

Indian Affairs Committee Meeting



Pueblo of Santa Clara
Governor J. Michael Chavarria

Pueblo of Taos

July 20, 2015

Discussion Points
Interim Committee on Indian Affairs
Monday July 20, 2015
Taos Pueblo Community Center
J. Michael Chavarria, Governor
Santa Clara Pueblo

Good morning Chairman Pinto, Madam Chair Clahchischilliage and Members of the Committee. My name is J. Michael Chavarria, I serve as the Governor for Santa Clara Pueblo, serving my fifth term as Governor for my Pueblo.

Thank you for the invitation and opportunity to come before you today to express my concerns related to the challenges dealing with the State of New Mexico especially dealing with Capital Outlay, Tribal Infrastructure Funding and Water Trust Fund funding opportunities.

The recent disagreements over capital outlay illustrated a change in attitudes toward the funding of tribal priorities. Cuts to tribal senior and education programs came as a shock to both myself and my Tribal Council.

While we are thankful for the capital outlay funding support and restoration of projects during the special session for these programs, the final capital outlay bill ended up taking \$2 million from the Tribal Infrastructure Fund (TIF) for the Taos Water Rights Settlement. Overall, the state's share of any Indian water rights settlement is to pay for the share of non-Indian water users and funds through TIF should not have been utilized to cover such obligations on behalf of the State. By taking away these critical funds from the TIF, the state is further diminishing its investment in tribal communities where there is still a tremendous need to upgrade existing infrastructure.

At the All Pueblo Council of Governors (APCG) meeting on June 19, 2015, Moses Winston, General Counsel with IAD, stated that LFC can use the "*Not withstanding*" clause to make appropriations for departments without going through a Board for approval. **Will this set a precedence on future funding? Can we (tribes) appeal?**

TIF has been a prime financial resource for many tribes as we seek to improve our existing infrastructure from planning to project implementation. The funds through TIF give the Pueblo the opportunity to leverage these funds with federal grants and private resources through the philanthropic community.

The following is a list of projects that Santa Clara Pueblo was fortunate to receive through the TIF:

2010 TIF \$300,000 for Waste Water Project
2012 TIF \$1,650,000 for Waste Water Project
2012 TIF \$120,000 for Water Planning Grant
2013 TIF \$1,300,000 for Water Project
2013 TIF \$75,000 for Health Clinic Planning
2015 TIF \$250,000 for Waster Water

TOTAL FUNDS RECEIVED: \$3,695,000 “figure does not include the \$1,650,000 for the 2015 TIF”

2015 TIF \$1,650,000 for Water Project (THIS PROJECT WAS IMPACTED BY CAPITAL OUTLAY SB1) – As mentioned due to the \$2 million used to supplement the Taos Water Rights deal the Pueblo’s project was put on the chopping block and no funds were received for this critical infrastructure project (see 2015 TIF projects awards list).

The project will consist of construction of wastewater collection system improvements in the West Housing Area and is a continuation of Phase 1A: East Village Collections which is currently in construction and scheduled to be completed this spring.

The project will be replacement and realignment of approximately 13,000 linear feet of 6” clay collection lines; abandonment of 39 manholes with 47 new realigned manholes; realignment of sewer services at each residence to the new collection lines; and connection to new Phase 1A sewer and existing sewer.

Connection to the new Phase 1A sewer will be made via a crossing of NM State Road (SR) 30 per NM Department of Transportation (DOT) standards. The Pueblo has engaged DOT to include the installation of the steel casing for the sewer crossing in their upcoming road improvement project along SR 30.

Was the move to take money from TIF a one-time situation or should tribes expect further attempts to use these set aside for other statewide projects?

Capital Outlay

Santa Clara Pueblo 2015 Capital Outlay – SB 1

Through ALTSD:

Senior Center – Meals Equipment	\$5,500
Senior Center Improvements	\$100,000
Senior Center Improvement Code	\$72,700
TOTAL REQUEST:	\$178,200

Through Indian Affairs Department:

Community Center Roof Repair	\$47,000
Tribal Administration Complex	\$100,000
TOTAL REQUEST:	\$147,000

With the recent disagreements over capital outlay and how to fund projects, there was a great deal of discussion about reforming how the state allocates capital outlay.

1. Will there be efforts to make reforms in the next session?
2. If so, how will the state guard against spending more money in urban and built up areas versus rural areas?

Water Trust Board

WTF is another valuable resource for many tribes. The capital outlay bill also took \$2 million from the Water Project Fund (WTF), another source of funding for many tribes attempting to meet water and wastewater infrastructure needs.

Here is a summary of what Santa Clara Pueblo has received in the recent past:

2008 WTB \$978,780 for Water Project

2010 WTB \$1,625,591 for Water Project

2013 WTB \$666,000 for Water Project

2015 WTB \$1,000,000 for Watershed Restoration

2015 WTB – Santa Clara Pueblo had 2 more competitive application that were not awarded do in part to SB1.

TOTAL FUNDS RECEIVED: \$4,270,371.00

Was the move to take money from WTB a one-time situation or should tribes expect further attempts to use these set aside for other statewide projects?

It is very important to address these issues with legislators and the Governor to express our concerns over the erosion of these funds, which help to leverage additional federal and private funds, as well as help meet ongoing needs of tribal and other communities throughout New Mexico.

Additionally, the state is requiring more information from tribes to access capital outlay, TIF, and WTB awards. This includes completing a planning document, Infrastructure Capital Improvement Plan (ICIP), and providing answers to questionnaires provided by the Department of Finance Administration, along with the long process to authorize the use of funds from TIF and to close out the WTB grant funding. Both the IGA (Inter-governmental Grant Agreement) and the WTB closing processes has led to delays often in getting funding to the Pueblos as well negatively impacting the performance periods for the TIF and WTB

TIF IGAs – The time to process an IGA (inter-governmental agreement) has negatively impacted the performance period. In other words it has taken far too long to fully execute the IGAs and this has resulted in Pueblos needing to require extensions unnecessarily. There is a variance and discrepancy in the requirements in the bond sale requirements for performance in spending the funds versus the TIF (and IGA) performance periods. **We request that the performance period not start until the IGA is fully executed by both parties.**

Challenges of Santa Clara Pueblo

The Santa Clara creek watershed has gone through significant changes during the 2013 monsoon season. The surface processes have become more dynamic that what was expected.

The altered hydrology and geomorphic changes have caused tremendous challenges for the entire watershed of the Santa Clara Creek and have caused roughly \$150 million in infrastructure damages resulting in 5 Presidential Disaster Declarations for the Pueblo.

Because of the severity of the burn, there has been a dramatic reduction on the infiltration rates within the burn area. This has resulted in a four-to-eight fold increased runoff and sediment/debris flow along the creek that poses a severe threat to the life & safety of Santa Clara Pueblo Community and increases the potential for widespread property damages from flooding.

A critical element is the cost matching obligations – which has caused a financial hardship among the Pueblo’s coffers, resulting in the request for financial waivers in reduction of the percentages

We at Santa Clara Pueblo continue to work on new paths for funding all of these critical needs. We are pursuing a groundbreaking HUD resiliency grant and we continue to work with the private philanthropic community. But, for the good of the Pueblo, we have to pursue every single avenue which is why we are exploring the ability- to-pay provisions from the Corps' statutes as an example.

The Santa Clara Pueblo Tribal Council has set aside \$5 million in tribal funds for cost match obligations in case we have a shortfall of funding through 638 contracts, state grants and in-kind contributions/services. It needs to be stressed that this has placed a negative financial impact on all other pueblo programs and services for our community. We are sacrificing some social and administrative needs for the protection of our Pueblo.

Resiliency

HUD NDRC – The State needs to understand that Santa Clara Pueblo has extensive experience and significant unmet need after 5 PDDs. In fact, the State should be vested in this HUD NDRC grant effort because the State shares the burden of substantially large cost share requirements because there are 25% cost share requirements for 4047 and 4079. A strong partnership between SCP and the State with acknowledgement of the capacity and capability at the local level, could result in a successful HUD NDRC grant in excess of \$20 million. So far the State has NOT included the efforts of SCP that demonstrate resiliency. SCP was asked to submit draft language to the State and none of that grant narrative language was included in the States initial Phase 1 submittal to HUD for the NDRC. HUD is looking for active resilience efforts and SCP has considerable experience and the State must take heed to the benefit of both the State and SCP. The State and SCP need this partnership to be a success.

We realize Santa Clara Pueblo's situation is unprecedented and that we are forging new ground together. We don't consider ourselves experts in dealing with Natural Disasters – the Pueblo is fortunate to have knowledgeable, dependable and hardworking staff, departments and leadership that have tried their best to educate themselves and understanding their roles and responsibilities to fulfill their obligations in emergency situations.

The main priority for the Pueblo is preventing further and future catastrophe from occurring, while saving the lives of a community and protecting important resources, infrastructure, and properties for future generations.

Santa Clara Pueblo has taken the opportunities afforded under the Amendments to the Robert T. Stafford Act. Santa Clara Pueblo was the first Pueblo within FEMA Region 6 to request Direct Assistance from the President.

Project Implementation is crucial to protect the lives and provide safety for our community but also to prohibit additional damages to the same infrastructure over and over again. In an effort to seek funds for full project implementation Santa Clara Pueblo is actively seeking support through the National Disaster Resiliency Competition (NDRC). The NDRC notice of funding availability was published through HUD requires the Pueblo to partner with the State of New Mexico despite the fact that the Stafford Act allows for tribe to have direct disaster declarations. Santa Clara Pueblo will continue to be proactive in seeking the NDRC funds through HUD and will continue to exhibit strong resiliency that is inherent to our culture and traditions.

In Nov. 2013, FEMA was activated under the National Disaster Recovery Framework (NDRF) to create a Comprehensive Federally-led strategy for the Pueblo to identify all possible actions that would build the community's resilient to future flooding. USACE is leading the Infrastructure System portion of the Strategy.

Three immediate and vital components to this strategy are to improve the Early Warning System for effective evacuations, build an effective flood risk reduction facility at the lower end of the burned canyon, and improve/build emergency flood fight features within the village. Below are examples of tasks to be completed and the responsible party:

- Upgraded/repared Early Warning System, Action Plan, Outreach (**Pueblo/BIA//USACE/USGS**)
- Design/build emergency flood risk reduction dam to capture debris flows and mitigate peak flows from the burn area (**USACE**)
- Implement emergency sheet pile floodwall at the Administrative Center (**BOR**)
- Identify/construct, emergency floodwalls at other critical village locations (**Pueblo/FEMA**)
- Raise/armor existing emergency berms throughout village (**Pueblo/BOR**)
- Deploy sediment detention nets on seven tributaries in the canyon (**Pueblo/FEMA/USACE**)
- In-channel tree felling/grade stabilizers to trap debris in canyon. (**Pueblo/NRCS**)
- Increase the capacity of the channel in the Village (**Pueblo/NMDOT**)
- Continue 2013 debris removal upstream of village (**Pueblo/NRCS/FEMA**)
- Build one gabion check dam upstream of the Village (**Pueblo/NM State/USACE**)
- Build interim point protection within the Village/at the sewage lagoons (**Pueblo**)
- Monitor sedimentation/stability at concrete box culverts (only egress routes) (**Pueblo/NMDOT**)
- Complete trial of proposed grade stab. structures: Net-wire, log drop, rock and brush (**NRCS**)
- Evaluate mesa tops for water catchment/minimize gully flow into canyon (**NRCS**)
- Complete study of replacement of the 4 dams (**FEMA**)
- Begin monitoring volume and rate of sediment deposition within/upstream of village (**Pueblo/USACE**)

The magnitude of the flooding

- has wiped out the existing water control structures within the canyon;
- destroyed once pristine Native Cutthroat fish habitat, including 100% fish kill throughout the entire length of the Santa Clara Creek;
- has impacted the water quality standards and the designated uses identified for high quality cold water fisheries;
- has impacted roads, taken away culverts; and
- continues to impact the various Traditional Cultural Properties throughout the entire system of our Sanctuary, grocery store, clothing store, pharmacy, and biology classroom.

Resulting in creating a holistic approach to be competent to collaborate and utilize the various existing Authorities within each federal agency to manage, prevent, educate, and mitigate situations at times out of our control

- especially during emergency types of situations

As a result of the altered hydrology and Geomorphic changes, the Pueblo is in greater danger today of a catastrophic flood that could result in a major loss of life and property.

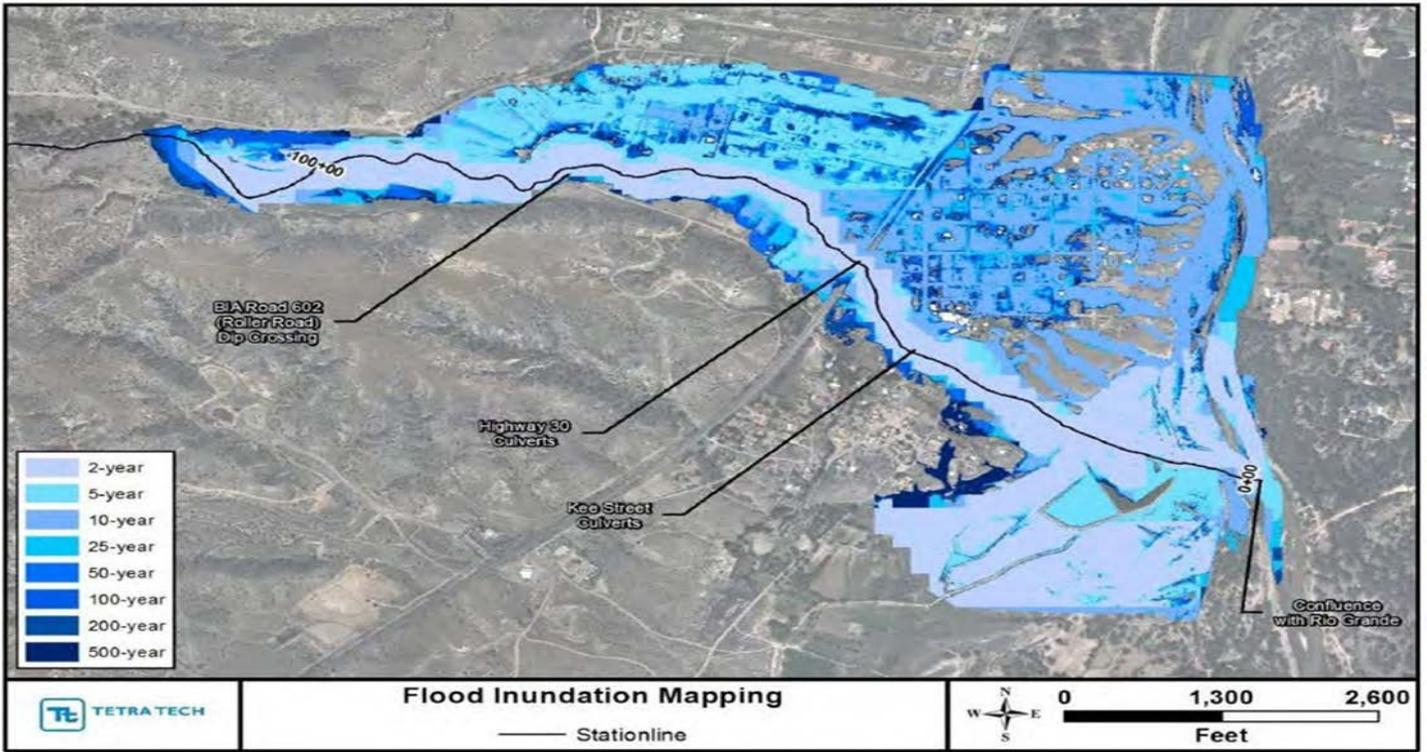
As the graph below indicates the Santa Clara Creek Pre and Post “Altered Hydrology for Santa Clara Creek data produced by the USACE Technical Assistance Report”. The worst case scenario at the Santa Clara Creek at Rio Grande Confluence: For a 1% chance of a 100 year storm on any given day = Pre-fire 5,640 (cfs) and Post-fire 21,450 (cfs).

Table 1: Flow Results Summary (cubic feet per second, cfs)
Source: Fire Altered Hydrology for Santa Clara Creek/ USACE Technical Assistance Report

LOCATION	CONDITION	50% CHANCE (2-YR)	10% CHANCE (10YR)	1% CHANCE (100-YR)
Santa Clara Creek at Dip Crossing	Pre-fire	300	1,900	5,000
	Post- Fire	2,650	8,500	20,300
Santa Clara Creek at Rio Grande Confluence (Outlet)	Pre-fire	350	2,260	5,640
	Post-Fire	3,100	8,900	21,450



Below is a Map created by the USACE contractor Tetra Tech – indicating the potential flood inundation for potential flood events from 2 yr. thru 500 yr. flood events within the Santa Clara Pueblo Community.



We were informed from your June 15, 2015 meeting that you would like to hear more from tribes and pueblos. With that, Secretary Kelly Zunie and newly appointed Deputy Secretary, Suzette Shiji, visited the Pueblo on Wednesday, July 15, 2015 and received an update of the various funding, progress of projects, continued needs of the Pueblo then a tour of the canyon after the fires and floods. We also extend the same invitation to any of you; you are welcome to Santa Clara Pueblo anytime.

Thank you for this opportunity, I stand for questions.