

Testimony to the Interim Indian Affairs Committee

Michael S. Duvall, Nov 1, 2011

Thank you for the opportunity to appear before you today to discuss the State's response to recent emergencies that affected parts of northern New Mexico, specifically the Pueblo of Santa Clara.

I would like to first begin with a brief overview of the Department of Homeland Security and Emergency Management's mission and focus. The Department of Homeland Security and Emergency Management, is a team of professionals that are committed to the preparation for, mitigation of, response to, and recovery from natural and manmade disasters. The department assists and advises local jurisdictions with these tasks. During major emergencies and disasters, our department serves as the primary coordinating body for State agencies. Both federal and state funds contribute to our effort to assist in responding to and recovering from state disasters.

My remarks are divided into three inter-related, but distinct sections. I will first describe the events surrounding the Las Conchas Fire and the recovery efforts. I will then discuss the flooding mitigation efforts undertaken by the Pueblo and state in the immediate aftermath of the fire. Finally, I will discuss the late August flooding events that impacted the Pueblo and the ongoing recovery efforts from those floods.

The Las Conchas Fire began at approximately 1:00 PM on Sunday, June 26th. On that afternoon, the state activated its Emergency Operations Center, contacted local emergency management personnel immediately affected by the fire, and began supporting response operations in Sandoval, Los Alamos, and Rio Arriba counties in addition to the surrounding Pueblos. Nearly 100 New Mexico National Guard members were deployed to the Los Alamos

area to assist with possible evacuation operations. I immediately requested assistance from the Federal Emergency Management Agency (FEMA).

On the following day, the State Emergency Operations Center, also known as the 'EOC,' contacted all impacted communities and pueblos to assess the situation, compile information and address needs. On June 28th, Governor Martinez signed an Executive Order declaring a State of Emergency for the Las Conchas Fire. On the same day, the State EOC was notified of smoke issues affecting Santa Clara Pueblo. Air quality alerts had been issued by the state in the weeks before the Las Conchas fire due to the smoke coming into the state from the Wallow Fire in Arizona and western New Mexico. Frequent smoke health alerts were provided upon the beginning of the Las Conchas Fire and the state EOC monitored visits to local area clinics and hospitals for increases in smoke-related visits. The state EOC coordinated the deployment of ground and airborne air monitors surrounding the Las Conchas Fire, including three ground monitors that were positioned on Santa Clara Pueblo on June 29th.

On Friday, July 1st, the first reports of fire spotting on Santa Clara Pueblo land were reported. While fire suppression efforts were led by the U.S. Forest Service, the state EOC remained in contact with the fire teams in order to provide and position resources to assist with public safety. During the fire, shelters were established at both the Cities of Gold Casino and The Santa Clara Hotel and Casino. Local emergency managers and the Red Cross, with the assistance of the state EOC, coordinated the support of these shelters to provide sleeping areas, food, health services, water, and other basic needs. The Santa Clara Pueblo provided outstanding support to the shelter at the Santa Clara Hotel and Casino where approximately 100 evacuees from Los Alamos were sheltered for one week.

On July 7th, the state Executive Order was amended and the Pueblo of Santa Clara was added to the list of disaster areas.

In total, the Las Conchas fire burned 156,593 acres, the largest fire in recorded New Mexico history. State-wide, there were no fatalities. Sixty-three primary or secondary residences were destroyed and forty-nine outbuildings were destroyed. At one time, there were three Type 1 fire incident management teams coordinating the fire suppression with 2,557 firefighters involved in the operations. A Type 1 Incident Management Team is the highest level of command team in the United States and for New Mexico; this was an unprecedented number of Type 1 Teams on one fire at one time.

The Santa Clara Pueblo emergency manager was integrated into the National Forest Service's Incident Management Team. With the inclusion of Pueblo officials and tribal members on the firefighting team, the firefighting efforts were undertaken as effectively as possible while attempting to respect the sacred and historical sites of the Pueblo.

Tragically, approximately 17,000 acres of Santa Clara Pueblo land were burned. Much of the affected land on the Pueblo was sacred forest land. This area did not contain inhabited structures. The Pueblo estimates that less than ten non-residential outbuildings were damaged or destroyed. Within the Pueblo lands, it is estimated that two-thirds of the agricultural watershed was affected by the Las Conchas Fire.

As I mentioned earlier, our efforts to obtain funding for all jurisdictions to respond and recover from the Las Conchas Fire began almost immediately after the fire began. Five hours after the beginning of the Las Conchas fire, I authorized an application for a FEMA Fire Management Assistance Grant—more commonly referred to as an 'FMAG.' Under the Stafford

Act, the FMAG is a grant made available to States, local governments, and tribal governments to fund mitigation, management, and control of fires burning on publicly- or privately-owned forests or grasslands. FMAGs cover fire-related activities, such as firefighting and associated support services, as well as evacuations, sheltering, traffic control, emergency operations centers, and temporary repairs of damage caused by firefighting activities. Unlike a full Presidential Disaster Declaration, FMAGs do not require that state and local jurisdictions reach a financial loss threshold in order to qualify. The FMAG was approved by FEMA within eight hours of the start of the fire. This was our state's sixth FMAG in 2011 out of a total of eight.

Although the FMAG was approved, the state EOC continued to explore other options for response and recovery funds. Continual contact was maintained between FEMA and fire personnel to gauge the scope of the fire's damage and the incident's eligibility for various disaster assistance grants, including a Presidential Disaster Declaration. In the immediate aftermath of the fire, the data assessed by local emergency managers, state recovery personnel and FEMA experts did not support a request for a Presidential Disaster Declaration under the Stafford Act.

Today, insurance, federal entities and the Fire Management Assistance Grant are covering much of the damage and restoration for the jurisdictions affected by the Las Conchas Fire. In addition, the state recovery team coordinated the approval of Small Business Administration low-interest economic injury disaster loans for businesses that were affected by the Las Conchas Fire.

We are still in the process of completing the FMAG documentation for FEMA to reimburse Santa Clara Pueblo and the other affected jurisdictions. My estimation is that the Las

Conchas Fire FMAG is approximately two-thirds of the way toward fulfillment. Santa Clara Pueblo's documented coverable costs under the FMAG were approximately \$120,000—75% of which is completely covered by the FMAG.

On July 2nd, one day after the fire's first incursions onto Santa Clara Pueblo, the Pueblo notified our department of its desire to obtain a Presidential Disaster Declaration. After evaluating the situation, we advised the Pueblo that the cited costs were eligible for FMAG reimbursement. On July 20, the state EOC received notice from Santa Clara Pueblo that they would request that a letter from Governor Martinez be sent requesting a Presidential Disaster Declaration. By this time, the fire had burned nearly 17,000 acres of Pueblo lands. In response to this request, I ordered members of the Response and Recovery Bureau within the Department of Homeland Security and Emergency Management to reevaluate the data. As part of the review, our recovery personnel were in constant contact with both FEMA and Pueblo representatives for several weeks to discuss the various options to cover costs associated with the fire. In addition, our state Response and Recovery Bureau chief, along with other Department staff, traveled to Santa Clara Pueblo on August 3rd and 20th to discuss disaster assistance grants. Through the course of our discussions, it was concluded that the FMAG and existing federal responsibilities would cover the costs of fire suppression and recovery.

Even as we continued discussions for recovery from fire damage, we began preparing for an operation to mitigate flooding from the monsoonal rainfall over the fire burn scar areas.

Typically, once a large wildland fire in a sensitive area is declared 'controlled,' Burned Area Emergency Rehabilitation Teams, known as BAER Teams, are deployed to address the threat posed by burn scars. BAER teams are composed of specially trained professionals such as

hydrologists, soil scientists, engineers, biologists, archeologists, and other specialists. Extreme heats decimate vegetation and causes soil to become hydrophobic, a condition that causes water to be repelled rather than absorbed by the soil. As a result, the risk of floods with heavy debris flow dramatically increases. In flood situations, sediments move downstream with the potential to damage houses, fill reservoirs with debris, and endanger animal and plant species, as well as water supplies. The work of BAER teams to mitigate this risk can be a long and complex task.

The increased risk of flooding caused by the Las Conchas Fire was quickly addressed. While the fire was not declared ‘controlled’ until August 24th, BAER teams began planning and implementation on July 4th. An elite federal team called a National Incident Management Organization, known as a NIMO team, was brought in to oversee the three Type 1 Teams fighting the fire and the BAER teams. There are only four NIMO teams in the U.S. with an average deployment of one team a year.

Federal BAER teams under the authority of the Bureau of Indian Affairs, the National Park Service, and National Forest Service were in place providing emergency recovery efforts to the burned area. In order to properly finish work on a large area such as that burned by the Las Conchas fire, BAER teams require months and years. In Northern New Mexico the Monsoon season typically begins during the months of June or July. It was apparent that the work of the federal BAER teams would not be timely in mitigating the possibility of flooding in the small window of several weeks. Local emergency managers and the State EOC began to plan and execute additional measures to protect communities from the certain threat of burn scar flooding.

On July 8, 2011, Governor Martinez signed Executive Order 2011–063 to provide emergency state funds for flood mitigation efforts. This was an unprecedented step in state

history as Executive Orders for disasters are not usually signed until after an event occurs. In this case, we felt that the flooding danger was so imminent that it warranted “emergency mitigation” efforts. State assistance with resources would be required to assist the preparations of local jurisdictions.

This Executive Order made \$750,000 in emergency funds available through our department to assist local jurisdictions. We worked with local and tribal governments to assess and address their flood mitigation needs. In an operation coordinated by the state EOC, the New Mexico Department of Transportation and the New Mexico National Guard delivered nearly 1,200 concrete temporary freeway barriers—commonly known as “Jersey Barriers” to local jurisdictions. Throughout the emergency flood mitigation operations, the state EOC was in frequent contact with the Santa Clara Pueblo emergency manager, assistant emergency manager, and the Police Chief to ensure that the requests for resources were filled. Santa Clara Pueblo received 250 Jersey barriers. In addition, the state EOC coordinated the delivery of 2,000 sand bags to the Pueblo in order to supplement the sand bags the Pueblo received from Rio Arriba County and the Army Corps of Engineers. The placement of the Jersey barriers and sand bags was accomplished predominately by Pueblo members and volunteers at the direction of the Army Corps of Engineers. In addition to the physical flooding mitigation efforts, the state provided funding for the transport of important Pueblo documents and records to areas safe from flooding.

At this time, Santa Clara Pueblo has claimed approximately \$78,000 in emergency flood mitigation costs. Under the state Executive Order, 75% of these costs are covered. As of today, we have determined that all of their incurred costs cited in their document submissions are eligible for reimbursement under the Executive Order.

In our assessment, the emergency flood mitigation efforts on Santa Clara Pueblo have been successful. The areas where Jersey barriers and sand bags were deployed have not received any significant damage due to flooding. Up to this point, I have described the effects and recovery operations associated with the Las Conchas fire and the emergency mitigation operations undertaken to protect citizens from the inevitable flooding issues. I would like to now discuss the flooding that occurred in August of 2011.

Santa Clara Pueblo has experienced flooding exacerbated by the Las Conchas burn scar. The largest flood events on the Pueblo occurred on August 22nd, 23rd, and 26th. The state EOC was in contact with the Pueblo emergency manager throughout the flooding events. On August 22nd, I approved and the state EOC coordinated a successful helicopter rescue mission by the New Mexico National Guard. Several individuals on Santa Clara Pueblo land were safely evacuated from areas cut off by flooding. On August 26th, partial evacuations were ordered by the Pueblo due to possible creek flooding and the risk of mudslides. The state EOC ensured the Pueblo had adequate resources, such as cots and blankets, to support their sheltering operation. We also contacted the Red Cross to offer additional assistance to the Pueblo. Fortunately, none of the evacuations for flooding lasted for a prolonged period of time.

While the areas protected by emergency mitigation efforts did not sustain significant damage, these floods damaged roads and water control infrastructure on Pueblo lands. The upper canyon road was severely damaged and four retention ponds and their corresponding dams, under the jurisdiction of the Bureau of Indian Affairs, were overwhelmed with debris from the recently burned areas. The upper canyon road, culverts and other installations damaged during the flooding events are Pueblo property and not covered by the Bureau of Indian Affairs. The state EOC Recovery Team is working with the Pueblo, FEMA, and the Corps of Engineers

to quantify the damage to Pueblo infrastructure. Due to the dangerous conditions that exist in the damaged area, assessments and estimates are still on-going.

To summarize, based on the information provided by the Pueblo of Santa Clara and discussions with FEMA, the damage and costs incurred by the Pueblo as a result of the Las Conchas Fire are eligible for reimbursement under the FMAG. FEMA is in receipt of the claims and will be processing them in the next several months. Responsibility for coordinating and executing a re-forestation plan from the fire damage rests with federal agencies, but unfortunately, is not covered under FEMA reimbursement. Costs incurred from emergency flood mitigation efforts at Santa Clara Pueblo have been submitted and are eligible for reimbursement under the state executive order. The roads, culverts, and other installations damaged during flooding are pending final assessments and cost estimates.

Thank you for your time and the opportunity to discuss this important topic with you. I am happy to address any questions you may have.