

**Testimony of
J. Michael Chavarria
Governor, Santa Clara Pueblo
before the
Senate Committee on Indian Affairs**

Wednesday, July 30, 2014

“When Catastrophe Strikes: Responses to Natural Disasters in Indian Country”

Introduction. Thank you Chairman Tester, Vice Chairman Barrasso, and members of the Committee for this opportunity to provide testimony on the critically important topic of natural disasters in Indian Country. My name is J. Michael Chavarria, and I am the Governor of the Santa Clara Pueblo located in north-central New Mexico. Because of wildfires and subsequent intense flooding, the Santa Clara Pueblo has had four Presidential Disaster Declarations (or PDDs) in the last three years. Indeed, in a recent report, the Army Corps stated: *“The Village of Santa Clara Pueblo is in imminent threat of large damaging floods with extreme life safety risk.”* My testimony (1) shares our experiences with disaster relief, and (2) urges the creation of a Bureau of Indian Affairs (BIA) Emergency Response Fund, among other recommendations.

Tremendous Efforts of Many Federal Employees. I would like to open by thanking the many individuals that we work with at the Federal Emergency Management Agency, the Army Corps of Engineers, the Bureau of Indian Affairs, the Bureau of Reclamation, the US Department of Agriculture and others for the long hours that they have committed to addressing what continues to be an existential threat to the Santa Clara Pueblo. Despite working with laws and regulations that can be cumbersome or just simply designed for very different emergencies, they continue to show commitment and determination, for which I and my people are truly grateful. There is work to be done and there are significant improvements to be made, but at Santa Clara we have hope that after suffering a terrible loss we can secure the safety of our community in the short term and its cultural and spiritual integrity and prosperity in the long-term.

Need for a Policy Shift. Santa Clara has had four Presidential Disaster Declarations. Two were secured by request of the State of New Mexico and two were secured by direct request of the Tribe after the Stafford Act was amended. Overall, the ability to directly request Presidential Disaster Declarations has given Santa Clara Pueblo greater control over our own disaster relief efforts. Further, the implementation of the National Disaster Recovery Framework (NDRF) by FEMA, which facilitates inter-agency collaboration, has been helpful to Santa Clara in assuring a comprehensive and coordinated effort among the Federal family. However, despite the hard work of many dedicated agency staff members, current laws and regulations regarding disaster relief remain a product of a different time, with the effect of still slowing the delivery of critically needed resources. Broadly, the flood disaster relief framework remains tailored to one-time floods on the Mississippi River and thus are focused on short-term efforts (and this not only refers to funding, but to how each contract is written and the expectations of the implementing policies). Given the realities of life in the southwestern United States and the increasing effects of climate change, disaster relief policies must be shifted to focus on long-term response such as addressing Santa Clara’s post-fire, periodic flooding, which will remain a great hazard to our

well-being for perhaps a decade, as the Santa Clara Canyon slowly recovers. Although significant progress has been made, more work remains to be done to ensure effective responses to natural disasters in Indian Country.

Background. In the summer of 2011, the Santa Clara Pueblo was devastated by the Las Conchas Fire, which was then the largest wildfire in New Mexico history. We estimate that over 16,000 acres of our forest lands were burned and, together with the lands we lost in the Oso Complex Fire of 1998 and the Cerro Grande Fire of 2000, 80 percent of our forests and a huge part of our heritage has been destroyed. None of the four fires we have faced in the past decade have originated on our lands, yet we have suffered severe consequences.

The Las Conchas fire also burned thousands of acres of our traditional lands outside our current reservation—including the lands of our origin, the P’opii Khanu, which are the forested headwaters of the Santa Clara Creek. The Santa Clara Creek drains the east side of the Jemez Mountains, delivering its waters to the Rio Grande near Española, NM. The Las Conchas burn scar within impacted 25.9 miles of Santa Clara Creek’s upper watershed. The Pueblo owns almost the entire watershed, and the Tribal village is located on Santa Clara Creek’s alluvial fan, where the Santa Clara Creek joins the Rio Grande.

Because Santa Clara Canyon has been stripped of its vegetation, the Pueblo has experienced severe flash flooding. All four Presidential Disaster Declarations have involved infrastructure damages stemming from catastrophic flash floods. Flooding has wiped out existing water control structures within the canyon, destroyed once-pristine native cutthroat fish habitat, impacted roads, taken away culverts, and damaged the traditional cultural properties of our sanctuary.

Continued Threat of Catastrophic Floods. As a result of the altered hydrology and Geomorphic changes, the Pueblo is in greater danger today of a catastrophic flood. Because of the severity of the burn, there has been dramatic reduction in infiltration rates in the burned area. This has resulted in a four-to-eight-fold increase in runoff and sediment/debris flow along the creek, substantially increasing the potential for widespread damage.

The graph below contains data for the Santa Clara Creek pre-fire and post-fire. As the graph indicates, the worst case scenario is a 100-year storm. For the Rio Grande Confluence, such a storm would have flooded 5,640 cubic feet per second (cfs) pre-fire and now, post-fire, would flood 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

Lessons from our Disaster Relief Experiences. Because of our four Presidential Disaster Declarations, Santa Clara Pueblo has experience both as a sub-grantee and as a direct grantee. As you are aware, previously Presidential Disaster Declarations had to be requested through the states. For tribes, securing a state request for a Presidential Disaster Declaration could be difficult. New Mexico did, however, request such declarations on behalf of Santa Clara Pueblo on two occasions. Unfortunately, in these instances it took up to a year for the Pueblo to receive the requested disaster relief funds from the State, hampering our ability to provide urgently needed, immediate relief.

Amendments to the Stafford Act now allow tribes to directly request Presidential Disaster Declarations. The ability to become direct-grantees has given Santa Clara Pueblo greater ability to direct its own disaster relief efforts. Additionally, the NDRF has been enormously helpful in coordinating agency responses and providing a more collaborative and effective approach to disaster recovery.

The direct grantee process, however, is not without its challenges. It is a new process, and Santa Clara Pueblo has been the first tribe to utilize it in FEMA Region VI. For both the Pueblo and the Region, there is a lot of learning that has to take place. We have been going through that learning process with FEMA—in many ways we feel like we are path-finders for other tribes, should they be so unfortunate as to face the difficulties we have faced.

As a sub-grantee, receiving funds through the state, the tribe must match 12.5 percent and the state has the burden of administering the grant. As a direct grantee, the tribe's match is 25 percent, although this can be lowered to 10 percent once the per capita threshold is met. Additionally, as a direct grantee the tribe is responsible for the administrative costs associated with the grant, although the Pueblo receives 3.37 percent in administrative funding from FEMA. Tribes may also face challenges meeting the \$1 million FEMA threshold. This threshold should be developed to coincide with tribes' financial resources and capacities, and tribal consortiums should be able to apply for relief in order to meet this threshold.

Santa Clara Pueblo, as a direct grantee, has seen smaller funded projects be funded very quickly by FEMA, but larger Project Worksheets still proceed through a time-consuming quality assurance/quality control process. This process is clearly important, but it greatly lengthens the review time, and yet it is very important to get these funds working when you face the situation Santa Clara faces, where the next disaster is inevitable, it is only a matter of when. Right now, we are in the New Mexico monsoon season. Every day we scan the skies and read the weather reports, fearing the worst and praying for the best. Receiving funds to support recover efforts prior to the seasonal impacts of monsoons is imperative in breaking the cycle of continued damage that has resulted in four Presidential Disaster Declarations for Santa Clara Pueblo. As our experiences demonstrate, in emergency situations project implementation is crucial to protecting lives, securing our community, and preventing repeated damage to key infrastructure.

The four Presidential Disaster Declarations have put a significant financial burden on the Pueblo as a small tribe. The matching funds requirements across four PDDs have drained the Pueblo's financial resources. Due to these tremendous financial responsibilities, the Pueblo has requested

FEMA to combine the four PDD into one PDD so that the Pueblo is in a better position to meet the financial cost share responsibilities. This would allow the Pueblo the opportunity to get to the 90/10 cost share, using the per capita figures to get to that level. Right now we are only going to meet that threshold on one PDD, while the first two as a sub-grantee with the State will remain at 12.5 percent with remaining PDD as a direct grantee at 25 percent. These variations are challenges we must be aware of so that the Pueblo properly allocates funds to be in a position to move forward with our obligations.

Finally, the administrative responsibility that comes along with being a direct grantee has challenged the Pueblo. We certainly have proven that we have the administrative capability but we had to learn through trial and error. As the changes to the Stafford Act allowing Tribes to request direct are promulgated, FEMA could be best served by implementing a training program that better communicate the regulatory requirements that come along with being a direct grantee. This would position the tribes nationwide to be better recipients of FEMA's help and this would also allow FEMA to become more familiar with the capabilities of tribal governments.

As the first tribe in Region 6 to receive direct funding, we know that we are involved in a learning process with our federal partners. Training and capacity building is needed on both sides of the federal-tribal partnership. Tribes need additional training to administer funds successfully and our federal partners could benefit from allowing tribes such as Santa Clara Pueblo to conduct training for tribal liaisons to help them become more familiar with working with tribal governments. Together we can work to build the capacity of both tribal and federal actors and to identify areas in which disaster relief policy can be adapted to better fit the circumstances of natural disasters in Indian Country.

Emergency Response Fund. Our experiences with disaster relief highlight the need for tribes to receive assistance as soon as possible following a natural disaster. Empowering tribes to directly request a Presidential Disaster Declaration can be helpful, but standing alone it does not fully address the need for quick funding. For this reason, we recommend the creation of a BIA Emergency Response Fund. The idea behind this fund would be for the BIA to have readily at hand significant funding that can be deployed over multiple years, if necessary, to address short- and long-term disaster recovery and disaster mitigation needs.

Other Recommendations. Santa Clara has a few other recommendations that range more widely than those set forth above:

1. Appropriate necessary funds for implementation of Forest treatments as identified under the Tribal Forest Protection Act (TFPA). The TFPA authorizes the Secretaries of Agriculture and Interior to give special consideration to tribally-proposed Stewardship Contracting or other projects on Forest Service or BLM land bordering or adjacent to Indian trust land in order to protect the Indian trust resources from fire, disease, or other threat coming off of that Forest Service or BLM land. These stewardship agreements are an important tool for fighting the ever-growing threat of wildfires in the West. Empowering tribal governments as caretakers to protect tribal lands by managing adjacent federal lands is a smart policy. Santa Clara urges the Committee to support the expansion of this program by both the Department of Agriculture and by the Department of the Interior.

2. Implement funding for treatments, on and off the reservation, utilizing micro-site of

land management. This would be done forgoing the NEPA process to quickly implement a plan of action of lessening the threat of catastrophic fires from encroaching upon our Trust Resources. Huge amounts of funds are used annually for fire suppression while those same funds could be used to implement Hazardous Fuels Reduction, Fuel Breaks etc. to lessen the financial responsibility of the federal government for fire suppression activities.

3. Continue consultations with tribes regarding implementation of the Stafford Act amendments. The Pueblo has been engaged with navigating a new system afforded by the amendments to the Robert T. Stafford Act. The opportunities also come with challenges—and education about the process is essential on both sides of the table as to properly protect the integrity of such responsibilities that come along as a Direct Grantee.

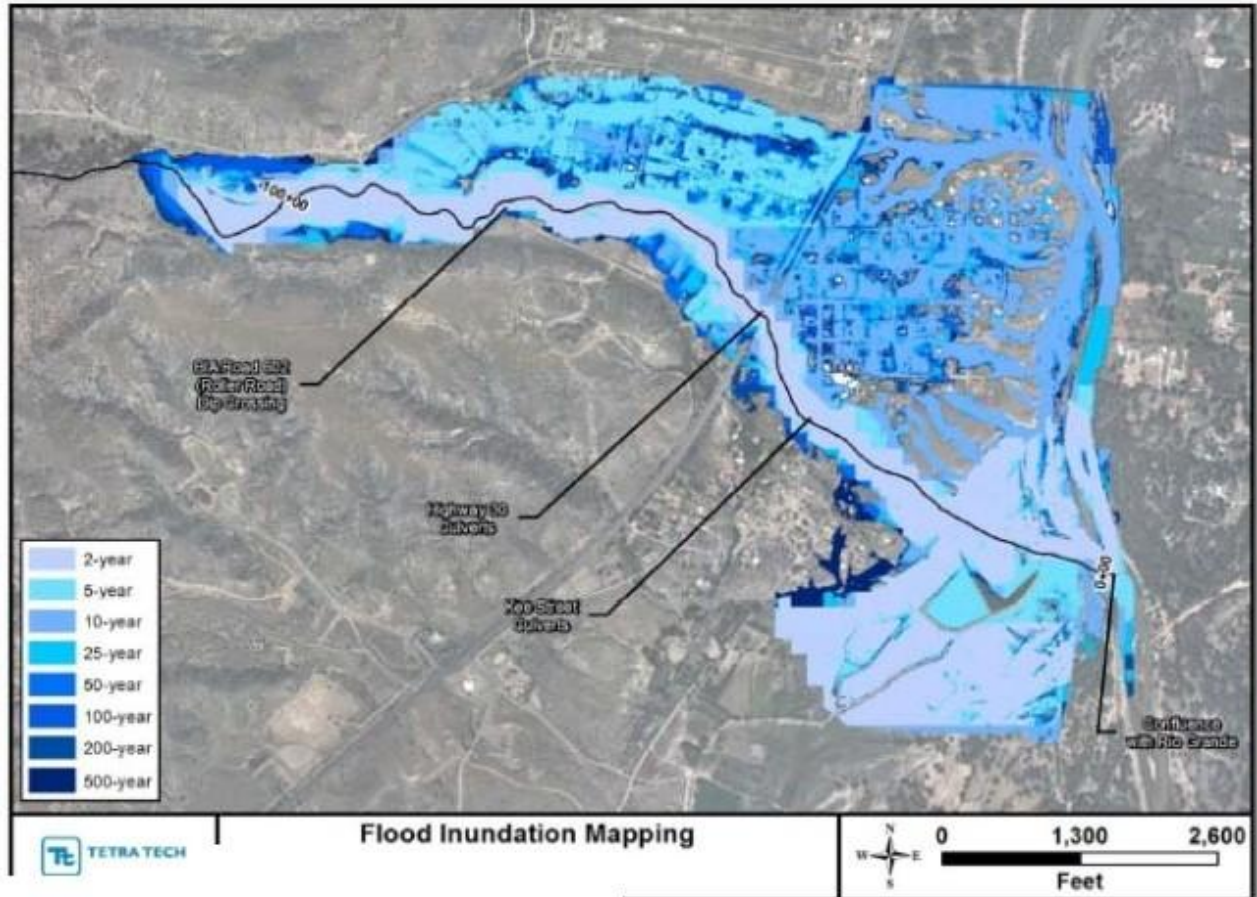
4. In addition to creating an Emergency Management Fund within the BIA, create an Emergency Management Department (EMD). The EMD would be responsible for protecting Trust Resources before, during and after emergency situations. Appropriations could be funneled through the 93-638 process which would allow the Tribes to use those funds as cost match to other Federal Authorities. This would allow the Tribes to be in a position to meet the required cost match associated under each Authority dealing with a Presidential Disaster Declaration, thus providing the protection of lives and community infrastructure from future impacts.

5. Provide adequate funding to Fire Suppression Activities budgets. Hazardous Fuels Reduction funding is impacted by the high costs “Mega Fires” that has become the new trend in wildfires, and reduces the ability of being able to proactively reduce or minimize the effects of wildfire on tribal forests. There are many programs that can reduce the risk of catastrophic wildland fires. These include but are not limited to: Collaborative Forest Landscape Restoration, Hazardous Fuels, and Federal and Cooperative Forest Health programs, Stewardship Contracting Authorities under the Tribal Forest Protection Act, State Fire Assistance, and others. Approaches to restoring fire-adapted ecosystems often require treatment or removal of excess fuels (e.g., through mechanical thinning, prescribed fire, or a combination of the two) that reduce tree densities in crowded forests, and the application of fire to promote the growth of native plants and reestablish desired vegetation and fuel conditions.

Thank you for your consideration of this testimony.

Appendix: USACE Map

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.



Initial flood inundation mapping based on the post-fire FLO-20 model simulations of the 2- through 500-year events. The long, straight boundaries at many locations result *ci* the 150-foot grid elements in the FLO-20 model.