

STATEMENT OF FRED TOMBAR
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BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

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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 directly, 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 other 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 toward

recovery. 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 village 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 Presidentialy-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 ICDBG 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.