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Presented by

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Madam Chairman, Ranking Member and other distinguished Members of the Committee, I appreciate the opportunity you have provided to present testimony on how to cut bureaucracy and improve our ability to respond and recover from a catastrophic disaster.

My testimony is based on my 22 year career at the Federal Emergency Management Agency (FEMA) culminating as Chief of Staff to Director James Lee Witt during the Clinton Administration, and the past 8 years working with local communities and nonprofit organizations to improve their disaster services capabilities. As Chief of Staff of FEMA, we worked with communities to recover from over 300 Presidential disasters including the Northridge earthquake, Hurricanes Fran and Floyd and the Oklahoma City Bombing. Although we had many, many significant disasters, none of them became National catastrophes. The geographic scope and level of damage of these disasters could have made them catastrophes. For example, there was more infrastructure damage from the Northridge earthquake than in Hurricane Katrina; Hurricane Floyd impacted a larger geographical area than Katrina, etc.

They were not catastrophes because: (1) we had developed a solid partnership with State and local emergency managers, whereby they were the first responders and we at FEMA provided supplemental support as they needed, (2) we operated under a Federal Response Plan where each Federal agency, including the Department of Defense, knew what was expected of them during a disaster response and also during the recovery period and had agreed to provide that support at the request and direction of the FEMA Director, and (3) we had leadership from the President on down committed to cutting red tape, being innovative and doing everything possible to help individuals and communities recover quickly from disasters.

In my opinion, FEMA is not a first responder Agency. First response is the Constitutional role of State and local governments as is preparedness. FEMA is responsible for facilitating recovery and promoting mitigation. While the Stafford Act provides FEMA with the authority to respond in support of State and local government needs, it authorizes the true role of the Federal government to provide the resources and programs to facilitate community, State and Regional recovery. It is within this context that I would like to provide some thoughts and suggestions on how to enhance community recovery before and after a catastrophic disaster. My comments will focus on potential impediments and opportunities for recovery and mitigation in the post disaster environment and existing organizational concerns for response and recovery.

In the immediate aftermath of any disaster, what individuals and communities want the most is to get back to "normal" or to get their community and lives back to how they were before the disaster. This return to normalcy often impedes a community's opportunity to rebuild better, safer, and more environmentally and economically sound. Furthermore, inflexibility and rigid

regulations on the part of many Federal government programs tend to reinforce returning a community to its predisaster status. It is in the government's best economic and social interest to support a sound recovery but more importantly, to support recovery and rebuilding of safer communities. This country missed that opportunity after Katrina but we have the potential to correct that situation for the future by exploring the issues raised by this hearing.

First, I would suggest that President should have the flexibility to request of Congress authority to waive certain regulations and statutory requirements in the aftermath of a catastrophic disaster to facilitate recovery such as:

1. Allow for innovation in the Community Disaster Loan (CDL) program relative to the resource level, application and potential forgiveness of this program.
2. Allow for waiving of the match requirements provided by the State for the Individual and Family Grant programs.
3. Allow for waiving of the match requirements for hazard mitigation grants and support funding for mitigation innovation.

In the aftermath of a catastrophe with its inherent impacts to infrastructure, businesses and the tax base of a community, the CDL program can become a lifeline to allow that community to begin to rebuild. Because of certain isolated abuses of this program during the 1990's, CDL has been somewhat "blacklisted" in recent years. However it is often the essential means for a community to continue its administrative and legal operations. In the aftermath of a catastrophic disaster, the CDL is an essential lifeline for communities and, with the appropriate safeguards; this program could be expanded in scope. Things to be considered are increasing the amounts available for these loans, providing more flexibility in what these loans can be used for within the community, identifying what functional uses and increased opportunities are available to improve the timeliness, and the terms of repayment and forgiveness of CDL needs to be reconsidered.

The State is responsible for providing the cost share for Individual and Family financial grant programs provided through FEMA. Their have been numerous examples of State's not being able to meet the match requirements, leaving communities to scramble to find the funding or create a patch work of funding that delays the delivery of recovery assistance. In fact, we had so many experiences with this problem in the 1990's that FEMA proposed eliminating the match when the Disaster Mitigation Act of 2000 was being deliberated. Unfortunately, it was not included by the Senate in the final legislation. However, under unique catastrophic circumstance, the President should have the ability, in consultation with the impacted Governor's and the Congress, to waive the match requirement short of legislation being passed.

I spent most of my career promoting mitigation as our long term solution to reducing the impacts of disasters. I have always found it ironic that people talk about how important mitigation is but

there is never the commensurate proportion of funds or political support for implementing mitigation. In the aftermath of a disaster, the window of opportunity to apply mitigation techniques to a community's rebuilding is at its highest. Congress and FEMA recognized this by supporting the post-disaster hazard mitigation grant program. However, the 25% statutory matching requirement often makes implementation and use of this program's funds difficult especially when communities and States are hard pressed for cash in the aftermath of a disaster. This will be particularly true in a catastrophic disaster. To reduce future impacts we must incorporate mitigation in our rebuilding. In this context, the President's ability to waive the matching requirements on 404 Hazard Mitigation Grant Program as well as some of the pre-disaster planning requirements would be extremely beneficial. Allowing funding under the Disaster Relief Fund (DRF) of innovative or experimental mitigation programs after a catastrophe should be considered.

For example, in the aftermath of the Northridge Earthquake, FEMA initiated a pilot project that rebuilt certain critical hospital facilities to a mitigation standard beyond just life safety as required by code. FEMA supported rebuilding so the hospital would have continued functionality after a major earthquake. FEMA came under scrutiny and criticism for doing so but the idea was that you would absolutely need these critical facilities to function and to care for victims, not just survive after a major disaster. In the aftermath of a major catastrophe, the President should have the latitude to support the rebuilding of critical facilities to a more stringent code of continued operability to assure functionality in that community after the next disaster. Language to allow this flexibility in the aftermath of a catastrophic event would be very beneficial and not just for hospitals but for other critical facilities.

Second, Congress could encourage and support activities that will improve coordination and designate roles and responsibilities among Federal agencies in the aftermath of a catastrophic disaster and facilitate pre disaster community recovery planning

1. Establish an interagency activity that provides an understanding of what programs and funding each Federal agency could provide to communities in the aftermath of a catastrophic disaster.

2. Support a pilot program that would allow certain disaster prone communities to receive funding to do pre-disaster recovery plans and strategies for post disaster recovery.

3. Allow for greater access and support partnerships with the private sector to foster recovery.

4. Relook the approach to disaster housing that includes innovative programs among the private and nonprofit sectors.

If a catastrophic disaster were to occur today, there is no coordinated approach among the Federal agencies for working with those communities to recover. In the 1990's FEMA would convene a task force of Federal agencies to develop a report of what government programs could be applied for community recovery. It was an ad hoc process at best and had varying degrees of success. A more systematic and thorough approach, perhaps a catalog of what would be available to communities would facilitate the recovery process. As part of this cataloguing, a look at what regulations might require waiver in the context of a disaster would be useful as well as how these programs can be combined to support various recovery activities. The ultimate goal would be to provide community leadership with a menu of options that could be leveraged with private and nonprofit support to support a recovery plan.

As was mentioned earlier, post disaster may not be the best time to take a long strategic look at a community recovery because of the pressures to return to normalcy. Many communities in disaster prone areas know they will face a disaster in their future. Wouldn't it be nice to be able to plan a recovery strategy in a less hectic atmosphere than that of a disaster response? Congress should consider supporting a pilot program where selected communities could assess their current community profile, assets, development plans, infrastructure and social and economic programs and decide how they would react in the event of a catastrophic disaster. How responding to the impacts of a disaster would allow the community to exercise changes to the community to make it more economically and socially sound. As a pilot, it would allow the community to decide its future and incorporate green/environmental/land use decisions that reduce risk in the future and have a plan agreed on by the community that it could execute in the aftermath of a disaster. This would facilitate the flow of Federal recovery assistance. In addition, the community would have secured commitments of private sector funding for various projects and general community approval so recovery and rebuilding would more forward expeditiously.

The private sector has never been embraced as a true partner in disaster recovery yet they are responsible for significant parts of any community's recovery. During a catastrophic disaster this will be increasingly more important as their ability to recover, especially when considering critical infrastructure is primarily private, will be critical. The Federal government must enter into partnerships with the private sector where their needs and resources are integrated into any response and recovery strategy. The private sector needs access after disasters and need to be key partners in coordination for recovery.

We do not yet have an answer for the problem of Disaster Housing in the aftermath of a disaster or a catastrophic disaster. Current thinking is that the Disaster Housing Application Pilot (DHAP) under taken by FEMA and the Department of Housing and Urban Development (HUD) offers some alternatives. I am uncertain as to what the DHAP will do in the immediate aftermath of a catastrophic disaster. FEMA is the main source of funding and FEMA should be, and is, looking at alternatives that include options beyond trailers and mobile homes. There are several

groups in the nonprofit sector such as Socialserve and Neighborhood Works America that look at housing options on a daily basis and have data bases that could be applied. However, why not look at these programs as an opportunity to foster green building – even of a temporary sort in communities. The objection by the States of mobile home parks was legitimate and, as we have experienced, they represented all sorts of problems to FEMA and the community. There is clearly a role for HUD to play in the more long term housing programs but isn't this an opportunity for FEMA to innovate and define/determine some alternatives that could be used in the event of a catastrophic disaster. I believe earlier changes to the definition of permanent in the Stafford Act gives FEMA substantial latitude in decision making on this issue. If we were to consider pre disaster recovery planning in certain communities, decisions on post disaster housing could be part of those plans. FEMA and HUD could work together to identify substandard housing in high risk areas and develop plans for how they would be rebuilt when that high risk area experiences a Presidential disaster.

Finally, I continue to be very concerned about FEMA being a part of the Department of Homeland Security as opposed to being an independent Agency reporting to the President. I firmly believe that this organizational circumstance will impede its ability to not only respond but certainly support the long term recovery of communities in the aftermath of a catastrophic disaster.

I commend the Obama Administration and Secretary Napolitano for appointing incredibly qualified individuals as Administrator Craig Fugate, Jason Mc Namara, Bill Carwile, Tim Manning and Beth Zimmerman and I know they will serve well should there be a major disaster but their presence doesn't negate the bureaucratic issues that remain within the construct of DHS.

FEMA does not belong in DHS. DHS is a law enforcement agency with a Federal top-down approach. DHS makes policies and laws and administers programs that State and local governments and the private sector must adhere to and comply with at risk of Federal penalties. All the different parts of DHS support that mission except FEMA. FEMA is an agency whose mission is to support States, communities, private sector and individuals during their time of need, during a disaster and to work with all of these partners to reduce the potential impacts of future disasters. The mission of FEMA is incompatible with the mission of DHS. DHS wants to stop any future terrorist attack by guarding our borders, our skies and our air, an incredibly important goal which requires surveillance, intelligence, protection and perimeter prevention. FEMA wants to make individuals, institutions and communities stronger through mitigation, preparedness and recovery. These very divergent missions require a different set of capabilities and certainly a different mindset.

I know that this Committee has offered legislation that would seek FEMA independence and I applaud the Committee for doing so. I also know that the Obama Administration, through

Secretary Napolitano has indicated that they think through their leadership FEMA can perform within the DHS bureaucracy.

I am extremely concerned that in spite of their best motives and excellent leadership, there are certain aspects of this organization that will prove difficult for FEMA to effectively respond to or to accelerate recovery from any catastrophic disaster.

The Post Katrina Emergency Management Reform Act was intended to strengthen FEMA, put a fence around its authorities, resources and mission. However, shortly thereafter the DHS Office of Operations Coordination was created and given functions that duplicate some of FEMA's functions.

I would encourage the Committee to request that DHS explain how the DHS Office of Operations Coordination will function in a catastrophic disaster vs. the FEMA Operations Center. Standard operating procedure has always been that local and State governments report through the FEMA Regions to FEMA Headquarters Ops center before, during and after a disaster and then FEMA Ops Center reports to DHS. But what has happened was the DHS Ops Center received information from FEMA and then proceeded to call State and local governments requesting the very same information causing more work and confusion at the State and local level. I don't see this change in the near future but the Committee could request that DHS designate the FEMA Ops Center as primary information collection entity in DHS in disasters and to request DHS issue clarification on their respective roles.

Legal decisions on programs, application of programs and adaptability of program regulations during a disaster were routinely handled by the FEMA General Counsel and Legal Affairs Office where most of the personnel had extensive years of experience in disaster issues. DHS has centralized the general counsel function and the General Counsel for FEMA now reports to the DHS General Counsel not the Administrator of FEMA. There are numerous incidents of the DHS General Counsel over ruling decisions made by the FEMA General Counsel in spite of the fact that the FEMA rulings were based on FEMA laws and disaster precedence. There exists much concern that should a catastrophic disaster occur, interpretations of the law based on disaster precedent and the innate flexibility of the Stafford Act will be over ruled by less informed DHS lawyers. Consideration should be given to allowing the FEMA Administrator to have his or her own independent General Counsel

As I mentioned earlier, aspects of PKEMRA have still not been implemented and need to be addressed by DHS/FEMA. It is concerning that the idea of a Primary Federal Official (PFO) is still being expressed by DHS with the assumption it will be Secretary Napolitano. As this Committee knows, this is a superfluous position that serves no real function but to give the Secretary of DHS some visible level of authority in an event. The Secretary of DHS is not chosen for his or her abilities to function in a disaster but for their law enforcement/border

control/immigration experience which has virtually nothing to do with an ability to function effectively during a disaster. As long as FEMA has to remain within the constructs of DHS, there should be a clear recognition, as called for in PKEMRA that during a disaster the Administrator of FEMA is in charge. In response to the DHS Homeland Security Quadrennial Review or in any future legislation, the Committee could consider requesting that the Administrator of FEMA be named the PFO since DHS seems reluctant to retire that title.

FEMA will always be a second tier player in the bureaucracy of DHS where resources can be diverted to other priorities within DHS as was recently indicated by the 2010 Budget. FEMA remains inconsistent with the DHS mission and there is nothing that FEMA gains by being in the Agency. People say that now it has ready access to resources such as the Coast Guard. A cursory look at disasters during the 1990's will show that FEMA, through a Mission Assignment to the Department of Transportation, pre agreed to as part of the National Response Plan, utilized the Coast Guard in numerous disasters.

There are no benefits to FEMA, being in DHS.

If we really want to address the issue of reducing bureaucracy for response and recovery in the next catastrophic disaster, the answer is to move FEMA out, make it an independent Agency and reestablish a Federal Response Plan and Recovery Plan that all other Federal agencies agree and commit to performing their functions and supporting recovery with their resources and programs.

Hurricane Katrina was a failure of leadership at all levels but in spite of that failure certain bureaucratic actions and decisions within FEMA would have occurred to ameliorate certain circumstances but they didn't happen because FEMA was unable to make those decisions and take action. FEMA had to seek approval from DHS. FEMA couldn't get needed help from the Department of Defense because the request needed to come from the DHS Secretary. The players under the Obama Administration are very different and committed to providing service but I wonder, considering all of the current constraints, whether the process will work any more smoothly, especially since fundamental decision making that needs to reside at FEMA still is controlled at the DHS Executive level.

Thank you for the opportunity to testify before you today. I will be happy to answer any questions you may have.