

**STATEMENT
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**BEFORE THE
UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS**

**ON
FACING FLOODS AND FIRES: EMERGENCY PREPAREDNESS FOR NATURAL
DISASTERS IN NATIVE COMMUNITIES**

21 July 2011

INTRODUCTION

Chairman Akaka, Ranking Member Barrasso and members of the Committee, I am Mary Wagner, Associate Chief of the U. S. Forest Service. Thank you for the opportunity to appear before you today to present the role of United States Department of Agriculture (USDA) and the Forest Service in assisting Native American communities to prepare for and respond to natural disasters such as wildfires and floods.

GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH TRIBES

Native Americans have a unique status established by the Constitution. The Forest Service and USDA are committed to a government-to-government relationship with federally recognized Native American tribes. At the Forest Service, we recognize that Tribal people were the original stewards of the lands that now comprise the National Forest System. In addition, for some National Forest System lands the Forest Service is responsible for fulfilling treaty obligations of the United States. Much National Forest System land now shares borders with tribal land. As part of the government-to-government relationship, the Forest Service often consults and coordinates with Tribes in the management of National Forest System lands and the provision of Forest Service program services. Through this process, the Forest Service seeks to understand and identify areas for common management objectives, as well as to recognize differing landownership and management objectives. The Forest Service intends to be good neighbors

and foster beneficial collaborative relationships and partnerships with Tribes in the management of common landscapes and ecosystems.

There are a number of Federal laws that build upon the Constitutional bedrock of the sovereignty of tribal governments. Key among those laws for the Forest Service are the Federal Land Policy and Management Act (FLPMA) of 1976 and the National Environmental Policy Act (NEPA) of 1969, both of which provide opportunities for consultation and coordination and commit agency employees to seek and encourage active Tribal participation in many aspects of land management and program services administration and delivery. In the National Forest Management Act of 1976 (NFMA) land management planning process, the Forest Service consults with Tribes and invites their participation. In addition, Forest Service line officers (Chief, Associate Chief, Deputy Chiefs, Regional Foresters, Station Directors, Area Director, Forest Supervisor and District Rangers), in accordance with agency policy, frequently meet and consult with the leaders of tribes that have treaty and other Federally protected rights on National Forest System lands. Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, requires Federal agencies to develop an “accountable process” for ensuring meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications. Forest Service Manual (FSM) and Forest Service Handbooks (FSH) further define and clarify agency policy with respect to Tribes and are used extensively throughout the agency.

FOREST SERVICE - FIRE PREPAREDNESS

The Forest Service is responsible for managing nearly 193 million acres of National Forest System lands in 42 states and Puerto Rico. We manage these lands mindful of the role they play in providing clean water, wildlife and wildlife habitat and other resources valued by communities and neighboring landowners, including Tribes. The Forest Service has a long and largely successful history of consulting and coordinating with Tribes in a government-to-government relationship on all aspects of forest and natural resource conservation and management, including wildland fire preparedness and wildfire suppression response. In the interagency environment of wildland fire management, the wildland fire management agencies of Tribes and Bureau of Indian Affairs (BIA) are full partners in managing wildland fires, including coordinating and allocating assets to prepare for and suppress wildland fire.

The Forest Service also assists tribes prepare for wildland fire through the Cooperative Fire Assistance Program. Tribes may apply to for assistance in training wildland fire fighters and acquiring firefighting equipment through the State Forester.

Through coordination and unified command within a geographical area, interagency leaders determine priorities for fire fighter and public safety, identify resources at-risk to wildland fire, and identify post-burn fire rehabilitation needs. For example, in the Southwest Area, interagency

wildland firefighting resources are coordinated by the Southwest Coordinating Group (SWCG) which includes agency representatives from the Forest Service (USDA), the four Bureaus of the U.S. Department of the Interior (the Bureau of Indian Affairs, the National Park Service, the Bureau of Land Management, and the Fish and Wildlife Service), as well as the States of Arizona and New Mexico. In the Southwest Area, the Bureau of Indian Affairs represents Tribes with three members on the nine members SWCG. The SWCG manages the Southwest Coordination Center (SWCC), which is responsible for coordinating and facilitating the movement of wildland firefighting assets within the Southwest Area or as needed nationally through the National Interagency Coordination Center (NICC) in Boise, Idaho.

In the extreme fire season of 2011, the Southwest Area engaged in daily coordination efforts. Resource allocation decisions between fires were made by the SWCG in Multi-Agency Coordination (MAC) meetings. The MAC is comprised of representatives from all wildland fire management agencies. This information was used in assigning fire fighting assets to specific areas or jurisdictions, including Tribal lands where they would be able to safely and effectively suppress ignitions in the initial attack phase.

MAC meetings were conducted daily as the Southwest Area reached Preparedness Level 5, the highest level of fire suppression preparedness. The Intelligence and Predictive Services Program, which assesses long-term weather forecasts to determine winter season moisture regimes, provided the MAC group with daily and long-term weather forecasts as part of the preparedness effort. This information is used to set priorities. For example, critical suppression assets, such as hotshot crews, are allocated based on expected or forecasted weather and/or fire ranking and priority. Wildfire ranking is based on the fire's threat to communities, including Tribal communities and municipal watersheds; property, including Tribal and private lands, as well as, historic and cultural resources; and critical natural resources such as threatened and endangered species habitat.

FOREST SERVICE—FIRE SUPPRESSION

The Forest Service and the Department of the Interior agencies manage the primary Federal wildland fire suppression crews and assets. The State Foresters and local fire protection districts also provide fire suppression crews and assets to the interagency effort and serve as partners with the Federal agencies. Fire suppression crews and firefighting assets are shared and assigned by an interagency system that includes priority for human health and safety, socio-cultural attributes and biological/natural resources. In periods of high fire danger or during a wildfire incident, Tribal lands are assigned fire prevention and/or suppression crews and assets as fire ignition danger increases. When a critical fire ignites or a fire builds into a large fire on Tribal lands, interagency fire suppression crews and assets are directed to the Tribal agencies that manage the affected lands. Incident Management Teams (IMTs) arrive at an incident with Tribal Liaison Specialists to initiate consultation with affected Tribes on a government-to-government basis as management strategies are developed for the incident.

In 2011, the Southwest Area MAC assigned an Area Command IMT to supervise the multiple IMTs assigned to suppress each of the large wildfires. One of the missions for the Area Command is to provide responsive service to and coordination with government officials and

community leaders, including Tribal leaders for the affected Nations. Several national Type 1 IMTs were assigned to the record-setting Wallow Fire in Arizona, including one IMT assigned to manage and suppress the Wallow Fire on the San Carlos Apache Reservation. For the New Mexico Las Conchas Fire, additional IMTs were ordered and inserted due to the multiple jurisdictions affected by the fire and a desire by the host agencies to ensure adequate attention was given to Tribal lands.

FOREST SERVICE –BURNED AREA EMERGENCY RESPONSE

The Burned Area Emergency Response (BAER) is a program that addresses post-fire emergencies to human life, safety and property, as well as, critical natural and cultural resources in the immediate post-fire environment on federal lands. Common post-fire threats include flash flooding, mudflows, rock fall, hazard trees and high impact erosion.

Under the BAER program, scientists and other specialists quickly evaluate post-fire threats to human life, safety, property and critical natural or cultural resources including traditional cultural properties and sacred sites and take immediate actions to manage unacceptable risks. BAER assessments begin when it is safe to enter the burned area, but usually before the fire is completely contained. BAER may include soil stabilization treatments (e.g., seeding and mulching,) or structure stabilization treatments such as road storm proofing (e.g., constructing rolling dips, and removing undersized culverts, to pass water and avoid damage).

For example, to assist and coordinate BAER assessments and prescriptions in the complex jurisdictional environment of the Las Conchas Fire, an interagency group of managers was assigned to the Area Command Team. The group includes the Pueblos affected by both the Las Conchas and Pacheco fires and specifically includes Pueblo government officials, New Mexico State Forestry, Bureau Indian Affairs, National Park Service, Bureau of Land Management, and the Forest Service. Meetings were convened with all the interagency representatives to discuss the issues of coordination. Through consultation, the Regional Forester for the Southwest Region introduced the idea of using a National Incident Management Organization (NIMO) Team to coordinate all of the BAER efforts among the various jurisdictions. All of the Federal agencies, including the Pueblo governments agreed to the NIMO structure of coordination and implementation. Indeed, for some areas of the Las Conchas Fire BAER assessment and prescriptions are completed.

Tribal consultation is an important part of Forest Service BAER assessments. BAER team personnel and the forest supervisor consult with Tribal governments including elders designated by the Nation to identify sacred sites, cultural sites and traditional cultural properties and to address mitigation or stabilization treatments for those sites.

USDA agencies and programs assist with post-burn, watershed-wide consequences to soil and vegetation resources as well as appurtenances and real property on Tribal, and private lands. USDA is acting to provide aid, assistance and expertise, both technical and financial to the people and property owners affected by the fires or the post-burn effects of flooding and erosion. Attached is an appendix of USDA agencies, which can support post-fire recovery efforts.

FOREST SERVICE — FUELS TREATMENTS

The implementation and utilization of vegetative fuels treatments is critical for the wildland management agencies including Tribal Nations to reduce the risk of severe wildland fires. The Forest Service consults as government-to-government with Tribal Nations to design and implement purposeful fuels treatments. Fuels treatments must be carried out in anticipation of a wildland fire event. It is not practicable to commence fuels reduction work when a wildland fire is burning.

Wildfire, a landscape scale phenomenon, acknowledges no political or national boundary. Fuels treatments are an on-going fire preparedness effort, the purpose of which is to alter fire behavior; and the value of which, is only realized when a wildland fire roars to existence. Years of arduous efforts with many partners and governments in the proposal, planning and implementation stages for fuels treatment yield great benefits when a wildfire ignites. Fuels treatments are effective in disrupting the alignment of wildfires because the fuel structure and arrangement has been modified or changed, and as a result fire behavior lessens its intensity thus allowing wildland suppression personnel to effectively directly attack the fire. Fuels treatments serve as strategic anchor points on the landscape from which to implement suppression operations and/or protect property and other societal attributes. Congress has recognized the utility and value of fuels treatments and has enacted legislation to assist land management agencies become more effective in implementing fuels treatments. Two examples are: the Collaborative Forest Restoration Program and the Tribal Forest Protection Act.

The Community Forest Restoration Act of 2000 authorized the New Mexico Collaborative Forest Restoration Program (CFRP). Since 2001, this program has reduced fuels and restored forests, rangelands and watersheds on approximately 23,744 of acres in New Mexico including approximately 7,137 acres of Tribal lands.

The Tribal Forest Protection Act of (TFPA) of 2004 provides Indian tribes the opportunity to apply for and enter into stewardship contracts to protect Indian forest land, including projects on Federal land that borders on or is adjacent to Indian forest land and poses a fire or other threat to Indian forest land under the jurisdiction of the Indian tribe or a tribal community.

In New Mexico, the Sixteen Springs TFPA project is a forest health improvement project designed to reduce hazardous fuels and fire risk to a large wildland urban interface community.

The Mescalero Apache Tribe, a partner in the Greater Ruidoso Area Wildland-Urban Interface Working Group, is implementing and managing the stewardship contract on Lincoln National Forest. In 2008, the Mescalero Apache Tribe received an additional 5,000 acres for their forest stewardship contract in the Perk-Grindstone project area situated directly adjacent to Ruidoso, NM. When the fuels treatments are completed, the Perk-Grindstone project will provide a critical anchor point for wildland fire community protection in the Greater Ruidoso area, as well as critical access for future forest restoration and fuels reduction projects on the Mescalero Apache Reservation.

CONCLUSION

USDA is ready to assist Tribal governments and communities to avoid, mitigate or replace lost natural resources, crops, infrastructure developments or property due directly to the occurrence of the wildfire or the post-burn environmental and social consequences. We are committed to our government-to-government relationship as Sovereigns with Tribes and welcome the opportunity to consult with Tribal governments as the post-fire recovery begins for the land and the people. Chairman Akaka, Ranking Member Barrasso, this concludes my testimony today; I am happy to answer any question that you or the Committee Members may have.

APPENDIX

FACT SHEET: USDA PROGRAMS THAT ASSIST INDIVIDUALS AND BUSINESSES FOLLOWING DISASTER

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USDA's authority to provide emergency assistance for its various disaster relief programs exists under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Agriculture Secretary Disaster declarations, Food and Nutrition Act of 2008, as well as other authorizing legislation.

Nutrition Assistance

USDA's Food and Nutrition Service (FNS) provides food assistance to those in need in areas affected by a disaster. This Federal assistance is in addition to that provided by State and local governments.

USDA provides disaster food assistance in three ways:

- Provides USDA Foods to State agencies for distribution to shelters and other mass feeding sites;
- Provides USDA Foods to State agencies for distribution directly to households in need in certain limited situations;
- Authorizes State agencies to issue Disaster Supplemental Nutrition Assistance Program (D-SNAP) benefits.

www.fns.usda.gov/disasters/disaster.htm

USDA Foods for Disaster Assistance - Under the National Response Framework, FNS provides USDA Foods to disaster relief agencies to feed people at shelters and mass feeding sites. States can also, with FNS approval, release USDA Foods to disaster relief agencies to distribute directly to households that are in need. Such direct distribution takes place when normal commercial food supplies channels such as grocery stores have been disrupted, damaged or destroyed, or are unable to function. **[Triggering event: With respect to authority provided by the Stafford Act, a request by a State Governor and a Presidential disaster declaration are required to trigger such authority. No such Presidential declaration is required to invoke Section 416 of the Agricultural Act of 1949 or the Agriculture and Consumer Protection Act of 1973.]**

D-SNAP - FNS can authorize the issuance of D-SNAP when the President declares a major disaster with individual assistance. States must request that FNS allow them to issue emergency benefits in areas affected by a disaster. FNS works closely with States to prepare plans for D-SNAP.

- People who might not ordinarily qualify for the Supplemental Nutrition Assistance Program (SNAP) may be eligible for D-SNAP if they had expenses related to

- protecting, repairing, or evacuating their homes; or if they have lost income as a result of the disaster.
- People who are already participating in the regular SNAP may be eligible for additional benefits under the D-SNAP.
 - Disaster benefits are provided similar to regular program benefits – through an EBT card that can be used at authorized food retailers to buy food. **[Triggering event: Presidential disaster declaration for individual assistance under the Stafford Act.]**

Landowners, Farmers, Ranchers and Producers Assistance

Conservation Programs

Emergency Conservation Program (ECP) - ECP provides funding for farmers and ranchers to rehabilitate farmland damaged by wind erosion, floods, hurricanes, or other natural disasters, and for carrying out emergency water conservation measures during periods of severe drought. The natural disaster must create new conservation problems, which, if not treated, would: impair or endanger the land; materially affect the productive capacity of the land; represent unusual damage which, except for wind erosion, is not the type likely to recur frequently in the same area; and be so costly to repair that Federal assistance is or will be required to return the land to productive agricultural use. Program availability is subject to the availability of funding. **[No Presidential or Secretarial declarations required.]**

<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=copr&topic=ecp>

Emergency Watershed Protection Program (EWP) - The NRCS EWP program helps protect lives and property threatened by natural disasters such as floods, hurricanes, tornadoes, and wildfires. The program provides technical and financial assistance to preserve life and property threatened by excessive erosion and flooding. Owners, managers, and users of public, private, or tribal lands are eligible for EWP assistance if their watershed area has been damaged by a natural disaster. Program availability is subject to the availability of funding. **[No Presidential or Secretarial declarations required.]**

<http://www.nrcs.usda.gov/programs/ewp/>

Emergency Watershed Protection Program – Floodplain Easements - The NRCS Emergency Watershed Protection Program Floodplain Easements provides for the purchase of floodplain easements as an emergency measure. Floodplain easements restore, protect, maintain, and enhance the functions of the floodplain; conserve natural values including fish and wildlife habitat, water quality, flood water retention, ground water recharge, and open space; reduce long-term federal disaster assistance; and safeguard lives and property from floods, drought, and the products of erosion. Program availability is subject to the availability of funding. **[No Presidential or Secretarial declarations required.]**

<http://www.nrcs.usda.gov/programs/ewp/Floodplain/index.html>

Emergency Forest Restoration Program (EFRP) – EFRP provides payments to eligible owners of nonindustrial private forest (NIPF) land in order to carry out emergency measures to restore land damaged by a natural disaster. Program availability is subject to the availability of funding. **[No Presidential or Secretarial declarations required.]**
<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=efrpCrops>

Assistance with Crop or Livestock Loss

Crop Insurance - Producers should contact their crop insurance agent or provider as soon as possible to report any losses or prevented planting.

Noninsured Crop Disaster Assistance Program (NAP) - NAP provides financial assistance to eligible producers affected by drought, flood, hurricane, or other natural disasters. NAP covers noninsurable crop losses and planting prevented by disasters. Landowners, tenants, or sharecroppers who share in the risk of producing an eligible crop are eligible. Eligible crops include commercial crops and other agricultural commodities produced for food, including livestock feed or fiber for which the catastrophic level of crop insurance is unavailable. Also, eligible for NAP coverage are controlled-environment crops (mushroom and floriculture), specialty crops (honey and maple sap), and value loss crops (aquaculture, Christmas trees, ginseng, ornamental nursery, and turf grass sod). **[No Presidential or Secretarial declarations required.]**
<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=nap>

Tree Assistance Program (TAP) - TAP was authorized by the 2008 Farm Bill and provides partial reimbursement to orchardists and nursery tree growers for replanting, salvage, pruning, debris removal and land preparation if losses due to natural disasters exceed 15 percent. **[No Presidential or Secretarial declarations required.]**
<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=tap>

Supplemental Revenue Assistance Payments Program (SURE) - SURE was authorized by the 2008 Farm Bill and covers crop revenue losses from quantity or quality deficiencies only those counties and contiguous counties declared disaster areas by the Agriculture Secretary or in cases where the overall production loss exceeds 50 percent. **[Requires a natural disaster declaration by the Secretary for production losses under 7 U.S.C. 1961(a)]**
<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=sure>

Emergency Assistance for Livestock, Honeybees, and Farm Raised Fish (ELAP) - ELAP was authorized by the 2008 Farm Bill to provide emergency relief to producers of livestock, honeybees, and farm-raised fish and covers losses from disaster such as adverse weather or other conditions, such as blizzards and wildfires not adequately covered by any other disaster program. **[No Presidential or Secretarial declarations required.]**
<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=elap>

Livestock Forage Disaster Program (LFP) - LFP was authorized by the 2008 Farm Bill to provide assistance to livestock producers for forage losses due to drought and losses due to wildfire on public lands. **[No Presidential or Secretarial declarations required.]**

<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=lfp>

Livestock Indemnity Program (LIP) - LIP was authorized by the 2008 Farm Bill to provide assistance to livestock producers for livestock deaths from disaster events, in excess of normal mortality. **[No Presidential or Secretarial declarations required.]**

<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=lip>

Loans

Emergency Loan Program (ELP) - FSA provides emergency loans to help producers recover from production and physical losses due to drought, flooding, other natural disasters, or quarantine. Emergency loans may be made to farmers and ranchers who own or operate land located in a county declared by the President as a disaster area or designated by the Secretary of Agriculture as a disaster area or quarantine area (for physical losses only, the FSA Administrator may authorize emergency loan assistance). Emergency loan funds may be used to: restore or replace essential property; pay all or part of production costs associated with the disaster year; pay essential family living expenses; reorganize the farming operation; and refinance certain debts. **[Triggering event: A quarantine imposed by the Secretary, a natural disaster, or a natural disaster or emergency designated by the President under the Stafford Act.]**

<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=fmlp&topic=efl>

Housing Assistance

Single-Family Housing – For emergency assistance with immediate housing contact FEMA. <http://www.fema.gov/>.

Once the emergency is over, those wishing to buy or repair a home in an eligible rural area may qualify for a loan or loan guarantee through USDA. Please contact your local USDA Service Center for additional information.

Loan servicing options are available to help families who experience financial problems as a result of the disaster. Servicing options include:

- **Moratoriums** -- a temporary period where no payment is required – for 6 to 24 months for borrowers who have lost employment, sustained severe property damage or medical expenses
- **Reamortization** -- rescheduling loan payments to determine a new monthly payment amount -- if needed following a moratorium or to resolve account delinquency

To request loan servicing assistance, borrowers should contact the *Centralized Servicing Center* at:

USDA Rural Development
Centralized Servicing Center
Post Office Box 66889
St. Louis, MO 63166
Phone: (800) 414-1226
TDD: (800) 438-1832

<http://www.rurdev.usda.gov/rd/disasters/disassistance.html>

Multi-Family Housing - Residents in Rural Development-financed apartment complexes who are displaced by a natural disaster may apply for occupancy at any USDA-financed apartment complex and receive special priority consideration for the next available unit. Displaced tenants who are receiving [Rental Assistance](#) may have their subsidy transferred if the complex they move to is eligible for the Rental Assistance program.

Although Rural Development expects borrowers' hazard insurance to cover damage costs associated with the disaster, we can consider temporary measures to reduce borrowers' financial burdens and work with them, if needed, to develop a servicing workout plan.

To request loan servicing assistance, borrowers should contact Multi-Family Housing Specialists in their [State Office](#). Other Links that highlight USDA Rural Development program assistance:

<http://www.usda.gov/wps/portal/usda/usdahome?navtype=MS&navid=SAFETY>
http://www.disasterassistance.gov/daip_en.portal

Community Utility Assistance

[Emergency Community Water Assistance Grants](#) - Grants are designed for rural communities with a significant decline in quantity or quality of drinking water. The population must not exceed 10,000 and median household incomes of 100 percent of a State's non-metropolitan median household income. Grants may be made for 100 percent of project costs. The maximum grant is \$500,000 when a significant decline in quantity, imminent source shortage or quality of water occurred within 2 years, or \$150,000 to make emergency repairs and replacement of facilities on existing systems.

To apply, community leaders should contact Utilities Program Specialists in their [State Office](#). **[No Presidential or Secretarial declarations required.]**