

**TESTIMONY OF WHITE MOUNTAIN APACHE TRIBE  
BY  
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DISTRICT 4 COUNCIL MEMBER, WHITE MOUNTAIN APACHE TRIBE  
REGARDING SUBCOMMITTEE HEARING  
“FEMA REAUTHORIZATION AND CUTTING RED TAPE IN RECOVERY”**

**Presented to  
Chairman John L. Mica, and Ranking Member, Nick J. Rahall and  
Members of the Subcommittee on Economic Development, Public Buildings, and  
Emergency Management  
2253 Rayburn House Office Building  
Washington, DC. 20510**

**June 14, 2011**

*Mr. Chairman and Members of the Subcommittee:*

Mr. Chairman, Subcommittee Members and Guests. Good morning. My name is Cline Griggs, District 4 Council Member, White Mountain Apache Tribe. I live on WMAT lands in Whiteriver, Arizona.

The Fort Apache Indian Reservation is home to the White Mountain Apache Tribe (WMAT), a federally recognized Indian Tribe, and is located in east central Arizona in portions of Navajo, Apache, and Gila Counties. The reservation stretched 75 miles long and 45 miles wide, comprised of more than 1.6 million acres, most of which is stunning wilderness. According to the 2005 Bureau of Indian Affairs' Labor Force Report, the WMAT's total enrollment is 15,500 with approximately 93% of enrolled tribal members. The majority of the population lives in and around Whiteriver, the seat of Tribal government, with others residing in the communities of Cibecue, Carrizo, Cedar Creek, Forestdale, Hon-Dah, McNary, East Fork, and Seven Mile.

White Mountain Apache Tribe – a Brief History:

On November 9, 1891, the Fort Apache Indian Reservation, sometimes referred to as the White Mountain Apache Reservation, was established by Executive Order. Originally, the Fort Apache Indian Reservation included the San Carlos Apache Reservation but was separated by an act of Congress in 1897. Many White Mountain Apaches believe that it was because of their service to US Army General Crook, especially the services of the Apache Scouts as part of the US Army, during the 1800s that made it possible for the tribe retain such a large portion of their homeland. The White Mountain Apache peoples' land is essential to their Apache language and culture because it connects the people to their history and ancestors while serving as a moral compass.

In 1936, the White Mountain Apaches wrote their own constitution and established a tribal council to oversee governance and all tribally owned property and businesses.

The WMAT's Tribal Council consists of the Tribal Chairman, Vice Chairman, and nine Council members who are elected from four separate districts; all of whom are elected to a four-year term by popular vote of the tribal members. The chairman presides over all Tribal Council meetings, meets with world leaders, legislators, and dignitaries on behalf of the Tribe and exercises all authority delegated to him by law, ordinance or Tribal Council action. The Tribal Council represents the WMAT and its people, and also acts in all matters that concern the welfare of the Tribe, and to exercise all powers vested in the Tribe through its inherent sovereignty. Although the Tribe has legal authority over almost every activity that affects its surroundings, the Tribe's members must strive to overcome a legacy of social and ecological illnesses.

The WMAT has become dependent on grant funding as it struggles to recover from the detrimental effects of the recent recession. When the recession hit America, the reservation's unemployment went from 33-percent to an estimated 65-percent leaving a bothersome 51-percent of the reservation's population living below the poverty line. The Tribe's fraught economy has also exacerbated the social and health problems tribal members face. For example, the 2005 WMAT Community Health Profile states that the life expectancy for those residing on the reservation is 28 years of age drastically lower than the national average of 78 years of age. Suicide and alcohol related incidences are the leading cause of death for teenagers and young adults; additionally, alcohol related accidents and cardiovascular diseases are responsible for a majority of the deaths for those 40 years and older.

According to the Bureau of Indian Affairs (BIA) 2005 Labor Force Report, total employment for the reservation is estimated to have been approximately 3,849 in 2005, only 344 per 1000 residents—30 to 40 percent less than the national and state averages. The current figures are projected to be considerably worse with the closure of the Fort Apache Timber Company (FATCO) in the summer of 2010. With FATCO being closed there is a ubiquitous and augmented threat of wild fires and flooding, both of which can easily endanger countless lives and the natural resources that the WMAT stakes their livelihood. The WMAT suffers from numerous social and economic problems at rates several times the national average; this includes everything from educational attainment to causes of mortality. Since officials have declared the end of the recession, the WMAT continues to encounter many difficulties that have made it nearly impossible to provide sufficient non-federal funding to even the most necessary programs and services.

#### WMAT Infrastructure and All Hazards Emergency Response Plan:

Emergencies requiring a wide spread response typically are the result of wildfires, flooding, or snowstorms. Wildfires, such as the recent Wallow Fire on the adjacent national forest, destroy vegetation and by denuding the land increase runoff and flooding from summer monsoon rain storms. The elevation on the reservation is conducive to heavy snowfall during the winter. During the near record snowfall in January 2010, the community of Cibecue (population of approximately 2500) was effectively cut off from the rest of the reservation and the outside world for a week. Electric service was out due to downed lines; food supplies ran out with no means to resupply; homes were without heat as firewood supplies were exhausted; roofs collapsed due to the weight of the snow and the extreme cold which delayed melt. Like the

Locust fire this summer in the community of Whiteriver, the tribe's emergency response infrastructure mobilized to address the circumstances. Responding to emergencies is a total tribal effort. The Emergency Response Coordinator under the provisions of the Tribe's Emergency Response Plan mobilizes agencies and organizations and communicates with external agencies.

The White Mountain Apache Tribe has their own Tribal Law Enforcement, Tribal Fire Department with forest fire response capability with Fire Fighter Hot Shots. The WMAT also has its own emergency medical response and hospital facilities and health providers.

The 2010 snowfall saw Public Works and Land Operations help with snow removal efforts. FATCO and the Hon Dah Casino to help families and individuals without heat and food with assistance from social service agencies, the Cibecue School, and external help from the Red Cross. The Locust Fire also involved tribal forestry and the fire department in firefighting and structure protection efforts. KNNB, the local Apache language radio station, was the primary means of communicating with the general public. The police department supplemented by the Arizona Department of Public Service closed state highway 73, the major artery in Whiteriver. The Whiteriver school district housed the shelter and provided buses to evacuate residents threatened by the fire. As the fire threatened power lines causing the power to be cut off to large sections of the community, generators from FATCO and the Casino again were provided to the shelter and to KNNB so communications with the public could stay in place. The Red Cross again provided manpower and supplies for the shelter. The Chairman and Vice Chairman's staff were PIO's for coordinating information to the public from the fire command center, including evacuation notices and lifting of those orders.

#### White Mountain Apache Tribe Emergency Response – Working State and Federal Agencies:

Eventually the snowfall was declared a state and then national disaster. FEMA to date and has notified the Tribe that all claims were settled has provided \$146,000 to reimburse the Tribe for expenses and damage to property that occurred. The last payment was the end of April, 2011 – this was 15 months after the costs were incurred. The Locust fire was never declared a disaster so all costs were tribal.

Lessons learned from these two disaster events are important. The time required for the State to mobilize for assessing the extent of the damage followed by the delays in the coordination between the State and federal government in declaring a snow caused disaster are contributing factors in the lengthy time between the disaster in January 2010 and the FEMA payments received at the end of April, 2011. The Locust Fire has resulted in a closer working relationship between the Tribe and Navajo County. The County is using their reverse 911 system to notify residents of pending floods during the current monsoon season. Emergency situations are extraordinary events that often are threats to the life and safety of White Mountain Apaches. Quick and total response is required to save lives and alleviate distress. Delays in the current system are in direct conflict is the need to move quickly and in force.

#### FEMA Recommendations:

Stafford Act Titles IV and V identify the types of assistance that may be provided, and, in some circumstances, the limitations on the aid. Most of the presidential authority set out in Titles IV

and V in the statute, with the exception of the authority to issue declarations, has been delegated to administration officials—currently the Secretary of the Department of Homeland Security (DHS)—through executive orders.

Stafford Act assistance funding derives from appropriations made to the Disaster Relief Fund (DRF), administered by DHS. 10 Federal assistance supported by the DRF, and authorized in Title IV (for major disasters) or Title V (for emergencies) provides grants for mass care for disaster survivors, the restoration of damaged or destroyed facilities, amelioration of the impact of future disasters, clearance of debris, and aid for those with uninsured critical needs. The statute also authorizes loans to communities that suffer significant revenue losses as a result of major disasters. In addition, the statute authorizes unemployment assistance directly related to the event (administered by the Department of Labor) and allows federal agency heads to provide technical assistance, personnel, equipment and other resources to help state and local response and recovery efforts. The following comments are recommendations on changes to FEMA.

1. Long Term Recovery Sec. 404. Hazard Mitigation (42 U.S.C. 5170c)\*

Background:

The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster.

Area of Concern:

With the responsibilities of emergency response to disasters, grant funding from FEMA and other federal agencies becomes imperative when faced with the staggering cost of disaster relief. \*\*WMAT will follow up with additional information on long term recovery issues\*\*

Recommendation:

- (1). Provide 100 percent federal cost share for hazard mitigation (Sec 404);
- (2). Provide immediate administrative funding for affected jurisdictions to quickly implement an effective hazard mitigation program (Sec 404);
- (3). Direct hazards mitigation funding to the impacted tribal community in proportion to the damage done by the event (Sec. 404);
- (4). Make initial hazard mitigation funding available immediately, based on the Preliminary Damage Assessment (PDA) estimates (Sec. 404);
- (5). Require 75 percent of the allowable administrative costs to be provided by the grantee to the subgrantees as funding for their implementation costs or as services performed by the grantee for jurisdictions without administrative capacity (Sec 404);
- (6). Permanently adopt the Demolish-Rebuild (Pilot) Program developed after National disasters like Hurricanes Katrina and Rita and make it an eligible activity under HMGP (Sec 404).

2. Individual Assistance: (Section 408, 410, 415, 416)

Background:

The President, in consultation with the Governor of a State, may provide financial assistance, and, if necessary, direct services, to individuals and households in the State who, as a direct result of a major disaster, have necessary expenses and serious needs in cases in which the individuals and households are unable to meet such expenses or needs through other means.

Area of Concern: \*\* WMAT will follow up with additional information specifically on recent snow and fire disaster emergencies and individual assistance challenges and success.

Recommendation:

- (1). Provide temporary mortgage or rental payments for individuals or families who face financial hardship caused by a disaster (Sec 408);
  - (2). Allow all evacuees regardless of citizenship status to be eligible for Individual Assistance so that they do not become a burden on local host communities (Sec 408);
  - (3). Do not penalize households that need to separate temporarily so that one member can return to work in the affected community (Sec 408);
  - (4). Provide safe and secure living accommodations for victims of domestic violence so they are not penalized for requiring separate accommodations (Sec 408);
  - (5). Allow for 100 percent reimbursement for affected communities and host communities for personnel costs and lost revenue incurred to manage and implement assistance for evacuees (Sec 408);
  - (6). Ensure that affected and host communities are stakeholders in the coordination of all Individual Assistance and other financial assistance programs. Due to privacy laws prohibiting the sharing of personal data, this would facilitate maximum outreach to eligible applicants and help to verify that benefits are not duplicated (Sec 408);
  - (7). Fully engage the Department of Housing and Urban Development (HUD) as a partner with FEMA in coordinating the provision of disaster housing by using funding from the Disaster Relief Fund (DRF) – the source of funding for disaster assistance programs (Sec 408);
  - (8). Make disaster housing available not only for displaced residents but also for workers who are critical to response and recovery operations (Sec 408);
  - (9). Assure that all modalities of mental health treatment (in addition to Crisis Counseling Assistance and Training) are available and funded to provide psychiatric services and medications to the affected population. In catastrophic events, the personal lives of huge segments of the population are in crisis; damage to basic health and mental health infrastructure will prevent adequate help for the severe and prolonged mental health needs in the affected communities. Mental health services also need to be provided to long-term evacuees in their host communities (Sec 416);
3. Public Assistance: (Sections 403, 406, 407)

Background:

In general - Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows:

(1) Federal resources, generally - Utilizing, lending, or donating to State and local governments Federal equipment, supplies, facilities, personnel, and other resources, other than the extension of credit, for use or distribution by such governments in accordance with the purposes of this Act.

(2) Medicine, durable medical equipment, food, and other consumables  
- Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine, durable medical equipment, food, and other consumable supplies, and other services and assistance to disaster victims.

(3) Work and services to save lives and protect property - Performing on public or private lands or waters any work or services essential to saving lives.

Area of Concern: Limited funding to provide assistance to everyone regardless of citizenship and reduce the heavy burden on local communities. \*\* WMAT will follow up with additional information specifically on recent snow and fire disaster emergencies and public assistance challenges.

Recommendation:

(1). Provide automatic 100 percent federal funding for all categories of eligible work for the duration of a disaster (Sec 403);

(2). Mandate the immediate release of federal funding for 50 percent of the Preliminary Damage Assessment (PDA) estimate for all grant programs. Currently "Immediate Needs Funding" can take 60 – 90 days or longer and is not available for initial recovery work on critical infrastructure, including public safety facilities and equipment (Sec 403);

4. H.R.1953 – Stafford Act revisions to authorize tribes to go directly to the President's Office for emergency declaration, instead of the State Governor

H.R.1953 is strongly supported by American Indian Tribes in Arizona. The bill would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize Indian tribes to directly request the President for a major disaster or emergency declaration. This has been a priority for Indian country for over a decade and upon enactment, will treat Indian tribes as the sovereign governments that they are.

Currently, American Indian tribes experiencing a disaster or emergency situation must rely upon a State governor to request the President for a declaration. Not only is this contrary to tribal sovereignty but it also requires the President to consider the State's, not the tribe's, ability to pay for the damages. The State's authority or willingness to provide assistance to the tribe is not considered in the determination process.

Tribes are independent sovereigns, they are different in their history, governmental structure and community priorities – each Tribal Nation makes independent decisions that are best for their communities. Under this legislation, strongly supported by the WMAT, all tribes may still request the State to make the declaration on their behalf but it provides another avenue for those tribes who want to exercise their sovereignty or where a State may be unable or unwilling to make a request on a tribe's behalf. There is a choice.

Currently, FEMA has published the June 29, 2010 FEMA Tribal Policy which includes the following provision:

*“ FEMA will encourage States to incorporate the inclusion of Tribal governments into grant programs and processes to support the trust responsibility between the government and nation-to-nation relationship.”*

In Arizona, out of the FEMA Region 9 Office, this new policy seems to be misguided in its implementation. States do not have jurisdictional authority on tribal lands – but are “encouraged” to be the deliver of grants, training and support as an alternate to the Federal Agency that has the Trust Responsibility to American Indian Nations. In addition, this new policy seems to delegate this Federal Trust Responsibility to States – a political entity that, again, does not have jurisdictional authority on tribal lands. In Arizona, it is the local mind set that Tribal members are “citizens of the State” just like everyone else. The nation-to-nation, independent sovereignty status of the American Indian seems all but lost in this “one community” approach.

The WMAT has become dependent on grant funding as it struggles to recover from the detrimental effects of the recent recession. When the recession hit America, the reservation’s unemployment went from 33-percent to an estimated 65-percent leaving a bothersome 51-percent of the reservation’s population living below the poverty line. With the responsibilities of emergency response to disasters, grant funding from FEMA and other federal agencies becomes imperative when faced with the staggering cost of disaster relief and cost sharing requirements.

It is hoped that with H.R. 1953 will pass and authorize Indian tribes to directly request the President for a major disaster or emergency declaration, and change this “citizens of the State” approach and begin a new approach that will include funding directly to Tribes and Tribal originations to access funding directly through FEMA in a proper “nation-to-nation” federal trust relations.