



# The Confederated Tribes of the Colville Reservation



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Oversight Hearing on “Emergency Management in Indian Country: Improving  
FEMA's Federal-Tribal Relationship with Indian Tribes”

U.S. Senate, Committee on Indian Affairs

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Good afternoon, Chairman Hoeven, Vice Chairman Udall, and members of the Committee. My name is Cody Desautel and I am the Natural Resources Director for the Confederated Tribes of the Colville Reservation (“Colville Tribes” or the “CCT”). I appreciate the opportunity to testify on improving FEMA’s relationship with Indian tribes.

My testimony today will focus on three issues: (1) the impact of three major disasters on the Colville Reservation during the past five years, including two massive wildfires; (2) why catastrophic wildfires should be treated differently by FEMA and under the Stafford Act; and (3) the need for FEMA to re-examine its criteria for evaluating disaster declarations for rural tribal communities.

## **Background on the Colville Tribes and Major Disasters on the Colville Reservation**

Although now considered a single Indian tribe, the Confederated Tribes of the Colville Reservation is a confederation of twelve aboriginal tribes and bands from across eastern Washington state. The present-day Colville Reservation is in north-central Washington state and was established by Executive Order in 1872. The Colville Reservation covers approximately 1.4 million acres and its boundaries include parts of Okanogan and Ferry counties. The CCT has more than 9,400 enrolled members, making it one of the largest Indian tribes in the Pacific Northwest, and the second largest in the state of Washington. About half of the CCT’s members live on or near the Colville Reservation. Of the 1.4 million acres that comprise the Colville Reservation, 922,240 acres are forested land, and 660,000 of the forested acres are commercial timber land.

The Colville Tribes has endured three major disasters during the past five years. The first occurred in July 2012, when a major wind storm and flash flood toppled trees, destroyed power lines and tribal infrastructure, and blocked or damaged roads over an area of several hundred thousand acres. Although damage occurred reservation-wide, the community of Keller was most heavily affected by the storm. Homes were lost or damaged, and residents with undamaged homes were left without power for extended periods. The community water infrastructure was damaged by uprooted trees, and rural residents outside of the Keller community were without

power for even longer. The Keller disaster occurred before the tribal amendments to the Stafford Act became law and the CCT worked with the state of Washington to ensure that the state included damage to the Colville Reservation as part of its request for a Presidential Disaster Declaration (PDD). President Obama issued the PDD, which enabled the Colville Tribes and other affected jurisdictions to obtain assistance through FEMA's Public Assistance program.

Two years later, in 2014, four fires, collectively referred to as the "Carlton Complex" fires, burned 256,108 acres in communities near the Colville Reservation. While the Colville Reservation damage was comparatively small and limited to uninhabited rangeland, CCT personnel assisted local governments in the suppression and recovery efforts. The Carlton Complex fire burned more than 300 homes and other structures and affected life and property throughout two watersheds.

Most recently, in 2015, the Colville Tribes endured the most destructive fire on an Indian reservation in recorded history. The North Star and Okanogan Complex fires collectively burned more than 255,000 acres on the Colville Reservation—nearly 20 percent of the total land base. Approximately one-fourth of the commercial timber land on the Reservation burned or was affected, which included 788 million board feet of timber. These two fires were part of the worst wildfire season in Washington state history that saw more than 121 fires ignited during a four-day period from August 10-14, 2015.

The 2015 fires statewide resulted in the deaths of three firefighters, a non-firefighting fatality, 21 injuries, and ultimately burned more than 1 million acres. The Okanogan Complex fire surpassed the 2014 Carlton Complex fire as the largest fire in Washington state history. 2015 marked the first year ever that Washington state officials asked residents to volunteer to assist in fighting wildfires.

For both the 2014 Carlton Complex and the 2015 fires, Washington state Governor Inslee requested, and President Obama issued, PDDs that authorized Public Assistance for both the Colville Tribes and the affected local governments. In both cases, however, FEMA denied the Governor's requests for assistance for homeowners under FEMA's Individual Assistance program. Following FEMA's denial of the Governor's Individual Assistance request for the 2015 fires, the Colville Tribes submitted its own separate request for Individual Assistance for on-reservation residents. FEMA denied that request as well.

### **Catastrophic Wildfires Should be Treated Differently by FEMA and in the Stafford Act**

Currently, neither FEMA nor the Stafford Act adequately addresses the full extent of damage caused by massive, catastrophic wildfires. While FEMA did establish an "Erosion Threat Assessment Reduction Team" to assess post-fire rehabilitation needs, the funding for carrying out most of those activities must be secured from other sources. Funding for immediate landscape stabilization can be charged to the Department of the Interior's Wildland Fire Management program, but longer term Burn Area Rehabilitation funding is extremely limited for Indian tribes nationwide, as are funds for replanting.

In the next few years, the single biggest task will be replanting trees burned during the 2015 wildfire season. Although the Colville Tribes has and continues to seek alternative funding sources, the only dedicated federal source of replanting funds for Indian forests are BIA forestry funds. The BIA has a statutory obligation to replant Indian forest land but its average annual reforestation budget is approximately \$3.2 million for tribes *nationwide*.

The BIA's entire \$3.2 million budget would cover planting of less than 11,000 acres. Relying only on BIA funds would mean the hundreds of thousands of acres of forest land on the Colville Reservation may not be replanted for decades, if ever. In contrast to the obstacles the CCT must endure given the limitations of the BIA's reforestation budget, the U.S. Forest Service is already implementing its plans to replant the 9,095 acres of national forest land affected by the 2014 and 2015 fires.

The CCT has traditionally relied on forest products and stumpage as primary sources of revenue to fund tribal government programs. The long-term damage to the CCT's economy and government will be felt for decades unless replanting can take place soon. The loss of forest lands will also have a lasting cultural impact on the Colville Tribes and its members. The fires devastated big game populations, cultural plants, and culturally significant sites reservation-wide.

FEMA programs do not address the full extent of the damage caused by catastrophic fire events, including fires on non-Indian federal lands. FEMA should provide immediate assistance for fire suppression, stabilization, and landscape rehabilitation. For Indian forest land, FEMA should also provide assistance for replanting in light of the United States' statutory obligations to reforest Indian forest land.

One approach would be to create a separate disaster declaration category for catastrophic fire events, like what was included in Title IX of the House-passed Resilient Federal Forests Act of 2015 (H.R. 2647). That provision would have authorized the President to declare a major disaster for wildfires on federal lands (including Indian trust lands) and authorized FEMA to aid the Departments of the Interior and Agriculture for extraordinary wildfire suppression costs that exceed the 10-year average. The scope and severity of fire events continues to grow and this type of solution is needed to ensure that both Indian and non-Indian communities can fully recover from massive fire events.

### **FEMA Should Re-examine its Criteria to Ensure Rural Tribal Communities are Treated Fairly**

One of FEMA's criteria for evaluating requests for Individual Assistance is concentrations of damages. As stated in FEMA regulations, "High concentrations of damages generally indicate a greater need for Federal assistance than widespread and scattered damages throughout a State." 44 C.F.R. § 206.48(b)(1). The FEMA pilot guidance for tribal disaster declarations did not modify this criterion or otherwise change how FEMA applies it to tribes.

FEMA has never publicly articulated the basis for its denials of the Washington state and Colville Tribes' requests for Individual Assistance for the 2014 and 2015 fires. Based on

discussions with local officials and our congressional delegation, however, we believe that the fact that much of the damage was widespread over a large geographic area was the primary reason for FEMA's denials.

Rural areas like the Colville Reservation are inherently prone to a lower concentration of damages based on population density. However, the economic, social, agricultural, and cultural damages from major disasters often impact rural communities much more severely than in metropolitan areas. This was the case with the affected residents of the Colville Reservation, many of whom lost access to health care and other essentials due to extended road closures. Other tribal members lost their livelihoods when cattle and rangeland burned, which are damages that have persisted and will continue long after the fires were extinguished.

In the 114th Congress, members of the Washington state congressional delegation introduced the "Individual Assistance Improvement Act of 2015" (H.R. 4243), which would have waived the concentration of damages criterion for rural communities in certain instances. Until a permanent legislative or administrative fix can be made, FEMA should amend existing guidance or issue new guidance that makes clear that rural Indian tribes will not be denied assistance based on concentration of damages.

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