annual feast day. We used to go get the water from the spiritual location, but because of the danger that it has created, we are not sure what is going to occur at this point, so it is already affecting us in terms of what is occurring.

We have many short- and long-term concerns: one, we still need fire suppression resources; two, we face potential flooding of our homes, public buildings, and irrigation systems; three, we have water quality impacts, such as ash and debris flowing into the Santa Clara Creek, which will eventually reach the Rio Grande; four, we have physical health impacts from the smoke and the emotional impact on our community.

Matter of fact, next week Monday is going to be a day of healing for many of our community members, so it is going to be an opportunity to share the story of what has occurred on our reservation with the young and the old. Five, the cost of addressing the fire, along with the closure of Puye Cliff dwellings, the homelands of our ancestors, and the decline in visitors to our lands have caused us to suffer financially; six, we must address the long-term restoration of the forest and the lands adjacent to our reservations.

We have been actively working with the Forest Service, the Bureau of Indian Affairs and others to establish a forest management program that would have prevented this catastrophe. These efforts would have eventually succeeded. For example, the back of the canyon was saved due to a 300-acre fuel break that we established with funding from the Forest Service Collaborative Forest Restoration Program. This program should be expanded. As a matter of fact, we are in the process of working with the U.S. Forest Service to develop a Tribal forest protection act program, so I am hoping that we can come back to the Committee to get their support in regards to this project, because it is going to benefit all of us.

In the last decade, we have faced four fires that have threatened our forests, and none of them have originated on our lands. Because of the Federal Government's culpability in the Cerro Grande fire, there was a robust effort to address impacts. We have been advised that because the Las Conchas fire was not started by Federal action, we should not expect as robust a response. Rather, we should look for funding only from existing programs at existing Federal levels similar to other Tribes throughout the Country.

New Mexico Governor Martinez has declared an emergency in affected counties and at the Santa Clara Pueblo and has made limited funding available through the New Mexico Department of Homeland Security and Emergency Management. While Santa Clara is appreciative of these actions, we are also asking the governor to take an even larger measure. We are requesting that the governor request that the President declare a disaster at the Santa Clara Pueblo, Cochiti Pueblo, San Ildefonso Pueblo, Jemez Pueblo, and Santa Domingo Pueblo, and in the areas affected by the fire, including the fire at Nambe that was occurring before this fire started. Such a declaration would free up FEMA assistance, which we desperately need.

Because only a State governor can set this process into motion, we ask this Committee to address why Tribal governments who have a direct government-to-government relationship with the United States must go through State governors to request Federal disaster relief. Such relief clearly falls within the Federal trust obligation. We urge Congress to pass legislation that allows a Tribe to directly request this relief.

Our recommendations at this point are: one, an oversight field hearing to assess progress; two, emergency appropriations for Tribal mitigation, watershed restoration, and BAER plan implementation; three, an interagency task force to be created to address Indian Country emergencies; four, agencies to be directed to allocate resources to Santa Clara Pueblo for mitigation, restoration, and BAER plan implementation; and, number five, Congressman Rahall, who has introduced legislation, H.R. 1953, to allow Tribes to directly request that the Federal declaration of Federal disaster be provided for. We ask that your Committee enact similar legislation on the Senate side.

While we intend to devote the resources we can to the healing of our land and the protection of our community, we cannot do it alone. We turn in this hour of need to our Federal trustee and ask for your assistance in assuring the remediation of our sacred homelands.

Mr. Chairman, Members of the Committee, I implore on the Federal Government to aid all of us as Tribal governments. There has to be equity in the process of allocation of resources. Many Tribes don't have the means to do this. Many Tribes don't have the means to allocate the resources that are necessary. And many times Tribes are at the mercy because they tell us that funding should be made available through gaming fund. That is not correct, Mr. Chairman. There is only limited funding in gaming and other resources. So, therefore, Mr. Chairman, I implore on all of you to assist us as Tribal governments to continue to support the needs that we face as Tribal governments.

In closing, I would like to make the statement that was made by our former governor, Michael Chavarria, who was the resource person that was identified in working on this Las Conchas fire. He stated, the Santa Clara Pueblo community, Tribal Council, governor and staff would like to extend our gratitude and lasting friendship to the Southwest Area Incident Management Team, including the Rocky Mountain Incident Management Team. The Pueblo supported the plan as developed and appreciated the consideration of our energy and concerns being incorporated into the Team's management objective.

The Pueblo's recommendation and at times involved in the decision-making process was valuable. The importance of protecting our watershed, P' opii Khanu, treasured lands and spiritual sanctuary is essential to the traditional and cultural and practices of our Pueblo. The various natural resources, including the gathering of medicinal plants and herbs within the incident area, is critical to our survival. The many TCPs, or Tribal Cultural Properties, in the incident area are of significant value and irreparably, once destroyed or disturbed, cannot come back. Incident Commander Joe Reinarz and his team took our thoughts, concerns, and issues into consideration to stop the fire from impacting our sacred lands.

At times we just couldn't win over Mother Nature. But the Pueblo will overcome this obstacle and once again be able to utilize the many natural resources our mountains have to offer. The Pueblo would like to thank the Team for being professional, respectful, and a terrible group of individuals that have come together to form a team that is strong, dedicated, and understands the meaning of teamwork. Again, [greeting in Native language], which means thank you very much in our language. Our experience will be shared with many and will be remembered for years to come.

Mr. Chairman, thank you very much, and we certainly appreciate you being able to hear our concerns at this point. Mahalo.

[The prepared statement of Mr. Dasheno follows:]

PREPARED STATEMENT OF HON. WALTER DASHENO, GOVERNOR, PUEBLO OF SANTA CLARA, ESPANOLA, NM

Chairman Akaka, Vice Chairman Barrasso and members of the Committee, my name is Walter Dasheno. I am the Governor of the Pueblo of Santa Clara. Thank you for this opportunity to present to you on the issue of emergency preparedness for natural disasters, including particularly for floods and fires. Regrettably, the Santa Clara Pueblo has developed expertise with both.

As you know, the Santa Clara Pueblo has been devastated by the Las Conchas Fire, which is still burning and which is, itself, a prelude to flooding in the Santa Clara Canyon, which has been stripped of its vegetation and whose soil has become hard-baked and, in the parlance of the hydrologists, is now "hydrophobic". As the Santa Clara Creek, which flows as a perennial stream out of the canyon passes through the Pueblo itself, any flooding will likely endanger a number of homes, our senior center and our tribal administration buildings. In addition, debris, ash and other residue have contaminated our watershed and will pass into the Rio Grande. As the Department of the Interior, Interagency Burned Area Emergency Response ("BAER") Team noted in a July 17 report:

> "The intense flames from the fire burned trees and vegetation off the steep slopes of the canyon and heated the soils causing severe damage to the natural resources of the area and placing the downstream tribal members of the Santa Clara Pueblo at risk to extreme flooding. The post-fire watershed effects were rife for massive landslides and debris flows which occurred on the afternoon of July 15, 2011. At approximately 2 PM local time an intense thunder storm delivered 1 inch of rain [and perhaps as little as 1/4 inch] in a half hour, producing 10-debris and mud flows to the canyon bottom. The debris flows damaged infrastructure, roads, and delivered massive amounts of rock, debris, and sediment to the four

reservoirs located along the valley floor. The flooding was so intense within the canyon, the stream channel overtopped its banks and caused two of the four dams to fill very rapidly, one of which came within 6 inches of overtopping. The overtopping was narrowly averted by the quick actions of the tribal members by removing bridges and releasing water through an emergency drain. Had the dam overtopped, the entire structure could have failed, delivering a torrent of water to the community of Santa Clara Pueblo which lies downstream. To the credit of the tribe, this potential event was foreseen, and treatments to protect the downstream community were already in place."

Lt. Gov. Bruce Tafoya, Sheriff John Shije, and I witnessed this event - it was so intense that we were left shaken.

Although mercifully, no lives have been lost and no homes have burned, we have still seen our traditional and treasured homeland and spiritual sanctuary, the Santa Clara Canyon, practically destroyed. The fire came within 10 miles of our village. We estimate that more than 16,000 acres of our forest lands have burned in this fire and, together with the lands that we lost in the Oso Complex Fire of 1998 and the Cerro Grande Fire of 2000, 80% of our forests and a huge part of our heritage have been destroyed. In addition, the fire has burned thousands of acres of our traditional lands that are outside our current reservation and that continue to hold cultural sites and resources of great importance to us. This area encompasses our lands of origin, the P'opii Khanu - the headwaters of our Santa Clara Creek, and numerous cultural and traditional sites. In addition, the loss of the forest is devastating to wildlife and wildlife habitat, recreational resources, and to the purity of our water - which we use for irrigation and many traditional purposes. Throughout this tragedy, the Santa Clara people have shown our grit and determination to persevere and to begin the long road to recovery so that, while my generation may never see the canyon in its glory again, that will not be said of the next generation.

Preparing for the floods. In preparation for the anticipated flooding, we have completed the placing of 3,000 feet of concrete barriers and the filling and placing of 60,000 sand bags. In addition, we have also completed three miles of channel cleaning and debris removal, including cleaning two bridge box culverts and 15 other culverts, removing half a mile of fence from the Santa Clara Creek, and marking and felling over 10 miles of hazard trees on the road up Santa Clara Canyon. The Army Corp of Engineers has been very helpful in this effort and has reviewed the work that has been done and suggested that additional point protection be done around the Day School. We had planned to shock the fish in ponds 2 and 3 and then drain and clean the ponds; however, mud slides and run off interfered with us completing that work.

The lasting effects of the Las Conchas Fire. The fire raises numerous, interrelated, short and long-term concerns for Santa Clara and other surrounding communities. First, we still need fire suppression resources not only to focus on stopping the fire from burning more lands sacred to us, but also for mop up operations and to protect the remaining 20% of our forests. Second, with the onset of the summer monsoon seasons, every afternoon we face the threat of a thunderstorm that will send torrents of water and debris down the Santa Clara Canyon and Creek, creating a huge risk of dam failure and catastrophic flooding for our homes, public buildings and irrigation system. Third, we must address the environmental impacts of this fire. These include water quality impacts as tons of ash, debris and other materials flow into the Santa Clara Creek affecting fisheries, wildlife consumption, agriculture and cultural uses, and safety issues within our Santa Clara Canyon due to the destabilized landscape resulting in falling boulders and dead and down trees. This runoff will eventually reach the Rio Grande, affecting water quality for communities like Santa Fe that are downstream or use the Rio Grande. We are also concerned with the physical health impacts from the huge quantities of smoke, as well as the devastating emotional impact to our community of such a great loss. Fourth, Santa Clara has suffered financially, including not only the direct efforts to address the fire, but also from the closure of Puye Cliff Dwellings, the reduction in arts and crafts sales, and the decline in tourists and visitors to our hotel and casino.

Finally, we must address the long term restoration of the forests. We anticipate will take several decades to address these impacts, but we have set our minds already to this task.

The cruel ironies of the Las Conchas fire. Santa Clara has a large forestry department, numbering some 40 personnel. This department is widely regarded as outstanding. Our Santa Clara fire crews and equipment were assigned and on the front lines fighting this fire. We have a dedicated commitment to the maintenance and restoration of healthy forests on, around and adjacent to the Pueblo. In the management of our own resources, we have worked to ensure against the threat of forest fire. And yet, in the last decade we have faced four forest fires that have threatened our forests – the Oso, Cerro Grande, South Fork and Las Conchas fires – and none of them have originated on our lands. Although fate plays its part, we have suffered horrible consequences largely due to the failure of others to properly guard in some fashion against causing a fire.

For the last several years, Santa Clara has been actively working with the U.S. Forest Service, the BIA and others in an effort to establish a forest management plan and program that would have prevented this catastrophe. This effort has involved numerous meetings in New Mexico and several trips to Washington, D.C. In particular, Santa Clara was working on establishing a partnership under the Tribal Forest Protection Act with the Forest Service to begin a long-term project to address the health of the Forest Service lands around the Pueblo. We were also seeking to assure that if the Valles Caldera, which is adjacent to the reservation, was transferred to the National Park Service, that any agreements we had reached would be honored in the transfer and new agreements could be put in place with the new administrators.

We know that these efforts would have eventually succeeded given enough time. We saw in this fire that where Santa Clara had completed work on fuel breaks the fire was stopped. For example, the back of the canyon was saved due to a 300-acre fuel break that Santa Clara had established with funding from the Collaborative Forest Restoration Program, administered by the U.S. Forest Service. This is a program that should be expanded. Bruce Bauer, Director of Forestry, Santa Clara Pueblo noted that "You could see where the fire made a good run and then just lay down when it hit the break. I'm really glad we did that project or we wouldn't have seen that island of green." In an area where the Santa Clara Pueblo has had 80% of its land base burned since the Cerro Grande fire, every sliver of green timber makes a difference to stabilizing soil. In the ten years since the Cerro Grande fire, Santa Clara has planted nearly 1.5 million trees, most of which were burned, destroying the Pueblo's great labor of restoration of the past decade. Despite our full awareness of the threat, and our efforts to enter into partnerships and seek funding to address the threat, we ran out of time. Nevertheless, we still hope these partnerships will enable Santa Clara to play a significant role in the restoration and rehabilitation of the Forest Service lands around our current reservation.

What is the cost of this fire, and what will be the cost of subsequent remediation and restoration efforts? In many ways, it is hard for us to grapple with the consequences of this loss and therefore it is hard to put pen to paper and translate this devastation into dollars and cents. Some costs are impossible to calculate, such as:

- What is the value of a forest?
- What is the worth of a canyon?
- How do you apply numbers to a sacred site?
- How do you calculate the meaning of pure water used for traditional purposes?
- What if an event is so great in magnitude that it even affects the identity of one's people?

While these questions cannot readily be answered, we are putting pen to paper to calculate the cost of responding to the fire, preparing for the floods, and starting the long-term remediation process. We are working with the BAER team and others to develop these numbers and hope to have specific and detailed estimates

within the next few weeks. Although we do not yet have detailed numbers, we anticipate that we are looking at tens of millions of dollars over the next decade if we start immediately. If we delay, the task becomes harder, will take longer, and will cost more.

Federal Agency Involvement. As the fire spread, Santa Clara officials, staff and community members became actively involved in the fire suppression and mitigation efforts. Santa Clara issued a Declaration of Emergency and asked New Mexico Governor Susanna Martinez to issue a disaster declaration for Santa Clara Pueblo. We communicated closely with both Joe Reinarz's and Doug Turman's Type I Incident Management Teams and the Area Command to coordinate resources and advocate for our needs as the fire suppression efforts were implemented. We also met with members of our Congressional Delegation to request immediate federal assistance and an emergency appropriation. We met with local and regional representatives of various federal and state agencies. We also received great support from Charles Galbraith in the White House Office of Intergovernmental Affairs, who organized a conference call with several federal agencies to coordinate response efforts. Santa Clara has worked with the Bureau of Indian Affairs, the U.S. Forest Service, the Army Corps of Engineers and the U.S. Department of Agriculture. Overall, we think their response has been good, but they are often subject to resource limitations, as well as legal restrictions, which hinder action.

We have been especially impressed by the Army Corps of Engineers. In response to a letter from Governor Dasheno, the Corps promptly provided technical support, including hydrologists and engineers, who made recommendations for mitigation of the flood risk. The Albuquerque District declared an emergency, which allowed the Corps to engage in flood risk advance activities, such as provide sandbags, training, construction of flood mitigation features (levies, barrier walls). The Corps has also authorized the use of Corps equipment, but has not let any contracts for work by the Pueblo or private contractors as the local district has not received the necessary funding from the central office in Washington. Once we enter the post-fire period, the Corps' role usually ends. One notable exception was for the Cerro Grande Fire, discussed below. It is worth noting that the Santa Clara Pueblo is the first Tribe in the Nation to negotiate a Federal Cost Sharing Agreement (FCSA) with the US Army Corps of Engineers to conduct a Watershed Feasibility Study, in this case for the entire Pueblo watershed. The Santa Clara Tribal Council passed a Tribal Resolution authorizing Governor Dasheno to sign the FCSA with the Corps. The FCSA is currently being reviewed by the US Army Corps of Engineers HQ. Santa Clara has requested that the Corps Division and Headquarters expedite their review.

The Pueblo has also had an excellent working relationship with the Interior Burned Area Emergency Response (BAER) team. The BAER team has worked closely and daily with Santa Clara's Incident Command.

Difference in response from Cerro Grande Fire to the Las Conchas Fire. The Cerro Grande fire, which burned 6,681 acres of the Santa Clara Pueblo, was started by National Park Service personnel setting a prescribed burn to reduce fuel loads. The fire got out of control, burned a number of structures at Los Alamos National Laboratory, as well as lands of the Santa Clara and San Ildefonso Pueblos. Because of the Federal government's culpability, there was a robust effort, especially in the following year, to address the impact of the fire and to put in place flood barriers and other measures to guard against future fires. There was also substantial funding for remediation. In particular, the Army Corps of Engineers was essentially contracted by the Department of Energy to put in place these measures, in some sense just like one could contract with a private entity. The Corps work, which benefitted Los Alamos greatly in the Las Conchas fire, was not done as a matter of obligation, but because they were paid to do it. Santa Clara has been advised that because this fire was not started by Federal action, it should not expect as robust a response and that indeed it should look for funding only from existing programs at existing funding levels.

Seeking a Federal Disaster Declaration. New Mexico Governor Susana Martinez has declared an emergency in Rio Arriba, Los Alamos and Sandoval Counties, and at the Santa Clara Pueblo, by amended executive order

2011-053, and has made some limited funding available through the New Mexico Department of Homeland Security and Emergency Management. While Santa Clara is appreciative of these actions, we are also asking the Governor to take even larger measures. Specifically, we are asking the Governor to send a request to the President, through the Denton, Texas, Regional Office of the Federal Emergency Management Agency ("FEMA"), pursuant to 42 U.S.C. § 5191 and 44 C.F.R. § 206.36, requesting that the President declare a disaster at Santa Clara Pueblo, and in the portions of Los Alamos, Rio Arriba and Sandoval Counties affected by the fire. Such a declaration by the President would free up substantial assistance through FEMA, assistance that the Pueblo desperately needs and that is currently beyond the State's means.

Because only a state governor can set this process into motion, we would ask this Committee to address why tribal governments, who have a direct government-to-government relationship with the United States, must go through state governors to request Federal disaster relief. Such relief clearly falls within the Federal trust obligation and we would therefore urge that the Congress pass legislation that allows a tribe to directly request this relief when it is needed.

Some Recommendations. As Santa Clara is still in the middle of this disaster, we have only had limited time to consider recommendations. We are still learning and will likely have more recommendations in the future. However, at present, we would make the following recommendations:

1) Authorize Indian Tribes to be able to request directly of the President a Federal Disaster Declaration.
2) Schedule an oversight field hearing in the coming months to assess the progress of the Santa Clara/Federal mitigation/restoration/rehabilitation effort and to facilitate planning for the years to come.
3) Work with the Administration and the Appropriations Committees to include language in any budget requests and negotiations for emergency appropriations for tribal hazard mitigation / watershed restoration / BAER Plan implementation in general, and for Santa Clara in particular. Such language could be in the debt ceiling, FY 2011 supplemental and/or FY 2012 appropriations.
4) Direct key agencies (including Interior, Energy, Agriculture, Army Corps of Engineers, Homeland Security, Housing and Urban Development, and Commerce) to establish an inter-agency standing taskforce to address Indian Country emergencies. Such emergencies are regular occurrences and such a standing committee could facilitate fast responses in the future.
5) Authorize and direct the agencies to allocate resources to Santa Clara for hazard mitigation / watershed restoration / Burned Area Emergency Rehabilitation ("BAER") Plan implementation, including the reprogramming of resources as necessary to address the immediate emergency nature of this crisis and to generally respond in an expedited manner to tribal requests.

Conclusion. Never again in our lifetime will we see our traditional and treasured homeland and spiritual sanctuary, the Santa Clara Canyon, as we have known it. It will take generations for our community and lands to recover from the devastation of this fire. But this is our only homeland; it is the place we have been entrusted with since time immemorial. While we intend to devote the resources we can to the healing of our land and the protection of our community we do not have the resources to do it alone. We turn in this hour of need to our Federal trustee and ask for your sustained assistance in addressing this calamity and assuring the remediation of our sacred homeland.

Summary of Las Conchas Fire and Santa Clara Pueblo

Fire Status

- Las Conchas Fire – 150,000+ acres overall.
- 16,367 acres of Santa Clara Reservation within burn area, plus thousands of acres of ancestral homeland currently managed by U.S. Forest Service.
- 30% of reservation.
- 45% of Santa Clara Creek Watershed, including *P'apii Khanu*, the Headwaters area.
- 80% of our forest burned in this 3 other wildfires in past 13 years.
- Fire still actively burning in several locations.

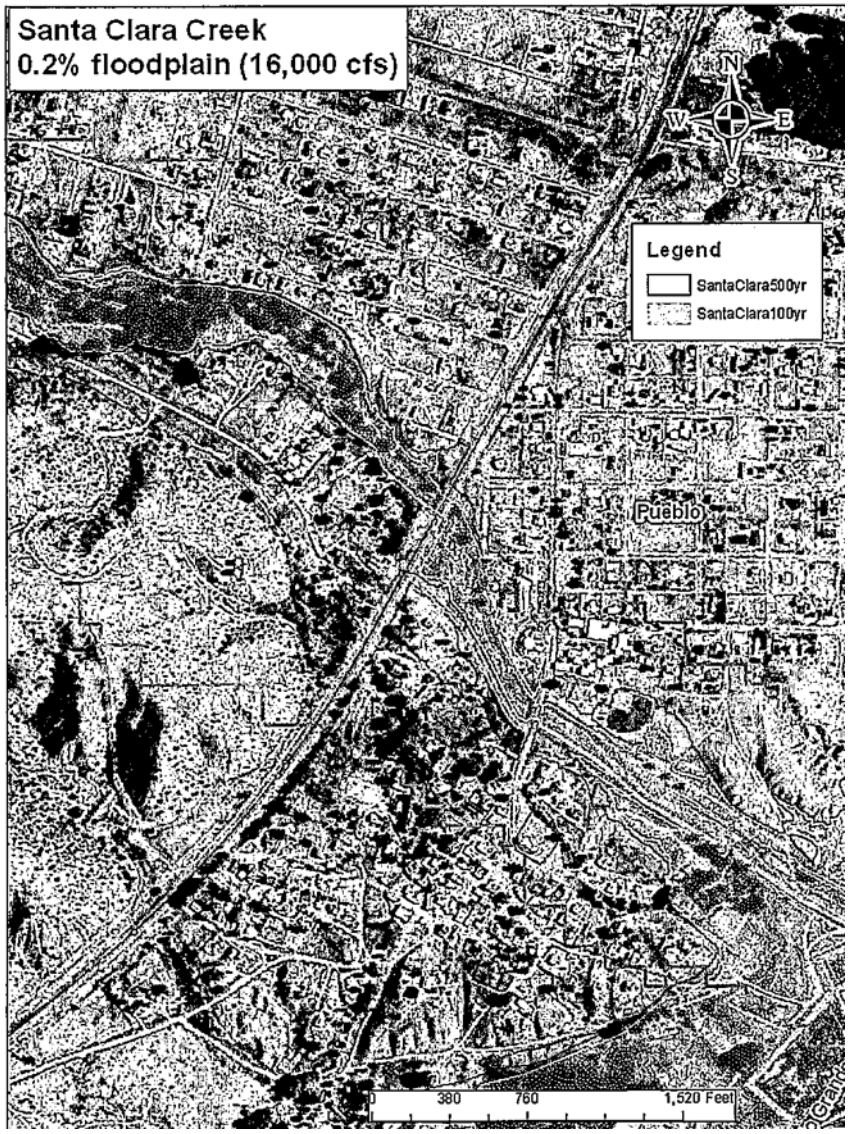
Short and Long-Term Hazards and Concerns

- Devastated by the vast damage to our once-beautiful Santa Clara Canyon.
- Full containment of the remaining fire and preservation of remaining unburned forest inside burn area.
- High potential for catastrophic flooding on our homes, public buildings and irrigation system due to summer monsoons, lack of vegetation, hydrophobic soils and sediment and ash transport:
  - Preliminary model shows Santa Clara Creek flow may increase by 15 times (from 300 CFS to 4,600 CFS) in just a two year flood plain event!
  - For a 100 year event, flow would increase from 4,500 CFS to 25,000 CFS.
  - The State Road 30 Bridge is designed for about 15,000 CFS maximum.
- Significant impacts to water quality for fisheries, wildlife consumption, agriculture and cultural uses from tons of ash, debris and other materials flow – will also impact Rio Grande.
- Loss of vital plant and animal habitat / damage to significant cultural sites and resources throughout fire.
- Ongoing economic impact on our Pueblo and tribal members from fire, extreme smoke and fire suppression efforts (such as the closure of Puye Cliff Dwellings, reduction in arts and crafts sales to the decline in tourists to our hotel / casino).
- Adverse physical and behavioral health impacts to community members (e.g. smoke impacts on our elders and others with asthma, devastating emotional impacts of losing so much of our precious homelands).
- Safety issues within our Santa Clara Canyon due to the destabilized landscape resulting in falling boulders and dead and down trees.

Current Actions

- Santa Clara Pueblo Tribal Council issued State of Emergency Declaration on June 30, 2011.
- Designated top-level tribal liaisons who have worked diligently with both Joe Reinarz's Type I Incident Management Team and the Area Command Team.
- Dedicated Santa Clara fire crews, other personnel and resources to the fire suppression, mitigation and response efforts.
- Established Santa Clara Incident Command structure on July 6, 2011 to focus on flooding prevention, mitigation and evacuation.
  - Notified community and implementing "pre-evacuation" preparation process
- Working with U.S. Army Corp of Engineers and BAER / BIA hydrologists and soil scientists to model and project increased runoff and flood potential.
- Conducting risk assessment / implementing "Lower Santa Clara Creek Flood Protection Project"
  - Installing 460 K-Rails, 48,000 sandbags and jersey barriers as very short-term measures – these will not provide the needed flood protection measures for the community.
  - In short term, will also need earthen berms on both sides of creek, flood walls in Santa Clara Pueblo, precipitation monitoring and early warning system, precipitation monitoring and early warning system, hydrology modeling of new watershed, catchments basin bellow Sawyer designed to handle run off from 100 year event.
- Implementing media and public relations process to inform Pueblo residents and general public.
- Secured Amendment to Gov. Susanna Martinez' Executive Order 2011-053 (Emergency Declaration) to specifically name Santa Clara Pueblo.
- Coordinating with members of New Mexico Congressional Delegation to secure assistance and resources.
- Coordinating with Charles Galbraith at White House to secure and coordinate assistance and resources from federal agencies.
- Working closely with BIA Regional Director Bill Walker and BIA regional and national staff
- Coordinating with and supporting the DOI BAER Team.
- Establishing disaster and recovery funds at two banks and New Mexico Community Foundation.


Las Conchas Fire Boundary (July 4, 2011)
Santa Clara Watershed
Rio Grande
Fire Boundary
N
W
E
S



The CHAIRMAN. Mahalo. Thank you very much for your testimony.

Let me ask Senator Udall for any questions.

Senator UDALL. Thank you, Chairman Akaka.

Governor Dasheno, your Pueblo has gone through, I think, four fires in recent year, and the Las Conchas is the fourth. Do you believe, in your interaction with, and your Pueblo's interaction, your liaison officer, Mike Chavarria, do you think the Federal Government and its various agencies have gotten better in terms of communicating with you, working with you, developing plans, fighting

the fires, preparing for the flooding afterwards? What is your sense of that? Eleven years ago you had the Cerro Grande, I think before that the Pueblo was hit with a dome fire and one other fire. So what is your sense there? Could we do things better?

Mr. DASHENO. Mr. Chairman and Senator Udall, yes, we could do things better. We need to have coordination with all of the Federal agencies that have always been considered trustees of the Tribes that they serve. It is always important to recognize the issue of sovereignty, as you said, Mr. Chairman. Sovereignty is built around the premise that the Federal trustee belongs in working with Tribal government. I believe in that.

Therefore, the trustee responsibility of the Bureau of Indian Affairs, the Indian Health Service, Corps of Engineers to some extent, Bureau of Reclamation, within Interior, Fish and Wildlife, within the programs under DHHS, the programs under HUD are critical that they do coordinate and work with Tribal governments.

However, one of the things that we would suggest is that resources be given to every Tribe to develop a plan, because without a plan, when Federal emergencies or Federal assistance is required, everyone seems to be hustling to get the work done, but many times we overlook issues. If a Tribe has a plan to work from, it is easier for us to determine what the resources are needed for and how it is going to be done.

So, yes, Mr. Chairman, Senator Udall, we feel that there could be a better process that all of us can work together on, and that is the recommendation we made as part of the record in our written statement.

Senator UDALL. And, Governor Dasheno, you had a plan coming into this; whereas, I think, some of the other Pueblos didn't. Were you better able to deal with some of the issues because of that?

Mr. DASHENO. Mr. Chairman, Senator Udall, in a humble way, yes, because we have experienced three previous fires, and with this fire we had the process in place. We had gone through an exercise of setting up an emergency management plan. We created an incident management team, so we put that into effect day one; one to deal with the fire and a separate one to deal with the flooding. Without that, we probably would be like many, many Tribes that don't have the means to create that resource, and how quickly it can activate it.

The Federal agencies basically said that they have the resources at their level. Well, that resource should also be done for Tribal governments; they need to organize those resources. And again, because Tribal governments don't have the means to do that, it is important for the United States Government to hear our concerns, and really put some funding available to all of us so that we can prepare ourselves for natural disasters.

Senator UDALL. Governor, you heard the testimony before you; you were here while the various Federal agencies testified. You heard the Forest Service and the BIA talk about the BAER Teams and them being out there and trying to get ready for the flooding. Do you have any comments either responding to what they said or how that BAER Team process is moving along, recognizing that is the process that prevents the flooding from happening, tries to do

as much as it can? Is that moving smoothly? Where is that at at this point?

Mr. DASHENO. Mr. Chairman and Senator Udall, today at 1 o'clock New Mexico time we were supposed to have been given the draft of the BAER Team report for the Northern Pueblo area, specifically Santa Clara. To get a BAER Team to come in takes a lot of effort and many resources. They have been here for approximately two weeks now. Their time will end this coming Monday, when they give the final report to all of us at the northern Pueblos and then one to the southern Pueblos.

It takes a long time for many Tribal governments to really understand what that process means, and by a long time I don't mean 60 or 90 days. We should be given the opportunity at least 15 days or 30 days, similar to what you have, Mr. Chairman, in allowing the record to be open for that time period. We should also be given some additional time to allow us to make our comments because we are supposed to now have our recommendations as early as tomorrow or no later than Saturday or Sunday at the latest.

So it does not really give us a whole bunch of time to really determine the true accuracies that we need to input into a report such as the BAER plan, because those are very, very technical reports; they address issues for the short term and for the long term. So it is incumbent on all of us as Tribal governments to be given an additional time. Although we are part of the BAER Team effort, as you said, Senator Udall, many Tribes do not have that capability to be able to be on the Team because they don't have the resources. So, yes, Mr. Chairman and Senator Udall, we need to get a little bit more time to do that, and I am hoping that we will then get a definite quantified statement regarding that issue.

Senator UDALL. My office looks forward to working with you very closely to make sure all the interactions take place with the various Federal agencies, including the BAER Team, to make sure that you get your input, whether it is input on specific actions that should be taken with regard to the ponds in the canyon or sacred sites or anything else. So we look forward to working with you closely.

Chairman Akaka, I have other questions, but I want to make sure you get to ask your questions also, and I see I am a little bit over time here.

The CHAIRMAN. Thank you very much, Senator Udall.

I again want to thank the Governor for your testimony. Without question, it will be helpful.

This recent fire, Governor, your State did not request an emergency declaration from the President, which would have allowed you greater access to Federal programs. My question to you is what impact has that had on the Pueblo?

Mr. DASHENO. Chairman Akaka, it has had some major impact, not specifically with Santa Clara. I did meet with Governor Martinez, and we recommended that that declaration also include Santa Clara Pueblo. She didn't make the change in terms of the declaration. The declaration that really needs to come from her office is to declare to the President, who then opens the record to allow FEMA funding to come into place.

There are two types of declarations that are made; one is specifically by the governor of the State to make a declaration and then, secondly, the declaration to allow FEMA to come in to access resources, and that is the second one that we are concerned with. That is why we are saying that Tribes should be able to access their own resources through the issue of sovereignty.

We do have a good relationship with the governor in this issue, but I guess many times, as we all know, emergencies bring—we become strange bedfellows, so in this respect we have developed a good partnership, but once in a while we need to push her a little bit more to do that for all of us. And I am not speaking specifically about Santa Clara; I think that would include the Pueblos of San Ildefonso, Cochiti, Santa Domingo, Jemez Pueblo, and Nambe Pueblo.

The CHAIRMAN. Well, I want you to know that we are working on this emergency type of bill and we are now looking at Representative Rahall's bill from the House side and certainly considering introducing a similar bill in the U.S. Senate. The comments at this hearing will be helpful in deciding whether we amend the Stafford Act, and I think that the responses will help us in this way, and also your testimony as well. So we have moved rather far to try to work on this so that in Hawaiian we call it so things are pono, I mean right, and you can get the kind of help that you need in the Native communities. So we look forward to working with you and others on this.

Senator Udall, do you have anything further?

Senator UDALL. Let me, Chairman Akaka, just sum up like you have. I, first of all, want to thank you the Chairman, because these fires didn't occur long ago, and he managed through really diligent efforts and his staff's efforts to put together the full panel here and get the invitation out to you, and he has been really, really responsive to what he knows is a devastating situation to all of the Pueblos that are involved here in New Mexico. So I just want to thank him again.

And then, Governor Dasheno, thank you for your very thoughtful testimony. As you can tell by the Chairman's comments, you have given us a lot to chew on here and to think about, and it doesn't just end today; I will be continuing my visits with you and learning from you and the Tribal councils, the other governors in the Tribal councils about the needs and what we need to do to put in place to make sure that we have the very, very best restoration.

So, with that, I would yield back and thank you again, Mr. Chairman, and thank Governor Dasheno.

The CHAIRMAN. Thank you very much, Senator Udall.

Again I want to say mahalo, thank you to you and to the other witnesses that appeared today at this hearing. The testimony we have heard today is very valuable, as I said, not only to the Committee, but also to the Tribal Governments and Native peoples who are faced with natural disasters. It is clear that all of the agencies we heard from today are committed to doing their part to respond when natural disasters hit Native communities. Nevertheless, I think there are ways we can improve the Federal response. I think it is important to look at what has worked out in the past and use

those foundations to make sure we are meeting the needs of Native people.

The Committee looks forward to continuing to work with all of you to see how we can improve coordination and collaboration among the agencies and with the Tribes as well. I also encourage Tribes and other interested parties to submit their written testimony for the record. By hearing from you on this very important issue, we can determine what legislative and administrative steps are necessary to help Tribes prepare for and respond to natural disasters.

So again thank you very much for your participation here today. Mahalo.

This hearing is adjourned.

[Whereupon, at 4:42 p.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. CLIFFORD CULTEE, CHAIRMAN, LUMMI INDIAN NATION

The Lummi Indian Nation appreciates the opportunity to submit a written statement for the record. We understand that for some Native Nations the issue of "Facing Floods and Fires" is direr than for others. There have been some very tragic floods and fires impacting Indian Country in the recent past. Most of the impacted Tribes do not have the governmental revenues or economic capacity to absorb the damages, the extensive loses, or to cover the necessary expenses to even begin planning or preparing for how to prevent the cycle from causing such immediate and lasting impacts again. We recommend that the Committee work with the various departments and agencies that can identify how to co-coordinate and meet the needs of the impacted communities on a more routine approach, with adequate staffing and financial support to accomplish coordinated responses, preparations, prevention, and recovery tasks so important to the impacted Tribes.

The Lummi Indian Nation has a government-to-government relationship with the United States, as provided by the Senate ratification and President's Proclamation of the Treaty of Point Elliot, in 1859, as negotiated in 1855 (12 Stat. 927). This treaty is with the whole United States. This breaks down into obligations and responsibilities owed by the President, Congress, and the Courts. We believe that all the various departments and agencies that are listed to testify and submit their positions to this Committee on these two important subject matters are bound by the Sacred Trust of Civilization to respond and lend assistance to the impacted Tribes and communities.

The Lummi Nation has two rivers that were important to the people, culturally, at the time of the treaty. The first was the Nooksack River that flowed along the eastern side of the treaty established reservation. The second was the Lummi River, a distributary of the Nooksack River that flowed along the northwestern side of the reservation. At treaty times, these two rivers were full of all species of salmon. The salmon were plentiful due to the extensive reaches of healthy salmon spawning habitat. At treaty times, the river waters were not diverted away, and the flow of water from the mountains and lowlands were steady since the mountains lowlands were still forested. However, modern developments and demands upon the waters have impacted the salmon and human populations alike. Historically unregulated forest practices, levee construction along the channel that prevented flood waters from spreading out over the landscape during floods, and other land use practices have clogged the river beds with debris and silt loads that destroy the salmon's habitat. The waters are drained for agriculture, diverted for hydro-projects, or diverted to meet the water needs of local municipal populations, the agricultural community, and local industries.

In addition, over time, the Army Corps of Engineers has failed to protect the natural flows of the rivers, instead, favoring the development and construction of "dikes and drainage districts" and "diking systems" that keep the waters rushing down river, at rapid rates to the dismay of those property owners or interests located downstream. Local and federal efforts to encourage diking as the response system to control and regulate the river flows have caused injury to the Lummi Nation.

Today, upstream diking and drainage activities increase down river flows during the rainy seasons and during times of high snow melt. During these periods of high flow, large amounts of log debris rush downstream and clog the mouth of the river, which is located on the Lummi Indian Reservation. The Lummi Nation does not have routine, annual funding to address this problem. Within two years logging debris and log jams cleared out of the river's mouth rebuild. It becomes a "Lummi problem." Legally, the upstream land owners are allowed to dike out the river waters, even though the diking causes the damages that are transferred to the land owner downstream.

However, the Lummi Nation reservation was never intended to be a dumping ground for upriver debris. The debris results from logging and clearing practices au-

thorized by the US Forest Service, the State of Washington Department of Natural Resources, Agricultural farm land clearing, or developments in flood plains for private residences because the Army Corp of Engineers has allowed the individual impacts. There are many reasons for passing damages downstream, but in the end it is the Lummi Nation at the mouth of the river that is impacted.

Such impacts damage the Lummi's rights to have the environment protected from such impacts. The Tribes, in the Northwest, established their rights to fish in U.S. v. Washington, Phase I. The second part of that important Supreme Court victory was the right to have the salmon habitat protected from environmental damages, known as a "Phase II" right. The Culvert case is along that line of reasoning. But, the important point is that the damages done to the natural flows of the river, and the impacts to the salmon habitat, impacts our rights to our treaty property. Each year we are confronted with less and less salmon surviving to spawn, less spawning habitat, and habitat that is available is under-protected, and habitat destroyed is not likely to be recovered due to federal and state resistance to adequately fund habitat recovery efforts. Even today with limited habitat available, the struggle is to keep enough water in the stream, as in-stream flows, to meet the needs of the resident and migratory salmon populations.

It has been stated that since the Pacific Northwest became a major exporter of raw timber products, back in the early contact days when local timber was needed to build ship masts or rebuild San Francisco after the great fire, our forests have been subjected to clear cut activity and the use of splash dams to help transport the giant logs to sawmills. It was slash and burn technology. Any trees not of economic value at the time were dropped and burned or buried. The result is that the whole Pacific Northwest became a major clear cut zone. The whole biological diversity of the forest was being destroyed for the benefit of profits for the timber barons, and simultaneously the salmon canning industry barons devastated our harvestable fish resources. During this devastation of the world around us, we witnessed about one hundred thousand truck loads of silt and minerals washing down stream clogging the Nooksack and Lummi Rivers.

The Lummi Nation needs the Army Corp of Engineers, including Department of Defense, and others to come forward and help equip, train, and finance the Nation to clear the log jams, the log/tree debris, and to routinely dredge the rivers to remove the massive silt build up caused by forest practices, river channelization, and other land uses. The nation needs help to reopen the Lummi River to re-establish this channel as a migratory pathway for salmon and to use it for diversion of flood waters during peak flows. The 1920's diversion of water flow from the Lummi River into the Nooksack River was done for the benefit of the non-Indian farmers not the Lummi Nation.

In about 1918 to 1922, the U.S. (via BIA) authorized local non-Indians to form a Diking District and dike out the marine waters that once surrounded the Lummi Reservation. The Lummi People were an island culture that depended heavily upon the salmon and other fish populations. In addition, the cedar tree was central to the cultural practices and technology. The Island was chosen as the site for our reservation because of the two rivers and the salmon resident to this system. The Lummi River is nearly completely dry, the Nooksack River bed is mostly dry and shallow, and no longer are either classifiable as navigable waters. At one time steam boats plied the waters from Bellingham to Lynden upstream. The diking stopped the mixing of the lower river waters with the marine salt water.

The diking destroyed the original "island status" the Lummis sought to preserve by choosing this locus for the treaty reservation. In addition, it turned out that the diking project violated treaty law and since there was no federal authorization otherwise, the congress rapidly authorized it by law retroactively. For the Lummi Indians, even though the treaty protected the lands by restriction from alienation, this "retroactive" law sought to make the Indians pay for the dike that violated their land ownership rights and their treaty. This has, since then, been a financial burden to Lummi land owners located in the diking district. Another impact is the incapacity to control the waters once the river dikes breach upstream, causing downstream flooding that impacts Tribal homes located in this man-made agricultural area (it was marine watered area before the dikes). The dikes, if they remain, need to be regulated for releasing flood waters rather than allowing them to become stagnant and a health threat to the resident population.

There was a major aboriginal log jam located at what is now the City of Ferndale. It was a hindrance to the development of Ferndale and for river access to Lynden upstream. In 1877 the major dam was removed. It was the identification point of where the Lummi Reservation began, according to treaty history. The removal of the log jam caused a major shift in the river flows. The waters moved to the western mouth area of the Nooksack River. This destroyed the village location at Fish Point,

on the reservation. It caused flooding damages to the Church, Government buildings, and village homes. Thus, Lummi had to relocate those facilities. Land was donated by Chief Kwina (site of the church) and Chief August Martin (site of the school).

On the eastern mouth side of the Nooksack River the waters flowed a little more west and the original boundary of lands located in what is now considered "Marietta, Washington" shifted. The eastern boundary of the river was further east and most of the Marietta area was located inside the boundaries of the Lummi Treaty Reservation. A government surveyor located permanently here, with his Indian Wife from Canada, took a Land Donation Claim to lands in this area and founded the small town (Marietta) in memory of his daughter. This town has always been a dependent community of the Lummi Nation due to the original boundaries and the shifting flood waters.

Further north and east of the present reservation boundaries is the far bank that was originally the eastern bank of the Nooksack River. This bank was the eastern boundary of the Lummi Treaty Reservation. This site is a mile east of the present reservation boundary—due to an illegal boundary change that was done by Executive Order of the President (1873). When the log jam (1877) was removed then the river waters flooded more westerly and shifted the boundary of the river itself and that of the Lummi Reservation along with it.

However, in tying this part of the story together, the diking and flooding of the river, seasonally, results in the dependent community of Marietta Washington suffering severely. The Lummi Nation is expected to react since it is partly on reservation and dependent upon the Lummi Nation for police protection of the residents; although the county and Tribe often dispute who has lawful jurisdiction over the general area.

Other significant impacts from the diking actions upstream include the damages that have been done to salmon habitat in lowland streams critical to the Chum Salmon and Pink Salmon. These populations spawned in the lower streams and creeks of the river system. But, the farmers and county have constantly worked to regulate, change, and divert waters from the original lower streams and creeks to the demise of the salmonid populations. This, then, destroyed the rights of the Lummi Nation's membership to access those species for commercial, ceremonial, subsistence harvests. The same story was repeated for upstream sites that Chinook and Coho Salmon were dependent upon until diked out.

The Lummi Nation has a water pump station that is located in the lower reaches of the river. This site is subject to damages by the increased flow carrying debris down from upstream. It is vulnerable to decreased in-stream flows during the summer months. But, it is very valuable to the water flows needed for the on-reservation Lummi salmon and shell fish hatcheries.

In addition, the Lummi Nation is on the low end of the river system. We need the water that flows to our reservation. We have underground aquifers but those do not produce enough flow to sustain reservation needs. The cities upstream (Ferndale, Lynden) are dewatering the river because they contaminated their ground waters with pesticides and herbicides as agricultural communities. The Lummi Nation needs to have help with guaranteeing access to the river, the lands located along the river, and the development of water holding and treatment facilities that can withstand times of flooding. We have a guaranteed share of the river water that has not been quantified. But, the City of Bellingham has major diversion upstream that redirects the water to Lake Whatcom for holding and which it then sells to the Lummi Nation for domestic needs.

The Lummi Nation needs to be at the interdepartmental dialogues with the Tribes when solutions are sought and proposed. We need to be there when funding needs are identified. We need to address long-term flooding problems but simultaneously mitigate impacts to our salmon populations that were caused by prior flood control measures and applied science. We need to be "consulted" within a meaningful way that assures that our concerns and recommendations are given credit, consideration, and not shoved aside as having low priority.

Hy'shqe Chairman Akaka, Vice Chairman Barrasso, and Members of the Committee for allowing me to share the views and comment of the Lummi Indian Nation.

PREPARED STATEMENT OF HON. CHAD "CORNTASSEL" SMITH, PRINCIPAL CHIEF, CHEROKEE NATION

Introduction

Chairman Akaka, Vice-Chairman Barrasso, and Members of the Committee, thank you for holding the July 21st Hearing on Facing Floods and Fires—Emergency Preparedness for Natural Disasters in Native Communities and giving the Cherokee Nation the opportunity to submit testimony regarding the ramifications of disasters in the Cherokee Nation and across Indian Country. This testimony is submitted on behalf of one of the largest Tribal nations in the United States and more than 300,000 Cherokee citizens.

As the Committee is aware, 2011 has been an extreme year for weather across the United States. Like most regions, the disastrous effects of severe storms and springtime floods affected the Cherokee Nation. In addition, wildfires caused by the searing heat and drought conditions have devastated crops and put unneeded stress on our populations. Therefore, we request a Pre-disaster Mitigation funding change so that monies are better allocated from states. Additionally, we request that this body support HR 1953, which was introduced by Congressman Rahall to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) so Tribes may directly request relief after a major disaster and obtain the federal benefits of a presidential emergency declaration.

Regional Disasters

Following a severe, record-breaking winter, melting precipitation from winter storms and heavy rains in the spring led to flooding across the Cherokee Nation. In late April, streams throughout eastern Oklahoma turned into raging rivers as rains continued and upstream snows melted. The economic impact was disastrous for farms, towns and cities ravaged by the rising waters.

Furthermore, storms in late spring also brought catastrophic tornadoes to eastern Oklahoma and our Tribal jurisdiction. While the Cherokee Nation often experiences inclement weather, the record-breaking storm season made emergency preparedness difficult. Straight-line winds, flooding and tornadoes destroyed homes, towns and impaired the region economically through business destruction and closures.

Additionally, drought persists in the Cherokee Nation. Besides the extremely dry conditions, scorching heat throughout this summer has taken a toll on the land and exacerbated the likelihood for wildfires. Farmers have witnessed the devastation of their crops and our citizens have faced record-setting temperatures which has already accounted for eleven (11) deaths across the State of Oklahoma. In parts of the Cherokee Nation, July was recorded as the second-hottest July in Oklahoma history, with temperatures surpassing 110 degrees.

The unrelenting heat and increased fire danger puts more pressure on the Cherokee Nation Tribal government to provide safety and emergency services. These services cost money and adequate funding is necessary to ensure no Cherokee citizen is susceptible to heat-related health concerns and personal and financial losses caused by wildfires and severe weather. Therefore, the Cherokee Nation has several suggestions and requests for this Committee that will increase emergency preparedness and disaster assistance in Indian Country.

Pre-Disaster Mitigation Funding

There must be adequate federal aid to ensure our people are safe and secure in our Tribal jurisdiction. There should be a change in the congressional set aside funding for Oklahoma in terms of the Pre-Disaster Mitigation (PDM) funds. Very little, if any, of Oklahoma's current set aside has been used and/or allocated in the last three (3) years. Therefore, Congress should create a set aside amount specifically allocated to Tribes.

The Cherokee Nation requires adequate funding to perform preparedness education, mitigation and response activities as prescribed by the United States trust responsibility. Additionally, we actively work with our county emergency managers to guarantee safety. However, communication, or lack thereof, between agencies continues to be an issue. Funding for interoperability and communication solutions would enable improved interdepartmental collaboration and emergency response.

Furthermore, Tribes need federal monies allocated more efficiently to ensure adequate staffing in rural and urban fire stations and sufficient funding for training and the continued education of staff and volunteers. Currently, the Cherokee Nation provides Incident Command Center (ICS) assistance in eastern Oklahoma Emergency Operation Centers (EOC), as well as shelters, law enforcement, debris teams, medical personnel, medicine, documentation, equipment, transportation, and staging. With efficient funding allocation and improved cooperation between federal

agencies, Cherokee Nation aid provides to local communities and rural areas would be greatly enhanced and extended to more Cherokee citizens and Oklahomans.

Stafford Act Amendment

Although the Stafford Act authorized the PDM program to provide funding to Tribal governments in implementing cost-effective hazard mitigation activities that complement a comprehensive mitigation program, the State of Oklahoma bureaucracy often obstructs quick allocation of those funds. Therefore, the Cherokee Nation supports Congressman Rahall's proposed changes to the Stafford Act which will give Tribal leaders the ability to submit a request for a Presidential Disaster Declaration during and after a major disaster.

Tribal leaders would have the opportunity to apply and obtain a cost share waiver for up to $200,000 for the Tribe in the unfortunate instance of a catastrophe. Furthermore, this will not preclude a Tribe from receiving assistance through a disaster declaration made at the request of a state governor. This assistance will create effective and efficient local-level response during times of need. In many native cultures, the environment is often the center of traditions and religious beliefs. By supporting this bill, you will provide Tribal governments with the opportunity to respond to natural disasters in a manner that is sensitive to the unique Native American cultures across Indian Country.

Federal Funding

Currently, as stated by the Federal Emergency Management Agency (FEMA), federally-recognized Tribes are not the only Tribal entities eligible for the PDM program. State-recognized Tribes are also eligible to apply for PDM funds as a sub-applicant to a state emergency management agency. Although state recognition was originally intended to provide a mechanism for an individual state to acknowledge a long-term relationship with a known Indian community, the practice often results in abuse of funds when federal agencies allocate money via the state to false Tribal entities.

Often, state recognition develops through a simple resolution sponsored by one state legislator who does not understand the magnitude of recognizing a group. Cherokee Nation's government-to-government relationship is with the United States, not any individual state. State recognition sometimes creates issues concerning duplicative services and misuse of funds. Therefore, state recognition should not influence an entity's federal recognition status and application for federal monies. Local, state, and national governments, their agencies, and the general public are sometimes ignorant to the differences between these entities and federally-recognized Tribes.

State recognition creates a vehicle to obtain federal funds and identify as a legitimate Native American entity. Therefore, Cherokee Nation requests that the Committee ensures federal and state funding diverted to non-federally-recognized Tribal groups does not reduce funding for the emergency preparedness services of federally-recognized Tribes. We understand that disasters can affect everyone. However, funding allocated to non-sovereign groups hinders the emergency preparedness services of legitimate Tribes like the Cherokee Nation.

Conclusion

Cherokee Nation wants to provide our people a safe homeland, and through proper emergency preparedness, this can and will be accomplished. We desire to work with all federal and state entities that play a role in bettering the future and safety of our Nation and our citizens. Adequate federal funding ensures that we may continue to enhance our services and self-reliance throughout our fourteen-county jurisdiction in eastern Oklahoma. It is crucial that this body maintains its fiduciary relationship and upholds the promises made to our communities.

It is essential that the Cherokee Nation and other federally-recognized Tribes have sufficient Emergency Preparedness for natural disasters. Once again, the Cherokee Nation thanks the Chair, Vice-Chair and the Members of the Committee for their time and should you have any additional questions, please contact our Cherokee Nation Washington Office at (202) 393–7007.

PREPARED STATEMENT OF HON. ARCH SUPER, CHAIRMAN, KARUK TRIBE

Ayukii (Hello) Senator Akaka and Committee Members,

The Karuk Tribe would like to take this opportunity to provide written testimony regarding the above referenced Oversight Hearing of the Senate Committee on Indian Affairs. Unfortunately, Tribal governments are still gambling with their limited resources when they respond to natural disasters and other emergencies. The Karuk Tribe knows all too well about this reality.

For over four months in 2008, wildfires ravaged Northern California. Ninety years of fire suppression policies and accumulation of forest fuels in national forests had set the stage for what turned into a prolonged catastrophic wildfire disaster. The resulting smoke emissions created an unprecedented air quality emergency.

The Karuk Tribe's Aboriginal Territory, an area of over one million square acres, encompasses two counties, the Siskiyou and Humboldt, and two National Forests, the Klamath and the Six Rivers. Stretching out along 150 miles of the Klamath River Corridor, the smoke spread throughout this area and became a serious threat to public health.

These cross-jurisdictional issues as well as the rural nature of the area, hinder rapid responses, which are necessary in fast escalating wildfire/ air quality emergencies that occur frequently in our area. In 2008, seemingly unaware of the impact the smoke was having on people living in the rural communities of western Siskiyou county and northeastern Humboldt county, both counties were approached by Tribal government(s) to declare an air quality emergency. It was only after being pressured by three Tribal governments, the Hoopa, Yurok and the Karuk Tribe, that the Humboldt County Board of Supervisors passed their declaration on July 21, a month after the fires began.

Unlike Humboldt County, the Siskiyou County Board of Supervisors did not declare an emergency until September 2, causing serious delays in the dispersant and mobilization of vital emergency resources. At that meeting, one Supervisor is quoted as stating that the resolution "proclaiming the existence of a local emergency", could "alleviate some impacts of the fires/smoke on local tourism businesses."[1]

Then and now, the Stafford Act requires that Tribes submit their declaration/requests to the "local government". But on July 16, 2008 after seeing no action taken by Siskiyou County, the Karuk Tribal Council had no choice but to declare a State of Emergency within it's Aboriginal Territory. As a sovereign nation, the Tribe submitted its declaration to the Governor and the White House. This was a risky decision and it became apparent that agency representatives could not provide clear direction to the Tribe as to what action to take, adding another layer of difficulty to an already difficult situation.

[1] Siskiyou County Board of Supervisors Meeting September 2, 2008
http://www.co.siskiyou.ca.us/BOS/DOCS/minutes/2008/090208.pdf

The Karuk Tribe is a non-gaming Tribe and discretionary funding is a precious resource. Even so, the Tribe delivered over fifty HEPA air purifiers to the elders and other "at risk" community members, both native and non native. **Although it has no Emergency Operations Department,** the Tribe was the only agency on 150 miles of the Klamath River corridor to provide this type of response. And, since evacuation was not a viable option for residents, the Tribe opened it's Senior Nutrition Centers in Orleans and Happy Camp as "Cleaner Air Centers" to provide respite from the overwhelming smoke.

Two of three clinics operated by the Karuk Tribe are located in the heart of the fires, Orleans and Happy Camp. During the Siskiyou and Panther Fires, the number of patient visits related to respiratory ailments nearly tripled, the visits for headaches a little more than doubled and patient visits for fatigue rose by almost 20%. The increased workload threatened to overload Tribal clinic staff.

Other concerns were related to emergency transports. "Poor air quality impacts are not limited to respiratory issues. Poor visibility suspends air support for fire fighters, but also suspends transports to hospitals for emergency patients, a problem which we will likely face because of the character of the terrain that these fire fighters are working in." said Bill Tripp, Karuk Fire- Tribal Liaison and Eco Cultural Restoration Specialist who worked non stop on the fires that year. This statement became a grim reality that year when two Firefighters, one a Karuk Tribal Member, were killed on those fires.

Since 2008, the Karuk Tribe has developed a three-year plan that will improve the Tribe's capacity to prepare and respond to an emergency. But, where is the funding? The Department of Homeland Security grant program is limited to Tribal government applicants that already operate a law enforcement or emergency response agency. What about Tribes who need to build capacity, and who may not have an Emergency Services Department, but who are looked to by the community for leadership and assistance in an emergency? **All Native American Tribes should be able to access funds through the Tribal Homeland Security Grant Program.**

In conclusion, Tribal Governments should be treated with the respect and status that they are entitled to as sovereign governments, and not be required to submit their declarations through states. Local governments may be unaware or unconcerned about the communities Tribal governments serve and are not qualified to determine whether or not a Tribal request is "of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments"[2] Tribes should be allowed to appeal directly to the federal government for assistance.

It is time to amend the Stafford Act so that it recognizes tribal sovereignty and fulfills the treaty and trust responsibilities to Tribes.

[2] Stafford Act §5191. Procedure for Declaration{Sec. 501}

PREPARED STATEMENT OF KENT PAUL, CEO, AMERIND RISK MANAGEMENT CORPORATION

Introduction

Chairman Akaka and Committee members, thank you for providing AMERIND Risk Management Corporation (AMERIND) the opportunity to present testimony on the critically important federal programs designed to assist the American population as a whole, how those programs impact Indian Tribes, and what can be done to deliver more effective emergency preparedness planning, assistance and disaster relief in Indian Country. AMERIND applauds the Committee for reaching out to, and bringing together in one room, the key federal officials whose agencies bear responsibilities to Tribes in these matters. Their testimonies no doubt confirm the need to redouble efforts to synergize their activities to develop a cohesive, cost-effective

strategy for emergency preparedness and disaster relief for Tribes and Indian Country as a whole.

AMERIND has long been the leading Tribal organization that not only advocates for disaster relief and protection, but also actually protects the over 400 Tribes and their Tribal members of our wholly Tribal-owned self-insurance entity. We see the lack of adequate insurance protection and the high percentage of uninsured property in Indian Country as problems of pandemic proportions. For 25 years, AMERIND has been proactive in tackling these problems by providing technical assistance to Tribes and their members on various methods to protect life, property and sovereignty within their communities. We have created and administer various self-insurance plans for Tribes that partially fill the void left by the departure of all but about 5 private insurance companies providing any meaningful protection in our Native communities across the United States.

AMERIND: Wholly Tribal-Owned Risk Sharing

AMERIND was organized in 1986 as a collaborative program between the Department of Housing and Urban Development (HUD) and 145 Indian housing authorities to provide protection for low income housing located within Indian communities. Since 1986, AMERIND has re-organized has a federal corporation chartered under Section 17 of the Indian Reorganization Act and sponsored by the Confederated Tribes of Salish and Kootenai, the Red Lake Band of Chippewa Indians and the Pueblo of Santa Ana. The corporation is owned by more than 400 Tribes, is not-for-profit, and administers 4 distinct risk sharing pools that protect $9 billion in property replacement value, more than 8,000 Native American family homes, and more than 25,000 employees from work related injuries.

As a risk management company, AMERIND emphasizes advocacy and technical assistance to protect life, property and sovereignty. Unlike the private insurance industry that is saddled with inflexible rules and regulations, AMERIND operates under the sovereign powers of the Tribes we serve and with the flexibility and responsiveness to meet their needs and those of their members and shareholders of their Native communities. We create cost-effective and sustainable programs that address the different traditions and customs of our member Tribes. One size does not fit all. It is important that we maintain affordability and sustainability because so many Indian communities do not have alternative sources of protection.

Testimony at Hearings

The Senate Indian Affairs Oversight Hearing was very helpful in collecting information on the key federal agencies' current activities to assist Tribes with emergency and disaster preparedness and recovery. It is extremely important that the various agencies understand how each interplays within Indian communities and who is responsible for fulfilling which responsibilities. Unfortunately for Tribes, there is no central repository of information regarding emergency management and disaster relief. Each federal agency views emergencies differently, responds with relief using a variety of methods, and has complex rules and regulations. While many hands can make light work, lack of coordination and strategy also can lead to waste of precious (and dwindling) resources and can slow response times.

We are excited that the Committee raised the prospect of amending the Stafford Act to grant to Tribes the same the opportunity long afforded to States to make an independent request to the President for a disaster declaration. Access to federal emergency relief, without having to rely on a State governor to make a request for disaster assistance, gives Tribes the full ability to exercise their prerogative as a sovereign to act on behalf of their own Tribal citizens. This is a very important first step, since a disaster can decimate a Tribe's lands, but may not impact enough non-Tribal areas to compel the state's governor to seek a disaster declaration. The federal government's special government-to-government relationship with Tribes certainly justifies the proposed amendment to the Stafford Act. Yet more tailoring is necessary, either administratively or legislatively, to ensure that federal disaster assistance programs actually provide more protection and relief to Tribes and other Native communities.

Having reviewed other witnesses' testimony, AMERIND finds it curious, and troubling, how few commented on "access to insurance" within Indian Country or the specific issues that differentiate Tribes from States or other non-Indian communities. All the federal witnesses testified about their efforts and prowess with technical assistance, but little was said about access to credit, insurance products or other financial tools available to or used by Tribes when disaster strikes. For example:

- U.S. Army Corps' witness, in response to a question, mentioned that much more emphasis should be placed on insurance and encouraging people to protect their families.
- Senator Murkowski (R–AK) expressed mixed emotions about approval of a community disaster declaration, but denial of individual requests for assistance for small, rural homes.
- Senator Johanns (R–NE) noted that the rate of Tribes' participation in flood insurance "seems abysmally low" and wanted to know what was being done to improve the situation.
- Senator Hoeven (R–ND) asked about homes lost to floods and FEMA Administrator Fugate commented that the biggest problem is lack of flood insurance coverage. Estimating that the average federal grant to rebuild is only $8,000, he said "it's a mistake for people to believe that the federal government will make them whole."

These comments demonstrate the inadequacy of the current federal disaster response mechanisms. Federal efforts focus more on stabilizing the community than assisting individual victims of disasters. In the case of floods, if the community, including a Tribal government, is not participating in the National Flood Insurance Plan ("NFIP"), then national flood insurance is not available and small, rural homes remain unprotected. This void can result in catastrophe in Indian Country.

Over time, Congress has enacted, and the federal agencies have implemented, measures that either make no provision for Tribal governments, or contort State-oriented programs to address Tribal circumstances that are radically different. The often remote locations and unique needs of the various Tribal communities require much more forethought to fashion appropriate, flexible solutions. Many Tribes do not have the financial capacity to comply with arduous federal requirements, such as those of the NFIP, without federal assistance. Grant assistance may be available, but the grant process is very onerous and success is limited. Furthermore, little consideration has been given to the availability and cost of private flood insurance in economically deprived Tribal areas, or the costs of planning, remediation or mitigation to adhere to the NFIP standards in order to qualify for national flood insurance.

Buying flood coverage on Tribal lands, or most other types of insurance coverage, is not as easy as it may be in other areas. Either private insurance is not available, or the carriers quote exorbitant rates. Another anomaly is that the federal agencies spend billions of dollars to build housing and infrastructure in Indian Country, yet few beyond HUD mandate insurance coverage to protect those federal investments. Some agencies seem unaware that flood and earthquake coverage is not available to Tribes in most cases. More effort needs to be made to identify problems and find viable solutions. We can no longer just assume Tribes have the same access to services that every other community enjoys.

In an earlier Senate Banking Committee hearing on NFIP reauthorization, FEMA Administrator Fugate testified that some ways to address the program's huge challenges are to share more with the private sector, look at private policies, what the federal government share should be, and how to incentivize the private sector to step up and play a larger role. AMERIND agrees with his assessment.

The Senate Indian Affairs Committee hearing helped the witnesses and the Senators to focus on and grasp the unique challenges and inadequacies of the current federal framework for emergency and disaster assistance for Indian Country. Tribes are unlike other communities. The federal government designated their reservations, often in areas deemed unsuitable for other purposes, and with severely limited community building sites and access to water. In exchange for Tribes moving to these isolated areas, the federal government agreed to a "government to government" relationship and promised to provide the resources necessary for safe and sanitary living conditions. It is not that Tribes shun the responsibilities of a sovereign nation to provide for its citizens; rather, they lack access to financial resources promised by the federal government or otherwise available if they find ways to generate their own revenues. Tribal governments do not have taxation systems (unlike state and local governments) to raise revenues for economic development, management and protection. Most Tribes cannot afford to manage and mitigate risk, or engage in remediation and infrastructure improvement without federal assistance. Even when those resources are provided, either pre- or post-disaster, the rules of engagement are so onerous and complicated that it is difficult for Tribes to respond appropriately.

A good example is flood disasters, often accompanied by severe wind and hail damage. Significant flooding occurred at Spirit Lake, Appsalooka, and Chippewa Cree reservations in the Northern Plains, and severe wind and hail damaged Tribal

property in Oklahoma, North and South Dakota. Under the NFIP, areas must be mapped and communities must participate in the NFIP to be eligible for national flood insurance. Generally FEMA's flood mapping (the basis for flood insurance) has concentrated on highly populated areas with a goal to map 80 percent of those areas. Unfortunately for Tribes, many reservations are not located in highly populated areas and thus flood mapping has not been occurred. Without flooding mapping, the NFIP will not provide flood insurance to a community. The problem is not that most Tribes fail to purchase national flood insurance; it is that such insurance is not available to them because they do not qualify for it.

Disasters other than floods also afflict Indian Country, as the Committee heard when the Governor of the Pueblo of Santa Clara testified about the fires raging on his Tribe's reservation in New Mexico. Other catastrophic fires in Indian Country in 2003 and 2007 in Southern California, and the White Swan fire within the Yakama Nation earlier in 2011 caused significant damage to Tribal property. Although insurance was available to many of the affected Indian communities, very few had any meaningful coverage. In Yakama Nation, for example, AMERIND arrived immediately to inspect their insureds' damaged homes and saw to it that those homes were repaired promptly. Nearby homes not under AMERIND coverage remained damaged long afterwards. While Tribal members might want to buy coverage, they had to choose between "feeding the family or buying insurance." Further, when disaster struck, various federal agencies and the Red Cross responded with financial resources. This laudable response gave some Tribal members the impression that they did not need insurance because "FEMA would provide the resources to repair or replace their homes." These experiences reveal significant communication and knowledge gaps between the federal agencies and Indian communities on the roles and responsibilities of each.

For the Federal Government to fulfill its federal trust responsibilities to Tribes, there must be a fundamental shift in approach and involvement. Most Tribes have a strong desire to be self-sustaining, but they cannot achieve this goal overnight. Unfortunately there have been 200+ years of federal intervention in Tribal communities that has led to a "hand out rather than a hand up" relationship. More work needs to be done to encourage Tribes (with resources and technical assistance) to establish their own "rules of engagement" as sovereigns in problem-solving consultations with federal, state, county and local governments and in fashioning reforms tailored to Tribal circumstances.

AMERIND's Problem Solving Approach

For 25 years AMERIND has been a shining example of what Tribes can do when they work together without the interference of unnecessary federal intervention and oversight. When no other "for profit insurance entity" stepped forward to protect an Indian community, AMERIND was there. With limited resources, we have actively provided the necessary protection to Tribal governments, businesses, and individuals in most of the federally recognized Indian reservations. Not motivated by profit or market share, we work with Indian communities to design and implement insurance plans that meet their specific financial and coverage needs. We have faced significant catastrophic events and survived each and every one of them with fast and efficient responses to rebuild and replace property that we insured. AMERIND tailors its policies and works out rates that are often 25 percent lower than traditional insurance providers. Since 1986, AMERIND has repaired or replaced more than $300 million in reservation property.

In 2002, we stepped up to address the "lack of flood protection in Indian Country" by creating an alternative flood program for federally assisted Indian housing that offers $15,000 in flood coverage per structure insured. We determined that the average flood loss over time was $7,500 and chose to double the average as our limit of coverage. Although not as comprehensive as the National Flood Insurance Plan, AMERIND's policy offers extraordinary coverage for a mere $10 per year borne by each policyholder in the risk pool. When Katrina struck the Gulf coast, AMERIND responded rapidly with resources for affected Indian communities. Unlike State Farm and other insurance companies that chose to go to court to determine if Katrina was "a windstorm or flood"—before responding to claims—AMERIND remediated the damage to its insured members, regardless of the peril involved.

The insurance industry provides a very important tool for the economic engine of the United States, but it does not provide that tool for free. High risk demands high rewards, and insurance companies require significant profits to satisfy their investors. To suggest that the insurance industry lower its standards and produce less profit to provide protection against flood, earthquake, terrorism, inner city crime, pollution, nuclear radiation or other "uninsurable risks" is an effort in futility. For this reason, among others, AMERIND believes that its tailored, more affordable

Tribal self-insurance risk pool approach can become part of the solution to better planning, protection and delivery disaster relief for Indian Country.

Part of the solution can be a private-federal relationship wherein the federal government provides reinsurance protection to the private sector. The Terrorist Reinsurance Act was a step in the right direction, but it only scratched the surface to incent the insurance industry to protect large structures that attract significant public events. That Act has some shortcomings, though, as it applies only to a terrorist act that is committed by a foreign national under the direction of a foreign government. Domestic terrorism (such as the Oklahoma City bombing) is not addressed, yet we have seen more of such threats recently in the United States than from foreign terrorism. Indian Country has a number of world class gaming and hotel properties that are vulnerable to terrorist acts (Foxwoods Casino, Mohegan Sun Casino, Pechanga Casino, to name just a few). Many of these properties must utilize "self-insurance" as a means of protection because private insurance is not readily available or lacks the capacity to underwrite the risk. A private-federal reinsurance initiative should be considered for Tribes or other large property owners. Such an initiative would be a significant improvement and would allow for more business expansion, property development and job creation. As it stands today, many large property owners must stockpile cash to fund unexpected catastrophic events—cash that could be deployed more productively to spur economic growth and recovery.

AMERIND Provides Outreach, Training, and Collaboration

AMERIND is the only Native American organization providing outreach, training, and collaboration regarding financial protection in Indian Country. Despite 25 years of continuous operation, we are still a "best kept secret" among Tribes and the federal government. With business relationships with more than 400 Tribes, AMERIND has so much to offer in bridging the communication and technical assistance gaps between the federal government and Tribes. We have survived this long depending upon our own resources and ingenuity. With assistance and cooperation of the various federal agencies that support Indian Country, AMERIND could help guide, protect and accomplish so much more.

AMERIND has already helped launch such a coordination initiative within Indian Country to address disaster recovery. In conjunction with Tribal leaders in Southern California, AMERIND created the Tribal Risk and Emergency Management Association (TREMA) to provide a forum for Tribal risk managers and emergency responders to discuss specific challenges and strategies for Indian Country. A website was created to dispatch information quickly and coordinate all the federal and State emergency response agencies. AMERIND hosts the website at *www.tremaonline.org.* Although TREMA is in its infancy, the Association is gaining traction and working closely with such Tribal programs as the Long Term Recovery Foundation sponsored by a significant number of Tribes in Southern California in response to both the 2003 and 2007 fire disasters. TREMA is just one of many projects organized by AMERIND to address the needs of its owners, a vast majority of the federally recognized Tribes.

Over the past several years, AMERIND has expanded its outreach to include the White House, the Departments of Homeland Security, Agriculture, Commerce and Interior, as well as FEMA, BIA and HUD, to discuss more collaboration on insurance issues and ways to make coverage more available to Tribes and Tribal members. It is very gratifying that President Obama and his administration have taken such a strong interest in solving problems facing Indian Country. We have gone from mere words to action, and we compliment the Obama Administration for appointing more Tribal Liaisons within federal agencies and elevating many of them to advise Department Secretaries directly. These Tribal advisors actively engage in frequent, meaningful Tribal consultations and listening sessions to solve problems collectively. Great work has be been accomplished by agencies such as FEMA and USDA–RD in recent years to educate Tribes about their programs and grant support for planning, and o re-engineer federal programs to be more flexible to accommodate the cultural, geographical and legal characteristics of Tribes that differ widely across the United States. We need to continue taking such great steps forward and not keep looking back over our shoulders to see where we have been. Solutions to problems are on the horizon, not behind us.

AMERIND Recommendations

We would like offer two recommendations that we believe will answer the questions raised by the Committee and begin to address the flood and other disaster issues faced by Indian Country.

Recommendation 1: Encourage the development of a 24/7 resource center that can facilitate communication and information sharing among federal agencies and Tribes. "Federal speak" is not often understood at the local and Tribal levels, and trying to navigate the federal information highway can be extremely frustrating. With limited financial and human resources, Tribes can have difficulty staying current on all the various procurement requirements, grants, rules and regulations promulgated by the various federal agencies. One single database of information regarding Indian Country would help Tribes and federal agencies in meeting their respective missions. Knowledge is power, and not having complete and accurate information diminishes our knowledge of Indian Country and reduces the power to respond quickly and efficiently.

Recommendation 2: Carve out a set aside from the NFIP funding specifically for Indian Country as a stopgap measure. As indicated previously, most of Indian Country is not yet approved for flood insurance due to lack of flood determination mapping. Until more Tribal lands are mapped so that more Tribes can begin participating in the NFIP, an alternative program should be created to protect against flood disasters and address the specific needs within rural Native communities. Organizations like AMERIND could make application to this new program to provide "Write Your Own" coverage to Tribes and assist them in developing the infrastructure to meet the NFIP standards. Such a program does not need to be as robust as the NFIP and could be used as reinsurance support to those few insurance companies that participate in Indian Country to provide additional flood insurance coverage. A carve out of $25–50 million, that could be leveraged to secure additional protection for flood damage, would be more than adequate to serve the needs of Indian Country while FEMA maps more Tribal areas to make them eligible for NFIP participation.

Thank you for the opportunity for AMERIND to provide its comments to the Committee. We look forward to working with the Committee members and staff on ideas and proposals as deliberations progress on these critically important issues.

PREPARED STATEMENT OF HON. MICHAEL TOLEDO, JR., GOVERNOR, PUEBLO OF JEMEZ

The Pueblo of Jemez is located in North Central New Mexico, approximately 40 miles northwest of Albuquerque, in Sandoval County. It is situated along the Jemez River near the confluence with Vallecitos Creek in the foothills of the Jemez Mountains at an elevation of approximately 5,600 feet. The village of Walatowa is home to approximately 3,000 tribal members. The Jemez People have occupied the Jemez Mountains for the past 800 years. They manage 89,000 acres of trust land, most of which is mountainous terrain and forest lands. The Pueblo's 89,000 acres is on three non-contiguous parcels with the Village of Walatowa located in the central parcel.

The Las Conchas Fire in the Jemez mountains burned approximately 4,771 acres of tribal land on the eastern-most parcel of Jemez trust land known as the Cañada de Cochiti Grant. The fire on tribal land destroyed critical habitat for our big game animals such as deer, elk, bear and turkey and for all practical purposes, the fire destroyed our traditional ceremonial hunting practices. The pueblo's hunting societies will be unable to engage in its ceremonial hunting in the Cañada de Cochiti grant for at least the next decade. In addition, tens of thousands of acres of National Forest land and the Valles Caldera National Preserve were burned that contain thousands of Jemez cultural artifacts, Jemez puebloan ruins, shrines, trails, and mineral and plant procurement areas. Many of these cultural resources and religious sites were destroyed by the fire, some beyond recognition.

The headwaters of the Jemez River are in the Valles Caldera National Preserve. The fire did not spare the Preserve but burned thousands of acres around the headwaters of the Jemez River. Because of the fire and the monsoons, the Jemez River has been heavily impacted by ash contained in stormwater runoff. The Jemez River is running black leaving tons of ash and black residue along the riverbanks and irrigation ditches. The Jemez rely on the surface flows of the river to replenish the Jemez River alluvium that the pueblo uses for drinking water, which is derived from shallow wells next to the river. The surface flows in the Jemez river is used for crop irrigation. The Jemez People are subsistence farmers growing a traditional combination of corn, chili, beans, and squash as well as melons and other fruit. It is likely that many of these crops will fail this year and potentially in subsequent years given the diminished water quality in the Rio Jemez. The livestock that graze on the pueblo drink the surface flows from the Jemez river and at this point, we do not know the health impacts to the livestock in drinking the black water for the next several weeks.

In late July, during the peak of fire activity in the southern range of the fire, the Pueblo was confronted with a plan developed by the Fire Command to allow two-thirds of the Cañada de Cochiti Grant to burn in order to buy time for fire fighters to develop a defensible fireline along Forest Service Road 266 which runs through the Cañada de Cochiti Grant. The Fire Command informed the Tribal Leadership that this approach was necessary to create a safe working environment for the fire fighters. We were assured that the fire would be a "low intensity" fire that would merely burn on the ground and not consume stands of trees. Given that assurance, the

Pueblo of Jemez leadership graciously agreed to this plan knowing that this plan was for the safety of the fire fighters. Governor Michael Toledo, Jr., at an initial meeting with Senators Jeff Bingaman and Tom Udall and Congressman Ben Ray Lujan expressed his concern that the Pueblo's aboriginal land including the Cañada de Cochiti grant will be seriously affected if not destroyed by this fire under the plan developed by Fire Command.

Now that the fire is contained, Jemez tribal members employed in the Pueblo of Jemez Natural Resources Department have been able to enter the forest and view the damage. In many places along ridgelines and in deep canyons, the fire did not burn with low intensity but rather consumed entire stands of trees and reduced all vegetation in those areas to ash. That ash is now being washed by monsoon rains into several watersheds that flow into the Zia, Santo Domingo, and Cochiti Pueblo trust lands to the East of Jemez Pueblo. The fire does not recognize sovereign boundaries and, just as the burned areas on Jemez land are now impacting our Pueblo neighbors, so are the burned areas on U.S. Forest Service land impacting the Jemez Pueblo via the Jemez River.

We have concerns regarding catastrophic flooding and crop failure. As this document is being prepared by my staff, weather radar indicates a severe thunderstorm over the burn scar. This has been the case for the past several days and is in the forecast for the next week. Slow moving thunderstorms have caused mudslides and debris flows in other areas of the fire, including the affected Santa Clara and Cochiti Pueblo lands. It is very possible that this weather pattern will result in debris flows into the Jemez and its tributary, the Vallecitos Creek, creating the potential for catastrophic flooding within the population center of the Jemez Pueblo as well as the downstream community of San Ysidro.

The alternative to heavy rain, continued drought is no better for the Pueblo of Jemez. If rainfall does not supply water needed for plant growth, the crops will fail. Water quality is so poor in the Jemez River that the tribal farmers cannot use that water for irrigation of certain crops. Other farmers are hesitant to even use the water for irrigating alfalfa and pasture grass. Finally, given our proximity to Los Alamos National Laboratory, we monitor the Jemez River for radioisotope concentrations. It is likely that these concentrations have increased with the increased sediment load from the fire. Any surviving crops irrigated with this water are likely to uptake increased concentrations of radioisotopes. Greater radioisotope concentrations could result in an increased health risk for the Jemez People who will consume the river water as drinking water once it is extracted from shallow alluvial wells along the river.

During the fire, Jemez sacrificed 4,771 acres of its lands in order to create an additional element of safety for the firefighters. We understand that the local National Guard unit was not allowed to participate in the fire which otherwise may have enabled the fire response to take place in areas on U.S. Forest Service land before the fire consumed Jemez tribal resources. The fire proved to be of higher intensity than predicted by the Fire Command and now we must contend with the consequences. Under these circumstances, I feel assistance is now warranted from the federal government to restore the Pueblo's lands to the condition prior to the fire.

I am requesting financial and technical assistance for the following fire-related needs:

- Road rehabilitation and stabilization so we can enter our lands and make the effort needed to nurture the forest back to health.
- Funding for forest rehabilitation projects including clearing of dead stands, hydroseeding, soil stabilization, wildlife habitat restoration, and cultural resource protection. As an example of this need, the fire has displaced entire wildlife populations. We now have several Black Bears roaming areas within our Village of Walatowa. The bears have nothing to eat or drink and are congregating at the Jemez River and invading our agricultural areas. It is a matter of time before we have a bear-human confrontation. We have been able to secure only one bear trap from the State Game and Fish Department since most of the traps in the State have already been deployed as a result of the Los Conchas Fire and other fires in New Mexico.
- Funding for a comprehensive wildlife population study. Federal funding for tribal wildlife programs has been reduced severely in recent years. The Jemez Pueblo has never had the resources to determine animal population numbers and therefore cannot determine the extent of the damage to those population caused by the fire. Now that the fire has created an animal population impact, we want to determine whether the limited wildlife management plans and protocols Jemez has in place are sufficient to maintain healthy animal populations. Funding in this area is critical for forest health and for Jemez cultural preservation.
- Assistance to the Pueblo farmers whose crops are likely to fail resulting in an increased financial burden for most of the Jemez families who will have to offset the food shortage with purchases of foodstuffs from grocery stores.
- Completion of easement agreements with the U.S. Forest Service for roads installed across Jemez tribal land. The U.S. Forest Service uses roads across Jemez land for fire fighting and resource management. Easements payable to the Pueblo of Jemez have long since expired. Local Forest Service managers inform us that there is no funding in their budgets for easements or even road maintenance. It is one of those roads that was used to stop the fire. Clearly, their maintenance and the issuance of easements are of critical need to the federal government.
- Flood mitigation. Dredging of the area around Owl Springs Bridge in the Village of Walatowa and reinforcement of the bridge (or total replacement) is necessary to avoid creating a bottleneck for the inevitable debris flows from upstream fire damage. Such a bottleneck could create a dam causing backup of storm water in the Jemez River channel resulting in a catastrophic flood in the Village of Walatowa. Such a flood occurred in the 1940's and could be repeated if not addressed now. Dredging and channel stabilization at other areas along the Jemez River is also needed for the same reason.

Like many Native populations, the Jemez People live much closer to the land than our non-Native neighbors. We grow much of our own food, hunt for meat, and tie our culture to the physical environment around us. Catastrophic forest fires are a recent advent. Our ancestors would have let fires burn, recognizing the regenerative benefit of such events. Now, we are left to contend with the result of decades of intense fire suppression on federal lands including tribal trust land that has resulted in grossly overgrown forests. This policy was imposed on us and we are paying an obvious, tangible price. I am asking this Committee to take the history of fire suppression that has led to this disaster into consideration when evaluating my request for assistance. The Pueblo of Jemez has been a good partner to the Federal Government as evidenced by our sacrifice of land during the fire for safety reasons. I hope you will now demonstrate your faith in our partnership.

PREPARED STATEMENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians is grateful for the opportunity to provide this statement to the Senate Committee on Indian Affairs for this Oversight Hearing on Facing Floods and Fires—Emergency Preparedness for Natural Disasters in Native Communities.

The NCAI has long been involved in providing technical assistance and working with federal agencies to develop programmatic and policy solutions for Tribal governments and communities seeking to develop and enhance emergency management capacity. For decades federal statutes and regulations precluded agencies like the Department of Homeland Security Federal Emergency Management Agency from granting Tribes eligibility for programs and grants to develop emergency management infrastructure, as well as access to training and equipment acquisition. The years of exclusion has resulted in the inability of Tribal governments to prepare for and respond to natural and manmade catastrophic events. Moreover the magnitude of recent catastrophes in Indian Country have had such a devastating impact that it may be years before Tribal communities may be able to recover if at all.

The NCAI offers some of our observations and recommendations that have come from Tribal leaders, Tribal emergency program officials and Tribal emergency responders. Some federal agencies have made positive changes to better work with Tribes. However there is still a need to modify programs, policies and statutes in a manner that in more inclusive of all Tribes so as to enable Tribal governments to receive the same types of benefits as state governments including hundreds of millions of dollars in funding to institutionalize emergency management systems and operations. Additional revisions and improvements can be brought about through statutory changes. We appreciate this committee's concern for the safety and well being of Tribal communities and its efforts to save lives and protect property throughout Indian Country.

Department of Homeland Security—Federal Emergency Management Agency

FEMA Tribal Policy

As the lead agency in emergency management FEMA has made many positive changes in recent years such as its revision and release of the FEMA Tribal Policy in 2010 to improve consultation and consultation with Tribal governments. FEMA Administrator Craig Fugate is the second FEMA Director in the agency's history to address Tribal leaders at NCAI meetings and to conduct listening sessions. Although NCAI appreciates these efforts to improve consultation with Tribal governments, FEMA's completion of an implementation plan for its Indian Policy is necessary for improved Tribal outreach and consultation as well as for development of Tribal emergency capacity and equitable program access.

Headquarters and Regional Tribal Liaisons

FEMA has established a National Tribal Liaison in the Intergovernmental Affairs section of the Office of External Affairs at the direction of the Secretary of the Department of Homeland Security, however this position is currently vacant. The FEMA Intergovernmental Affairs Office recently released a vacancy announcement for the Headquarters National Tribal Liaison position that did not contain criteria for a candidate to have any knowledge of Tribal governments or experience working with Tribal communities. The NCAI communicated to FEMA that Tribal liaisons should be culturally aware and possess a significant understanding of Tribal government status and operations. The FEMA Intergovernmental Affairs Office subsequently issued a revised announcement containing Tribal experience in the criteria for this critically important position. The NCAI urges FEMA to fill this vacancy in an expedited fashion in order to assist Tribal communities particularly those who have experienced recent floods, fires, or tornadoes. In times of disasters familiarity with the functions and operations of Tribal governments will help Tribal liaisons better guide the Tribes through disaster response and recovery efforts.

Tribal governments and lands are located in nine of the ten FEMA regions. Each region has a Regional Tribal Liaison. However, it is our understanding that some of the liaisons are assigned part time to work with Tribal officials even though there may be several Tribes located within the region. We have heard that some of the Tribal liaisons do not communicate with Tribal officials directly nor do they visit Tribal lands. FEMA should appoint at least one dedicated full-time Regional Tribal Liaison with Tribal background or experience and provide support for travel and interaction with Tribal government officials. In the event of a disaster a Regional Tribal Liaison deployed to the Tribal community at the beginning of a disaster will expedite response and recovery efforts.

The NCAI believes that the Tribes would be better served by the Headquarters and Regional Tribal Liaisons if these positions were moved from the Office of Intergovernmental Affairs to a separate division with director supervision and access to the FEMA Director and other agency components.

Federal Coordinating Officers and Joint Field Offices

There are some policy barriers in regional offices that hinder Tribal officials from attending available training. For instance officials from the Mescalero Apache Tribe could not go to in-state for training at the Joint Field Office (JFO) because the Federal Coordinating Officer (FCO) would not provide travel expenses The JFO can pay for Tribal representatives to attend training to help Tribes build capability and avoid future disasters. But because Mescalero was less than 4 hours away from the site the FCO didn't allow them to come in to the training stating initially that it was illegal to provide Tribes with travel costs but later recanting and saying that funding was not available, which shouldn't have been the case. There is clearly an inconsistency in providing training to Tribal governments impacted by disasters which we hope this Committee will direct FEMA to address.

FEMA maintains a standing roster, or cadre, of about 45 FCOs who have undergone an agency-wide certification program with preparation for all-hazard events including terrorism and weapons of mass destruction. FCOs must participate in actual disaster response or full-scale exercises as part of the certification program. FCOs are not required to have any familiarity about basic Tribal government operations and functions. Only a few FCOs have undergone any type of Indians 101 indoctrination, but according to our information, those who have undergone such training have performed well in assisting Tribal communities for which they are responsible in disaster situations. This Committee can help by sending a message to FEMA to develop an FCO course in Tribal relations that includes interaction with the DHS and DHS–FEMA HQ Tribal Liaisons.

A Joint Field Office is a multiagency center that facilitates incident management during actual or potential situations and incidents that require a coordinated federal response. Only recently have some FCO's invited Tribal officials into the unified coordinating JFO structure. Instead of waiting for disaster situations, FCO's should reach out to and actively communicate with Tribal officials and automatically include Tribal officials in the JFO during a Presidential Disaster Declaration.

Tribal Cadre of Disaster Assistance Employees

Disaster Assistance Employees (DAE) are temporary FEMA employees who work in a disaster zone that can be deployed from a few weeks to several months depending on the area and gravity of a disaster. Among the duties of DAEs is to contact Tribal officials and apprise them of recovery programs and eligibility requirements as well as assist in filling out and submitting required paperwork. A few years ago under the direction of an enlightened FEMA Regional Administrator, FEMA Region VIII developed a cadre of Tribal Disaster Assistance Employees. The reason was that native peoples' cultural and other differences are better understood by another native person who would be able to better interact and respond to questions coming from or related to Tribal community members. The Tribal cadre has ebbed since its inception but the success has been far reaching and of significant value to Tribal communities who have been hard hit by disasters. Indian Country would benefit greatly if FEMA would institutionalize a formal qualified Tribal DAE cadre. The NCAI requests that this Committee urge FEMA to establish the Tribal DAE cadre.

FEMA—Emergency Management Institute

A great cost effective measure that we hope this Committee will support is to provide a minimum of one million dollars annually to the Emergency Management Institute (EMI) in Emmitsburg, Maryland for delivery of Tribally-developed and Tribal-relevant emergency management planning and operations courses. NCAI staff and Tribal emergency managers have developed several courses including emergency management planning and operations for Tribal governments. This has been a saving grace for several Tribal communities who have been able to use the training to develop a coordinated preparedness and response program. The funding would provide EMI with an enhanced budget to conduct additional courses onsite at EMI and field delivery in Tribal communities. The NCAI strongly urges this committee to support funding and appropriations language that directs FEMA to deliver additional Tribal emergency management courses.

Non-FEMA Federal Agency Disaster Assistance

The NCAI acknowledges FEMA for its effort and accomplishments that have benefitted Indian Country with regard to recovery situations. These efforts include working with other federal agencies to assist in response and recovery efforts. Until recently if a road that was maintained by the Bureau of Indian Affairs was damaged or destroyed, FEMA disaster assistance funds could not be used to repair or replace the road because it was the responsibility of another federal agency, regardless of how critical the road might be for emergency response to aid disaster victims.

FEMA successfully sought authority to use its funding to restore these types of roads regardless of other federal agencies' responsibilities.

Other agencies are not accustomed to disaster response situations or familiar with the need for continuity of operations to resume operations and the negative impacts a delay can have on a Tribal community reeling from a disaster. In many instances Tribal governments and federal agencies such as the BIA, Indian Health Service, or Housing and Urban Development share office space or buildings. If such buildings are damaged, FEMA is precluded from repairing these buildings even if Tribal government offices are located there because the responsible federal agency must make the repairs. Because the building is federal property the facility cannot be included in the preliminary damage assessment for purposes of the Tribal government's effort to request a Presidential Disaster Declaration. It is not rational for a Tribal government to have to wait for another agency to assess whether it has the resources to repair the building, which the BIA or other federal agencies are unlikely to have. If FEMA funding is provided to repair the damaged facility it is still from a federal source. FEMA should be allowed to provide funding under its Public Assistance program to restore these types of facilities so that Tribal operations can resume.

Emergency Management Performance Grants

On its Emergency Management Performance Grants (EMPG) website, FEMA states that the events surrounding Hurricanes Katrina and Rita highlighted the critical importance of effective catastrophic all-hazards planning. FEMA further states that "[A]s part of this effort, state and local jurisdictions must engage in comprehensive national and regional planning processes that seek to enhance emergency management and catastrophic capabilities through strengthened national and regional relationships and the allocation of resources toward all-hazards planning, including maintaining current hazard mitigation plans." EMPG funding allows states, local governments and territories to build capability with no cost-share. U.S. territories have a built-in set aside under the EMPG program. Tribal governments are ineligible for direct EMPG funding though some Tribes have small grants obtained through state or county governments, purely at the granting state's discretion. As a sub-grantee, a Tribe has to provide 50 percent matching funds under an EMPG. The EMPG program eligibility criteria should be altered to include Tribes with no cost share requirements.

The NCAI supports changes to the EMPG program and strongly urges this committee to create a congressionally-mandated independent Tribal emergency management non-competitive grant that would allow Tribes to develop and enhance their emergency management programs and systems. Toward this end NCAI urges congress to establish that a $50 million program with annual appropriations of $10 million annually which all Tribes could apply for up to $200,000. The grant would allow Tribes discretion in enhancing their emergency management program development priorities. Eligibility criteria could be similar to EMPG that the Tribe has to demonstrate that it manages an emergency management program yet it would not have to have the same complex or sophisticated capacity as that of a state or some counties. The proposed mount of funding for this program may seem a large amount but when placed alongside the money that sits idly by for NY and LA and the money that states have received since the Homeland Security Act of 2002, the total amount is not even a blip on the radar screen.

Hazard Mitigation, Pre-Disaster Grant Programs and the National Flood Insurance Program

Disaster Mitigation Plans form the foundation for a community's long-term strategy to reduce disaster losses and break the cycle of disaster damage, reconstruction, and repeated damage. State, Indian Tribal, and local governments are required to develop a hazard mitigation plan as a condition for receiving certain types of emergency and non-emergency disaster assistance.

The Hazard Mitigation Grant Program (HMGP) provides grants to States and local governments to implement long-term hazard mitigation measures during the immediate recovery phase after a major disaster declaration. After a disaster, if a Tribe does not have a disaster mitigation plan, it will have to develop a plan. Tribes with a small infrastructure generally have a difficult time designing an HMGP in these situations while simultaneously engaged with recovery efforts and trying to decide whether to apply for funding as a grantee or sub grantee for funding. Once the Tribe begins the process it is faced with a 30 day deadline for a FEMA approved mitigation plan. The HMGP has been improved significantly for Tribes and we commend FEMA for this effort.

The Pre-disaster Mitigation Grant program is available if a Tribe has not yet experienced a disaster and such Tribes have up to three years to develop a plan. FEMA has done well in expanding Tribal participation under the PDM. Grant match requirements have been adjusted as well as allowing funding from other Tribal federal programs. Many Tribes fit into the "small impoverished community" criteria which provide greater access. The NCAI recommends that congress provide equitable PDM funding to Tribes just as the states which receive an annual allocation for pre-disaster mitigation.

The National Flood Insurance Program is not set up well for Indian Country and, likewise, many small non-Tribal communities are unable to participate. Congress created the NFIP to protect property owners, renters and small businesses. Compliance with NFIP is the responsibility of the individual jurisdiction. If a Tribal area is hit by a flood disaster in order to be eligible for certain types of disaster assistance, the Tribe is forced to join the NFIP and Tribal citizens are forced to pay for the policy.

Tribal government and community participation in the NFIP is neither practical nor affordable. Membership requires adoption and enforcement of zoning and building codes and inspections for all new and improved construction. Property ownership is not prevalent in Indian Country, and very few Tribes have building and zoning codes. Options for relocation under NFIP plans from flood plains can be a barrier because of the unavailability of Tribal community water and sewer infrastructure. Relocation of homes also is not an option because affordable housing opportunities are virtually non-existent. An affordable indemnity program similar to NFIP could and should be designed for Tribal communities. NCAI recommends that congress direct FEMA to begin this process with an assessment of the feasibility of the current NFIP applicability in Indian Country.

The NCAI also recommends that Congress provide FEMA with funding to develop flood plain maps of Indian Country without consequence to Tribal governments or forcing Tribal members to join the NFIP. Providing flood plain maps will allow Tribal decision-makers to better mitigate flood prone areas in their communities.

DHS Tribal Homeland Security and Urban Area Security Initiative Grants

It does not make good economic sense for Tribes to apply for the Tribal Homeland Security Grant Program and Urban Area Security Grants given the burden and expense of applying, coupled with the small amount of each award. States have had years to build up their infrastructure and acquire experienced staff with federal dollars and are much better positioned to apply and manage homeland security grant funding. A better option for Tribes would be for congress to create a wholly separate non-competitive Tribal homeland security grant program under which Tribes can develop and/or enhance Tribal emergency management capacity. A minimum amount of $20 million should be available for Tribal governments for this purpose.

Tribes are eligible to receive Urban Area Security Initiative Grants at the discretion of states. UASI grants exclude Tribes even when Tribal facilities serve as venues where thousands of members of the public may attend on a daily basis or where even larger crowds attend specific entertainment events. Some urban area Tribal emergency management programs have highly trained professional responders and state of the art equipment that they may utilize in homeland security threat situations. These responder programs have been developed through Tribal community funds but are on standby to assist neighboring jurisdictions. Tribal responders are designated as "Second Responders" in the event of an emergency. This designation should be changed as it is conceivable they will be "First Responders" if Tribal communities are the prime locations of disasters and terrorism related events.

Amending the Stafford Act

Attached to this statement is a letter from NCAI to the House committee chairs in support of H.R. 1953, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act (The Stafford Act). H.R. 1953 includes procedures for Tribal government officials to directly request a Presidential Disaster Declaration on their respective Tribal lands instead of the required gubernatorial request. The inequity in the current law to deny a Tribal leader the right to seek a federal disaster declaration without going through a state governor has resulted in lost time to deploy lifesaving emergency response services and access to critical resources in Tribal communities. We support this legislation and request that the committee develop companion legislation with additional provisions for the benefit of Indian Country.

The NCAI supports the provision in H.R. 1953 exempting matching fund requirements for Tribal governments. The NCAI membership supports Stafford Act revisions include changes to the threshold formula factor in the determination of a dis-

aster declaration. The formula utilizes a minimum amount of damages based on a dollar amount and population which automatically penalizes Tribal communities as they are less populated than other areas of the country. Historically Tribal communities have been repeatedly overlooked because they fall outside of the damage assessment threshold primarily even though the losses sustained are traumatic and long term. Tribal communities also are in economically depressed areas of the country where resources for recovery are not available.

Additional Recommendations

Tribal Emergency Management Association

Many ideas and concepts to address Tribal emergency preparedness and the lack of human and financial resources have been deliberated among Tribal emergency management officials and discussed with non-Tribal state, local, and federal emergency management officials who are aware of the shortfalls in Indian Country. Some of the ideas were attempted but never reached fruition such as the creation of the Tribal Emergency Management Association (TEMA). TEMA would operate similar to the National Emergency Management Association, a professional association of state and territorial emergency management director. NEMA provides national leadership and promotes improvement in emergency management through partnerships, programs and collaborative efforts with FEMA. FEMA has long provided financial and technical support to NEMA. Just as NEMA knows its constituency—the states and territories—and makes recommendations to FEMA and congress, TEMA members would be able to provide recommendations and policy positions on programs and policies that impact Indian Country. Through FEMA financial support, NCAI might be able to provide organizational support to TEMA until TEMA is able to stand on its own.

National Tribal All-Hazards Incident Management Team

Another Tribal work group has proposed development of a National Tribal All-Hazards Incident Management Team. Federal Incident Management Assistance Teams currently exist that can be rapidly deployed and provide situational awareness and assist in setting up a unified command to better manage and coordinate the national response for catastrophic incidents. When not being deployed, federal IMATs engage in training exercises and strengthening relationships with state and local partners. This is another instance of a federal program's failure to include Tribal governments in a national homeland security strategy.

Utilizing the federal model, the members of a NTAHIMT would be recruited throughout Indian Country and would possess requisite professional standards of skills, training and experience under U.S. Fire Administration Standards. NTAHIMT members will understand the needs, cultural lifeways, priorities, governance system and operations within Tribal communities. Such an undertaking was initiated by the Tohono O'odham Nation and serves as an example for creation of a NTAHIMT. A separate NTAHIMT would require federal assistance in initial setup with the goal that Tribes could contribute to support several NTAHIMTs on standby as a cost-effective method to assist them in times of need. State IMTs have been created through federal assistance and Tribes should receive equal treatment.

Conclusion

There is no one single solution that the Senate Indian Affairs Committee, congress, or the Obama Administration could implement that would remedy the previous decades of inequitable funding for Tribal governments that has resulted in the continual vulnerability of Tribal communities to natural and manmade disasters as well as terrorist threats. States, counties and municipalities have been the recipients of hundreds of millions of dollars in federal funds to develop and maintain their current emergency management preparedness infrastructures. Even though these are lean budget times, it is wrong for Tribal citizens to continue to be neglected and left without access to emergency response, recovery, and disaster mitigation assistance.

When the federal government created reservations and Tribal areas, it assumed responsibility to help manage and assist Tribal governments in handling disasters and alleviating disaster prone areas. The trust responsibility of the federal government is the basis for our proposed crucial improvements to Tribal emergency management capability and disaster relief assistance to Tribal communities. The NCAI membership believes implementing the recommendations contained in this statement—which come from Tribal leaders, Tribal emergency management program officials and Tribal emergency responders serving Indian Country—is a fundamental component of the trust responsibility.

Tribal officials have a responsibility for the safety and well being of their respective citizens when disaster strikes, but they have nowhere near the tremendous financial resources that state and local governments have been afforded to manage these events. The NCAI will continue to advocate on behalf of Tribal governments for Tribal grant funding, technical assistance, equipment, and training to sustain Tribal response and disaster relief work. The National Congress of American Indians thanks the Senate Indian Affairs Committee for conducting this oversight hearing and we look forward to collaborating with the members of this committee to effect change for the benefit of all citizens residing in Indian Country, neighboring communities and our former homelands.

Attachment

NATIONAL CONGRESS OF AMERICAN INDIANS

June 20, 2011

The Honorable John Mica
Chair
Committee on Housing,
Transportation & Infrastructure
U.S. House of Representatives
Washington, DC 20515

The Honorable Nick Rahall
Ranking Member
Committee on Housing,
Transportation & Infrastructure
U.S. House of Representatives
Washington, DC 20515

The Honorable Jeff Denham
Chair
Subcommittee on Economic Development,
Public Buildings & Emergency Management
U.S. House of Representatives
Washington, DC 20510

Dear Congressmen,

On behalf of the National Congress of American Indians, I write to express our strong support for H.R. 1953, a bill that would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act") to include procedures for tribal governments to directly request the President of the United States to declare a disaster on their respective reservations. This bipartisan legislation is of critical importance to improving emergency response and federal assistance to protect lives and property on Indian reservations throughout the country and we urge its swift passage.

Many Indian Tribes have been devastated by recent natural disasters and are in need of immediate federal disaster assistance, including Tribes in the Rocky Mountains and Great Plains regions, the Crow Nation, the Fort Peck Tribe, the Fort Belknap Indian Community, the Blackfeet Nation, the Standing Rock Sioux Tribe, the Three Affiliated Tribes, the Cheyenne River Sioux Tribe, the Lower Brule Sioux Tribe, the Crow Creek Sioux Tribe, and the Yankton Sioux Tribe, and the Ute Indian Tribe in Utah. Many of these tribes have suffered from severe flooding resulting from the spring melting of winter snow and ice, whereas the tribes in Arizona and New Mexico, such as the San Carlos Apache Tribe and the White Mountain Apache Tribe, continue to suffer severe loss due to recent wild fires. Citizens of the Quapaw Nation and Choctaw Nation in Oklahoma are at the beginning stages of long term recovery from a recent series of tornadoes that destroyed homes and property.

Tribal government buildings are inaccessible or closed hampering critical government functions and operations. Many tribal community members have still not received emergency relief, remain displaced from their homes, and are neither able to utilize essential roads nor access medical services or adequate food supplies. The catastrophic impact of these disasters on economically depressed tribal communities will be long term. An equitable right of tribal leaders to seek a Presidential Disaster Declaration could have prevented the delayed federal response and mitigation to tribal communities overwhelmed by the disasters.

When enacted, H.R. 1953 will enable tribes to better access lifesaving emergency response services and critical resources in the face of disaster. I respectfully request your active

support to ensure House passage of H.R. 1953. Should you have any questions or need additional information, please contact myself or Robert Holden at 202.466.7767 or rholden@ncai.org.

Sincerely,

Jefferson Keel,
President

cc: The Honorable Doc Hastings
Chair
Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Edward Markey
Ranking Member
Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Don Young
Chair
Subcommittee on Indian Affairs
U.S. House of Representatives
Washington, D.C. 20510

The Honorable Tom Cole
Co-Chair
Native American Caucus
U.S. House of Representatives
Washington, D.C. 20510

The Honorable Dale Kildee
Co-Chair
Native American Caucus
U.S. House of Representatives
Washington, D.C. 20510

PREPARED STATEMENT OF HON. PERRY MARTINEZ, GOVERNOR, PUEBLO DE SAN ILDEFONSO

On behalf of the Pueblo de San Ildefonso, the Tribal Council and I appreciate the opportunity to submit this statement on the effects the Las Conchas Fire on our Pueblo and the issue of emergency preparedness for natural disasters.

The Pueblo de San Ildefonso was fortunate that the Las Conchas Fire did not burn any of its Tribal lands but the location of the Pueblo's land in connection with the burn area makes the Pueblo extremely vulnerable to flooding, erosion and property and infrastructure damage. The Pueblo will also experience short and long term effects from the Las Conchas Fire and we are very concerned about our ability to address these issues that will impact our lands, our community and culture. Unfortunately, the Pueblo de San Ildefonso experienced many of these same issues and impacts after the Cerro Grande Fire in 2000. It is our experience with the aftermath of the Cerro Grande Fire that makes us uneasy about the potential damages that are likely to result from the Las Conchas Fire.

Because the Las Conchas Fire burned areas higher up in the surrounding canyons and watersheds, San Ildefonso lands are directly adjacent to or below the burn areas. The loss of trees and vegetation and the intense heat of the fire and the steep slopes in these areas create extreme flood and erosion conditions. Debris, ash and other material will flow down these canyons over San Ildefonso lands and eventually into the Rio Grande. To compound the impacts, San Ildefonso has recently acquired 7,000 additional acres of forest land in the Upper Guaje Canyon through its land claim settlement which now expands the potential area for flooding, erosion and contamination.

San Ildefonso Pueblo, with the assistance of federal and state agencies, has taken preventative measures like installing concrete barriers and sandbags around vulnerable Tribal properties, and clearing culverts and removing floatable debris to protect property and infrastructure and mitigate damage from erosion and run-off.

But it is our fear that these emergency actions will not be enough and the Pueblo lacks the resources to handle the immediate and longer term impacts of the Las Conchas Fire. The limited funding available to certain New Mexico Counties and

Santa Clara Pueblo because of the declaration of an emergency by New Mexico Governor Susanna Martinez were not available to San Ildefonso Pueblo.

As a result, the Pueblo was forced to seek assistance from the different federal agencies and manpower and equipment from the County and State. We appreciate their response but understand that it is limited in scope and purpose. The Pueblo must look for additional resources to continue to work on the immediate areas of concern and to assess and plan for the mid and long range work that needs to be done.

One of the most important areas that San Ildefonso Pueblo must deal with as a result of the Las Conchas Fire is environmental monitoring for increased levels of contamination resulting from run-off, sediment transport, airborne particles and smoke. This is because the Pueblo de San Ildefonso shares a common boundary with the Los Alamos National Lab and is in close proximity to areas of potential contamination from LANL activities. The Pueblo's primary concern is for the health and safety of its community members, but contamination will ultimately impact other communities downstream via the Rio Grande. The contamination could also show up in wildlife and vegetation used by San Ildefonso members so that long term monitoring is necessary for the protection of future generations.

Sadly, San Ildefonso also sees the immediate and long term impact of the Las Conchas Fire on its cultural and traditional practices. The Fire has damaged or exposed sites outside of San Ildefonso lands that are accessed and used by our Pueblo members. These priceless sites are not subject to damage from erosion and are vulnerable to looting and vandalism. Other cultural impacts are the loss of wildlife, change in wildlife migratory patterns and the loss of cultural plants. Again, the Fire did not have to burn on San Ildefonso lands for it to have a detrimental impact on our people and community. And it is unfortunate that these types of damages cannot be adequately quantified or valued by typical valuation methods.

These are some of the areas that the Pueblo de San Ildefonso knows it will have to work with as emergency mitigation and restoration activities begin. But there are likely unforeseen issues that will arise that the Pueblo will need to deal with. The Pueblo lacks the personnel and resources to address many of these areas. Unlike the Cerro Grande Fire which resulted from federal action and provided compensation and remediation funding, the Las Conchas Fire will not generate that type of response or resource commitment. So to that end, we respectfully ask the assistance of the Federal Government, as our Trustee, to:

1. Authorize and direct federal agencies to allocate year-end surplus funding to assist the Pueblo de San Ildefonso with immediate emergency mitigation activities and longer term evaluation of the impacts and planning of treatments and responses to these impacts. We have specifically asked the Bureau of Indian Affairs—Southwest Regional Office to look for funds within its year-end budget to assist San Ildefonso in these efforts.

2. Schedule an oversight field hearing to assess the progress of federal mitigation, restoration and rehabilitation efforts and to facilitate planning for the years to come.

3. Support HR 1953, sponsored by Representative Rahall, to amend the Stafford Disaster Relief and Emergency Assistance Act to allow Indian Tribes a process to directly request the President for a major disaster or emergency declaration. This recognizes government-to-government relationship between the Federal Government and the Tribal Governments. It also prevents Tribes from having to work through the State for a major disaster or emergency declaration—an existing process that may not always work to get resources to the Tribal government that needs emergency response and resources.

In conclusion, the Pueblo de San Ildefonso is appreciative of all of the efforts of the federal and state agencies during the crisis caused by the Las Conchas Fire. It is a reflection of what can be done collectively and positively. We are hopeful that this type of coordinated response will continue for locating and combining resources and manpower to address this natural disaster that has impacted the Pueblo de San Ildlefonso and the surrounding communities.

Attachment

AREAS OF IMMEDIATE CONCERN* FOR PUEBLO DE SAN ILDEFONSODUE TO POTENTIAL FLOODING AND RUN-OFF CAUSED BY LAS CONCHAS FIRE

Guaje Canyon

1. Emergency evacuation route from Los Alamos—potential damage
2. Potential Infrastructure damage—low water crossings, County wells, electric lines/poles, and exposed gas lines.
3. Highway 5o2 crossing and Intersection of 502 and Highway 30—already experiencing erosion/undercutting at Intersection. Likely to increase.
4. E109.9 gage—vulnerable location.
5. Warner house crossing and Otowi historic bridge—vulnerable locations.
6. USGS monitoring equipment close to Rio Grande—vulnerable location.
7. NMED/LANL water sampling equipment—vulnerable location.
8. Potential damage due to debris—boulders, etc.
9. High sediment deposits at all locations in canyon and in Rio Grande—potential impact by redirecting Rio Grande flow.
10. Potential contamination because of run-off.
11. Traditional use trail—concern about protecting trail and being present if other roadwork is done in area to avoid inadvertent damage to trail.
12. Increased land area—Pueblo has acquired new lands through land claim that are further up Guaje Canyon. Pueblo now has larger land base and larger potential impact area. Roads in area are vulnerable.

Chupaderos Canyon

1. Battleship Housing area—structural integrity of levee located above housing area.
2. Pajarito Housing area.
3. Sewer lagoons—vulnerable location.
4. High sediment deposits—could impact Fishing Lakes across Rio Grande.
5. Windmill and access road—vulnerable location.
6. Structural integrity of box culverts all along Highway 30—many have very little clearance now.

Garcia Canyon

1. Irrigation ditches—vulnerable to high volume of water, debris.
2. Housing units by Rio Grande—also vulnerable because of any additional run off from Santa Clara via Rio Grande.

Totavi Gas Station Area

1. Gas station building, parking lot, underground storage tanks—need to protect.
2. Utility lines.
3. Monitoring wells in stream area.
4. Pump house for Totavi water supply.
5. Existing riprap above the station area—already experiencing some erosion and need to revisit to determine integrity.

Pueblo and Los Alamos Canyons

1. Canyons feed into stream bed behind Totavi Stations so increased flooding or run-off from these canyons can increase potential damage to Station.

Los Alamos Canyon

1. Contaminated sediment—concern about contaminated sediment transported down this canyon.

Sandia Canyon

1. Increased run-off.

Reservation Wide Concerns

1. Contamination—need environmental monitoring of air, water, sediment, plants, humans.
2. Potential damage to cultural sites, access to sites, cultural plants and animals.
3. Mitigation efforts—reseeding burn area with non-native species, and potential run off carrying non-native seeds to Tribal lands/areas.
4. Access to resources and other agencies—lack of Tribal resources to handle all of these areas.

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*1AThis list is not conclusive and is only meant to identify areas of immediate short-term concern in possible flooding and runoff situations. There are other mid- and long-range issues and concerns that will arise or be identified by the Pueblo in the near future.

PREPARED STATEMENT OF HON. ROBERT PECOS, GOVERNOR, PUEBLO DE COCHITI

Chairman Akaka, Vice Chairman Barrasso and Members of the Committee, my name is Robert Pecos, Governor of the Pueblo de Cochiti. Thank you for extending the deadline to those of us who could not be there for the July 21, 2011 hearing to provide testimony to add to Governor Dasheno's testimony.

We express our gratitude and thank him for his eloquent articulation of our collective experience, sharing the scope and the magnitude of the impact of the Las Conchas Fire; during, in the aftermath and the long difficult road to recovery that is ahead of us. For those of our generation, we will never see in our life time again, the beauty of our homelands given to us by our Creator. It is a deep wound that has pierced our hearts to cause deep emotional wounds that will leave scars for the rest of our lives. But it is our obligation that we do all we can to restore what we have collectively lost for future generations to see and to feel the spirit of our homelands that connects us to our forefathers who once walked upon and worshipped upon these lands that have sustained us since time immemorial physically and spiritually. The future rehabilitation and mitigation of the impacted areas will require extensive work and we are prepared to do all we can to share in the healing of these areas.

No words can describe and convey to anyone not a witness the devastation caused by this fire, now the third major fire in recent years. There are multiple layers of impact, from the inter-governmental interaction to the deepest core of our culture. I will attempt to convey to you the lasting impacts of these multiple layers to our culture, our people, to the lands and to the environment.

LACK of CAPACITY

1) We have never had resources to invest to develop the necessary capacity and infrastructure to respond to such a fire. We don't have the proper equipment and facilities. We have no defined budget for personnel to staff an Emergency Management Office even as we are immediately below one of the largest man-made lakes in the country (Cochiti Lake) to execute an emergency evacuation plan. We had no equivalent personnel to interface with BAER response teams during and now, in the aftermath of the fire. We had little to no capacity to communicate with key BAER and Command Post personnel on site throughout the fire.

How did we respond?

1) The Tribal Council convened an emergency meeting to declare a State of Emergency to trigger a number of immediate considerations in accessing resources at the state and federal levels which we have yet to see.
2) It authorized an emergency appropriation of $100,000 to be used to bring on board staff to assist in the interfacing with the various BAER teams and Command Post operatives. It authorized the creation of an Office of Emergency Management and staffed it to provide a single source of contact and respond to immediate efforts. It immediately engaged in the development of mitigation and treatment plans to prepare for the predicted floods even as the fire was not yet contained as we were entering the monsoon season. This provided the means to bring heavy equipment on site immediately.

IMMEDIATE THREATS

As we entered one of the Pueblo's major ceremonial period of the year to culminate on the 14th of July in a public ceremony when literally hundreds of people attend to celebrate with us, the National Weather Service was forecasting major rainfall in the days leading up to our ceremony. One to two inches was predicted to fall in the most severely burnt areas. The runoff from the impacted areas was calculated to run at about 8,000 cubic feet per second which would be equivalent to the flows of the Rio Grande River. Ironically, Cochiti Lake constructed as a flood reservoir would protect everyone else except those upon whose lands it sits on, us at Cochiti Pueblo. We happen to be below the largest canyon in the impacted area, Peralta Canyon. The canyon is outside of the flood reservoir area. Uncontrolled floods would hit the Pueblo directly and wash our beloved Pueblo into the Rio Grande River if proper mitigation and treatment were not immediately initiated.

ORDER FOR POTENTIAL EVACUATION

The Governor convened an emergency meeting with the Tribal Council and its religious leaders to contemplate the issuance of a possible order to evacuate. It was a heart wrenching dialogue that led to a BAER representative to ask, "what will you do if the floods come during your ceremony?" An elder responded and said, "if, we must go, I am prepared to go engaged in ceremony, our prayers answered by our deities to bring us rain to end this terrible fire and drought and if in the process, we are sacrificed, so be it, I shall go peacefully and disappear with the river." With that, we continued our ceremony in the face of imminent threats of flooding.

It would be anything but peaceful as our people were alarmed to hear of the imminent threat of flooding. The wisdom of the Tribal Council to appropriate $100,000 dollars paid off. Had we waited for the State of New Mexico or the BAER Team for resources to effectuate an emergency treatment plan, we would still be waiting. The $100,000 was used to activate heavy equipment operators contracted by the Tribe to do the immediate mitigation and treatment guided by hydrologists and engineers. That plan then and now has been our salvation. The total cost has exceeded that initial amount and as we have been assured of reimbursement, we are authorizing using that as a revolving fund to continue work on necessary mitigation as recommended by the BAER teams. The cost of mitigation will be nearly a half million dollars.

LESSONS LEARNED

One of the immediate frustrations was that the federal agencies affected; Department of Energy, the Los Alamos National Laboratory, the National Park Service, the National Forest Service, the Bureau of Land Management, the USGS, US Corps of Engineers, Homeland Security, State Emergency Management Office and the Bureau of Indian Affairs all had their massive teams of experts responding then and now. The frustration was that each was concerned with only their areas of jurisdiction. Understandably so, however, it left us, the Pueblo, with no resources to staff our team with experts to become the obvious weak link in this massive response effort. This becomes the classic example once again that if those tribes adjacent to federal lands are not properly included as part of the management team and provided a base budget as part of a cooperative management team approach, we will always be the weak link when disasters occur. And yet, we are often the closest and the most directly affected by these fires and other disasters that impact people directly.

RECOMMENDATIONS:

1) Tribes must be given the authority to declare their own disasters and have immediate excess to resources in such cases. The political reality is that even in states like New Mexico where the political climate is favorable, declaration of emergencies and access to resources is too bureaucratic and cumbersome. Although appreciated, in most cases, the reality is too little too late. Given similar criteria and guidelines as states, tribes should have this authority to declare emergencies and resources provided to the Bureau of Indian Affairs so tribes can effectuate more effective responses in these cases. Obviously the threshold and other appropriate considerations must be evaluated to appropriately align with FEMA requirements. From our experiences, this is absolutely necessary. It is too compelling an issue to not be properly assessed and that all necessary actions be taken by Congress to rectify this unfair treatment.
2) Resources must be provided to develop emergency management offices and resources provided to staff these offices where tribes are adjacent to these federal lands. It makes logical sense and the lessons learned from this firsthand experience should lead to a proactive and comprehensive response. We therefore support the efforts for these measures to be legislatively pursued to see it become a reality across Indian country where tribes are similarly situated. It clearly goes beyond the best interests of the tribes and goes to the heart of the how we develop a comprehensive integrated system for the ultimate Public, Health and Safety

response in these circumstances that impacts a broad range of jurisdictions. We can be significant and effective partners or the weak link in a network that exists with the presence of federal agencies and state governments.

3) Proper consideration should be given again where tribes are situated in these geographic locations sharing jurisdictional boundaries that base budgets be provided for tribes to build their capacities in similar ways as these federal agencies enjoy having a full complement of human resources that could be shared to strengthen our shared stewardship and management of these valuable natural resources.

IMMEDIATE ACCESS TO RESOURCES IN THE AFTERMATH

We are asking you to support and direct the Bureau of Indian Affairs to provide each of the impacted Pueblos a minimum of a million dollars to be utilized to staff a technical team to develop appropriate immediate, short term, mid-term and long term master plans similar to what the federal agencies will be developing in isolation of the impacted tribes. This can be done through year end monies at the regional and central offices. We have made that request recently to Mr. Billy Walker at the Albuquerque Area Office of the BIA. Without the resources, the aftermath and recovery efforts will be just as devastating to be left totally out of the loop. These resources can be utilized for both program and capital infrastructure as needed.

Early warning systems must be put in place. These are dependent on monitoring systems that include precipitation gauges, stream gauges and monitoring systems tied to communication systems that trigger early warning for public, healthy and safety considerations. These are very expensive but necessary.

RESTORATION AND REMEDIATION

The fire impacted the core of our spiritual existence. Our Origin stories, our migration stories, our songs all intimately remind us of our deep connections to these lands. As one elder stated, "this has pierced our hearts and causes us great pain." The cultural resources we call the "Gifts of our Creator" are now all gone. Our elders and spiritual leaders are deeply saddened by the losses. In our annual ceremony in July for the first time since time immemorial, we had to go elsewhere to gather what we needed for ceremony. It was a very sad experience.

RECOMMENDATION

We humbly ask that you direct the local managers of the federal agencies to work with us to identify new permanent gathering places and year round access. For our generation, we will never have the opportunity to take our grandchildren, our great grandchildren to gather the gifts of our Creator for preparation and for use in ceremony where we went with our fathers and grandfathers. We need to establish new places. Our cultural survival is dependent on all recovery efforts.

1) We ask for your support for the allocation of resources to fully implement a comprehensive plan as recommended by the various BAER teams and that provisions be included that the Pueblos impacted be consulted in all phases to minimize any further desecration to the literally

   hundreds of cultural sites now exposed and that work in these identified areas of the most sensitive nature be stabilized and restored by Pueblo members.

In conclusion, we want to thank all the representatives of the federal agencies, especially the men and women firefighters for their courage and service and to our congressional delegation for all of their efforts during this difficult time. The collective efforts in these times make us all proud to be part of this great country. The many volunteers epitomize the beauty of all that America stands for.

On behalf of the people of Cochiti, thank you.

PREPARED STATEMENT OF HON. RANDY KING, CHAIRMAN, SHINNECOCK INDIAN NATION

Dear Chairman Akaka, Vice Chairman Barrasso and members of the Committee:

My name is Randy King and I am the Chairman of the Shinnecock Indian Nation (the "Shinnecock Nation"), Board of Trustees. Thank you for the opportunity to submit these comments on an issue of grave concern for the Shinnecock Nation; emergency preparedness for natural disasters, particularly for issues concerning flooding as the Nation's reservation is located within the Atlantic hurricane zone, and has been impacted by shore erosion possibly caused by global warming.

The Shinnecock Nation's reservation is located within the geographic boundaries of Suffolk County, New York on Long Island. The Shinnecock Nation, and other Tribal nations such as the Unkechaug Nation that are located along the southern shore of Long Island are at high risk for suffering from a potential natural disaster, particularly hurricanes. Please see the map of "Historic Hurricane Events Tracking Through New York State 1888–1989" attached as exhibit A to this letter. As you can see our reservation is located in the heart of hurricane territory.

It is critical that the Shinnecock Nation continue its efforts develop and finalize a detailed emergency response plan. In order to continue this develop and finalize a plan it is critical that a coordinated effort with federal agencies be in place to ensure federal support in the event such a disaster occurs. Federal agencies should be directed to coordinate with Nation leadership to ensure that these important protections are in place to protect Tribal members and Native communities. Recently the Committee approved the *Quileute Indian Tribe Tsunami and Flood Protection Act and the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2011.* Similar legislation should be considered to protect Tribal interest on Long Island in the event of a natural disaster, including incremental shore erosion that diminishes reservation lands over time.

The Shinnecock Nation faces potential disaster if such a hurricane hits the Atlantic seaboard, or if significant shore erosion eliminates major portions of the Shinnecock Nation's land base over time. The reservation is surrounded on three sides by water, and could face total devastation with one horrendous storm.

The Shinnecock Nation's status was in limbo for the last 32 years, with federal acknowledgement formally finalized on October 1, 2010. The Shinnecock Nation has much to learn regarding the process and bureaucracy of federal responses to such disasters, however wants to be proactive in voicing its concerns and needs should a natural disaster impact the Shinnecock Nation's land base. We look forward to working with the federal agencies, including; the Department of Interior ("Interior"), Department of Energy ("Energy"), Department of Agriculture ("Agriculture"), Army Corps of Engineers, Homeland Security, Housing and Urban Development ("HUD"), Department of Commerce ("Commerce"), Federal Emergency Management Agency ("FEMA"), and US Environmental Protection Agency (USEPA) to coordinate these critical programs. In furtherance of these goals we make the recommendations set forth below.

Recommendations

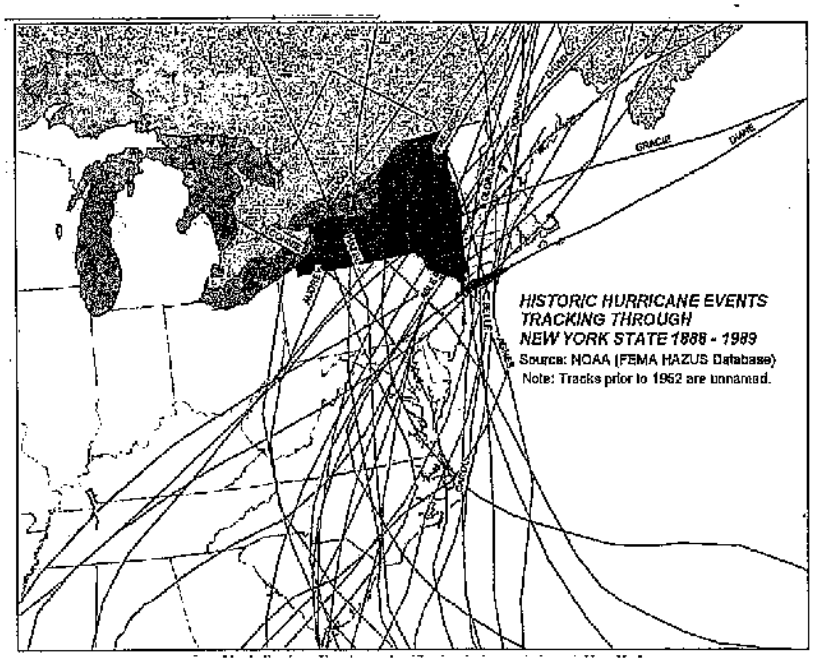
With these comments the Shinnecock Nation agrees with many of the recommendations set forth in Governor Dasheno of the Santa Clara Indian Pueblo's comments presented on July 21, 2011.

1) Authorize Indian nations to make requests directly to the President for a Federal Disaster Declaration.
2) Schedule oversight field hearings over the next year throughout Indian country to assess potential for disasters and to facilitate emergency planning efforts for the years to come.
3) Work with the Administration and the Appropriations Committees to include budget requests and to negotiate for emergency appropriations for nation hazard mitigation, watershed restoration, and burn area emergency response plan implementation generally.
4) Direct key agencies such as Interior, Energy, Agriculture, Army Corps of Engineers, Homeland Security, HUD, Commerce, FEMA, and USEPA to establish inter-agency standing taskforce to address Indian country emergencies. An inter-agency standing taskforce would greatly assist in facilitating immediate responses to emergencies in Indian country.
5) This inter-agency task force should also examine the Climate-induced weather extremes facing Indian county that indicate Indian country will be faced with more frequent and more extreme natural disasters going forward do to carbon impacts on climate change globally.

6) Authorize and direct agencies to allocate resources for technical assistance for emergency response planning and implementation in Indian country, as well as direct appropriate agencies to address the immediate emergency needs of Tribes as necessary, and respond to such Tribal requests in an expedited basis.

Thank you for your time and consideration of this important matter. If you would like additional information or more specific information regarding the Nation's circumstances as to this matter you can contact me.

Attachment



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